



Certified:

375-21

**NIFS ID:CFCE2100012 Department: County Executive**

**Capital: X**

SERVICE: City of Long Beach Office Trailer

Contract ID #:CFCE2100012 NIFS Entry Date: 10-JUN-21 Term: from to

New
Time Extension:
Addl. Funds:
Blanket Resolution:
RES#

1) Mandated Program:	N
2) Comptroller Approval Form Attached:	Y
3) CSEA Agmt. § 32 Compliance Attached:	N
4) Material Adverse Information Identified? (if yes, attach memo):	N
5) Insurance Required	N

<b>Vendor Info:</b>	
Name: <b>City of Long Beach</b>	Vendor ID#: <b>116000351</b>
Address: 1 West Chester Street Long Beach, NY 11561	Contact Person: Donna Gayden
	Phone: 516-431-1003

<b>Department:</b>	
Contact Name: Ursula Babino	
Address: 1550 Franklin Ave Mineola, NY 11501	
Phone: 516-571-4852	

**Routing Slip**

Department	NIFS Entry: X	11-JUN-21 -- GCASTILLOCE
Department	NIFS Approval: X	10-SEP-21 -- KHORST
DPW	Capital Fund Approved: X	06-OCT-21 -- GMONTI2
OMB	NIFA Approval: X	14-OCT-21 -- CNOLAN
OMB	NIFS Approval: X	14-OCT-21 -- NGUMIENIAK
County Atty.	Insurance Verification: X	10-SEP-21 -- AAMATO
County Atty.	Approval to Form: X	10-SEP-21 -- DGRIPPO
CPO	Approval: X	14-OCT-21 -- PARJUNE
DCEC	Approval: X	14-OCT-21 -- RCLEARY

Dep. CE	Approval: X	18-OCT-21 -- HWILLIAMS
Leg. Affairs	Approval/Review: X	18-OCT-21 -- JSCHANTZ
Legislature	Approval: X	25-OCT-21 -- CALBERT
Comptroller	Deputy: X	09-NOV-21 -- JSCHOEN
NIFA	NIFA Approval:	

## Contract Summary

<b>Purpose:</b> County will provide \$35,400 in Capital Funds to the City of Long Beach for the purchase of an office trailer
<b>Method of Procurement:</b> Pursuant to Article 9, §1 of the NYS Constitution and Article 5-G of the General Municipal Law, the County may enter into intergovernmental agreements. This inter-municipal agreement is between the County and the City of Long Beach.
<b>Procurement History:</b> The District has determined that this is a Type II Action under Section 617.5 (c)25
<b>Description of General Provisions:</b> This item is an inter-municipal agreement (IMA) between the County of Nassau (the County) and the City of Long Beach
<b>Impact on Funding / Price Analysis:</b> The County will provide \$35,400 in Capital Funds to support this project
<b>Change in Contract from Prior Procurement:</b> n/a
<b>Recommendation:</b> (approve as submitted) Approve as Submitted

## Advisement Information

BUDGET CODES		FUNDING SOURCE	AMOUNT	LINE	INDEX/OBJECT CODE	AMOUNT
Fund:	PWCAPCAP	Revenue		1	PWCAPCAP/99206/00004	\$ 35,400.00
Control:		Contract:				\$ 0.00
Resp:		County	\$ 0.00			\$ 0.00
Object:	00004	Federal	\$ 0.00			\$ 0.00
Transaction:		State	\$ 0.00			\$ 0.00
Project #:	99206	Capital	\$ 35,400.00			\$ 0.00
Detail:	004	Other	\$ 0.00			\$ 0.00
		<b>TOTAL</b>	<b>\$ 35,400.00</b>		<b>TOTAL</b>	<b>\$ 35,400.00</b>
<b>RENEWAL</b>						
% Increase						
% Decrease						



Certified:

375-21

**NIFS ID: CFCE21000012      Department: County Executive**

**Capital: X**

SERVICE: City of Long Beach Office Trailer

Contract ID #: CFCE21000012      NIFS Entry Date: 10-JUN-21      Term: from to

New
Time Extension:
Addl. Funds:
Blanket Resolution:
RES#

1) Mandated Program:	N
2) Comptroller Approval Form Attached:	Y
3) CSEA Agmt. § 32 Compliance Attached:	N
4) Material Adverse Information Identified? (if yes, attach memo):	N
5) Insurance Required	N

<b>Vendor Info:</b>	
Name: <b>City of Long Beach</b>	Vendor ID#: <b>116000351</b>
Address: 1 West Chester Street Long Beach, NY 11561	Contact Person: Donna Gayden
	Phone: 516-431-1003

<b>Department:</b>	
Contact Name: Ursula Babino	
Address: 1550 Franklin Ave Mineola, NY 11501	
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OMB	NIFS Approval: X	14-OCT-21 -- NGUMIENIAK
County Atty.	Insurance Verification: X	10-SEP-21 -- AAMATO
County Atty.	Approval to Form: X	10-SEP-21 -- DGRIPPO
CPO	Approval: X	14-OCT-21 -- PARJUNE
DCEC	Approval: X	14-OCT-21 -- RCLEARY

A RESOLUTION AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AN INTER-MUNICIPAL AGREEMENT WITH THE CITY OF LONG BEACH IN RELATION TO A PROJECT TO PROCURE AN OFFICE TRAILER AND RELATED ITEMS

APPROVED AS TO FORM  
*Dennis McDermott*

Dennis McDermott, Deputy County Attorney

WHEREAS, the County of Nassau (the "County") and the City of Long Beach (the "City") are authorized, pursuant to Article 5-G of the General Municipal Law to enter into intergovernmental agreements; and

WHEREAS, it is in the best interests of the County and City in procuring an office trailer and related items for the City (Fire Department); and

WHEREAS, the City has agreed to accept funds from the County in furtherance of the Project; and

WHEREAS, the County and the City believe it to be in the best interest of the taxpayers of their respective municipalities to authorize intermunicipal cooperation with respect to the mutual covenants set forth in the proposed Agreement, on file with the Clerk of the Legislature; now, therefore, be it

# NIFA Nassau County Interim Finance Authority

## Contract Approval Request Form (As of January 1, 2015)

1. Vendor: City of Long Beach

2. Dollar amount requiring NIFA approval: \$35400

Amount to be encumbered: \$35400

This is a New

If new contract - \$ amount should be full amount of contract

If advisement ?NIFA only needs to review if it is increasing funds above the amount previously approved by NIFA

If amendment - \$ amount should be full amount of amendment only

3. Contract Term: 5 years from execution

Has work or services on this contract commenced? N

If yes, please explain:

4. Funding Source:

General Fund (GEN)	Grant Fund (GRT)	Federal % 0
X Capital Improvement Fund (CAP)		State % 0
Other		County % 100

Is the cash available for the full amount of the contract? N

If not, will it require a future borrowing? Y

Has the County Legislature approved the borrowing? N

Has NIFA approved the borrowing for this contract? N

5. Provide a brief description (4 to 5 sentences) of the item for which this approval is requested:

County will provide \$35,400 in Capital Funds to the City of Long Beach for the purchase of an office trailer

6. Has the item requested herein followed all proper procedures and thereby approved by the:

Nassau County Attorney as to form Y

Nassau County Committee and/or Legislature

Date of approval(s) and citation to the resolution where approval for this item was provided:

7. Identify all contracts (with dollar amounts) with this or an affiliated party within the prior 12 months:

Contract ID	Date	Amount

AGREEMENT BETWEEN THE COUNTY OF NASSAU, NEW YORK AND THE CITY  
OF LONG BEACH IN RELATION TO INTERMUNICIPAL COOPERATION

THIS AGREEMENT ("Agreement") made and dated as of the date (the "Effective Date") that this Agreement is executed by Nassau County, by and between the County of Nassau, a municipal corporation, having its principal offices at 1550 Franklin Avenue, Mineola, New York 11501 (the "County") and the City of Long Beach having its principal offices at 1 West Chester Street, Long Beach, New York 11561 ("CITY").

WITNESSETH:

WHEREAS, it is in the best interests of the County and the CITY to share resources in the undertaking of municipal improvement projects and other purposes, as authorized by Article 5-G of the General Municipal Law ("GML") of the State of New York;

WHEREAS, each party hereto has certain resources, including equipment, personnel and financing which is available to carry out such projects and purposes;

WHEREAS, it is possible to make such resources available for mutual use when it is in the public interest;

WHEREAS, it is desirable for the County and the CITY to undertake a certain project as authorized by the GML through this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the parties hereto do agree as follows:

Section 1. The County and the CITY each represent that they are authorized, pursuant to Article 9, § 1 of the New York State Constitution and Article 5-G of the GML to enter into intergovernmental agreements to undertake the project, as described herein.

Section 2. The County and the CITY, believing it to be in their respective best interests, do hereby authorize inter-municipal cooperation for the project as hereinafter defined.

Section 3. Under all applicable rules of public bidding and procurement, the CITY will undertake a project to purchase an office trailer and related items, all with a useful life of no less than five (5) years, to assist the Fire Department in providing emergency services for the Department and in furtherance of the County Fire Mutual Aid Plan ("Project"). The CITY represents and warrants that it has completed its review of the project pursuant to the applicable provisions of the New York State Environmental Quality Review Act ("SEQRA") and has provided the County with

accounts and other evidence, whether maintained electronically or manually ("Records"), pertinent to its individual performance under this Agreement. Such Records shall at all times be available for audit and inspection by the County Comptroller, or any other governmental authority with jurisdiction over the provision of services hereunder and/or the payment therefor, and any of their duly designated representatives. The provisions of this Section shall survive termination of this Agreement.

#### Section 10.

- a) The CITY shall be solely responsible for and shall indemnify and hold harmless the County, its officers, employees and agents ("Indemnified Parties") from and against any and all liabilities, losses, costs, expenses (including, without limitation, attorney's fees and disbursements) and damages ("Losses"), arising out of or in connection with any acts or omissions of the CITY or any agent of the CITY in the maintenance and control of the Project undertaken pursuant to this Agreement, regardless of whether due to negligence, fault, or default, including Losses in connection with any threatened investigation, litigation or other proceeding or preparing a defense to or prosecuting the same.
- b) The CITY shall, upon the County's demand and at the County's direction, promptly and diligently defend, at the CITY's own risk and expense, any and all suits, actions, or proceedings which may be brought or instituted against one or more Indemnified Parties and the CITY shall pay and satisfy any judgment, decree, loss or settlement in connection therewith.
- c) The CITY shall, and shall cause its agents to, cooperate with the County in connection with the investigation, defense or prosecution of any action, suit or proceeding.
- d) The provisions of this Section shall survive termination of this Agreement.

Section 11. Nothing contained herein shall be construed to create an employment or principal-agent relationship, or a partnership or joint venture, between the County and any officer, employee, servant, agent or independent contractor of the CITY, or between the CITY and any officer, employee, servant, agent or independent contractor of the County, and neither party shall have the right, power or authority to obligate or bind the other in any manner whatsoever.

Section 12. Notwithstanding any other provision of this Agreement:

- a) Approval and Execution. The County shall have no liability under this

The City of Long Beach

By *[Signature]* Date 8/19/2024

COUNTY OF NASSAU

By *Helena Williams* Date 11/9/21  
Deputy County Executive

Print Name Helena Williams

EXECUTE in BLUE INK.



## Appendix EE

### Equal Employment Opportunities for Minorities and Women

The provisions of this Appendix EE are hereby made a part of the document to which it is attached.

The Contractor shall comply with all federal, State and local statutory and constitutional anti-discrimination provisions. In addition, Local Law No. 14-2002, entitled "Participation by Minority Group Members and Women in Nassau County Contracts," governs all County Contracts as defined by such title and solicitations for bids or proposals for County Contracts. In accordance with Local Law 14-2002:

- a. The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status in recruitment, employment, job assignments, promotions, upgradings, demotions, transfers, layoffs, terminations, and rates of pay or other forms of compensation. The Contractor will undertake or continue existing programs related to recruitment, employment, job assignments, promotions, upgradings, transfers, and rates of pay or other forms of compensation to ensure that minority group members and women are afforded equal employment opportunities without discrimination.
- b. At the request of the County contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status and that such employment agency, labor union, or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
- c. The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the County Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
- d. The Contractor shall make Best Efforts to solicit active participation by certified minority or women-owned business enterprises ("Certified M/WBEs") as defined in Section 101 of Local Law No. 14-2002, including the granting of Subcontracts.
- e. The Contractor shall, in its advertisements and solicitations for Subcontractors,

compliant or considered breach of the County Contract.

l. The Contractor shall be bound by the provisions of Section 109 of Local Law No. 14-2002 providing for enforcement of violations as follows:

- a. Upon receipt by the Executive Director of a complaint from a contracting agency that a County Contractor has failed to comply with the provisions of Local Law No. 14-2002, this Appendix EE or any other contractual provisions included in furtherance of Local Law No. 14-2002, the Executive Director will try to resolve the matter.
- b. If efforts to resolve such matter to the satisfaction of all parties are unsuccessful, the Executive Director shall refer the matter, within thirty days (30) of receipt of the complaint, to the American Arbitration Association for proceeding thereon.
- c. Upon conclusion of the arbitration proceedings, the arbitrator shall submit to the Executive Director his recommendations regarding the imposition of sanctions, fines or penalties. The Executive Director shall either (i) adopt the recommendation of the arbitrator (ii) determine that no sanctions, fines or penalties should be imposed or (iii) modify the recommendation of the arbitrator, provided that such modification shall not expand upon any sanction recommended or impose any new sanction, or increase the amount of any recommended fine or penalty. The Executive Director, within ten days (10) of receipt of the arbitrators award and recommendations, shall file a determination of such matter and shall cause a copy of such determination to be served upon the respondent by personal service or by certified mail return receipt requested. The award of the arbitrator, and the fines and penalties imposed by the Executive Director, shall be final determinations and may only be vacated or modified as provided in the civil practice law and rules ("CPLR").

m. The contractor shall provide contracting agency with information regarding all subcontracts awarded under any County Contract, including the amount of compensation paid to each Subcontractor and shall complete all forms provided by the Executive Director or the CITY Head relating to subcontractor utilization and efforts to obtain M/WBE participation..

Failure to comply with provisions (a) through (m) above, as ultimately determined by the Executive Director, shall be a material breach of the contract constituting grounds for immediate termination. Once a final determination of failure to comply has been reached by the Executive Director, the determination of whether to terminate a contract shall rest with the Deputy County Executive with oversight responsibility for the contracting agency.

required as part of the documentation.

- b. Proof of having provided reasonable time for M/WBE Subcontractors to respond to bid opportunities according to industry norms and standards. A chart outlining the schedule/time frame used to obtain bids from M/WBEs is suggested to be included with the Best Effort Documentation
- c. Proof or affidavit of follow-up of telephone calls with potential M/WBE subcontractors encouraging their participation. Telephone logs indicating such action can be included with the Best Effort Documentation
- d. Proof or affidavit that M/WBE Subcontractors were allowed to review bid specifications, blue prints and all other bid/RFP related items at no charge to the M/WBEs, other than reasonable documentation costs incurred by the County Contractor that are passed onto the M/WBE.
- e. Proof or affidavit that sufficient time prior to making award was allowed for M/WBEs to participate effectively, to the extent practicable given the timeframe of the County Contract.
- f. Proof or affidavit that negotiations were held in Best Efforts with interested M/WBEs, and that M/WBEs were not rejected as unqualified or unacceptable without sound business reasons based on (1) a thorough investigation of M/WBE qualifications and capabilities reviewed against industry custom and standards and (2) cost of performance. The basis for rejecting any M/WBE deemed unqualified by the County Contractor shall be included in the Best Effort Documentation
- g. If an M/WBE is rejected based on cost, the County Contractor must submit a list of all sub-bidders for each item of work solicited and their bid prices for the work.
- h. The conditions of performance expected of Subcontractors by the County Contractor must also be included with the Best Effort Documentation
- i. County Contractors may include any other type of documentation they feel necessary to further demonstrate their Best Efforts regarding their bid documents.

As used in this Appendix EE the term "Executive Director" shall mean the Executive Director of the Nassau County Office of Minority Affairs; provided, however, that Executive Director shall include a designee of the Executive Director except in the case of final determinations issued pursuant to Section (a) through (l) of these rules.

Jack Schnirman  
Comptroller



OFFICE OF THE COMPTROLLER  
240 Old Country Road  
Mineola, New York 11501

**COMPTROLLER APPROVAL FORM FOR PERSONAL,  
PROFESSIONAL OR HUMAN SERVICES CONTRACTS**

*Attach this form along with all personal, professional or human services contracts, contract renewals, extensions and amendments.*

**CONTRACTOR NAME:** City of Long Beach

**CONTRACTOR ADDRESS:** One West Chester Street Long Beach, NY 11561

**FEDERAL TAX ID #:** 11-6000351

***Instructions:*** Please check the appropriate box ("☐") after one of the following roman numerals, and provide all the requested information.

**I.** The contract was awarded to the lowest, responsible bidder after advertisement for sealed bids. The contract was awarded after a request for sealed bids was published in \_\_\_\_\_ [newspaper] on \_\_\_\_\_ [date]. The sealed bids were publicly opened on \_\_\_\_\_ [date]. \_\_\_\_\_ [#] of sealed bids were received and opened.

**II.** The contractor was selected pursuant to a Request for Proposals.

The Contract was entered into after a written request for proposals was issued on \_\_\_\_\_ [date]. Potential proposers were made aware of the availability of the RFP by advertisement in \_\_\_\_\_ [newspaper], posting on industry websites, via email to interested parties and by publication on the County procurement website. Proposals were due on \_\_\_\_\_ [date]. \_\_\_\_\_ [state #] proposals were received and evaluated. The evaluation committee consisted of: \_\_\_\_\_

\_\_\_\_\_ (list # of persons on committee and their respective departments). The proposals were scored and ranked. As a result of the scoring and ranking, the highest-ranking proposer was selected.

**VI. This is a human services contract with a not-for-profit agency for which a competitive process has not been initiated.** Attached is a memorandum that explains the reasons for entering into this contract without conducting a competitive process, and details when the department intends to initiate a competitive process for the future award of these services. For any such contract, where the vendor has previously provided services to the county, attach a copy of the most recent evaluation of the vendor's performance. If the contractor has not received a satisfactory evaluation, the department must explain why the contractor should nevertheless be permitted to contract with the county.

In certain limited circumstances, conducting a competitive process and/or completing performance evaluations may not be possible because of the nature of the human services program, or because of a compelling need to continue services through the same provider. In those circumstances, attach an explanation of why a competitive process and/or performance evaluation is inapplicable.

**VII. This is a public works contract for the provision of architectural, engineering or surveying services.** The attached memorandum provides details of the department's compliance with Board of Supervisors' Resolution No. 928 of 1993, including its receipt and evaluation of annual Statements of Qualifications & Performance Data, and its negotiations with the most highly qualified firms.

*Instructions with respect to Sections VIII, IX and X: All Departments must check the box for VIII. Then, check the box for either IX or X, as applicable.*

**VIII.  Participation of Minority Group Members and Women in Nassau County**

**Contracts.** The selected contractor has agreed that it has an obligation to utilize best efforts to hire MWBE sub-contractors. Proof of the contractual utilization of best efforts as outlined in Exhibit "EE" may be requested at any time, from time to time, by the Comptroller's Office prior to the approval of claim vouchers. UPON INFORMATION AND BELIEF.

**IX. Department MWBE responsibilities.** To ensure compliance with MWBE requirements as outlined in Exhibit "EE", Department will require vendor to submit list of sub-contractor requirements prior to submission of the first claim voucher, for services under this contract being submitted to the Comptroller.

**X.  Vendor will not require any sub-contractors.** UPON INFORMATION AND BELIEF.

*In addition, if this is a contract with an individual or with an entity that has only one or two employees: © a review of the criteria set forth by the Internal Revenue Service, Revenue Ruling No. 87-41, 1987-1 C.B. 296, attached as Appendix A to the Comptroller's Memorandum, dated February 13, 2004, concerning independent contractors and employees indicates that the contractor would not be considered an employee for federal tax purposes.*

*UMBairno*

**Department Head Signature**

June 2, 2021

**Date**

**NOTE:** Any information requested above, or in the exhibit below, may be included in the county's "staff summary" form in lieu of a separate memorandum.

Compt. form Pers./Prof. Services Contracts: Rev. 03/16

COUNTY OF NASSAU

CONSULTANT'S, CONTRACTOR'S AND VENDOR'S DISCLOSURE FORM

1. Name of the Entity: City of Long Beach  
Address: One West Chester Street  
City, State and Zip Code: Long Beach, New York 11561
2. Entity's Vendor Identification Number: 11-6000351
3. Type of Business:  Public Corp  Partnership  Joint Venture  
 Ltd. Liability Co  Closely Held Corp  <sup>municipal</sup> Corporation Other (specify)

4. List names and addresses of all principals; that is, all individuals serving on the Board of Directors or comparable body, all partners and limited partners, all corporate officers, all parties of Joint Ventures, and all members and officers of limited liability companies (attach additional sheets if necessary):

- John Berdo - One West Chester St., Long Beach, NY 11561  
Michael Delury - One West Chester St., Long Beach, NY 11561  
Elizabeth Treston - One West Chester St., Long Beach, NY 11561  
Karen McInnis - One West Chester St., Long Beach, NY 11561  
Scott Mandel - One West Chester St., Long Beach, NY 11561  
Donna M. Gayden - One West Chester St., Long Beach, NY 11561

5. List names and addresses of all shareholders, members, or partners of the firm. If the shareholder is not an individual, list the individual shareholders/partners/members. If a Publicly held Corporation, include a copy of the 10K in lieu of completing this section.

None  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) Describe lobbying activity of each lobbyist. See below for a complete description of lobbying activities.

None

(c) List whether and where the person/organization is registered as a lobbyist (e.g., Nassau County, New York State):

None

8. VERIFICATION: This section must be signed by a principal of the consultant, contractor or Vendor authorized as a signatory of the firm for the purpose of executing Contracts.

The undersigned affirms and so swears that he/she has read and understood the foregoing statements and they are, to his/her knowledge, true and accurate.

Dated: 5/19/21

Signed: [Signature]

Print Name: Donna M. Gayden

Title: City Manager



DONNA M. GAYDEN  
CITY MANAGER

**CITY OF LONG BEACH**

1 WEST CHESTER STREET  
LONG BEACH, NEW YORK 11561  
(516) 431-1003  
FAX: (516) 431-1016

June 13, 2019

Office of Nassau County Attorney  
1550 Franklin Avenue  
Mineola, NY 11501

RE: Community Revitalization Program (CRP)  
Inter-municipal Agreement (IMA) with Nassau County  
Purchase of an Office Trailer for the City of Long Beach,  
One West Chester Street, Long Beach, N.Y. 11561

Dear Sir,

This project is considered a Type II Action under Section 617.5 (c) 25 -purchase of equipment.

In accordance with Paragraph 617.3 (f) no SEQR determination of significance, EIS or findings statement is required for actions, which are Type II.

Thank you for your cooperation.

Sincerely,



Donna M. Gayden



*City Council*  
*Len Torres, President*  
*Anthony Eramo, Vice President*  
*Chant R. Diamond*  
*Scott J. Mandel*  
*Anissa D. Moore*



*City Manager*  
*Jack Schnirman*

*Purchasing Agent*  
*Rosemary Alton*

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**CITY OF LONG BEACH**  
**1 West Chester Street**  
**Long Beach, NY 11561**

**PROCUREMENT POLICY**  
**&**  
**PROCEDURES**

April, 2017

## I. GENERAL PROVISIONS

### A. PURPOSE

The purpose of this Statement of Procurement Policy is to: provide for the fair and equitable treatment by the City of Long Beach of all persons or firms involved in providing materials, supplies, equipment, services and construction to the City of Long Beach; assure that materials, supplies, equipment, services and construction are procured efficiently, effectively, and at the most favorable prices available to the City of Long Beach; promote bid competition; provide safeguards for and assure that City of Long Beach procurement actions are in full compliance with applicable Federal standards, HUD regulations, and New York State and City laws and regulations. The City of Long Beach dedicates itself to the procurement of the right goods and services at the right price for various City Departments in a timely manner assuring the prudent and economical use of public monies. The City of Long Beach shall facilitate the acquisition of goods and services while guarding against favoritism, extravagance, and fraud.

### B. APPLICATION

This Procurement Policy Statement applies to all contracts for the procurement of supplies, materials, services, public works contracts and construction entered into by the City of Long Beach after the effective date of this Statement. This policy shall apply to every expenditure of funds by the City of Long Beach for public purchasing, irrespective of the source of funds, including contracts which do not involve an obligation for funds (such as concession contracts); however, nothing in this Statement shall prevent the City of Long Beach from complying with the terms and conditions of other regulations otherwise consistent with all applicable laws. The term "procurement", as used in this Statement, includes materials, supplies, and equipment, services contracts, public works contracts and modifications to contracts. This policy may be reviewed annually and may be revised from time to time.

### C. PUBLIC ACCESS TO PROCUREMENT INFORMATION

Procurement information shall be a matter of public record to the extent provided in New York State Freedom of Information Act and shall be available to the public as provided in that statute. An exception to this rule is confidential financial information or information deemed proprietary by the submitting individual or company.

## II. PROCUREMENT AUTHORITY & ADMINISTRATION

### A. All procurement transactions shall be administered

8. discretionary spending of no more than ten (10%) percent of the original approved and authorized purchase order may be sought, as long as such does not exceed applicable procurement thresholds, by the Commissioner/Director/Supervisor of each department or agency of the City responsible for such, as long as funding is available.

C. The City Council appoints and delegates procurement authority to the Purchasing Agent, Rosemary Alton, who is responsible for ensuring that any procurement policies adopted are appropriate and enforced for the City of Long Beach.

The Purchasing Agent, Rosemary Alton, is responsible for the day to day operation of the Purchasing Department. As Purchasing Agent she has the authority to sign purchase orders, execute bid documents after approval by City Council resolution, and can extend duly awarded bids if found in the best interest of the City. In the absence of Rosemary Alton, the individuals responsible for procurement in the City of Long Beach shall be Kristie Hansen-Hightower and Jack Schnirman.

D. The commissioner/director/supervisor (as applicable) of each department or agency of the City responsible for procurement of services, supplies, equipment, or construction obtained with state and/or federal grant funds (including CDBG-DR funds) shall review all proposed procurement actions to avoid the purchase of unnecessary or duplicative items. Such reviews shall consider consolidation or breaking out to obtain a more economical purchase or lease versus purchase alternatives. When determined appropriate by the commissioner/director/supervisor (as applicable), an analysis to determine which approach would be the most economical shall be undertaken.

### III. PROCUREMENT METHODS

#### A. SELECTION METHOD

Once it has been decided that the City of Long Beach will directly purchase the required items, the following procedure will be taken:

1. A Purchase Requisition will be completed in duplicate by the department head.
2. One copy of the requisition is sent to the Purchasing Department and one is kept on file in the originating department.
3. Once one of the following procurement methods listed below has been chosen, based on the nature and anticipated dollar value of the total requirement, the purchase order is approved by the purchasing agent, City Comptroller and City Manager and then encumbered.
4. Original Purchase Order is sent/e-mailed to vendor, two copies (one for department files and the other for receiving report) are sent to originating department and one copy is kept on file in the purchasing department.

7. Public works contracts of \$10,001 or more. For public works contracts above \$10,001 but not exceeding \$35,000, at least three quotations shall be solicited in writing, by e-mail or by fax. Award shall be made to the offeror providing the lowest acceptable quotation, unless otherwise justified in writing or other specified circumstances, such as for architect-engineer, or other professional consultant service contracts. If non-price factors are used, they shall be disclosed to all those solicited. The names, addresses, and/or telephone numbers of the offerors and persons contacted, and the date and amount of each quotation shall be recorded and maintained as a public record.
8. Procedure of obtaining quotes. The procedure for obtaining written, e-mail or fax quotes will be as follows. The requesting department will forward specifications of a proposed purchase of materials/supplies or a service contract to the Purchasing Department. The requesting department may include a list of possible vendors. The Purchasing Department will prepare a standardized quotation form and mail, e-mail or fax said form to the appropriate number of vendors. Vendors will return completed quotation forms to the Purchasing Department. The Purchasing Agent will select the lowest responsible vendor meeting the department's specifications and notify the department. The requesting department will then complete a requisition and submit it to the Purchasing Department for processing. (Exception: Public Works contracts will be quoted directly from that department).
9. Preferred Sources. Purchases of prison-made goods from Corcraft Products, goods made by the NYS Industries for the Disabled, the Office of Mental Health, and Industries for the Blind of NYS, Inc., are not subject to competitive bidding requirements. Purchases made through any contracts that allow for political subdivisions to purchase from them, as well as New York State contracts, are also exempt by law from competitive bidding, so long as the contract was awarded consistent with New York State Law.
10. Best Value. Notwithstanding any provision to the contrary, the Purchasing Agent, Rosemary Alton, may use Best Value methodology to award any contract covered by this Procurement Policy. Where the basis for the award is the Best Value offer, the Purchasing Agent shall document, in the procurement record and in advance of the initial receipt of offers, the determination of the evaluation criteria, which whenever possible shall be quantifiable, and the process to be used in the determination of best value and the manner in which the evaluation process and selection shall be conducted.
  - a. The Purchasing Agent shall select a formal competitive procurement process in accordance with all relevant laws and document its determination in the procurement record. The process shall include, but is not limited to, a clear statement of need; a description of the required specifications governing performance and related factors; a reasonable process for ensuring a competitive field; a fair and equal

and/or other designated individual. An invitation for bids shall be issued including specifications and all contractual terms and conditions applicable to the procurement, including a statement that award will be made to the lowest responsible and responsive bidder whose bid meets the requirements of the invitation for bids. The invitation for bids shall state the time and place for both the receipt of bids and the public bid opening. All bids received shall be time-stamped but not opened and shall be stored in a secure place until bid opening. A bidder may withdraw its bid at any time prior to bid opening. Bids submitted via fax will not be accepted.

3. Bid Opening and Award. Bids shall be opened publicly and in the presence of at least one witness. Bids submitted after advertised time will not be opened or considered. An abstract of bids shall be recorded and the bids shall be available for public inspection. Award shall be made as provided in the invitation for bids by written notice to the successful bidder. If equal low bids are received from responsible bidders, award shall be made to the vendor providing the highest discount. If no discounts are offered, or if discounts offered are equal, lots will be drawn to determine the award. If only one responsible bid is received from a responsible bidder, award shall not be made unless a price analysis verifies the reasonableness of the price. All successful bidders will be notified of award, once finalized. The Purchasing Agent shall recommend bid award to the City Council. Formal awards of all bids shall be approved by resolution by the City Council at a public meeting.

4. Mistake in Bids.

a. Correction or withdrawal of inadvertently erroneous bids may be permitted, where appropriate, before bid opening by written notice received in the office designated in the invitation for bids prior to the time set for bid opening. A low bidder alleging a non-judgmental mistake may be permitted to withdraw its bid if the mistake is clearly evident on the face of the bid document or if the intended bid is unclear or if the bidder submits convincing evidence that a mistake was made. Request for withdrawal of a bid must be submitted in writing to the Purchasing Agent. A written explanation and justification must be provided.

b. After bid opening, in all contracts where a unilateral error or mistake is discovered in a bid, such bid may be withdrawn after a showing of the following:

1. the mistake is known or made known to the City prior to the awarding of the contract or within three days after the opening of the bid, whichever period is shorter, and
2. the price bid was based on an error of such magnitude that enforcement would be unconscionable, and
3. the bid was submitted in good faith and the bidder submits credible evidence that the mistake was a clerical error as opposed to a judgment error, and
4. the error in the bid is actually due to an unintentional and substantial arithmetic error or an unintentional omission of a

award, based on evaluation against the technical and price factors as specified in the RFP. Such offerors shall be accorded fair and equal treatment with respect to any opportunity for negotiation and revision of proposals. The purpose of negotiations shall be to seek clarification with regard to and advise offerors of the deficiencies in both the technical and price aspects of their proposals so as to assure full understanding of and conformance to the solicitation requirements. No offeror shall be provided information about any other offeror's proposal, and no offeror shall be assisted in bringing its proposal up to the level of any other proposal. Offerors shall not be directed to reduce their proposed prices to a specific amount in order to be considered for award. A common deadline shall be established for receipt of proposal revisions based on negotiations.

4. Award. After evaluation of proposal revisions, if any, the contract shall be awarded to the responsible firm whose qualifications, price and other factors considered, are the most advantageous to the City of Long Beach. Once a proposer has been chosen, a best and final offer may be requested by the City.

5. Architect/Engineer Services. Architect/engineer consultant services for federally and/or state funded projects in excess of the small purchase limitation, may be obtained by either the competitive proposals method or qualifications-based selection procedures. Sealed bidding, however, shall not be used to obtain architect-engineer-consultant services. Under qualifications-based selection procedures, competitor's qualifications are evaluated and the most qualified competitor is selected, subject to the negotiation of fair and reasonable compensation. Price is not used as a selection process. In Federally funded projects price is excluded as an evaluation factor and SHALL not be used in the selection process. Negotiations are to be conducted with only the most qualified offeror. Failing agreement on price, negotiations with the next most qualified offeror are conducted until a contract award can be made. Comparison of prices between offerors is prohibited.

#### E. NON-COMPETITIVE PROPOSALS

1. Conditions for use. Procurements shall be conducted competitively to the maximum extent possible, with the exception of legally available means of non-competitive procurement as proscribed in General Municipal Law Section 103, including "Piggybacking". Procurement by non-competitive proposals may be used when one of the following applies:
  - a. The item is available only from a single source, based on a good faith review of available sources or after receiving confirmation from the manufacturer that there is only one source for the item.
  - b. An emergency exists that seriously threatens the public health, welfare or safety, or endangers property, or would otherwise cause serious injury to the City of Long Beach, as may arise by reason of a flood, earthquake, epidemic, riot, equipment failure, or similar event. In such

5. A notice of cancellation shall be sent to all offerors solicited and, if appropriate, shall explain, if applicable, that they will be given an opportunity to compete on any resolicitation or future procurement of similar items.
6. If all otherwise acceptable bids received in response to an invitation for bids are at unreasonable prices, or only one bid is received and the price is unreasonable, the City of Long Beach shall cancel the solicitation and either:
  - a. Re-solicit using a request for proposals;
  - b. Negotiation

#### IV. CONTRACTOR QUALIFICATIONS AND DUTIES

##### A. CONTRACTOR RESPONSIBILITY

Procurements shall be conducted only with responsible contractors, i.e., those who have the technical and financial competence to perform and who have a satisfactory record of integrity. Before awarding a contract the City of Long Beach shall review the proposed contractor's ability to perform the contract successfully, considering factors such as the contractor's integrity, compliance with public policy, compliance with applicable State, County and local regulations, record of past performance (including contacting previous clients of the contractor, such as other towns), and financial and technical resources of the firm or individual. If the prospective contractor is found to be non-responsive, a written determination of non-responsibility shall be prepared and included in the contract file, and the prospective contractor shall be advised of the reasons for the determination. A rejected bidder is entitled to a hearing, within 10 days of notice of rejection, if desired. The Purchasing Agent may elect to hold a hearing on the matter of disqualification of a prospective bidder.

##### B. SUSPENSION AND DEBARMENT

Contracts shall not be awarded to debarred, suspended or ineligible contractors. Contractors may be suspended, debarred, or determined ineligible by the City of Long Beach when necessary to protect the City of Long Beach in its business dealings. The Purchasing Agent may elect to hold a hearing at which time all facts concerning the matter may be discussed.

##### C. CONTRACTOR REQUIREMENTS AND PROCEDURES FOR NEW YORK STATE CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES

It is the City's desire to promote equality of economic opportunities for minority group members and women and the facilitation of Minority and Women-owned Business Enterprise participation. As such, in City Council Resolution No. 93/16,

option is a unilateral right of the City of Long Beach; (III) the contract states a limit on the additional quantities and the overall term of the contract; (IV) the options are evaluated as part of the initial competition; (V) the contract states the period within which the options may be exercised; (VI) the options may be exercised only at the price specified in or reasonably determinable from the contract; that reasonable increases may be granted if deemed to be in the best interest of the City and in the sole discretion of the City; the options may be exercised only if determined to be more advantageous to the City of Long Beach than conducting a new procurement; and the scope of the contract is not being significantly altered.

#### C. CONTRACT CLAUSES

1. In addition to containing a clause identifying the contract type, all contracts for federally funded programs shall include any clauses required by Federal statutes, executive orders, and their implementing regulations.

### VI. SPECIFICATIONS

#### A. GENERAL

All specifications shall be drafted so as to promote overall economy for the purpose intended and to encourage competition in satisfying the City of Long Beach's needs. Specifications shall be reviewed prior to solicitation to ensure that they are not unduly restrictive or represent unnecessary duplicative items.

#### B. LIMITATIONS

The following specification limitation shall be avoided: whenever possible geographic restrictions not be mandated or encouraged (in accordance to applicable Federal law) (except for architect/engineer/consultant contracts, which may include geographic locations as a selection factor if adequate competition is available); unnecessary bonding or experience requirements; brand name specifications, to the extent practical, (unless a written determination is made that only the identified item will satisfy the City of Long Beach's needs); brand name or equal specifications (unless they list the minimum essential characteristics and standards to which the item must conform to satisfy its intended use or the brand name is being utilized to set a standard, but not overly restrict the competitive bidding process). Nothing in this procurement policy shall preempt any State licensing laws.



conflict, real or apparent, would be involved. Such conflict would arise when a financial or other interest in a firm selected for award is held by:

1. An employee, officer or agent involved in making the award;
2. His/her relative (including father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister);
3. His/her partner; or,
4. An organization which employs, is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

The code of Ethics as specified by the City of Long Beach will be adhered to by all employees.

**C. GRATUITIES, KICKBACKS, AND USE OF CONFIDENTIAL INFORMATION**

City of Long Beach officers, employees or agents shall not solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-contractors in violation of the City Code of Ethics, and shall not knowingly use confidential information for actual or anticipated personal gain.

**D. PROHIBITION AGAINST CONTINGENT FEES**

Contractors shall not retain a person to solicit or secure a City of Long Beach contract for a commission, percentage, brokerage, or contingent fee, except for bona fide employees or bona fide established commercial selling agencies.

contract clauses and provisions. *Note: FTA procurement guidelines only apply when the policies and procedures below are firmer than the City's procurement policy.*

#### **Written Record of Procurement History**

The Procurement Agent shall maintain records detailing the history of all FTA associated procurement. These records shall be placed in the master file and include:

- a. Procurement Method: The rationale for the method of procurement, including a sole source justification for any acquisition that does not qualify as competitive (See Decision Matrix);
- b. Contract Type: State the reasons for selecting the contract type (fixed price, cost reimbursement, etc.);
- c. Contractor Selection: State the reasons for contractor selection or rejection (include a written responsibility determination for the successful contractor).
- d. Cost or Price. Evaluate and state its justification for the contract cost or price.

#### **Procurement documentation files**

Where appropriate, the file contains:

- Purchase request, acquisition planning information, and other pre-solicitation documents;
- Evidence of availability of funds;
- Rationale for the method of procurement (negotiations, formal advertising);
- List of sources solicited;
- Independent cost estimate;
- Description of work/scope of services;
- Copies of published notices of proposed contract action;
- Copy of the solicitation, all addenda, and all amendments;
- Liquidated damages determination;
- An abstract of each offer or quote;
- Contractor's contingent fee representation and other certifications and representations;
- Source selection documentation if applicable;
- Contracting Officer's determination of contractor responsiveness and responsibility;
- Cost or pricing data;
- Determination that price is fair and reasonable including an analysis of the cost and price data, required internal approvals for award;
- Notice of award;
- Notice to unsuccessful bidders or offers' and record of any debriefing;
- Record of any protest;
- Bid, Performance, Payment, or other bond documents, and notices to sureties;
- Required insurance documents, if any; and
- Notice to proceed.

#### **Contract Administration File**

Where appropriate, the file contains:

- Purchasing Department Tracking Sheet
- Executed contract and notice of award

3. **Sealed bids (Formal Advertising)** - In which bids are publicly solicited, and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is lowest in price. When Appropriate:

- a. Precise Specifications: A complete, adequate, precise, and realistic specification or purchase description is available.
- b. Adequate Sources: Two or more responsible bidders are willing and able to compete effectively for the business.
- c. Fixed Price Contract. The procurement generally lends itself to a firm fixed price contract.
- d. Price Determinative: The successful bidder can be selected on the basis of price and those price-related factors listed in the solicitation including, but not limited to, transportation costs, life cycle costs, and discounts expected to be taken. Apart from responsibility determinations discussed in later sections of this Chapter, contractor selection may not be determined on the basis of other factors whose costs cannot be measured at the time of award.
- e. Discussions Unnecessary: Discussions with one or more bidders after bids have been submitted are expected to be unnecessary as award of the contract will be made based on price and price-related factors alone. This contrasts with Competitive Proposal procedures in which discussions with individual offers' are expected to be necessary and may take place at any time after receipt of proposals. However, a pre-bid conference with prospective bidders before bids have been received can be useful.

The following requirements apply:

- a. Publicity & Adequate Sources: The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time to prepare bids prior to the date set for opening the bids;
- b. Adequate Specifications: The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services sought in order for the bidder to properly respond;
- c. Sufficient Time. Bidders are allowed sufficient time to prepare bids
- d. Public Opening. All bids will be publicly opened at the time and place prescribed in the invitation for bids;
- e. Fixed Price Contract. A firm fixed price contract is usually awarded in writing to the lowest responsive and responsible bidder, but a fixed price incentive contract or inclusion of an economic price adjustment provision can sometimes be appropriate. When specified in the bidding documents, factors such as transportation costs and life cycle costs affect the determination of the lowest bid; payment discounts are used to determine the low bid only when prior experience indicates that such discounts are typically taken.
- f. Rejection of Bids. Any or all bids may be rejected if there is a sound, documented business reason.

worth 100 points). Note: numerical or percentage ratings or weights, need not to be disclosed.

- c. Adequate Sources. Proposals will be solicited from an adequate number of qualified sources.
- d. Evaluation Method. A specific method is established and used to conduct technical evaluations of the proposals received and to determine the most qualified offeror.
- e. Price and Other Factors. An award is made to the responsible offeror whose proposal is most advantageous to the City with price and other factors considered.
- f. Best Value. If permitted under its State or local law, the City may award the contract to the offeror whose proposal provides the greatest value to the City. To do so, the City's solicitation must inform potential offers' that the award will be made on a "best value" basis and identify what factors will form the basis for award. The evaluation factors for a specific procurement should reflect the subject matter and the elements that are most important to the City. Those evaluation factors may include, but need not be limited to, technical design, technical approach, length of delivery schedules, quality of proposed personnel, past performance, and management plan. The City should base its determination of which proposal represents the "best value" on an analysis of the tradeoff of qualitative technical factors and price or cost factors. Apart from the statutory requirement that the contract must support the City's public transportation project consistent with applicable Federal laws and regulations, FTA does not require any specific factors or analytic process.

Documentation of the *Award Recommendation Justification* (appendix viii.) should clearly identify key determination factors.

5. **Noncompetitive Proposals (Sole Source) Procurement** - Only use if the City can justify not soliciting additional competition in the manner *explicitly* defined in FTA Circular 4420.1F.

Sole Source procurements are accomplished through solicitation or acceptance of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. A contract amendment or change order that is not within the scope of the original contract is considered a sole source procurement that must comply with this subparagraph.

- a. **Competition Adequacy**. After soliciting several sources, FTA expects the City to review its specifications to determine if they are unduly restrictive or if changes can be made to encourage submission of more bids or proposals. After the City determines that the specifications are not unduly restrictive and changes cannot be made to encourage greater competition, the City's may determine the competition adequate. *A cost analysis must be performed in lieu of a price analysis when this situation occurs.*

construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, or related services.

The Brooks Act requires that:

1. An offeror qualifications are evaluated;
2. Price must be **EXCLUDED** as an evaluation factor;
3. Negotiations be conducted with only the most qualified offeror; and
4. Failing agreement on price, negotiations with the next most qualified offeror be conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the grantee;
5. Show results of the negotiation.

Design-Build. The City must procure design-build services through means of qualifications-based competitive proposal procedures based on the Brooks Act... when the preponderance of the work to be performed is considered to be for architectural and engineering, program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, or related A&E services. Qualifications-based competitive proposal procedures may not be used to procure design-build services when the preponderance of the work to be performed are services other than those listed in the previous sentence, unless required by State law.

2. Relation to Construction: The nature of the services to be performed and its relationship to construction, not the nature of the prospective contractor, determines whether qualifications-based procurement procedures may be used.
  - a. Purpose of Services: FTA has long administered the requirement for using qualifications-based procurement procedures for selection of contractors that perform A&E services, generally associated with the construction, alteration, or repair of real property. FTA interprets 49 U.S.C. Section 5325(b) to authorize the use of qualifications-based procurement procedures only for those services that directly support or are directly connected or related to construction, alteration, or repair of real property. FTA's interpretation of 49 U.S.C. Section 5325(b) is consistent with typical Federal policies implementing the Brooks Act, 40 U.S.C. Section 1102, which limits qualifications-based procurement procedures to research, planning, development, design, construction, alteration, or repair of real property. Thus if services, such as program management, feasibility studies, or mapping, are not directly in support of, directly connected to, or directly related to, or lead to construction, alteration, or repair of real property, then the City's may not use qualifications-based procurement procedures to select the contractor that will perform those services.
  - b. Requirements in the Context of a Construction Project: A project involving construction (including an ITS project) does not always require the use of qualifications-based procurement procedures. Whether qualifications-based

- a. **Bid Guarantee:** Both FTA and the Common Grant Rules generally require each bidder to provide a bid guarantee equivalent to 5 percent of its bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid to ensure that the bidder will honor its bid upon acceptance.
- b. **Performance Bond:** Both FTA and the Common Grant Rules generally require the third party contractor to obtain a performance bond for 100 percent of the contract price. A "performance bond" is obtained to ensure completion of the obligations under the third party contract.
- c. **Payment Bond:** The Common Grant Rules generally require the third party contractor to obtain a standard payment bond for 100 percent of the contract price. A "payment bond" is obtained to ensure that the contractor will pay all people supplying labor and material for the third party contract as required by law. FTA, however, has determined that payment bonds in the following amounts are adequate to protect FTA's interest and will accept a local bonding policy that meets the following minimums:
  - o **Less than \$1 Million.** Fifty percent of the contract price if the contract price is not more than \$1 million,
  - o **More than \$1 Million but less than \$5 Million.** Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million, or
  - o **More than \$5 Million.** Two and one half million dollars if the contract price is more than \$5 million.

**National Intelligent Transportation Systems Architecture and Standards.** When requesting services for transportation system architecture, the City must ensure all offers'/bidders agree to conform, to the extent applicable, to the Intelligent Transportation System Architecture and Standards under the FHWA final rule, and with FTA Notice, "FTA National (ITS) Architecture Policy on Transit Projects and other subsequent Federal directives that may be issued.

## **INDIVIDUAL FTA PROCUREMENT ELEMENTS**

### **I. Costing and Pricing**

#### **Ensuring Most Efficient and Economic Purchase**

All proposed procurements are to be reviewed to avoid the purchase of property and services the City does not need (including duplicative items and unnecessary options). Consideration is also given to consolidating or breaking out procurements to obtain a more economical purchase.

### **Full and Open Competition**

The principle of full and open competition has one primary and two secondary purposes. The primary purpose is to obtain the best quality and service at minimum cost. The secondary purposes are to guard against favoritism and profiteering at public expense and to provide equal opportunities to participate in public business to every potential offeror.

The City must conduct all procurement in a manner providing full and open competition. This policy assures that all responsible bidders are permitted to compete for the procurement. In the case of sole or single source procurement, justification for use of the source must be documented on the *Noncompetitive Procurement Justification Form (appendix x)*.

### **Written Selection Procedures**

To ensure all procurements are awarded in a fair and equitable manner, all solicitations shall:

- a. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not contain features that unduly restrict competition, such as unnecessary experience or taking any arbitrary action in the procurement process. The description may include a statement of the qualitative nature of the material, product, or service to be procured and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.
- b. Identify all requirements that offerors must fulfill and all other factors to be used in evaluating bids or proposals.

### **Brand Name or Equals**

Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not contain features unduly restricting competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used.

The City shall use a "brand name or equal" description only when it cannot provide an adequate specification or more detailed description, without performing an inspection and analysis, in time for the acquisition under consideration. Further, if a "brand name or equal" is used the City must carefully identify its minimum needs and clearly set forth those salient physical and functional characteristics of the brand name product in the solicitation.

### **Lease versus Purchase**

To obtain the best value, the City should review lease versus purchase alternatives for acquiring property and, if necessary, should obtain an analysis to determine the more economical alternative. The City may use FTA capital assistance to finance the costs of leasing eligible property if leasing is more cost effective than full ownership. Before the City may lease an asset, FTA regulations, "Capital Leases," 49 CFR Part 639, Subpart C, require the City to make a written comparison of the cost of leasing the asset compared with the cost of purchasing or

### **Fixed Price v. Cost Reimbursement**

There are two broad categories of contract types: fixed-price contracts and cost reimbursement contracts. Within these two families of contract types there are a number of subtypes offering differing degrees of incentives. At the extremes are the firm-fixed-price contract, in which the contractor has complete responsibility for the costs of performance and the resulting profit or loss, and the cost-plus-fixed-fee contract, in which the contractor has virtually no risk for performance costs and the fee (profit) is fixed. Between these two extremes are the various incentive-type contracts where the degree of cost risk and profit incentive can be tailored to meet almost any specific program situation.

- a. Fixed-Price Contracts: These contracts are appropriate for acquiring commercial items, or for supplies or services which can be clearly defined with either performance/functional specifications or design specifications, and where performance uncertainties do not impose unreasonably high risks upon the contractor.
- b. Cost-Reimbursement Contracts: These contracts are one in which the City does not contract for the performance of a specified amount of work for a predetermined price, but agrees instead to pay the contractor's reasonable, allocable and allowable costs of performance regardless of whether the work is completed. The City assumes a high risk of incurring cost overruns, while the contractor has almost no risk of financial losses. Cost-type contracts are suitable when (a) you are unable to accurately describe the work to be done, or (b) there is an inability to accurately estimate the costs of performance. If either of these conditions is present, the cost reimbursement contract is the proper type of contract. *Cost-type contracts are ideally suited to complex requirements because the parties can devote their attention to accomplishing the work rather than on the claims process, which will be significant on larger, complex projects.*

### **Time and Materials Contracts**

The City will use time and materials contracts only:

- a. Restricted Use: After a determination that no other type of contract is suitable;
- b. Firm Ceiling Price: The contract specifies a ceiling price, and the contractor shall not exceed that price except at its own risk; and

### **Labor/Hour Contracts**

Labor / hour contracts are a variation of the time and materials contract, differing only in that materials are not supplied by the contractor. This type of contract should be used only when no other would be suitable, and the City needs to document the determination if it chooses to use this type of contract.

### **Cost Plus Percentage of Cost Contracts**

The FTA Circular 4420.1F clearly prohibits the use of this contracting method.

### **Out of Scope Changes**



### **Piggybacking / Assignment of Rights**

Piggybacking is an assignment of existing contract rights to purchase supplies, equipment or services. Piggybacking is permissible when the solicitation document and resultant contract contain an assign ability clause that provides for the assignment of all or a portion of the specified deliverables as originally advertised, completed, evaluated, and awarded.

- a. If the supplies were solicited, competed and awarded through the use of an indefinite-delivery indefinite- quantity (IDIQ) contract, then both the solicitation and contract award must contain both a minimum and a maximum quantity that represents the reasonably foreseeable needs of the party(s) to the solicitation and contract. If the City and another party jointly solicit and award an IDIQ contract, then there must be a total minimum and maximum.
- b. If the City obtains these contractual rights through assignment it may exercise them after first determining the contract price remains fair and reasonable, and all Federal requirements have been addressed in the contract's clauses. The City is not required to perform a second price analysis if a price analysis was originally performed. However, the City must determine the contract price or prices originally established are still fair and reasonable.
- c. The City is responsible for Buy America compliance with the transaction and assuring that it executes all of the required pre-award and post-delivery Buy America audit certifications.
- d. Before proceeding with the assignment, FTA does expect the City seeking the assignment to review the original contract to be sure that the quantities the assigning recipient acquired, coupled with the quantities the acquiring City's seeks, do not exceed the amounts available under the assigning recipients contract.

The *Piggyback Worksheet (appendix ix..)* must be included with the file for this type of contract.

### **III. Payments**

#### **Advance Payments**

Advanced payments are payments made to a contractor before the contractor incurs contract costs. The City may use its local share funds for advance payments. However, if there is no automatic pre award authority for its project, then advance payments made with local share funds before FTA assistance has been awarded, or before a letter of no prejudice has been issued or other pre award authority has been provided, or before FTA approval for the specific advance payment has been obtained, are ineligible for reimbursement. The following principles and restrictions apply:

1. Use of FTA Assistance Prohibited: The City may not use FTA assistance to make payments to a third party contractor before the contractor has incurred the costs for which the payments would be attributable.
2. Exceptions for Sound Business Reasons: If the City seeks to use FTA assistance to support advance payments the City should contact the regional office to obtain FTA concurrence.

Please see the attached *FTA Required Contract Clause Matrix (appendix xvi.)* as a guide to ensure the proper clauses are included in the procurement process. These clauses are required to be included in all FTA contracts and purchase orders. Instruction for these clauses and suggested clause language may be found in the FTA "Best Practices Procurement Manual".

#### **Buy America**

As a condition of responsiveness to bidding for procurements of rolling stock, iron, steel, or manufactured products greater than \$100,000 the bidder must submit with the bid or offer, a completed Buy America certificate in accordance with Part 661.6 for steel, iron, and manufactured products, or Part 661.12 for rolling stock (including train control, traction power, and communication equipment). Once submitted the bidder is bound by the certification provided. If the bidder does not submit a certification, the bid shall be considered nonresponsive.

If the bidder executes certification that it cannot comply but may be eligible for an exception, then the City shall review the circumstances and determine if it should request a waiver from the FTA. There are specific instances included in the regulations for waiver of Buy America provisions' including that it is in the public's best interest, that there are no U.S. products available, or there is a 25 percent price difference between the foreign and domestic products. *Pre & Post Delivery Certification Forms can be found in (appendix xi & xii).*

#### **Bus Testing**

Any new model bus, as well as models with significant changes, must be tested at the FTA-sponsored test facility in Altoona, Pennsylvania, before Federal funds may be expended to purchase them. This bus testing requirement at 49 U.S.C. Section 5323(c) applies to modified vans used in transit service as well as buses. The requirement applies also to new bus and van models using alternative fuels such as methanol, ethanol, and compressed natural gas.

FTA does not require a vehicle manufacturer to test its model before bidding. However, grant applicants acquiring any new bus model or any bus model with a major change in configuration or components must certify that the model will have been tested and the grant applicant will have received a copy of the test report prepared on the bus model before the final acceptance of the first vehicle. FTA regulations, "Bus Testing," (49 C.F.R. Part 665) define a new model bus as one not used in mass transportation service in the United States before October 1, 1988, or one used in such service but which, after September 30, 1988, is being produced with a major change in configuration or components. A major change in configuration is defined as a change which may have a significant impact on vehicle handling and stability or structural integrity. A significant impact is an effect that could result in an unsafe vehicle characteristic, such as a dangerous operating condition or failure of a structural element. A major change in components is defined as a change in one or more of the vehicle's major components such as the engine, transmission, suspension, axle, or steering. Partial testing is allowed for vehicle models that previously have been fully tested but are being produced with significant changes. Only those tests that affect specific components or parts of the vehicle and that may produce significantly different data from previous tests must be performed.

- v. Public Bid Summary
- vi. Responsiveness Checklist
- vii. Responsibility Determination Checklist
- viii. Award Recommendation & Justification Form
- ix. Piggyback Worksheet
- x. Non-Competitive Procurement
- xi. Single Source Cost Analysis
- xii. Pre-Delivery Certification Form – Buy America
- xiii. Post Delivery Certification Form – Buy America
- xiv. Disadvantage Business Enterprise Form
- xv. Certification to Restriction of Lobbying
- xvi. FTA Required Contract Clause Matrix

# Independent Cost Estimate Form



Contract Type \_\_\_\_\_  
 Date of Estimate \_\_\_\_\_  
 Terms: \_\_\_\_\_

**Description of Good or Service:**

**Method of Obtaining Estimate**

Published Price List / Past Pricing (date): \_\_\_\_\_  
 Engineering or technical estimate: \_\_\_\_\_  
 Independent third party estimate: \_\_\_\_\_  
 Other (specify): \_\_\_\_\_

**Cost Estimate Details**

**Cost of Standard Items**

Product	Cost (\$/ea) Delivered	Cost (\$/ea) No Freight	Notes / Data Source

**Cost of Service, Repairs, or Non-Standard Items**

Item / Task: \_\_\_\_\_

Materials	Other Direct Costs	Labor (rate, hours)	Labor Class	Allocated overhead	SG&A	Profit	Total

Preparer: \_\_\_\_\_

# Price / Rate Quotation Form



Brief Description:

Date:

Quotes Received:

Vendor	Item	Qty	Price

**Recommendation:**

Authorized By:

Title:

Date:



# Public Bid Responsiveness Checklist

Solicitation #:

Opening Date:

Contract Administrator

Name of Bidder:

Description:

REQUIREMENT	YES	NO	COMMENTS
Bid received on time, in sealed envelope			
All items priced clearly in unit measures specified			
Drawings submitted for products proposed as "equal to" specified brand			
Bid Security Received			
Signature of Company Officer to the bid/offer			
Lobbying Certification signed and attached			
Financial Information submitted			
DBE Documentation Included and complete			
Insurance Documentation included			
No exceptions to terms or other solicitation language			
Other - Provide info in comment box			

Authorized By:

Title:

Date:

# Award Recommendation & Justification Form



Date:

RFP / BID #

RFP'S Mailed

RFP'S Received

## Recommendation:

## Justification:

Authorized By:

Title:

Date:

# Non-Competitive Procurement Justification Form



Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances apply:

**Check One:**

- The item is available only from a single source (sole source justification is attached)
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation (documented emergency condition is attached).
- FTA authorizes noncompetitive negotiations (letter of authorization is attached)
- After solicitation of a number of sources, competition is determined inadequate (record of source contacts is attached).
- The item is an associated capital maintenance item as defined in 49 U.S.C. section 5307 (a) (1) that is procured directly from the original manufacturer or supplier of the time to be replaced (price certification attached)

**Comments:**

- Cost Analysis is Attached

**Authorized By:**

**Title:**

**Date:**



Contract/Request No: \_\_\_\_\_  
Name of Bidder: \_\_\_\_\_



## PRE-AWARD COMPLIANCE CERTIFICATIONS

### PRE-AWARD BUY AMERICA COMPLIANCE CERTIFICATION

As required by 49 CFR Part 663-Subpart B, the \_\_\_\_\_ (the recipient) is satisfied that the buses to be purchased, \_\_\_\_\_ (number and description of buses) from \_\_\_\_\_ (the manufacturer), meet the requirements of Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended. The \_\_\_\_\_ (the recipient) has reviewed the documentation provided by the manufacturer, which lists (1) proposed component and subcomponent parts of the buses identified by manufacturer, country of origin, and cost as a percentage; and (2) the proposed location of the final assembly point for the buses, including a description of the activities that will take place at the final assembly point and cost of final assembly.

### PRE-AWARD PURCHASER'S REQUIREMENTS CERTIFICATION

As required by 49 CFR Part 663-Subpart B, the \_\_\_\_\_ (the recipient) certifies that the buses to be purchased, \_\_\_\_\_ (number and description of buses) from \_\_\_\_\_ (the manufacturer), are the same product described in the recipient's solicitation specification and that the proposed manufacturer is a responsible manufacturer with the capability to produce a bus that meets the specifications.

### PRE-AWARD FMVSS COMPLIANCE CERTIFICATION

As required by 49 CFR Part 663-Subpart D, the \_\_\_\_\_ (the recipient) certifies that it received, at the pre-award stage, a copy of \_\_\_\_\_ (the manufacturer's) self-certification information stating that the buses, \_\_\_\_\_ (number and description of buses), will comply with the relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in 49 CFR Part 571.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Contract/Request No: \_\_\_\_\_

Name of Bidder: \_\_\_\_\_



**DISADVANTAGED BUSINESS ENTERPRISE &  
EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATIONS**

**1. Transit Vehicle Manufacturer (TVM) Disadvantaged Business Enterprise**

Pursuant to the provisions of Section 105(f) of the Surface Transportation Assistance Act of 1982, each bidder for this contract must certify that it has complied with the requirements of 49 CFR Part 26.49, regarding the participation of disadvantaged business enterprises in FTA-assisted procurements of transit vehicles. Absent this certification, properly completed and signed, a bid shall be deemed non-responsive.

Certification: I hereby certify, for the bidder named below, that it has complied with the provisions of 49 CFR Part 26.49 and that I am duly authorized by said bidder to make this certification.

\_\_\_\_\_  
Name of Bidder/Company Name

\_\_\_\_\_  
(Date of Signature)

\_\_\_\_\_  
(Signature of Representative)

**2. Equal Employment Opportunity**

The bidder, and any and all subcontractors of the bidder, are required to comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and supplemented in U.S. Department of Labor regulation (41 CFR Part 60).

Certification: I hereby certify, for the bidder named above, that it has complied with the provisions of Executive Order 11246, as amended by Executive Order 11375, and supplemented in U.S. Dept. of Labor Regulation (41 CFR Part 60) and that I am duly authorized by said bidder to make this certification.

\_\_\_\_\_  
(Date of Signature)

\_\_\_\_\_  
(Signature of Representative)

Federal Required Model Contract Clauses		Contract Page	Rolling Stock	Operating	Const	Consultant Services	Research	Goods	Prof Srvc
1	Fly America - Required for air transportation/travel.		X	X	X	X	X	X	X
2	Buy America		>\$100,000		>\$100,000			>\$100,000	
3	Charter Bus and School Bus			X					
4	Cargo Preference - Required for transport of materials by ocean vessels.		X		X			X	
5	Seismic Safety				New Bid				
6	Emergency Conservation		X	X	X	X	X	X	X
7	Clean Water		>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
8	Bus Testing Certification		X	Turkey					
9	Pre-Award and Post Delivery Audit & Certification		X	Turkey					
10	Lobbying		>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
11	Access to Records and Reports		X	X	X	X	X	X	X
12	Federal Changes		X	X	X	X	X	X	X
13	Bonding				>\$100,000			X	X
14	Clean Air		>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
15	Recycled Products			* >\$10,000	* >\$10,000			* >\$10,000	* >\$10,000
16a	Davis-Bacon Act				>\$2,000				
16b	Copeland Anti-Kickback Act				X				
17	Contract Work Hours and Safety Standards Act		>\$100,000	>\$100,000	>\$100,000				
18	FTA Reserved								
19	No Government Obligation to Third Parties		X	X	X	X	X	X	X
20	Program Fraud and False or Fraudulent Statements and Related Acts		X	X	X	X	X	X	X
21	Termination		>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000
22	Government-wide Debarment and Suspension (Nonprocurement)		>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
23	Privacy Act								
24	Civil Rights		X	X	X	X	X	X	X
25	Breach and Dispute Resolution		>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
26	Patent and Rights in Data						X		
27	Transit Employee Protective Agreements			X					
28	Disadvantaged Business Enterprise (DBE)		X	X	X	X	X	X	X
29	Small Business Set-Asides								
30	Incorporation of Federal Transit Administration Terms		X	X	X	X	X	X	X
31	Drug and Alcohol Testing								

\*Procurement of items designated by EPA - 40CFR247  
 Model Contract Clauses are found in Appendix A.1, [http://www.fta.dot.gov/grants/13054\\_6037.html](http://www.fta.dot.gov/grants/13054_6037.html)

Additional Required Elements		Contract Page	Bid Solicitation	3rd Party Contract
1	Protest Procedures		X	
2	Contract Amount			X
3	Contract Terms- Period of Contract		X	X
4	Contract Options		X	X



County Executive  
Laura Curran

# NASSAU COUNTY COMMUNITY REVITALIZATION PROGRAM (CRP) PROJECT APPLICATION

7. Principal office address of such municipality or district: (in #6):

1 West Chester Street

Long Beach, NY 11561

8. Full name of facility or facilities that would benefit from the project (e.g., "Thomas Jefferson High School"):

9. (a) Address (location) of facility or facilities (in #8) that would benefit from the project:

(b) If applicable, describe the project location with reasonable specificity (e.g., interior or exterior of school building/grounds, location of school sports field, etc.).

10. Photocopies of relevant supporting documentation in connection with the proposed CRP project should be attached to this application.

Are copies of relevant documentation attached?  Yes

No

### 11. SEQRA Compliance

As you are aware, when the County undertakes a joint project with a municipality or district, both the County and the municipality/district must comply with the applicable provisions of the N.Y. State Environmental Quality Review Act and accompanying regulations (SEQRA). Please note that the inter-municipal agreement with the County will include a provision whereby the municipality/district represents and warrants that it has completed its SEQRA review with regard to the project and has provided the County with documentation evidencing such compliance

Approved in concept by:

Date:

4-7-21

*This application, if and when signed, is merely a non-binding internal approval of the project's concept by the administration and does not constitute a contract. It shall only authorize the drafting of an inter-municipal agreement by the administration and its routing to appropriate staff. County participation in the project can only be authorized by an inter-municipal (or similar) agreement, subject to all necessary legal approvals, including, but not necessarily limited to, those of the County Legislature and the County Executive.*