

BROOKLYN BRIDGE PARK CORPORATION
CONTRACTS BY THE CORPORATION - PROCUREMENT POLICY
October 3, 2019

The procurement requirements applicable to contracts of the Corporation set forth below shall be hereafter referred to as the "Requirements."

Section 1 Methods of Source Selection

Unless otherwise authorized by law, all contracts by the Corporation shall be awarded by competitive sealed bidding, pursuant to Section 6 below, except as otherwise provided in these Requirements. Where federal or State law, rules or regulations applicable to any funds received by the Corporation prescribe procurement requirements that differ from these Requirements, the requirements of such laws, rules or regulations shall govern with respect to contracts funded with such funds.

Section 2 Personal and Professional Services

(a) Personal and professional services shall be procured by the Corporation in accordance with this Section, except as otherwise authorized by Sections 3, 4, 5, 8 and 9 below, unless the Chairperson shall specifically or by general guidelines specify procurement by the Corporation pursuant to Section 6 or 7 for particular kinds of such services. The above notwithstanding, outside legal counsel shall be retained only in accordance with Section 4.02 of the Corporation's Master Contract with The City of New York.

(b) It shall be the policy of the Corporation to announce publicly all requirements for personal and professional services, and to negotiate contracts for such services on the basis of demonstrated competence and qualification for the type of services required, and at fair and reasonable prices.

(c) In the procurement of personal or professional services, the President shall encourage firms or persons engaged in the lawful practice of their profession, including local, minority and women owned firms, to submit annually a statement of qualifications and performance data. A committee of qualified personnel of the Corporation shall comprise a Consultant Selection Committee for each personal or professional services contract procured pursuant to this Section 2. The Consultant Selection Committee shall evaluate current statements of qualification and performance data on file with the Corporation, together with those that may be submitted by other firms regarding the proposed contract. The Consultant Selection Committee or President shall obtain proposals from no less than three persons or firms regarding the contract and the relative utility of alternative methods of approach for furnishing the required services, and then shall select therefrom, in order of preference, based upon written criteria of the Consultant Selection Committee or President, no less than three of the firms deemed to be the most highly qualified to provide the services required.

(d) The President shall negotiate a contract with the highest qualified firm or person, at compensation that the President determines in writing to be fair and reasonable to the Corporation and the City. In making this decision, the President shall take into account the estimated value, the scope, the complexity and the professional nature of the services to be rendered. Should the President be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the President determines to be fair and reasonable to the Corporation and the City, the President shall terminate negotiations with that firm, and the President shall undertake negotiations with the second most qualified

firm. Failing accord with the second most qualified firm, the President shall terminate negotiations and the President shall undertake negotiations with the third most qualified firm. Should the President be unable to negotiate a contract at a fair and reasonable price with any of the selected firms, the President shall select additional firms in order of their competence and qualifications, and shall continue negotiations in accordance with this Section until an agreement is reached.

Section 3 Small Purchases

Any procurement (other than contracts for legal counsel) for an amount larger than \$20,000 but not exceeding \$100,000 may be made without compliance with any other Requirements herein, provided the Corporation shall use reasonable efforts to obtain offers from at least three responsible persons or entities to perform the work, unless the Chairperson agrees otherwise. If the City's Procurement Policy Board Rules permit the City to make a small purchase procurement for goods, information technologies, construction, construction-related services or other services or any other matter for a larger amount than the limit set forth above for the Corporation, then such higher limit shall also apply to the Corporation under this Section 3. With regard to procurements of \$20,000 or less, the Corporation shall obtain offers from one or more persons or entities as it deems appropriate. If the Corporation only obtains an offer from one person or entity under this Section, it will not be considered a sole source procurement under these Requirements. Procurements shall not be artificially divided so as to constitute a small purchase under this Section. The Corporation shall maintain records of the contractors approached and their responses.

Section 4 Sole Source Procurement

A contract may be awarded for a supply, service or construction item without competition when permitted specifically by, or under general guidelines of, the Chairperson, or when, with the Chairperson's approval, the President determines in writing that there is only one source for the required supply, service or construction item.

Section 5 Emergency Procurement

Notwithstanding any other provision of these Requirements, the President may make or authorize others to make emergency procurement when there exists a threat to public health, welfare or safety or to property in which the City or the Corporation has an interest, or under emergency conditions as identified specifically by, or under general guidelines of, the Chairperson, provided that such emergency procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

Section 6 Competitive Sealed Bidding

(a) Contracts by the Corporation shall be awarded by competitive sealed bidding except as otherwise provided in these Requirements.

(b) An Invitation for Bids shall be issued and shall include (whether by attachment or reference) a purchase description, and all contractual terms and conditions applicable to the procurement. Adequate public notice of the Invitation for Bids shall be given by publication in the City Record a reasonable time prior to the date set forth therein for the opening of bids. In addition, the Corporation may publish such notice in a newspaper of general circulation for a reasonable time prior to bid opening.

(c) Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. The amount of each bid, the name of each bidder and the bid security, if any, shall be recorded. The record and each bid shall be open to public inspection.

(d) Bids shall be unconditionally accepted without alteration or correction on the part of the bidder except as authorized in this Section. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted in instances in which the President finds that it is in the Corporation's and the City's interest to do so. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the Corporation or the City or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the President.

(e) Bids shall be evaluated based on the requirements set forth in the Invitation for Bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The Invitation for Bids shall set forth the evaluation criteria to be used.

(f) The contract shall be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids. Notwithstanding the foregoing, any or all bids may be rejected when the Corporation reasonably deems it is in the Corporation's or the City's interest to do so.

Section 7 Competitive Sealed Proposals

(a) When permitted specifically by, or under general guidelines of, the Chairperson, a contract may be entered into by competitive sealed proposals.

(b) Proposals shall be solicited through a Request for Proposals. Adequate public notice of the Request for Proposals shall be given in the same manner as provided in Section 6(b).

(c) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of Proposals shall be prepared and shall be open for public inspection after contract award.

(d) Proposals shall be evaluated on the basis of the quality of the proposals, based on the relative importance of such criteria as: capacity to execute the proposal; if relevant, the experience in the area of knowledge or community to be served or studied or to be the site of the work; and the cost.

(e) As provided in the Request for Proposals and under guidelines of the Chairperson, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(f) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Corporation and the City taking into consideration the evaluation factors set forth in subsection (d). The contract file shall contain the basis on which the award is made.

Section 8 Contractors Recommended by Construction Manager

(a) Conditions for Use. When the Corporation has retained a construction manager who or which works on a construction project, any contract for construction or construction-related goods or services (including, without limitation, contracts for fixtures, furnishings and equipment) may be entered into pursuant to the procedure set forth in this Section 8 in lieu of the procedures set forth in Sections 6 and 7. If the Corporation has retained a construction manager who or which performs facilities management services for the Corporation, any contracts related to facilities management services (including, without limitation, contracts for construction or construction-related goods or services, including contracts for fixtures, furnishings and equipment) may also be procured using the procedure set forth in this Section.

(b) Selection of Contractors. If the Corporation decides to enter into a contract pursuant to the procedures set forth in this Section, then, unless the Chairperson agrees to a lesser number, the Corporation's construction manager shall recommend to the Corporation a minimum of three potential contractors for each contract. The Corporation shall review such list of potential contractors and determine which of them the Corporation considers to be appropriate. Proposal packages will be sent by the construction manager or the Corporation to all such contractors. The construction manager and the Corporation shall review the proposals received from responding contractors, and the construction manager and the Corporation may negotiate with some or all of the responding contractors. Revisions to proposals may be permitted after submissions and prior to the award of a contract for the purpose of obtaining best and final offers.

(c) Award. After consultations between the construction manager and the Corporation, the construction manager or the Corporation (at the Corporation's discretion) shall award the contract to the responsible contractor whose proposal the Corporation determines to be the most advantageous to the Corporation and the City, taking into consideration price and appropriate evaluation factors. The contract file shall contain the basis on which the award is made.

Section 9 Use of Other Governmental Contracts

Notwithstanding any other provision of these Requirements, if, after consultation with the Corporation, the Corporation Counsel determines that there is a Federal, State or City contract for goods or services that permits the Corporation to utilize such contract or to obtain goods and services from the contractor under such contract on terms substantially equal to those under such contract, the Corporation may utilize such contract or obtain goods and services from such contractor on terms substantially equal to those under such contract without using any other procurement Requirements.

Section 10 Construction Manager Subcontracts

When the Corporation, using a procurement method set forth in these Requirements, has retained a construction manager for work with regard to a construction project and/or with regard to facilities management services, such construction manager may only enter into construction, construction-related and or and/or facilities management-related subcontracts for goods or services (including, without limitation, contracts for fixtures, furnishings and equipment), related to such construction project or

facilities management services, using procurement methods similar to those that the Corporation may use were it contracting directly for such goods or services.