

SUMMARY STATEMENT

Adopted As Amended on the floor

ITEM NO.: DRPA-10-044/10-046

**SUBJECT: Implementation of
a Policy Requiring Contracts be
Awarded at a Meeting Open to
the Public
(as amended 10-044/10-046)**

COMMITTEE:

Unfinished Business

COMMITTEE MEETING DATE:

December 5, 2012

BOARD ACTION DATE:

December 12, 2012

PROPOSAL: That the Board adopt a resolution implementing uniform processes and procedures for awarding all goods and services of the Authority.

PURPOSE: To adopt uniform processes and procedures for awarding all goods and services of the Authority.

BACKGROUND: The Authority has determined that it is imperative that contracts are awarded in a manner that is fair and transparent. To avoid the potential for favoritism, it is desirable that a set of measures be adopted to ensure transparency to the actions of the Authority and to provide consistent adherence to appropriate review processes and financial controls. The implementation of procurement procedures will assist the Authority to reduce the costs of the Delaware River Port Authority to provide its services to the region and is in the best interests of the Authority and the public it serves.

The Board has reviewed the form of the proposed policy, as well as attached Procurement Manual, and has considered the advice and analysis of its staff with regard to the proposed Procedures and has determined that the proposed Procedures is in the best interests of the Authority and the public it serves. The Board recognizes that the Procurement Manual is a work in progress and, similar to Standard Operating Procedures, will be subject to edit and change.

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| SUMMARY: | Amount: | N/A |
| | Source of Funds: | N/A |
| | Capital Project #: | N/A |
| | Operating Budget: | N/A |
| | Master Plan Status: | N/A |
| | Other Fund Sources: | N/A |
| | Duration of Contract: | N/A |
| | Other Parties Involved: | N/A |

DRPA-10-044/046
Unfinished Business: December 5, 2012
Board Date: December 12, 2012
Implementation of a Policy Requiring
Contracts be Awarded at a Meeting Open
to the Public
(amended December 12, 2012)

RESOLUTION

RESOLVED: That the Board adopts the proposed procurement policy effective immediately, requiring that the Authority implement uniform review procedures and policies when awarding contracts for the Authority;

The Board further adopts that a Procurement Manual, a copy of a draft format has been circulated to staff, shall be finalized by January 31, 2013; and

The Board further adopts that the procedures and processes, not currently in practice (and not otherwise directly outlined in the Policy) by the Authority, shall be in effect no later than July 1, 2013. The Inspector General shall certify compliance with the Procurement Manual and adoption of procedures and processes.

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CONTRACTING AND PROCUREMENT

SCOPE: Defines policy and procedure governing procurement of all goods and services of the Delaware River Port Authority and the Port Authority Transit Corporation (collectively the Authority).

POLICY: In order to ensure that the Authority operates in an efficient, transparent, and ethical manner the Authority hereby determines that it shall maintain procurement policies and procedures that provides for fair and equitable treatment of all persons or firms involved in purchasing for the Authority. These policies and procedures ensure that supplies and devices (including engineering/construction) are procured efficiently, effectively and at the most favorable pricing to the Authority. The term procurement as used in this policy and all procedures includes the procuring, purchasing, leasing or renting of goods, supplies, equipment and materials; construction and maintenance, consultant services; architectural and engineering services and other services.

All procurement contracts are to be advertised in a way designed to ensure that potentially interested, qualified firms receive appropriate notice of the procurement contracts are to be awarded by the Authority in accordance with pre-set, transparent procedures. For every contract to be awarded, as well as any project specifications and related information shall be made available in writing to interested parties. All proposals, bids, or other responses to an advertised contract shall be submitted in written or electronic form and, in cases where the contract is to be awarded to the lowest responsible bidder, shall be sealed until opened with all other bids.

In accordance with Authority procedure manual, the procurement process shall include efforts to ensure equal opportunity for minority-owned, women-owned, and small or disadvantaged business enterprises.

Prior to the receipt of any proposals or qualifications concerning a professional services or technical services contract, the Authority shall establish an appropriately qualified Evaluation Committee to review and score the proposals submitted. The Authority shall screen the members of the committee for conflicts of interest and for the appearance of such a conflict.

The analysis of relevant factors that leads the Authority to award the contract to a particular firm shall be memorialized, in summary form, in the proposed resolution awarding the contract.

Exceptions

The above provisions concerning public advertisement and competitive processes shall not apply in the following limited circumstances:

- a. In cases of unforeseen life, safety, operational or health emergencies where public exigency requires that services or

products be purchased immediately, as demonstrated by the memorialized concurrence determinations. In such circumstances, the Chief Executor Officer can proceed pursuant to the By-laws provisions authorizing the choice. This exception is a limited one; the Authority shall make efforts to contract in advance to deal with the types of emergencies that typically arise. In addition, the emergency contract must be limited to purchasing those services or products necessary to mitigate the emergency situation.

- b. Sole-source awards made when there is only one vendor capable or available to provide the goods or services. Sole-source procurements should be used only in exceptional circumstances and only when necessary. When an authority invokes this exception, the designated authority officer shall write and sign a memorandum of sole-source justification.
- c. Contracts with the federal or any state government or any agency or political subdivision thereof.
- d. Where federal statutory law requires a different process than set forth herein.

Where one of the above exceptions is invoked, the resulting action would be reported to the Board at the first opportunity and the proposed resolution concerning the contract shall set forth the justification for invoking the exception.