

Buffalo Urban Development Corporation

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Governance Committee Meeting

Tuesday, January 23rd, 2018

1:00 P.M. (Immediately following the R.E. Committee Meeting)

BUDC Offices, Vista Room, 95 Perry Street

Agenda

1. Approval of Minutes of June 8, 2017 Meeting *(Action) (Enclosure)*
2. Amended and Restated Procurement Policy *(Recommendation) (Enclosure)*
3. Appointment of Officer (Atiqa Abidi – Assistant Treasurer) *(Recommendation)*
4. 2017 Board Meeting Attendance Report *(Information) (Handout)*
5. Revised BUDC Organizational Chart *(Information) (Handout)*
6. 683 Northland Financing Update *(Information)*
7. Adjournment *(Action)*

**Minutes of the Governance Committee Meeting
of
Buffalo Urban Development Corporation
95 Perry Street
June 8, 2017
12:00 p.m.**

Call to Order:

Committee Members Present:

Thomas Beauford, Jr.
Janique S. Curry
Dennis W. Elsenbeck
Thomas A. Kucharski (Chair)
Brendan R. Mehaffy

Committee Members Absent:

Hon. Byron W. Brown
Dennis M. Penman

Officers Present:

Peter M. Cammarata, President
Brandye Merriweather, Vice President
Mollie Profic, Treasurer
Kevin J. Zanner, Secretary
Bradley Bach, Assistant Treasurer

Others Present: Dawn Boudreau, ECIDA Compliance Officer.

Roll Call: The Secretary called the roll of the members of the Governance Committee at 12:15 p.m. A quorum of the Committee was present.

- 1.0 Approval of Minutes of the March 10, 2016 Meeting** – The minutes of the March 10, 2016 meeting of the Governance Committee were presented. Mr. Mehaffy made a motion to approve the minutes. The motion was seconded by Mr. Beauford and unanimously carried.
- 2.0 Re-appointment of Board Member (2017–2020)** – Mr. Cammarata informed the Committee that the term of Board member Dennis W. Elsenbeck is scheduled to expire, and that Mayor Brown intends to reappoint Mr. Elsenbeck for new three year term at the annual meeting.
- 3.0 Appointment of Officers (2017–2018)** – Mr. Cammarata presented the proposed slate of officers for 2017-2018 as follows:

Chair:	Hon. Byron W. Brown
Vice Chair:	Dennis M. Penman
President:	Peter M. Cammarata
Executive Vice President:	David A. Stebbins
Vice President:	Brandye Merriweather
Treasurer:	Mollie Profic
Secretary:	Kevin J. Zanner
Assistant Treasurer:	Bradley Bach

Mr. Mehaffy made a motion to recommend that the Board of Directors approve the proposed slate of officers. The motion was seconded by Mr. Beauford and unanimously carried.

- 4.0 Appointment of Committee Members (2017 – 2018)** – Mr. Cammarata circulated the slate of proposed appointees to the Downtown, Audit & Finance, Governance, Real Estate and Loan Committees of BUDC. Mr. Zanner reviewed with the Committee the independent member requirements applicable to the Audit & Finance Committee and Governance Committee. Following a discussion regarding the proposed Committee assignments, Mr. Mehaffy made a motion to recommend that the Board approve the proposed Committee appointments as set forth in the slate presented to the Committee. The motion was seconded by Mr. Beauford and unanimously carried.
- 5.0 BBRP Loan Program Conflict of Interest Disclosure** – The Committee reviewed a conflict of interest matter relating to a proposed BBRP loan to First Amherst Development. This item was referred to the Committee by the Downtown Committee in accordance with the BUDC conflict of interest policy. Mr. Zanner explained that under the Not-for-Profit Corporation Law, BUDC may not make a loan to a BUDC officer or director or to a business entity in which the BUDC officer or director serves as a director or officer or has a substantial financial interest. Applying this legal standard to the proposed loan, BUDC would not be able to proceed with the proposed loan as Mr. Oblatz, a BUDC Board member, is the principal officer and owner of First Amherst Development. The Committee agreed to report its review of this item to the Downtown Committee.
- 6.0 Board Vacancy** – Mr. Cammarata reported that there remains one vacancy on the Board of Directors which is subject to Mayoral appointment. The Committee discussed preparing a list of potential candidates to forward to the Mayor for consideration.
- 7.0 Procurement Policy** – Mr. Zanner updated the Committee regarding a recently issued Policy Guidance from the Authorities Budget Office relating to procurement policies. After a discussion, the Committee decided to form a subcommittee to examine and recommend changes to the procurement policy. Mr. Kucharski and Mr. Beauford volunteered to serve on the subcommittee. Mr. Zanner and members of the BUDC executive staff will also participate.
- 8.0 PAAA PARIS Report Certification - Completed 3/31/2017** – Mr. Cammarata reported that the PAAA PARIS report was certified and submitted by the March 31, 2017 deadline.
- 9.0 Public Authorities Law Compliance Letters - Completed 3/31/2017** – Mr. Cammarata informed the Committee that all Public Authorities Law compliance letters were mailed in advance of the March 31, 2017 deadline.
- 10.0 Adjournment** – There being no further business to come before the Governance Committee, upon motion made by Mr. Mehaffy, seconded by Mr. Beauford and unanimously carried, the June 8, 2017 meeting of the Governance Committee was adjourned at 1:05 p.m.

Respectfully submitted,



Kevin J. Zanner, Secretary

BUFFALO URBAN DEVELOPMENT CORPORATION

AMENDED AND RESTATED PROCUREMENT POLICY

A. Scope and Purpose.

Pursuant to Section 2824 of the Public Authorities Law, the Buffalo Urban Development Corporation ("BUDC") is required to establish and adopt a procurement policy. This Amended and Restated Procurement Policy ("Policy") shall also be applicable to all procurements undertaken by any existing subsidiary or affiliated organizations of BUDC and such other subsidiaries and affiliates as may hereafter be established by BUDC.

B. Procurement Procedures.

1. Solicitation Procedures for the Purchase of ~~Commodities, Equipment, Goods~~ ~~or~~ and Services.
 - a. Up to \$510,000 per instance – ~~The discretion of the President of BUDC or authorized designee. Documented verbal quotations or written/fax/email quotations from two vendors.~~
 - b. Greater than \$510,000 to \$2025,000 per instance – Documented verbal quotations or written/fax/email quotations from at least three vendors.
 - c. Greater than \$2025,000 to \$100,000 per instance – ~~Written Request~~ Formal written request for Proposal-proposal submitted to at least three vendors and posted at the BUDC website.
 - e.d. Greater than \$100,000 per instance – formal written request for proposal publicly noticed in the NYS Contract Reporter and posted at the BUDC website.
 - d.c. Notwithstanding the foregoing, if it is reasonably anticipated that cumulative procurements pursuant to paragraphs a or b above will exceed \$5025,000 per calendar year for a single vendor, BUDC shall be required to prepare a Written Request for Proposal for such procurements.

2. Exceptions. Alternative proposals or quotations shall not be required for procurements made through or with respect to:
- a. New York State or Erie County contracts;
 - b. State Finance Law Section 175-b (from agencies for the blind or severely handicapped);
 - c. Correction Law Section 186 (articles manufactured in correctional institutions);
 - d. Emergency Procurements – an emergency exists if the delay caused by soliciting quotes would endanger health, welfare, ~~or property~~ ~~or a time-sensitive economic development opportunity~~. Approval of the President after ~~appropriate~~ consultation with ~~one or more of the other~~ officers of BUDC is necessary, which shall be documented in the procurement file and shall ~~also~~ include a description of the facts giving rise to the emergency and the basis for selecting the particular vendor.
 - e. Time Sensitive Economic Development Opportunity – An opportunity is time-sensitive when a vendor must be retained quickly to avoid a delay that would adversely impact an economic development project or initiative of BUDC. Such time-sensitive situations include, but are not limited to, the possible loss of grant funding; the termination, default or withdrawal of an existing vendor; the need to respond to a court order or regulatory directive; or some other compelling need for goods or services. Approval of the President after consultation with the officers of BUDC is necessary, which shall be documented in the procurement file and shall also include a description of the facts relating to the time-sensitive opportunity and the basis for selecting the particular vendor.
 - f. Sole Source Procurements – A “sole source” means a situation where (i) there is only one possible source ~~from which to produce goods and/or services available~~ in the marketplace for the goods or services, (ii) no other goods and/or services provide substantially equivalent or similar benefits, and (iii) considering the benefits, the cost to BUDC is reasonable ~~— and in the best interests of BUDC~~. Approval of the President after consultation with the officers of BUDC is necessary, which shall be documented in the procurement file along with an explanation of the basis for the procurement qualifying as a sole source procurement.

e.g. Special Source Procurements – A “special source” means a situation where, even though two or more vendors are available to supply the required goods or services, BUDC determines that (i) one particular vendor has unique knowledge or expertise with respect to the required goods, services or project, rendering the use of competitive procedures impractical; and (ii) considering the benefits, the cost to BUDC is reasonable. Approval of the President after consultation with the officers of BUDC is necessary, which shall be documented in the procurement file along with an explanation of the basis for concluding that a special source procurement was in the best interests of BUDC and the manner in which BUDC identified the selected vendor.

f.h. Utilities and Affiliate Transactions – The purchase of utilities and inter-affiliate or subsidiary transactions are excepted from alternative proposal/quotation requirements.

g.i. Unavailability of three (3) vendors who are able or willing to ~~provide~~respond to a ~~quote~~solicitation.

j. Resolution Waiving Solicitation Requirements – The BUDC Board of Directors may adopt a resolution prospectively waiving solicitation requirements upon the Board’s determination that solicitation would be impractical and such waiver is in the best interests of BUDC.

3. Basis for the Award of Contracts.

~~Contracts will be awarded~~It is the general policy of BUDC to award contracts to the lowest responsible dollar offeror who meets the specifications therefor, except in. BUDC may award contracts to other than the lowest responsible dollar offeror under circumstances that BUDC determines justify an award to other than the lowest responsible dollar offeror. In making any such determination, BUDC shall consider relevant factors including, without limitation:

a. The vendor is an MBE or WBE firm, or relative to other vendors for the specific procurement has demonstrated the ability to meet or exceed applicable M/WBE and/or minority or workforce participation requirements

a.b. Delivery requirements

b.c. Quality requirements

e.d. Quantity requirements

d.c. Past vendor performance and/or experience

e.f. The unavailability of three or more vendors who are able or willing to quote on a procurement.

~~f. It may be in the best interests of BUDC to consider only one vendor who has previous expertise with respect to a particular procurement.~~

g. Any procurement excepted from the alternative proposal/quotation requirements as set forth in subdivision 2 of this Section B, and the procurement of professional services in Section E of this Policy.

4. Documentation: Procurement Tracking Form.

~~a. A record of all solicitations for alternative proposals or quotations, the response (if applicable), and any determinations pursuant thereto shall be maintained in the procurement file.~~

~~b. For each procurement by BUDC, the President of BUDC or authorized designee shall set forth in writing the category of procurement that is being made and what method of procurement is specified.~~

~~c. Whenever an award is made to other than the lowest responsible dollar offeror the reasons for doing so shall be set forth in writing and maintained in the procurement file.~~

~~d. Whenever the specified number of quotations cannot or will not be secured, the reasons for this shall be indicated in writing and maintained in the procurement file.~~

Each procurement made under this Policy shall be documented on a separate Procurement Tracking Form, the form of which is attached hereto as Schedule A and made a part hereof. An annual procurement report shall be presented to the Audit & Finance Committee.

C. Erie County Businesses and Minority & Women Owned Enterprises.

It is the goal of BUDC to provide opportunities for the purchase of goods and services from (i) business enterprises located in Erie County and (ii) certified minority and/or women-owned business enterprises. To that end, BUDC will utilize available lists of M/WBE businesses certified by Erie County and/or State of New York and use its best efforts to solicit bids and proposals from such businesses by notifying them of opportunities to submit proposals and/or bids for goods or services when practical. In addition, where the procurement of a specific good or service is to be accomplished using funds other than the funds of BUDC or its affiliates, BUDC shall comply with all M/WBE goals and other M/WBE requirements applicable to such funding.

D. Effect on Other Procurement Requirements.

Where the procurement of a specific good or service is to be accomplished using funds other than the funds of BUDC and such funding sources specify different or more restrictive procurement requirements than are provided for in this Policy, the procurement requirements of the funding source will supersede the requirements of this Policy.

E. Professional Services.

Contracts for professional services involve the application of specialized expertise, the use of professional judgment, or a high degree of creativity. Professional services include services which require special education and/or training, license to practice or are creative in nature. Examples are: lawyers, doctors, accountants, and engineers. Furthermore, professional service contracts often involve a relationship of personal trust and confidence. Procurement of professional services in an amount up to \$25,000 is not subject to the solicitation procedures contained in Sections B(1)-(a) and (b) of this Policy. Procurement of professional services in an amount greater than \$25,000 shall be made through a Written Request for Proposal (RFP) or a Request for Qualifications (RFQ) process.

F. Procurement of Insurance.

Procurement of Insurance Brokerage services is subject to this Policy as a professional service. Notwithstanding the foregoing, actual insurance policies procured are not subject to the requirements of this Policy.

G. Procurement Lobbying.

BUDC shall follow the applicable provisions of the New York Procurement Lobbying Law (State Finance Law §§ 139-j, 139-k) for any contract or other agreement for an article of procurement involving an estimated annualized expenditure in excess of \$15,000.

H. Other Reporting Requirements.

Procurements are intended to be made for no greater than the fair market value of the asset procured. In the event circumstances exist in which the acquisition of an asset is made where the contract price to be paid by BUDC exceeds the fair market value of the asset, BUDC shall include in its annual report required by Section 2800(2) of the Public Authorities Law a detailed explanation of the justification for making the purchase without competitive bidding and a certification by the President and Chief Financial Officer of BUDC that they have reviewed the terms of the acquisition and determined that it complies with applicable law and this Policy.

H. Approval Thresholds.

The following approval thresholds shall apply to the procurement of all goods and services, except those procurements made under Section B(2)(d) and (e):

1. The President and Executive Vice President of BUDC are each authorized to procure goods and services in an amount up to \$10,000. Prior to procuring such goods or services, the President or Executive Vice President shall confer with the Treasurer to confirm that the proposed expenditure is within budgetary limits. The President or Executive Vice President shall report the procurement of goods and services at the next Board of Directors meeting following the date of procurement.
2. The Real Estate Committee is authorized to approve the procurement of goods and services greater than \$10,000, but not in excess of \$25,000. Prior to procuring such goods or services, the Real Estate Committee shall confer with the Treasurer to confirm that the proposed expenditure is within budgetary limits. The President or Executive Vice President shall report the procurement of goods and services authorized by the Real Estate Committee at the next BUDC Board of Directors meeting following the date of procurement.
3. The procurement of goods and services in an amount greater than \$25,000 shall require the approval of the BUDC Board of Directors. By resolution, the Board may delegate to BUDC executive staff or a committee of the Board the authority to procure goods or services in an amount greater than \$25,000 without Board approval.

J. Annual Review.

This Policy shall be subject to the annual review and approval of the BUDC Board of Directors.

Adopted: 7/7/2009
Amended: 6/8/2010
Re-Adopted: 3/29/2011
Re-Adopted: 3/27/2012
Re-adopted: 2/26/2013
Amended and Adopted 3/31/2015
Adopted: 3/29/2016
Adopted 3/28/2017
Amended and Adopted:

SCHEDULE A
Procurement Tracking Form

Buffalo Urban Development Corporation

95 Perry Street | Buffalo, NY 14203 | Phone: 716-856-6525 | Fax: 716-856-6754

Procurement Tracking Form

Original Solicitation Date: _____ Procurement Category: Goods/Services
 Procurement Description: _____ Professional Services

Approving Party (§ 1, 1-3): President Executive Vice President Real Estate Committee Board of Directors
 Vendor Selected: _____

Is Vendor an M/WBE? Yes No If Yes, Specify type: _____ Contract Price: _____

Date Awarded: _____ Source of Funds: _____

If A Procurement Exception Applies, Please Explain (§ B(2)(a-i)):
 (e.g., Emergency, Time Sensitive Opportunity, Sole Source, Special Source, etc.)

Reporting Procedure (§ 1, 1-3)

Procurement Report Delivered to:	<input type="radio"/> Board of Directors <input type="radio"/> N/A
Date of Report (Meeting):	_____

Quotations/Proposals Received:			
#	Vendor	Type of Solicitation (§ B(1)(a-d))	Amount
1		<input type="radio"/> RFP/RFQ/Written Proposal <input type="radio"/> Written <input type="radio"/> Verbal	
2		<input type="radio"/> RFP/RFQ/Written Proposal <input type="radio"/> Written <input type="radio"/> Verbal	
3		<input type="radio"/> RFP/RFQ/Written Proposal <input type="radio"/> Written <input type="radio"/> Verbal	
4		<input type="radio"/> RFP/RFQ/Written Proposal <input type="radio"/> Written <input type="radio"/> Verbal	
5		<input type="radio"/> RFP/RFQ/Written Proposal <input type="radio"/> Written <input type="radio"/> Verbal	
6		<input type="radio"/> RFP/RFQ/Written Proposal <input type="radio"/> Written <input type="radio"/> Verbal	

Was Lowest Cost Proposal Selected? Yes No
 If No, Please Explain (§ B(3)(a-h)):
