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BIDDING AND PROCUREMENT POLICY

This resolution sets the policy and procedures of the Newark Public Library to meet the requirements of New York State General Municipal Law, section 104-b. Furthermore, this policy helps the Board of Trustees and Library Director meet their fiduciary obligations, avoids favoritism, and supports the regular review of the library's expenditures by the Board of Trustees. The Board of Trustees adopts this policy to exercise good fiscal stewardship.

Goods and services that are not required by law to be procured pursuant to competitive bidding must be procured in a manner as to assure the prudent and economical use of public moneys in the best interest of the taxpayers; to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances; and to guard against favoritism, improvidence, extravagance, fraud, and corruption. To further these objectives, the governing board has adopted an internal policy and procedure which governs all procurements of goods and services which are not required to be made pursuant to the competitive bidding requirements of General Municipal Law, section 103 or of any other general, special, or local law.

1. Director's Purchases

The Director must sign both the requestor and Director's signature fields when making purchases. The Director must wait for approval of the list of disbursements by the Board of Trustees before being reimbursed for purchases made using personal funds.

2. Procurements Subject to Bid

All purchases of supplies or equipment that will exceed \$20,000 in the fiscal year or public works contracts over \$35,000 shall be formally bid, per the requirements of General Municipal Law, Section 103.

3. Minority and Women Owned Businesses Policy

It is the policy of the Library to take affirmative action to ensure that minority business enterprises (MBEs) and women-owned business enterprises (WBEs) are given the opportunity to demonstrate their ability to provide the Library with goods and services at competitive prices. MBEs are defined as independent business concerns which are at least 51 percent owned and controlled by minority group members (citizens of the United States or permanent resident aliens who are Black, Hispanic, Asian, or American Indian). WBEs are defined as independent business concerns which are at least 51 percent owned and controlled by women who are citizens of the United States or permanent resident aliens. NYS Executive Law Article 15-A requires the

Library and the vendors and contractors (vendors) with whom it does business to make a good faith effort to procure materials, supplies, equipment, and services (including printing) from NYS certified MBEs or WBEs. This procedure applies to all procurements exceeding \$25,000 for labor, services, supplies, equipment, or materials.

4. Exemptions From Quotations/Proposals Requirement

Alternative proposals or quotations for goods and services shall be secured by use of either written requests for proposals, written quotations, oral quotations or any other method of procurement that furthers the purposes of the General Municipal Law, section 104-b, except for:

- Procurements made pursuant to General Municipal Law, section 103(3), through county contracts, or section 104, through State contracts, State Finance Law, section 163, Correction Law, sections 184 and 186 (from “preferred sources,” including articles manufactured in correctional institutions)
- Purchases from agencies for the blind or severely handicapped
- Purchases of surplus and second-hand goods from any source
- Emergency purchases that are purchased immediately, the delay of which may threaten the life, health, and safety or welfare of the staff and/or public
- Sole source purchases, where a good or service provides a unique benefit to the public, is available from a single supplier, and for which there are no substantial equivalents.

5. Items Exempted From This Policy and Procedures by the Board

Pursuant to General Municipal Law, the procurement policy may contain circumstances when, or types of procurement for which, at the sole discretion of the governing body, the solicitation of alternative proposals or quotations will not be in the best interest of the municipal entity. In the following circumstances, it may not be in the best interests of the Newark Public Library to solicit quotations or document the basis for not accepting the lowest bid.

In cases of professional services or services requiring special or technical skill, training or expertise, the individual or company must be chosen on accountability, reliability, responsibility, skill, education, and training, judgment, integrity, and moral worth. These qualifications are not necessarily found in the individual or company that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures.

In determining whether a service fits into this category, the Newark Public Library shall take into consideration the following guidelines:

- a) whether the services are subject to State licensing or testing requirements;
- b) whether substantial formal education or training is a necessary prerequisite to the performance of the services; and
- c) whether the services require a personal relationship between the individual and library officials.

Professional or technical services shall include but not be limited to the following:

- Services of an attorney;
- Technical services of an engineer engaged to prepare plans, maps, and estimates;
- Securing insurance coverage and/or services of an insurance broker;

- Services of a certified public accountant;
- Investment management services;
- Printing services involving extensive writing, editing or art work;
- Property management;
- Computer software or programming services for customized programs or services involved in substantial modification and customizing or pre-packaged software.

6. Methods of Competition to be Used for Non-Bid Procurement

The total aggregate cost of every prospective purchase of a good or service or public work contract is evaluated to determine whether the aggregate cost in the fiscal year reaches competitive bidding requirements. Purchases with aggregate costs not rising to competitive bidding levels are authorized as follows:

- Purchases for goods and services estimated to cost \$50 to \$3,999 shall require a requisition form signed by the Director
- Purchases for goods and services estimated to cost \$4,000 to \$6,999 require two quotations, one which is written, and the approval of the Director
- Purchases for goods and services estimated to cost from \$7,000 to \$9,999 shall require two written quotations and the approval of the Director
- Purchases for goods and services estimated to cost over \$10,000 shall require three written quotations and approval of the Board of Trustees
- Public work contracts estimated to cost less than \$4,999 shall require the written approval of the Director
- Public work contracts estimated to cost \$5,000 to \$9,999 shall require two quotations, one which is written, and approval of the Director
- Public work contracts estimated to cost \$10,000 to \$19,999 shall require two written quotations or proposals and approval of the Board of Trustees
- Public work contracts estimated to cost over \$20,000 shall require three written quotations or proposals and approval of the Board of Trustees.

7. Adequate Documentation

A good faith effort shall be made to obtain the required number of quotations or proposals. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser shall document the attempt made at obtaining the quotations or proposals. In no event shall the failure to obtain the proposals be a bar to procurement.

The Director shall establish the necessary and reasonable procedures and rules in the execution of this policy.

Catalog or online pricing cannot substitute for oral or written quotations.

8. Awards to Other Than the Lowest Responsible Dollar Offer

Whenever any contract is awarded to other than the lowest responsible dollar offer, the reasons such an award furthers the purpose of General Municipal Law, section 104(b), as set forth herein shall be documented as follows:

Notations and/or copies of all documents and notations of verbal or other data justifying why any purchase is made from other than the lowest responsible vendor or contractor submitting a complying quotation or proposal, as being in the best interest of the Newark Public Library, shall be included with the purchase records. If full compliance with this provision is not practical, a written note of explanation shall be made and placed with the purchase records.

Circumstances under which the award may not be made to the lowest responsible bidder include, but are not limited to:

- Bidder cannot guarantee delivery of goods or services within the time frame or under the conditions established by the Library
- Bidder's terms of payment are disadvantageous to the Library, ie full payment before commencement of work or delivery of goods
- Bidder cannot comply with full specifications of goods or services as set forth by the Library
- Bidder's warranty for goods or services is deemed inadequate by the Library
- Bidder's support services are deemed inadequate by the Library

9. Annual Review

The Board of Trustees shall annually review and, when necessary, update this policy and procedures.

10. Unintentional Failure to Comply

The unintentional failure to comply fully with the provisions of General Municipal Law, section 104(b) shall not be grounds to void action taken or give rise to a cause of action against the Newark Public Library or any officer or employee thereof.

Adopted by the Newark Public Board of Trustees on July 10, 2014

Amended by the Board of Trustees: 7/14/2016, 12/14/2023

Reviewed by Policy Committee: 11/15/2023