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**AUGUSTACOUNTY SERVICE AUTHORITY  
OPERATING PROCEDURES AND POLICY MANUAL**

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Approved By: Board of Directors  
Effective Date: May 19, 2022

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**Purchasing Policies and Procedures**

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## **SECTION 1 - PURCHASING POLICIES AND RESPONSIBILITIES**

### **1.1. PURCHASING POLICIES:**

- 1.1.1** All purchases of goods or non-professional services estimated to exceed the sum of Two Hundred Thousand Dollars (\$200,000) shall be made on the basis of a competitive sealed bid or competitive negotiation.
- 1.1.2** All purchases of goods or non-professional services estimated to be less than Two Hundred Thousand Dollars (\$200,000) may be made on the basis of the small purchase procedures as described in sections 2.5 through 2.10. The Purchasing Officer may use a formal bidding procedure for small purchases when it is determined to be in the best interest of the Authority.
- 1.1.3** All professional services which are expected to exceed Eighty Thousand Dollars (\$80,000) in total cost shall be procured on the basis of competitive negotiation procedures as described in section 2.12. Professional services which are expected to be less than Eighty Thousand Dollars may be procured under the small purchase procedure as described in sections 2.9 and 2.10.
- 1.1.4** The competitive sealed bid and/or the competitive negotiation policies may be used on purchases regardless of the estimated cost, when it is felt that doing so is in the best interest of the Authority.
- 1.1.5** The Authority may consider best value concepts when procuring goods and non-professional services, but not construction or professional services. The criteria, factors, and basis for consideration of best value and the process for the consideration of best value shall be as stated in the procurement solicitation.
- 1.1.6** All formal requests for bids for materials or services shall normally be made by the Purchasing Officer. Requests for quotes for materials or services shall normally be made by supervisors or directors, but shall be made by the Purchasing Officer if insufficient documentation is provided.
- 1.1.7** All correspondence with suppliers regarding bids or quotations shall be directed to the Purchasing Officer or authorized employee handling that bid or quote.
- 1.1.8** Contracts shall be required for all purchases exceeding Ten Thousand Dollars (\$10,000). The simplest contract form, a purchase order, shall typically be used to meet this requirement. However, if an existing contract is in place (such as from an Authority competitive sealed bid or competitive negotiation) a purchase order shall not be required. A purchase order shall be required when using another entity's contract as part of a joint procurement.
- 1.1.9** Purchases shall not be fragmented to stay below a given small purchase or authorization threshold.

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- 1.1.10** All bidders shall normally be afforded equal opportunities to quote and to compete in public bidding. The Authority reserves the right to debar any bidder that has demonstrated unsatisfactory performance in previous contracts. New sources of supply shall be given due consideration.
- 1.1.11** Employees shall not become obligated to any supplier, and shall not conclude any Authority transaction from which they may personally benefit. No employee shall solicit, demand, accept, or agree to accept from a bidder anything of more than nominal or minimal value.
- 1.1.12** No bid, quote or proposal shall be accepted for consideration if it is received after the time and date specified. Late submissions shall be returned unopened, or identified as having been received after the date and time specified, to the submitter.
- 1.1.13** Faxes, emails, or telephone calls shall not be accepted as a bid under formal bidding procedures.
- 1.1.14** Bids shall be publicly opened and read at the time and place specified in the bid documents. After opening, all bids shall be tabulated and evaluated by the Purchasing Officer and the using department. The Purchasing Officer or authorized employee shall make a recommendation for award to the Executive Director for Approval.
- 1.1.15** All contracts, agreements, and solicitations with an estimated value of more than Ten Thousand Dollars (\$10,000) shall include a statement that the Authority does not discriminate against faith-based organizations as described in VA Code Chapter 43 2.2-4343.1.
- 1.1.16** Where applicable, all solicitations should include the EMS Contractor's Environmental Requirements.
- 1.1.17** Every contract over Ten Thousand Dollars (\$10,000) shall include the drug free workplace provisions described in VA Code Chapter 43 2.2-4312 and the Equal Opportunity provisions described in VA Code Chapter 43 2.2-4311.
- 1.1.18** Upon a determination made in advance by the Authority and set forth in writing that the purchase of goods, products or commodities from a public auction sale is in the best interests of the public; such items may be purchased at the auction, including online public auctions. The writing shall document the basis for this determination.
- 1.1.19** The Authority may participate in, sponsor, or administer a cooperative procurement for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services in accordance with the provisions in VA Code Chapter 43 2.2-4304.
- 1.1.20** The Authority may purchase from any Federal Government Services Administration, Federal Supply Service or similar, properly negotiated, contracts for goods or services. The Authority may also utilize cooperative purchase contracts of the Commonwealth of Virginia.

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**1.1.21** As defined in VA Code Chapter 43 2.2-4321.3, all public works contracts exceeding \$250,000 shall include provisions for the payment of prevailing wage. Awarded contractors shall provide documentation to the Authority demonstrating their certification of compliance with the Virginia Commissioner of Labor and Industry.

**1.1.22** If the Authority receives two or more bids for products that are Energy Star certified, meet FEMP-designated efficiency requirements, appear on FEMP's Low Standby Power Product List, or are WaterSense certified, the Authority may only select among those bids unless, before selecting a different bid, the Authority provides a written statement that demonstrates the cost of the products that are Energy Star certified, meet FEMP-designated efficiency requirements, appear on FEMP's Low Standby Power Product List, or are WaterSense certified was unreasonable.

**1.2. RESPONSIBILITIES AND FUNCTIONS:**

**1.2.1 Purchasing Officer**, or authorized employee, under the direction of the Executive Director, as provided by the Authority Board, shall be responsible for the following purchase and supply functions:

- The purchase or lease for use by the Authority; all supplies, materials, equipment and contractual services.
- Assist user departments in preparing specifications for bid.
- Provide for competitive bids for all purchases or contracts whenever practical.
- Consolidating purchase of like or common items or services to obtain maximum economic benefits.
- Prevent the purchasing of known needs in artificially small quantities to avoid formal bidding.
- Promote goodwill between the Authority and its suppliers.
- Follow up on orders with vendors if delivery is not made within time specified.
- Coordinate Authority membership in cooperative purchasing groups.

**1.2.2 Using Department:** Cooperation between the using department and Purchasing Officer is necessary for a successful purchasing program. In order to make this effort more effective, the using department shall:

- Make a determination of quantity needed, general type or character of supplies, materials, equipment and delivery required.
- Anticipate needs and submit requests for purchase in sufficient time to make purchase by the appropriate method.
- Assist in inspection of items considered for purchase and interviews with vendors.
- Notify the Purchasing Officer of non-acceptance of shipments or deliveries that fail to meet the terms of the purchase order or contract.

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- Not accept shipments or deliveries until it is compared to the delivery ticket to verify by physical count the number of all packages, cartons, items, etc. Any shortages, differences in material ordered, or apparent damage is to be written on all copies of the delivery ticket and signed by the truck driver and Authority employee. The delivery ticket and packing slip should be signed, coded with account expense code and forwarded to the Accounting Office after being matched against the invoice.
- Notify the Purchasing Officer of any change in program or operation that affects the purchase or use of supplies, materials, or equipment.

**1.2.3 Unauthorized Procurements and Dispositions**

- No person shall have the authority to bind the Authority or any using department to any contract except as provided in this policy.
- Any procurement or disposition made by any person in the name of the Authority or any using department which is not in compliance with this policy shall be deemed unauthorized. Any person who makes an unauthorized procurement or disposition may be held personally liable and such procurements or dispositions shall be voidable at the discretion of the Authority Board.
- The Executive Director and his designees shall not be liable and shall be held harmless for any unauthorized procurement or disposition which was not initiated or approved by them.

**1.3. SIGNATURE AUTHORITY**

The below signature limits have been established by the Authority Board for the signing of contracts and approval of purchases. Prior to approval, all service contracts/agreements and all purchases over \$10,000 must be reviewed by the Purchasing Officer to ensure compliance with procurement policies.

Within this section, an “approved budget” is considered to be the Board adopted budget for the current fiscal year or the total budget of a Board approved multi-year project. A purchase is considered “fully funded” if it is within the limits of the approved budget for a given project or using department.

- 1.3.1.** Using department Directors may delegate authorization to staff for approval of purchases up to a total value of Ten Thousand Dollars (\$10,000).
- 1.3.2.** Authorizations up to a total value of Sixty Thousand Dollars (\$60,000) can be approved by the using department Director.
- 1.3.3.** Authorizations up to a total value of One Hundred Thousand Dollars (\$100,000) for purchases NOT fully funded in an approved budget can be approved by the Executive Director.
- 1.3.4.** Authorizations up to the approved budget amount for purchases fully funded in an approved budget can be approved by the Executive Director.

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- 1.3.5.** All other purchases must be authorized by the Authority Board. The Executive Director may sign any contracts on behalf of the Board, following their approval.

## **SECTION 2 - PURCHASING PROCEDURES**

### **2.1 REQUISITION FOR PURCHASE ORDER**

- 2.1.1** The requisition for purchase order serves to inform the Purchasing Officer of the needs of the department and to correctly define the material or service requested and identify correctly the expense account or project to be charged.
- 2.1.2** Prepare your requisition far enough in advance of the date that the goods or service will be needed to allow time to verify pricing, conformance with procurement requirements and allow the vendor to make delivery. The requestor should indicate their name in the “buyer” section and indicate the purpose or location in which the goods or service will be used in the “Comments” section.
- 2.1.3** Requisitions and the associated backup documentation must be submitted to the Purchasing Officer prior to ordering.

### **2.2 PURCHASE ORDERS**

- 2.2.1** The purchase order is a legal contract authorizing the purchase and payment of the requisitioned items. The purchase order is written from the requisition for purchases exceeding \$10,000 or when the Purchasing Officer believes it is in the best interest of the Authority.
- 2.2.2** Purchase orders are to be prepared and signed by the Purchasing Officer or their designee. The signature of the authorized approver, as given in § 1.3, is also required to authorize the purchase.
- 2.2.3** Changes to purchase orders: Since purchase orders represent a legal contract between the vendor and the Authority, it is imperative that it accurately reflects the actual value of the contract it represents.
- If the value of a contract is changed (up or down), the purchase order must likewise be changed by submitting written notice to the Accounting Department indicating the change which will avoid conflicts when the invoice is paid.
  - Changes must be kept at a minimum as they can confuse the process of checking goods on receipt and certification for payment. Changes require the same approvals as the original purchase order.

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## **2.3 EMERGENCY PURCHASES**

- 2.3.1** An emergency exists when a breakdown in an essential service occurs or under any other circumstances when supplies and/or equipment are needed for immediate use in work which may affect the safety, health or welfare of the public.
- 2.3.2** A true emergency will almost always occur as a result of needing parts and labor for repairs to equipment which must be kept in operating order. The use of emergency purchases for failure to anticipate normal needs must be avoided. The following examples should be avoided whenever possible on the part of the department concerned:
- Depletion of stock due to lack of foresight in anticipating needs.
  - Repairs that have been needed for some time on buildings or equipment becoming an emergency overnight.
  - The ordering of materials for projects on a last minute basis when those materials should have been ordered weeks or months prior to time of use.
  - Never purchase stock items with unencumbered funds set aside for emergency purchases “to beat the year end”.
- 2.3.3** Important facts to remember about emergency purchase:
- Prior approval from the using department Director is required.
  - Coordinate purchases with the Purchasing Officer whenever possible.
  - Emergency procurements require out of the ordinary procurement procedures. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.
  - The Authority pays a high price for emergency purchases. They are usually on a non-competitive basis and should be avoided whenever possible.

## **2.4 SOLE SOURCE**

- 2.4.1** A sole source is a vendor that is determined to be the only vendor that can properly provide an item or service. Such a determination must be documented on the “Sole Source Justification” form and posted to the eVA website.
- 2.4.2** Generally, no economically practical purpose is served by soliciting bids for an item which is available only from a single source.
- 2.4.3** Sole source items are usually purchased at a high cost to the Authority due to not permitting open competition. It is important to search out competing products which functionally perform as well or better than those sometimes considered to be “sole source”.

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**2.5 SMALL PURCHASES PROCEDURE – UNIQUELY QUALIFIED ITEMS NOT EXCEEDING \$200,000**

**2.5.1** The Authority has determined competition normally is either not practicable or available for the purchase of the goods and non-professional services listed below. The primary intent of this section is to allow the purchase of goods and non-professional services which are unique to the Authority or provide efficiencies through standardization. Therefore, when the estimated cost of goods and non-professional services is estimated to be less than Two Hundred Thousand Dollars (\$200,000) for the entire duration of the requirement, purchases may be made upon receipt of a minimum of one written quotation for the following categories:

- Books: Printed Materials, Reprints and Subscriptions: When only available from the publisher.
- Dues and Professional Licenses: Professional organization membership and professional license dues and fees.
- License and Maintenance Agreements: License and Maintenance Agreements with the owner of source code for existing software and/or manufacturer of sophisticated scientific equipment.
- Media Purchases: Newspaper advertisements, legal postings, public announcements.
- Pilot Programs: Purchases for testing and evaluation. Purchases should be limited to the amount needed for complete and adequate documented testing.
- Training: Training provided by professional organizations such as workshops and conferences. Specialized training, proprietary, not typically available to the general public.
- Intergovernmental Purchases: Purchases from the federal government and other public bodies throughout the United States.
- Critical Treatment System Equipment: Repair and replacement parts/components from original equipment manufacturer or their exclusive distributor. Equipment supplies such as filters and bulbs from original equipment manufacturer or their exclusive distributor. Major components of an existing engineered system, such as a pump, if the system is designed specifically for the component and significant rework costs would be involved in an alternative.
- Standardized Treatment Equipment: Where designated as a uniquely qualified category in the Authority's Approved Products List.

**2.5.2** The Executive Director may qualify other purchases as unique at his discretion.

**2.6 SMALL PURCHASES PROCEDURE - NOT EXCEEDING \$10,000**

**2.6.1** When possible, three (3) telephone or written quotes should be solicited. Non-responses may be counted as solicited.

**2.6.2** No purchase order shall be required on these items unless required by the vendor or if the Purchasing Officer believes it is in the best interest of the Authority to do so.



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**2.6.3** A sales ticket must be signed by the employee to verify items being charged along with the proper account code and description.

**2.6.4** All sales tickets are to be turned in on a daily basis for processing.

Small purchases may be charged at local vendors where the Authority has established an open account for that purpose and where the using department Director has authorized employee purchases (§ 1.3).

**2.7 SMALL PURCHASES PROCEDURE - OVER \$10,000 NOT EXCEEDING \$100,000**

**2.7.1** At least three (3) written quotations shall be solicited from vendors that are known to normally handle the item or service needed. Use of eVA to solicit quotes is strongly encouraged. Non-responses may be counted as solicited. If only one (1) quote is received, additional solicitations may be requested.

**2.7.2** A request for quotation shall be prepared with clear and detailed specifications for the goods or service needed.

**2.7.3** A requisition shall be submitted along with the quotations to initiate the purchase order process.

**2.7.4** The quotations shall be kept with the purchase order for the standard retention period.

**2.7.5** Final approval for these purchases shall be as specified in § 1.3 of this policy.

**2.8 SMALL PURCHASES PROCEDURE - OVER \$100,000 NOT EXCEEDING \$200,000**

**2.8.1** Prior approval from the Executive Director is required to utilize quotes instead of sealed bidding or competitive negotiations for purchases over \$100,000.

**2.8.2** Four (4) written quotations shall be solicited from vendors that are known to normally handle the item or service needed. Use of eVA to solicit quotes is strongly encouraged. Non-responses may be counted as solicited. If only one (1) quote is received, additional solicitations may be requested.

**2.8.3** A request for quotation shall be prepared with clear and detailed specifications for the goods or service needed.

**2.8.4** A requisition shall be submitted along with the quotations to initiate the purchase order process.

**2.8.5** Final approval for these purchases shall be as specified in § 1.3 of this policy.

**2.8.6** The quotations shall be kept with the purchase order for the standard retention period.

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**2.9 SMALL PURCHASES PROCEDURE – PROFESSIONAL SERVICES NOT EXCEEDING \$40,000**

**2.9.1** Professional services (i.e. accounting, actuarial services, architecture, land surveying, landscape architecture, law or professional engineering) not exceeding \$40,000 may be secured by contacting one qualified firm using the following criteria.

**2.9.2** The selected firm must have a history of being responsive, cost effective, and competent.

**2.9.3** Reasonable effort shall be made to select a variety of qualified firms over time, and to base individual selections on familiarity with the specific project, qualifications of the firm or staff, and value of the services provided.

**2.10 SMALL PURCHASES PROCEDURE – PROFESSIONAL SERVICES OVER \$40,000, BUT NOT EXCEEDING \$80,000**

**2.10.1** Three (3) proposals shall be solicited from offerors known to perform the desired professional service. The solicitation shall be informal but shall specify the factors to be used in evaluating the proposals. The solicitation shall include applicable contractual terms and conditions, including any unique capabilities or qualifications required of the offeror.

**2.10.2** Proposals shall be reviewed by a selection committee of at least three ACSA staff members. The selection committee shall evaluate and rank proposals based upon the evaluation criteria specified in the solicitation.

**2.10.3** Upon completion of the evaluation, negotiations shall be conducted with one or more selected offeror and the committee shall recommend award of the contract.

**2.11 COMPETITIVE SEALED BIDS – OVER \$200,000**

*“Competitive sealed bidding”* is a method of contractor selection, other than for professional services, which includes the following elements:

- Issuance of a written Invitation for Bids (IFB) containing or incorporating by reference the specifications and contractual terms and conditions applicable to the procurement.
- Specifications for the goods or services to be procured. These specifications should be clear and detailed. In addition, contractual terms and general conditions must be included. Pre-qualification requirements may also be included.
- Public notice of the Invitation for Bids at least 10 days prior to the date set for receipt of bids by posting on the Authority’s website, eVA’s website, and other appropriate websites. In addition, bids may be solicited directly from potential contractors.
- Following receipt of bids, a public opening of bids at a publicly stated time and place is required.

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- Evaluation of bids based upon the requirements set forth in the invitation, which may include special qualifications of potential contractors, life-cycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which are helpful in determining acceptability.
- Award to the lowest responsive and responsible bidder. When the terms and conditions of multiple awards are so provided in the Invitation for Bid, awards may be made to more than one bidder.
- The Authority reserves the right to waive any informality, and to delete items prior to making the award. Discounts for prompt payment shall be considered in making awards.
- Once a proper award is determined, a Notice of Intent to Award shall be posted and sent to the offerors. This shall include a request for any required documents to be filled out and returned.
- Offerors have ten (10) days to file a protest. Following the protest period, a Notice of Award shall be posted and sent to the offerors.

## **2.12 COMPETITIVE NEGOTIATION – PROFESSIONAL SERVICES OVER \$80,000**

*“Competitive Negotiation”* Competitive negotiation is the standard procedure for professional services and is required when the cost of professional services is expected to exceed \$80,000. If the costs are not expected to exceed \$80,000, the small purchase procedure for professional services may be used.

*“Professional services”* means work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy or professional engineering.

*Multiphase professional services* contracts satisfactory and advantageous to the Authority for environmental, location, design and inspection work regarding construction of infrastructure projects may be negotiated and awarded based on qualifications at a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the procurement of any such contract, the Authority shall state the anticipated intended total scope of the project and determine in writing that the nature of the work is such that the best interests of the Authority require awarding the contract.

The following steps are necessary in competitive negotiation:

- Issuance of a written Request for Proposal (RFP) indicating in general terms that which is to be procured, specifying the factors that shall be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications that shall be required of the contractor.
- Public notice of the RFP at least 10 days prior to the date set for receipt of proposals by posting the RFP on the Authority’s website and eVA’s website. In addition, proposals may be solicited directly from potential contractors.
- Once responses are received, the proposals shall be reviewed by a selection committee of three or more members, which can be made up of staff or of staff and Board Members.

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- Two or more qualified offerors must be contacted to discuss their qualifications. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. The Request for Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the Authority may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services.
- Proprietary information from competing offerors shall not be disclosed to the public or to competitors.
- Following these discussions, offers should be ranked in order of preference based on the offerors ability to fulfill the requirements explained in the RFP.
- An attempt is then made to negotiate a contract with the first ranked offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price.
- When the terms and conditions of multiple awards are so provided in the Request for Proposal, awards may be made to more than one offeror.
- Should the Authority determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.
- Once a proper award is determined, a Notice of Intent to Award shall be posted and sent to the offerors. This shall include a request for any required documents to be filled out and returned.
- Offerors have ten (10) days to file a protest. Following the protest period, a Notice of Award shall be posted and sent to the offerors.

**2.13 COMPETITIVE NEGOTIATIONS - GOODS AND NON-PROFESSIONAL SERVICES OVER \$200,000**

*“Competitive negotiation”* is a method of procuring goods and nonprofessional services expected to exceed \$200,000 where competitive sealed bidding is determined by the Purchasing Officer and set forth in writing to be either not practicable, such as when cost is not the most important issue, when specifications are difficult to draft, or when competitive sealed bidding is not fiscally advantageous. The writing shall document the basis for this determination.

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The following steps are necessary in competitive negotiation:

- Issuance of a written Request for Proposal (RFP) indicating in general terms that which is to be procured, specifying the factors that shall be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications that shall be required of the contractor. Price may be considered if so stated in the RFP, but need not be the sole determining factor.
- When a provision for receiving best and final offers (BAFO) is included in the RFP, after negotiations, offerors are given the opportunity to submit a best and final offer. After the offeror submits a BAFO, no further negotiation shall take place with that offeror. The offerors proposal, if already received and scored, may be re-scored to combine and include the information contained in the BAFO with the technical evaluation score previously assigned, and the award decision made. The contract file shall be documented to show the basis for the award, and include the final rescoring of the proposals following negotiation and receipt of best and final offers.
- Public notice of the RFP at least 10 days prior to the date set for receipt of proposals by posting the RFP on the Authority's website and eVA's website. In addition, proposals may be solicited directly from potential contractors.
- Once responses are received, the proposals shall be reviewed by a selection committee of three or more members, which can be made up of staff or staff and Board Members.
- Two or more qualified contractors selected by the selection committee shall be contacted to discuss their qualifications. Repetitive interviews shall be permissible. The offerors shall be encouraged to elaborate on their goods and/or services and qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. The selection committee shall select those firms deemed fully qualified and then schedule negotiations with each of the selected offerors. Those firms are not rated. Repetitive negotiations shall be permissible.
- After negotiations have been conducted with each offeror deemed fully qualified and best suited, the Authority shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror.
- Should the Authority determine in writing, and in its sole discretion, that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.
- Once a proper award is determined, a Notice of Intent to Award shall be posted and sent to the offerors. This shall include a request for any required documents to be filled out and returned.
- Offerors have ten (10) days to file a protest. Following the protest period, a Notice of Award shall be posted and sent to the offerors.

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## **2.14 CHANGE ORDERS**

**2.14.1** A change order is used to modify a contract whenever a change in the contract will affect price, performance, contract term, delivery, or the scope of the work of the contract. Change orders should be the exception, rather than the rule. A contract may include provisions for modifications of the contract during performance. Contracts may not be increased by more than twenty-five percent (25%) of the amount of the original contract or Fifty Thousand Dollars (\$50,000), whichever is greater, without prior approval of the Authority Board.

**2.14.2** Change orders utilize the Signature Authority specified in § 1.3.

## **2.15 RECORD RETENTION OF COMPLETED PROCUREMENT DOCUMENTS**

All public records of procurement shall be maintained for a period of 5 years. Records to be destroyed must have proper documentation as outlined in the Virginia Public Records Act.

## **2.16 ADMINISTRATIVE PROTEST AND APPEALS PROCEDURE**

**2.16.1** Any bidder, offeror, or contractor may protest a decision to award or an award, appeal a decision to refuse to allow withdrawal of bids, appeal a decision of disqualification, debarment or a determination of non-responsibility, or appeal a decision on disputes arising during the performance of a contract.

**2.16.2** Any protest or appeal pursuant to this section shall be in accordance with the administrative procedures and the provisions contained in Section 2.2-4357 through 2.2-4366 of the Virginia Public Procurement Act.

**2.16.3** Any bidder, offeror, or contractor shall submit a written protest or letter of appeal to the Executive Director with a copy to the Purchasing Officer within the time constraints as set forth in the provisions contained in Section 2.2-4357 through 2.2-4366 of the Virginia Public Procurement Act. The written protest or appeal shall include the basis for the protest or appeal and the relief sought.

**2.16.4** When a protest is made, the Executive Director shall render a written decision to the bidder, offeror, or contractor within ten (10) days of receipt of the written protest.

**2.16.5** When an appeal is made, a hearing shall be held within ten (10) days of receipt of the letter of appeal, and a final decision shall be rendered within ten (10) days of the hearing. During the hearing, the appealing party shall have the opportunity to present pertinent information and to cross-examine adverse witnesses. The hearing shall be an informal administrative proceeding rather than a judicial-type trial, and it shall be conducted by a disinterested person, or panel, appointed by the Executive Director. The hearing panel may not contain employees.

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**2.16.6** The findings of fact shall be final and conclusive and shall not be set aside unless the same are fraudulent or arbitrary or capricious, or so grossly erroneous as to imply bad faith, or in the case of denial of prequalification, such findings were not based upon the criteria for denial of prequalification in the provisions contained in Section 2.2-4357 through 2.2-4366 of the Virginia Public Procurement Act. No determination on an issue of law shall be final if appropriate legal action is instituted in a timely manner.

**2.16.7** Any party to the administrative procedure shall be entitled to institute judicial review if such action is brought within thirty (30) days of receipt of the written decision.

**2.17 DEBARMENT PROCEDURE**

**2.17.1** Prospective Contractors may be debarred from contracting for particular types of supplies, services, insurance or construction for specified periods of time.

**2.17.2** A detailed written report must be submitted to the Purchasing Officer or authorized employee stating what the violations or omissions are and what harm they have or may have caused the Authority.

**2.17.3** The Purchasing Officer or authorized employee shall examine the complaint and contact the contractor in an effort to settle the dispute under the terms and conditions of the contract.

**2.17.4** Should the contractor be unwilling or unable to meet the terms and conditions as specified in the contract; the Purchasing Officer or authorized employee may recommend to the Executive Director to begin legal proceedings or to debar the contractor from future bids for a stated period of time, depending on the seriousness of the violation or omission.

**2.17.5** The debarment period may be one year or more for the first violation. Subsequent violations may result in permanent debarment.

**2.17.6** The Purchasing Officer or authorized employee shall notify the contractor in writing of a debarment decision and its time period.

**2.17.7** After the contractor has received written notice of debarment, he may make a written request to be heard by the Executive Director to present any additional facts pertinent to the debarment decision.

**2.18 PROCEDURE IF ALL BIDS EXCEED AVAILABLE FUNDS**

If the bid from the lowest responsive and responsible bidder exceeds available funds, the Purchasing Officer and the using department may negotiate with the bidder to obtain a contract price within available funds, using the following procedure.

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- 2.18.1** The using department shall provide the Purchasing Officer with a written determination that the apparent low bid exceeds available funds. This determination shall be confirmed in writing by the Purchasing Officer. The using department shall also provide the Purchasing Officer with suggested modifications to the scope of work, materials and equipment to be furnished, time for performance, price, or other such terms as the Executive Director deems appropriate for the proposed purchase.
- 2.18.2** The Purchasing Officer shall advise the apparent low bidder in writing that its bid exceeds available funds. The Purchasing Officer shall also suggest the modifications for the proposed procurement and invite the apparent low bidder to amend its bid proposal based upon the modifications.
- 2.18.3** The apparent low bidder may submit an addendum to its bid, which shall include the modifications, the reduction in price, and the new contract value.
- 2.18.4** If the proposed addendum is acceptable, the contract may be awarded within the funds available to the apparent low bidder.
- 2.18.5** The Purchasing Officer and the using department may conduct informal discussions with the apparent low bidder for purposes of obtaining a contract within the available funds.
- 2.18.6** If the Authority and the apparent low bidder cannot negotiate a contract within available funds, then the Purchasing Officer shall reject all bids.