

Policy Name: Procurement Policy – Economic Development Corporation

Date Approved: September 13, 2013

Resolution Number:

Purpose of Procurement Policy

The Economic Development Corporation (“EDC”) procurement policy sets the policy for the EDC and its affiliated Agencies, which includes, the Downtown Economic Stimulus Authority of Kansas City, Missouri, EDC Loan Corporation, Land Clearance for Redevelopment Authority of Kansas City, Missouri, and the Tax Increment Financing Commission of Kansas City, Missouri (these affiliated agencies will be referred to singularly as an “EDC Agency” or collectively as “Agencies”) to procure their goods, supplies, materials, equipment, services, other expendable property, or any combination thereof. The EDC President/Chief Executive Officer and/or EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer will be charged with the responsibility to implement appropriate procedures that comply with all standards set by the procurement policy.

It is not mandatory for the Agencies to use the *EDC Procurement Policy*. Agencies may utilize this policy in lieu of adopting their own policies.

Definitions

The following definitions apply to the Procurement Policy except where an alternate definition has been provided or the context indicates otherwise:

- (1) *Cooperative agreement* shall mean any agreement with any other municipality or political subdivision, or with an elective or appointive official thereof, or with a duly authorized agency of the United States, or of this state, or with other states or their municipalities or political subdivisions, or with any person, firm, association or corporation for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service.
- (2) *Cooperative procurement* shall mean entering into an agreement or working with another unit of federal, state, local government, or a political subdivision of any of the foregoing, for the purpose of procuring goods, supplies, materials, equipment, services, or any combination thereof, needed by the parties thereto and expected to result in cost and time savings.

- (3) *Invitation for bids* shall mean a request or invitation for submission of an offer to enter into a contract pursuant to a competitive bidding process.
- (4) *EDC Senior Vice President/Chief Administrative Officer* shall mean the person appointed by the EDC President/Chief Executive Officer to manage the procurement services for the EDC and Agencies.
- (5) *EDC Executive Vice President/Chief Operations Officer* shall mean the person appointed by the EDC President/Chief Executive Officer to manage the operations of the EDC and Agencies.
- (6) *Non-municipal agency contract* means a contract with a governmental entity or not-for-profit entity granted tax-exempt status under any provision of Section 501(c) of the Internal Revenue Code (26 U.S.C. § 501(c)).
- (7) *Piggybacking* shall mean entering into a contract for goods, supplies, materials, equipment, services, or any combination thereof, with an entity that has been awarded a contract for such goods, supplies, materials, equipment, services, or any combination thereof, through a competitive solicitation process undertaken by the federal government, any state or local government, including the City of Kansas City, Missouri, any other tax supported public entity, or a cooperative or pooling arrangement, under equivalent contractual terms and conditions and subject to acceptance of the contractual terms and conditions acceptable to the EDC.
- (8) *Procurement card* shall mean a credit card issued by the EDC for the purpose of purchasing goods, supplies, materials, equipment, or services, or to make payments under a contract.
- (9) *Purchasing pool or cooperative* is any arrangement whereby entities aggregate purchasing needs for the purpose of obtaining discounted pricing or better terms or conditions.
- (10) *Qualification based selection process* is a solicitation process that includes consideration of the qualifications of anyone responding to a solicitation as the determinative criteria for selection.
- (11) *Reverse auction* shall mean an electronic reverse auction purchasing process in which vendors bid to provide any services needed, or for goods, supplies, materials, or equipment utilized, at the lowest selling

price, and in an open and interactive environment and which results in a contract being awarded to the lowest and best bidder.

- (12) *Request for proposals* shall mean a written invitation by the EDC for a prospective vendor to submit an offer subject to subsequent negotiations with the EDC and subject to subsequent additions, deletions, modifications to the request for proposal specifications or any subsequent contract.
- (13) *Request for qualifications* shall mean a written invitation by the EDC for a person and/or business entity to submit a statement of qualifications to the EDC.
- (14) *Sole brand purchase* shall mean a process for purchasing which includes specifications restricting the purchase to a specific manufacturer or brand.
- (15) *Statement of qualifications* shall mean a statement submitted by a prospective contractor or vendor detailing a prospective contractor's or vendor's experience, financial capacity, key personnel, and other information pertinent to a particular project.
- (16) *Term-supply contract* shall mean a contract for the purchase of any services needed, or for goods, supplies, materials, equipment, or any combination thereof, of such a nature as may be needed by the EDC and Agencies over the course of a fiscal year, including but not limited to catalog or standard production items, the price of which is determined by published price lists.

Contract Opportunities

All contract and procurement opportunities will be reviewed in order to ensure compliance with the EDC's Affirmative Action Policy.

Inclusion of Local Vendors

The EDC encourages participation of local vendors in its contract opportunities. The EDC's goal is to assist a wide array of businesses, from small companies to mega-corporations, all with the goal of building the Kansas City community.

Contract Solicitation

- a) *General standard.* Except as otherwise provided in subsections (b) through (d) herein or the provisions stated under Contract Solicitation - Authority, all EDC and Agencies' contracts¹ shall be procured as follows:
- 1) *Contracts exceeding \$150,000.* If the contract's estimated consideration exceeds \$150,000, the EDC and/or Agencies shall issue public notice within a reasonable time as determined by the EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer when soliciting such contract, prior to the closing date of the solicitation. Such notice may be made by publication on the world wide web, appropriate print media, or any other means of publicly making the solicitation known to potential bidders or proposers. Sealed bids or proposals are required.
 - 2) *Contracts between \$2,000.01 and \$150,000.* If the contract's estimated consideration is between \$2,000.01 and \$150,000, unsealed bids or proposals shall be solicited by any reasonable method from at least three qualified sources, or fewer if less than three qualified sources shall exist. Sealed bids or proposals and public notice may be used in the EDC's discretion, but their use is not mandatory.
 - 3) *Contracts \$2,000.00 or less.* If the contract's estimated consideration is \$2,000.00 or less, or if the expense is to be incurred through the use of a procurement card pursuant to regulations implemented by the EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer with approval of the EDC President/Chief Executive Officer, such regulations being hereby authorized, sealed or unsealed bids or proposals may be required in the EDC's discretion, but their use is not mandatory and the EDC is authorized to execute a contract without any solicitation.
- (b) *Specialized procurements.* The following procurement methodologies may be utilized subject to rules and regulations that may be adopted by the Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer with the approval of the EDC President/Chief Executive Officer from time-to-time, such methods being deemed likely to

¹ In the event that the EDC has a construction project, including, but not limited to design professional work, the EDC will follow all City of Kansas City, Missouri rules and ordinances concerning the bidding and contract award process.

produce cost and time savings to the EDC and Agencies and therefore deemed to be in the EDC's and Agencies' best interests:

- (1) Reverse auction;
- (2) Cooperative procurement, in which solicitation will be performed by the City of Kansas City, Missouri or another entity;
- (3) Piggybacking;
- (4) Purchasing pool or cooperative;
- (5) Sole brand purchase.

Notwithstanding the foregoing, the methods authorized in this subsection shall not be utilized to procure any construction contract, except for those providing for the maintenance or repair of any facility.

- (c) *Solicitation-exempted contracts.* Solicitation shall not be required for the following contract types, provided however that solicitation shall not be precluded if the EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer or designee when soliciting such contract on behalf of the EDC or Agencies, determines that solicitation is in the EDC's and/or Agencies' best interests:
 - (1) Cooperative agreements, to the extent such agreements are with any other municipality or political subdivision, or with an elective or appointive official thereof; or with a duly authorized agency of the United States, or of this state, or with other states or their municipalities or political subdivisions; or with any not-for-profit entity granted tax-exempt status under any provision of Section 501(c) of the Internal Revenue Code (26 U.S.C. § 501(c));
 - (2) Non-municipal agency contracts.
- (d) If an alternate or additional method of solicitation is required by a federal or state law, ordinance, contract or grant terms, the alternate or additional method shall be utilized.

Contract Solicitation - Authority

- (a) *General rule.* The EDC President/Chief Executive Officer, EDC Senior Vice President/Chief Administrative Officer, EDC Executive Vice President/Chief Operations Officer, every Executive Director of any EDC Agency, and the EDC's or Agencies' designated position for overseeing contract and procurement compliance shall be empowered to solicit and award contracts on behalf of the EDC and Agencies that conducted the solicitation subject to the provisions of this term.

- (b) *Exceptions to general rule.* Notwithstanding subsection (a), the following additional provisions shall apply to the exercise of such authority:
 - (1) *Specialized procurements.* The EDC Senior Vice President/Chief Administrative Officer, EDC Executive Vice President/Chief Operations Officer, and the EDC's or Agencies' designated position for overseeing contract and procurement compliance shall be empowered to solicit and award any contract using the methods authorized in subsection (b) of *Specialized Procurements*. No other positions are authorized to utilize any such procurement method except upon the written authorization of the EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer.

 - (2) *EDC or an EDC Agency -specific procurements — services only.* The solicitation and award of any contract for any services needed by the EDC or an EDC Agency, shall be done by the EDC's or Agencies' designated position for overseeing contract and procurement compliance, if the Executive Director of an EDC Agency or an EDC Agency's designated position for overseeing contract and procurement compliance shall have requested assistance and the EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer shall have agreed to provide such assistance, or if the EDC President/Chief Executive Officer shall have otherwise authorized or directed by the EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer to act in such capacity with regard to the contract being solicited and awarded.

 - (3) *EDC-wide procurements.* The solicitation and award of any contract for any services needed by the EDC and EDC Agencies, or for goods, supplies, materials, or equipment utilized by the EDC and EDC Agencies, shall be done by the EDC designated position for overseeing contract and procurement

compliance only unless the EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer directs otherwise or the EDC designated position for overseeing contract and procurement compliance shall have delegated that authority to another position such as the manager of procurement services and the designee shall have accepted such delegation.

- (4) *Information technology procurements.* The solicitation and award of any contract relating to information technology shall be procured by the EDC designated position for overseeing contract and procurement compliance only unless the EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer directs otherwise or the EDC designated position for overseeing contract and procurement compliance shall have delegated that authority to another position and the designee shall have accepted such delegation.

Contract Solicitation Waivers

- (a) Unless otherwise prohibited by federal or state law, contract or grant terms, the following exceptions to the contract solicitation requirements in *Contract Solicitation* may be utilized:
- (1) *Waivers.* Unless otherwise prohibited by the EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer, the EDC designated position for overseeing contract and procurement compliance is authorized to waive the solicitation requirements for any contract with an estimated cost of \$150,000 or less, exclusive of a design professional contract, if the EDC designated position for overseeing contract and procurement compliance determines, in writing, that:
- a. There is only one source or no competition exists; or
 - b. There exists an imminent threat to public health, welfare, safety or essential operations of the EDC or an EDC Agency; or
 - c. Public solicitation would result in increased cost for the EDC or an EDC Agency or would otherwise not be in the best interest of the EDC or an EDC Agency; or

- d. The contractor to be utilized has unique or specialized experience suited to a specific project such that it is in the EDC's or an EDC's Agency's best interests to utilize such contractor; or
- e. The service to be performed is one which must, for warranty purposes, be performed by a particular manufacturer's authorized representative.

No contract awarded pursuant to this subsection (a)(1) shall be amended or changed in a manner that would increase the EDC's or an EDC Agency's maximum financial obligation by more than ten percent except upon the written approval of the EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer, nor shall a new contract be awarded to the same person or firm for the same project for which the original contract was awarded pursuant to such a waiver except upon public solicitation in compliance with *Contract Solicitation* or a waiver granted pursuant to *Contract Solicitation - Authority*.

- (2) *Select EDC Officers' Waivers*. The EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer may waive the solicitation requirements for any contract, regardless of estimated cost, if the EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer determines, in writing, that:
 - a. There is only one source or no competition exists; or
 - b. There exists an imminent threat to public health, welfare, safety or essential operations of the city; or
 - c. Public solicitation would result in increased cost for the EDC or an EDC Agency or would otherwise not be in the best interest of the EDC or an EDC Agency; or
 - d. The contractor to be utilized has unique or specialized experience suited to a specific project such that it is in the EDC's or an EDC Agency's best interests to utilize such contractor; or

- e. The service to be performed is one which must, for warranty purposes, be performed by a particular manufacturer's authorized representative.
- (b) Any contract for which the EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer shall have granted a waiver shall include recitals setting forth the rationale supporting such waiver, provided however that the failure to include such recitals shall not invalidate any public improvement procurement or any contract.

Rejection of Bids, Proposals, Qualifications

- (a) The EDC may reject any and all bids or proposals for any or no reason. If all bids or proposals have been rejected, the EDC may do one or more of the following:
 - (1) Re-solicit bids or proposals only from those bidders or proposers that submitted a bid or proposal pursuant to the original solicitation; or
 - (2) Use an expedited bid or proposal submission schedule with or without re-advertising or issuing any other public notice when the EDC determines that the delay from the normal solicitation procedure would not be in the EDC's best interests; or
 - (3) Elect not to execute a contract.
- (b) Nothing in this article shall be construed as obligating the EDC to negotiate or execute any contract, if the EDC shall have determined, at any point in time, that any project or solicitation should be terminated for any or no reason.

Debarment

- (a) *Policy.* No contract shall be awarded to any bidder or proposer that is:
 - (1) Debarred from the award of a City of Kansas City, Missouri contract; and/or
 - (2) Managed, controlled and more than 50 percent owned by a person or entity who served as an officer of an entity debarred for conduct occurring during their tenure.

Any person or entity ineligible for the award of a city contract shall be ineligible to act as a subcontractor on an EDC contract.

- (b) *Grounds for debarment.* The EDC will rely on the City of Kansas City's debarment list as well as the General Services Administration, Office of the Inspector General's debarment list for the state of Missouri.

Contract Award

- (a) *General standard.* Except as otherwise provided in the *EDC Procurement Policy*, all contracts in which bids or proposals were required shall be awarded to the lowest and best bidder or best proposer as determined by the EDC in the EDC's sole discretion, after due opportunity for competition.
- (b) *Secondary source awards; goods, supplies, materials and equipment.* In addition to awarding a contract to the lowest and best bidder or proposer, the EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer or their designee may award contracts to multiple bidders or proposers in the event they determine that it is in the EDC's best interests to do so.

General Waivers

- (a) *Solicitation waivers.* The EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer or their designee at any time may waive any requirements imposed by the solicitation with regard to the solicitation or award of any EDC contract if the EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer or their designee determines, in writing, that:
 - (1) The failure to grant the waiver would result in an increased cost to the EDC; and
 - (2) The requirement is one that would be waived for any bidder or proposer responding to the solicitation; and
 - (3) It is in the best interest of the EDC to grant the waiver.

Prohibited Awards

No contract shall be awarded to any bidder or proposer which is itself debarred from the award of a city contract or which is managed, controlled, or more than 50 percent owned by a person or entity so debarred.

Bid Revisions

All EDC contracts, excluding construction contracts. The EDC may negotiate a revised bid with the apparent lowest and best bidder, including changes in bid requirements, price, scope, specifications or quantity, if the bid exceeds the appropriation or relevant budget for that project and the director or manager of a department determines that resoliciting bids is not in the EDC's best interests.

Contract Authorization

- (a) Unless approval by the Board of Directors is specifically required by ordinance, federal or state law, contract or grant terms, the following provisions shall control:
 - (1) The EDC President/Chief Executive Officer, EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer and/or their designees are authorized to enter into any and all contracts and cooperative agreements on behalf of the EDC without the EDC Board of Directors' authorization in which the term does not exceed five years and the consideration does not exceed \$300,000.00 for all other contracts, except construction contracts and as stated below.
 - (2) The EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer and/or their designees are authorized to enter into all contracts and cooperative agreements on behalf of the EDC without the EDC Board of Directors' authorization in which the term does not exceed five years and the estimated consideration does not exceed \$1,200,000.00 for goods, supplies, materials, or equipment and \$300,000.00 for services, provided however that the higher threshold shall apply to any contract or cooperative agreement in which services are to be provided in conjunction with the goods, supplies, materials of equipment being procured.

- (b) If the EDC Board of Directors' approval is required and obtained, the contract may subsequently be amended by change order, contract amendment or otherwise in such a manner as to increase the consideration due by up to and including ten percent without further Board authorization. This cap may be exceeded, subject to the sufficiency of appropriated funds, if authorization to such effect is included within the body of the Board's resolution authorizing the contract or an amendment to the contract.

Contract Term

- (a) *Maximum term.* No contract shall be let or amended in such a manner as to exceed five years in maximum duration except upon authorization of the EDC Board of Directors, provided however that this provision shall not prohibit the EDC from entering into one or more successive contracts with the same contractor and for the same or similar goods, supplies, materials, equipment, or services so long as such contracts are procured in accordance with the contract solicitation section of this procurement policy or an exception thereto. Nothing herein shall be deemed to invalidate or otherwise impair the term of any contract executed by the EDC prior to the effective date of this section.
- (b) *Transitional term.* Notwithstanding the foregoing, the EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer may extend the maximum term of any contract by up to two additional years provided the EDC is soliciting bids or proposals for the goods, supplies, materials, equipment, or services being provided and the goods, supplies, materials, equipment, or services are of such a nature that the EDC Senior Vice President/Chief Administrative Officer and/or EDC Executive Vice President/Chief Operations Officer determines it is in the best interests of the EDC to extend the contract.

Contract Provisions Required in EDC Contracts

No section of this procurement policy is required to be recited in any EDC contract to impose the procurement policy requirements on the contractor or vendor.