



Adopted as Amended on the floor

<b>Master Plan Status:</b>	<b>N/A</b>
<b>Other Fund Sources:</b>	<b>N/A</b>
<b>Duration of Contract:</b>	<b>N/A</b>
<b>Other Parties Involved:</b>	<b>N/A</b>

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**DRPA-10-044**

**New Business: August 18, 2010**

**Board Date: August 18, 2010**

**Implementation of Procedures for Sealed Bid  
Contracts and Contracts for Professional and  
Technical Services**

**RESOLUTION**

**RESOLVED:** That the Board adopts the form of the proposed Procedures for Sealed Bid Contracts and Contracts for Professional And Technical Services requiring that the Authority implement uniform review procedures and policies when awarding contracts for the Authority.

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

OGC

## **CONTRACTING - SEALED BID CONTRACTS AND CONTRACTS FOR PROFESSIONAL AND TECHNICAL SERVICES**

### **SCOPE**

Defines policy and procedure governing contracts, including contracts subject to sealed bidding as well as professional and technical services contracts for 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 are consistent with the following procedures and policies.

All procurement contracts are to be advertised in a way designed to ensure that potentially interested, qualified firms receive appropriate notice of the proposed contract and a fair opportunity to seek award of the contract. All procurement contracts are to be awarded by the Authority in accordance with pre-set, transparent procedures. For every contract to be awarded, a description of the 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.

#### **Sealed Bids**

All contracts for the construction, maintenance, repairs or rehabilitation or the making of capital improvements as well as for the purchase of equipment, materials, supplies or other non-professional or technical services, in which the amount of the contract exceeds \$20,000, shall be publicly advertised for bids and shall be presented to the Board to be awarded to the lowest responsive bidder.

#### **Non-Sealed Bids**

The Authority may award contracts for professional services or technical services on the basis of multiple factors as opposed to simply on the basis of cost. A fair and transparent process for awarding each contract shall be established, including setting forth in writing the scoring factors and scoring procedures to be used. The scoring system may not be designed to improperly steer a contract or contracts to a particular firm or set of firms. Similarly, project specifications shall not be drafted in such a way as to steer a contract to a particular firm or set of firms.

Professional services and technical services may be awarded to an individual firm to perform the service, or may be awarded to a pool of qualified firms from which the Authority may choose for a particular purpose on a rotating basis.

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Factors that should be used as a part of this scoring process include but are not limited to the following:

- a. The background, qualifications, skills, and experience of the firm and its staff;
- b. The firm's degree of expertise concerning the area at issue;
- c. The rate or price to be charged by the firm;
- d. The Authority's prior experiences with the firm;
- e. The firm's familiarity with the work, requirements, and systems of the Authority;
- f. The firm's proposed approach to the issues raised in the project description or specifications;
- g. The firm's capacity to meet the requirements of the project at issue;
- h. The firm's references;
- i. Interviews with prospective firms; and
- j. Geographical location of the firm's offices.

In accordance with Authority policy, 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. Similarly, members of the Authority's Board of Commissioners shall not participate, either directly or indirectly, in the procurement process where such a member has a conflict of interest or there is an 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 of three authority officials who have been pre-designated to make such 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

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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 that 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.