



Hudson River Park Trust

Procurement Guidelines

(July 30, 2009)

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I. INTRODUCTION

A. PURPOSE

The following guidelines (the “Guidelines”) are applicable to all purchases of commodities and services by the Hudson River Park Trust (referred to herein as the “Trust”) including the use, awarding, monitoring and reporting of such procurements. These Guidelines include exhibits containing standard forms to be used, consistent with the procedure set forth herein, when engaging in the procurement process.

These Guidelines have been established for the following purposes:

- To satisfy the directives of the Hudson River Park Act and New York State’s Public Authorities Law, both of which direct the Trust to establish guidelines for the procurement of commodities and services.
- To enhance internal control over Trust procurements.
- To ensure that the procurements realized meet the Trust’s needs and promote the Trust’s underlying purpose of designing, constructing, operating and maintaining Hudson River Park.
- To provide instruction to Trust personnel engaging in the procurement process on the Trust’s behalf.
- To guard against favoritism, improvidence, extravagance, fraud and corruption.
- To protect the interests of the Trust as well as those of the State and City of New York.

All Trust procurements must conform to the following general principles:

- **COMPETITION**

Competition in the procurement process serves both the Trust and contractors by:

- Ensuring the procurement process produces an optimal solution at a reasonable price.
- Guarding against favoritism, fraud and collusion.
- Allowing qualified contractors an opportunity to obtain Trust business.

As such, the Trust shall administer a procurement process that provides maximum opportunities for contractors to compete. Where the competitive process is not appropriate, these Guidelines establish that the Trust shall nevertheless endeavor to negotiate a reasonable price and terms that can be justified and documented.

- **RESPONSIBILITY**

The Trust should only contract with contractors who are responsible. The Trust shall administer procedures through which contractors are required to provide assurances that they conform with responsibility requirements. Such requirements include, but are not limited to, a demonstration of a contractor's qualifications, integrity, performance, legal authority and financial stability.

- **FAIR AND OPEN PROCESS**

The Trust shall make every reasonable effort to ensure that contractors are aware of opportunities to compete for its business. The Trust shall:

- Define the process by which the procurement is being conducted.
- Disclose the general process to potential contractors.
- Adhere to the process while conducting the procurement.
- Document the process.

Trust procurements shall also conform to the following New York State contracting principles:

- **MINORITY & WOMEN-OWNED BUSINESS PARTICIPATION (M/WBE)**

To promote and assist participation by minority and women-owned businesses, in accordance with the applicable provisions of Article 15A of the New York State Executive Law, the Trust shall identify those areas or types of contracts for which minority or women-owned business enterprises may best bid and encourage and promote participation by such enterprises.

- **PARTICIPATION BY NEW YORK STATE BUSINESS ENTERPRISES**

To maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises, as

contractors, subcontractors and suppliers on its procurement contracts, the Trust shall promote the participation by New York State business enterprises and New York State residents in its procurement contracts.

- **ENVIRONMENTAL CONSIDERATIONS**

- **Environmentally Preferred Products** – When procuring cleaning products, the Trust shall procure Environmentally Preferred Products or document the reasons for selecting alternative products. Environmentally Preferred Products are defined by New York State as those products that have been found to be less damaging to the environment and human health when compared to competing products/services while maintaining the same quality and performance. These products have some of the following attributes:

- Mercury free
- Non-toxic (or less toxic)
- Recyclable Product and Packaging, no hazardous material disposal
- Recycled content (post-consumer)
- Minimal packaging
- Energy Efficient
- Can be reprocessed or reused
- More durable
- Safer for workers, and the environment

Such products shall conform to guidance as outlined in Executive Order No. 134, or shall be products that have been identified by New York State Office of General Services as compliant with this Executive Order and made available through an OGS Centralized Contract. More information on Environmentally Preferred Purchasing can be found at <http://www.ogs.state.ny.us/purchase/EnvironmentPurchasing.asp>

- **Green Paper Products** - Copy paper, janitorial paper and other paper supplies purchased by the Trust should be composed of 100% post-consumer recycled content to the maximum extent practicable, and all copy and janitorial paper shall be process chlorine-free to the extent practicable,

unless such products do not meet required form, function or utility, or the cost of the product is not competitive. Additional information on the purchasing of recycled materials can be found at

<http://www.ogs.state.ny.us/purchase/EnvironmentPurchasing.asp> .

- **Prohibition on Purchase of Tropical Hardwoods** - As a general rule, the Trust is prohibited from purchasing or obtaining any products made from tropical hardwoods listed under State Finance Law in any form. A full list of all tree species this ban extends to is provided in New York State Finance Law §165. The Trust is required to incorporate into its bid/solicitation materials, a statement that any proposal or other response to a Trust solicitation which proposes or calls for the use of tropical hardwood banned under State Finance Law §165 shall be deemed non-responsive.

- **Energy Efficient Purchasing** - In accordance with Executive Order 111, the Trust shall select ENERGY STAR energy-efficient products when acquiring new energy-using products or replacing existing equipment. The Trust shall procure increasing percentages of alternative-fuel vehicles, including hybrid-electric / electric vehicles, as part of its vehicle acquisition plan. Additional information on procuring energy efficient products can be found at <http://www.ogs.state.ny.us/purchase/EnvironmentPurchasing.asp> .

- **MACBRIDE FAIR EMPLOYMENT PRACTICES**

In instances where there are one or more contractors from which the Trust can contract for the supply of particular commodities or services of comparable quality and cost, the Trust shall not contract for such commodities or services with any contractor who does not stipulate to the following: the contractor and any individual or legal entity in which it holds a ten percent or greater ownership interest and any individual or legal entity that holds a ten percent or greater ownership interest in the contractor either (a) have no business operations in Northern Ireland or (b) shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the

MacBride Fair Employment Principles as set forth in Section 165 of the State Finance Law, and shall permit independent monitoring of their compliance with such principles.

B. DEFINITIONS

Best Value

The basis for awarding contracts for services to the contractor which optimizes quality, cost and efficiency, among responsive and responsible contractors. Such basis shall reflect, wherever possible, objective and quantifiable analysis.

Commodity/Commodities

Material goods, supplies, products, construction items or other standard articles of commerce which are the subject of any purchase or other exchange.

Costs

Shall be quantifiable and may include, without limitation, the price of the given commodity or service being purchased; the administrative, training, storage, maintenance or other overhead associated with a given commodity or service; the value of warranties, delivery schedules, financing costs and foregone opportunity costs associated with a given commodity or service; and the life span and associated life cycle costs of the given commodity or service being purchased. Life cycle costs may include, but shall not be limited to, costs or savings associated with construction, energy use, maintenance, operation, and salvage or disposal.

Price

Unless otherwise specified, the amount of money set as consideration for the sale of a commodity or service and may include, but is not limited to, when applicable and when specified in the solicitation, any related delivery charges, installation charges and/or other costs.

Procurement Record

The accumulated documentation required to be kept for each acquisition by the Trust evidencing the procurement process utilized, the decisions made during that process and confirming the reasonableness of the price. In accordance with these Guidelines, documentation should include, but is not limited to, the solicitation documents, justification for specific technique utilized, and where applicable, the methodology utilized.

Responsible Contractor

A contractor that is determined to have skill, judgment and integrity, and that is found to be competent, reliable, experienced and qualified financially, as determined by the Trust.

Responsive Contractor

A contractor whose offer meets the specifications or requirements prescribed in a request for proposal or other solicitation.

Service(s)

The performance of a task(s) and may include a material good or a quantity of material goods, and which is the subject of any purchase or other exchange.

C. OVERVIEW: TRUST PROCUREMENT IN A NUTSHELL

Any time the Trust enters into an agreement for the acquisition of commodities or services, regardless of the price at which such commodities/services are valued, a contract between the Trust and that contractor is created. As such, it is imperative that *all* Trust procurements comply with these Guidelines. Trust personnel responsible for initiating the procurement process are instrumental in ensuring that the Trust's acquisitions are obtained fairly, openly, responsibly and in full compliance with these Guidelines and all applicable laws.

As a New York State public benefit corporation, it is the Trust's responsibility to spend funds prudently and in a manner consistent with the best interest of the State and its taxpayers. The first step toward the Trust's acquisition of commodities/services is to establish the Trust's need

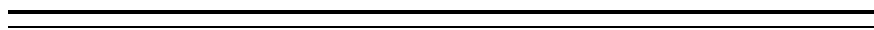
to acquire such commodities/services. Such inquiry should involve the following considerations:

- Is the proposed acquisition necessary for the Trust to perform an essential function?
- How many units of the acquisition are appropriate for the Trust to perform its duties efficiently?
- Is the acquisition frivolous and/or extravagant? Is there a less expensive alternative to the proposed acquisition?

Once it is established that the proposed procurement is appropriate and necessary, the Trust should determine which “procurement technique” to utilize. Available procurement techniques are discussed in Section II and include: (1) Preferred Sources; (2) Centralized Contracts, such as those available through New York State’s Office of General Services; (3) Requests for Proposals; and (4) non-competitive procurement techniques, such as sole or single sourcing.

Once the appropriate procurement technique has been determined, the next step in the procurement process is to establish the most appropriate mechanisms for that acquisition. “Procurement mechanisms” refer to the type of forms, procedures, and supporting materials necessary for a particular procurement. In most cases, the two most important factors in determining the proper mechanisms to apply are the estimated cost of the procurement and whether the procurement is for a commodity or a service. All available procurement mechanisms and their associated procedures are discussed in detail in Section V of these Guidelines.

Please note, as is discussed in Section III, procurements valued in excess of \$15,000 are subject to New York State’s procurement lobbying restrictions. Trust personnel engaging in the acquisition of commodities or services with an estimated value in excess of \$15,000 should read Section III carefully as there are a number of requirements in that Section that are applicable to the solicitation and contract negotiation process.



II. SELECTING A PROCUREMENT TECHNIQUE

A. PROCUREMENT TECHNIQUES, GENERALLY

This section outlines the different procurement techniques available for acquiring commodities and services. As discussed in Section I, competition is a key factor in ensuring a fair price for the procurement. “Procurement techniques” refers to the type and degree of competitive practice utilized during a particular procurement process.

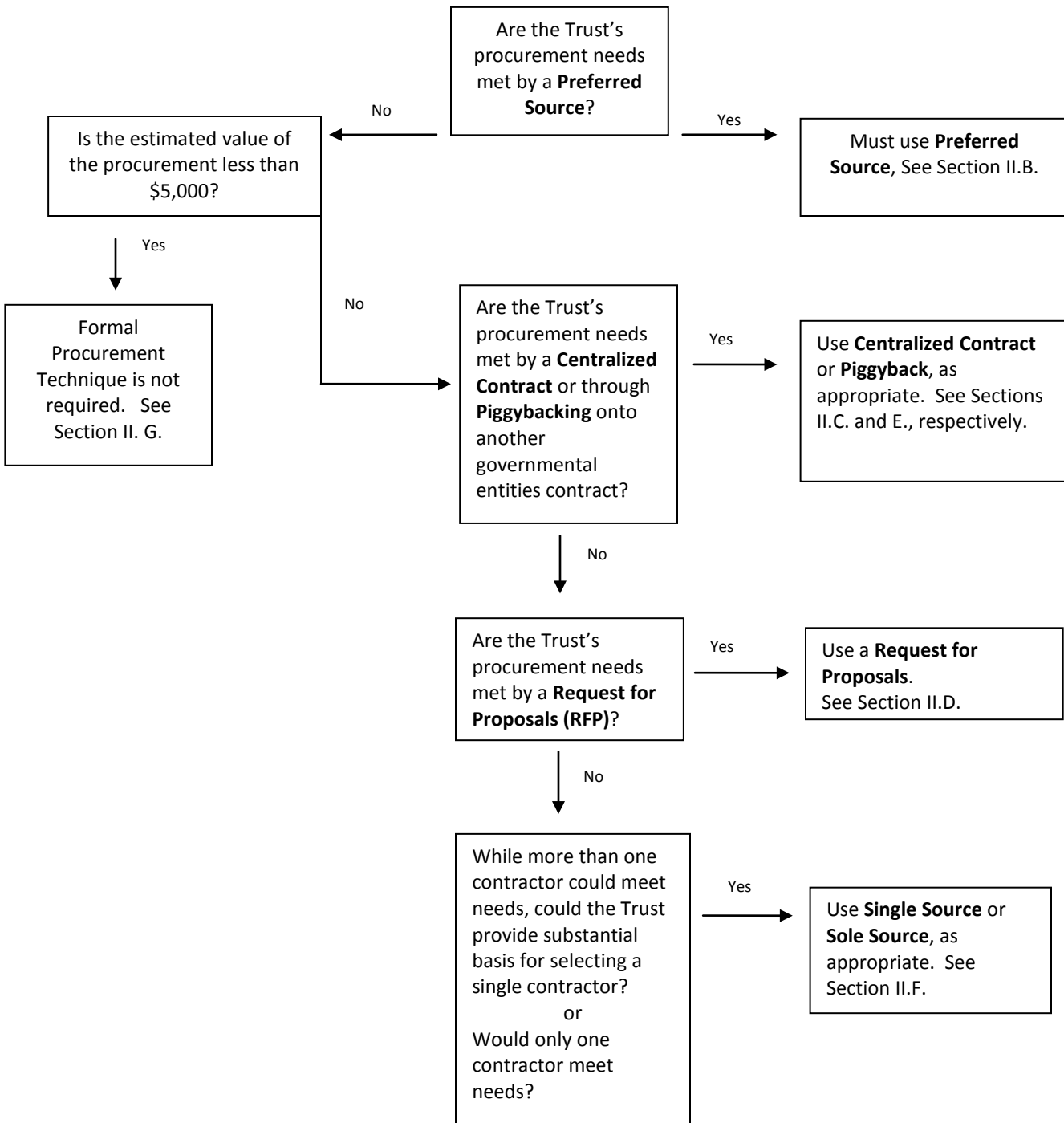
The State’s procurement law prioritizes how agencies must go about purchasing. To advance special social and economic goals, certain providers have “Preferred Source” status under the law. Generally, when the desired commodity or service is available in the form, function and utility required by the Trust from a Preferred Source and the price does not exceed fifteen percent above the prevailing market rate, the Trust must purchase from a Preferred Source.

Where the Trust’s needs cannot be satisfied through a Preferred Source, and the procurement is expected to be valued at \$5,000 or greater, absent extenuating circumstances, such procurements should undergo a competitive process through one of the following forms:

- Utilization of a state or federal centralized contract. With centralized contracting, the governmental entity responsible for creating the centralized contract pre-establishes the contractor responsibility and competitive price for that procurement.
- Piggybacking onto a state or municipal contract, providing that this associated governmental entity applied a competitive process similar to that of the Trust. Similar to centralized contracting, piggybacking onto such a contract eliminates the Trust’s need to engage in an individual competitive bidding process because the governmental entity that initiated the original procurement has already performed one.
- The issuance of a Request for Proposals.

As discussed below, there are also a few limited instances, such as sole or single source procurements, where the absence of a formal competitive procurement process is justified.

Selecting a Procurement Technique



B. PREFERRED SOURCES

To advance special social and economic goals, certain providers have Preferred Source status under the law. Procurements from these providers are not subject to competitive procurement requirements. The special status of a Preferred Source for commodities is accorded to the Department of Correctional Services (DOCS) Industries Program (Corcraft). The special status of Preferred Source for services and commodities is accorded to qualified charitable non-profit agencies for the blind, qualified charitable non-profit agencies for other severely disabled persons, qualified special employment programs for mentally ill persons and certain veterans' workshops.

The law prioritizes among Preferred Sources when making a purchase. For commodities, Corcraft has first priority, qualified charitable agencies for the blind have second priority and all others are accorded equal priority. In other words, when purchasing a commodity from a Preferred Source, the Trust must begin with DOCS and proceed to qualified charitable agencies for the blind, and then all other Preferred Sources, in locating the desired commodity. For services, equal priority is accorded qualified charitable agencies for the blind, qualified charitable agencies for other severely disabled, special employment programs for the mentally ill and veterans' workshops.

The Trust must purchase from a Preferred Source when the commodities or services required are:

- on the *List of Preferred Source Offerings* published by OGS, **Exhibit A**;
- not exceeding fifteen (15) percent above the prevailing market price for the same or similar commodities or services, or in the case of Corcraft products, are approved by DOCS as not exceeding a reasonable fair market price for the same or similar commodities; and
- in the form, function, and utility required by the Trust.

The Trust must make reasonable efforts to determine whether the Preferred Source is interested in providing a commodity or performing the service *before* the Trust issues a Request for Proposals. This "right of first refusal" approach avoids having private businesses invest in a

competitive procurement process when a Preferred Source is the likely recipient of the contract. To accomplish this, once the Trust's requirements have been specified, the Trust must notify those Preferred Sources which provide such commodities or services (as indicated on the *List of Preferred Source Offerings, Exhibit A*). If, within ten (10) days, the Preferred Source expresses an interest in providing the commodity or performing the service as specified, the Trust must purchase from the Preferred Source.

If, within ten (10) days of the notification, the Preferred Source does not respond or expresses no interest in fulfilling the Trust's requirements, the Trust may conduct a competitive procurement. During the competitive procurement, if the Preferred Source elects to then submit a proposal on the contract, the Trust shall award the contract to the contractor having the best value, irrespective of the Preferred Source's special status. In other words, under such circumstances, the Preferred Source will be treated as any other contractor.

The most up-to-date information regarding Preferred Sources is available at NYS's Office of General Services website: <http://www.ogs.state.ny.us/purchase/searchbrowse.asp>.

C. CENTRALIZED CONTRACTS

Centralized contracting refers to contracts created through either the State or Federal government. Two forms of centralized contracting are available to the Trust: (1) New York State's Office of General Services (OGS) Central Contracts and (2) U.S. General Services Administration (GSA) Cooperative Purchasing Program for Information Technology Products (Schedule 70).

The Trust, as a state public benefit corporation, is not required to utilize centralized contracts. Nevertheless, users of the centralized contracting system benefit from the buying power of the State as a single customer and through the reduction of administrative costs, taking advantage of bulk discounts and marketplace economies. Contracts are established both on a statewide and on a regional basis, and may be made with multiple contractors to allow purchasing flexibility while optimally meeting user needs.

As a matter of best practice, Trust personnel should investigate whether a centralized contract is available for the particular commodity/service sought and if so, document with particularity why the centralized contract is not being used, whenever a decision is made to go with an individual contractor instead.

1. OGS Centralized Contracts

New York State's OGS Procurement Services Group establishes centralized contracts for a wide range of commodities and services commonly acquired by governmental entities such as the Trust. An index of such contracts are available online at <http://www.ogs.state.ny.us/purchase/searchbrowse.asp>.

2. Federal Cooperative Purchasing – Information Technology, Schedule 70

Section 211 of the E-Government Act of 2002 amended the Federal Property and Administrative Services Act to allow for "Cooperative Purchasing." Cooperative Purchasing allows for the Administrator of the General Services to provide states and localities access to certain items offered through GSA's Federal Supply Schedule 70, Information Technology (IT), and Consolidated (formerly Corporate Contracts) Schedule contracts, containing IT Special Item Numbers (SINs). The information technology available to state and local governments includes automated data processing equipment, software, supplies, support equipment, and services.

Cooperative Purchasing is voluntary for both the Trust and the Schedule contractors. Schedule contractors have the option of deciding whether they will accept orders placed by the Trust, or any other government buyer. Please refer to GSA's website at www.gsa.gov – *GSA's Schedule Ordering Procedure* to obtain the most up-to-date procedures for procuring through this technique.

D. REQUEST FOR PROPOSALS (RFP)

A Request for Proposals ("RFP") is an invitation for contractors to bid on the listed procurement opportunity. As a general rule, where the RFP process is utilized, commodities should be awarded on the basis of "lowest price" and services/technology are to be awarded on the basis of "best value," among responsive and responsible contractors. Where the Trust has

determined that this type of competitive bidding arrangement is the most appropriate technique, the following process should be implemented.

1. Developing a Request for Proposals

RFPs shall provide prospective offerers with all the information necessary to develop a responsive bid. RFP documents vary widely and are uniquely drafted to meet specific Trust needs and objectives. Information provided to contractors must be clearly written such that all contractors understand the requirements of a responsive proposal, how their proposal will be evaluated, and the general method the Trust will use to select a successful offerer.

- At a minimum, a Request for Proposals shall: (1) describe the administrative process, including the proposal due date and time, (2) contain clear and descriptive specifications¹ or requirements; (3) specify the required qualifications of contractors; (4) state the mandatory contract terms and conditions, such as Schedule A, **see Exhibit B**; and (5) contain a description of overall evaluation criteria.
- All information, including any addenda or response to questions to a Request for Proposals, shall be conveyed in writing to all known contractors participating in the process. Any changes to the RFP and/or the rules of the procurement shall be communicated, in writing, to each contractor known to be participating in the process.
- New York State's Procurement Lobbying Legislation restricts communications between state entities such as the Trust and potential contracting parties during the procurement process where the proposed acquisition has an estimated valued in excess of \$15,000. Thus, Trust personnel engaging in the acquisition of commodities/services with an estimated value in excess of \$15,000 should read Section III of these Guidelines carefully as there are a number of requirements in that Section that are applicable to the solicitation process, including: designation of a contact person through which all communications regarding the proposed acquisition must be

¹ Technical drawings and specifications distributed to offerers shall only be used in a manner consistent with the RFP scope of work and not for other purposes. Any such drawings or specifications must be returned to the Trust or destroyed after the bidding process is completed, or where a particular contractor provider is awarded the procurement, after completion of contract terms.

processed; incorporation of a summary of the Trust's Procurement Lobbying guidelines into the RFP solicitation; and contractor certification of responsibility determinations.

2. Advertising

The Trust requires that competitive solicitations for procurement opportunities be advertised in the New York State Contract Reporter and the New York City Record. It shall be the general practice of the Trust to post all competitive solicitations on the Trust's website. In addition, whenever possible, such solicitations should also be advertised in New York State's Minority Newsletter Weekly. Further, the Trust shall make reasonable efforts to apprise potential offerers of solicitation opportunities through (1) mailings to industry associations; and (2) direct notifications of known potential offerers, where applicable. Posting advertisements to be published in the New York State Contract Reporter should be completed online at www.nyscr.org by a designated Trust representative. For posting in New York City Record, a copy of the proposed advertisement should be given to the Trust's Legal Department for processing.

Certain procurements are exempt from the obligation to advertise where it would "serve no useful purpose" to do so. These include procurements that are acquired through: sole or single sourcing, piggybacking and central contracting. In addition, a procurement that is being re-solicited for substantially the same goods or services, within 45 business days after the date proposals were originally due, is exempt from advertising. The procurement record must document the reasons why advertisement was not undertaken in connection with such procurement.

3. Prequalification

Where appropriate, persons/firms may be prequalified before or at the time proposals are solicited or prices or fees are requested from offerers. Such prequalification may be based on criteria appropriate for each project, including, where applicable, special or technical expertise, current workload capacity, past performance for the Trust or on other comparable projects, responsibility and proposed fees, price, charges or billing rates. The Trust may determine not to select a person/firm where information is obtained which indicates that the person/firm is not qualified, responsive or responsible, based upon appropriate criteria for the project.

4. Evaluation

All proposals must be evaluated and awards must be made in accordance with a rational, predetermined process. Wherever possible, evaluation criteria should be quantifiable. Awards are to be made, where practicable, upon receipt and evaluation of proposals obtained from at least three qualified persons/firms. The procurement evaluation and selection process must be documented and maintained in the Procurement Record.

- **Selection Committee** - A selection committee of three or more persons, as designated by the President, shall conduct the review and selection of persons/firms in connection with procurement contract(s) of \$100,000 or more. Such reviews shall adhere to the selection criteria set forth in these Guidelines. Upon completing its review and selecting a proposed person/firm, the Selection Committee shall provide its recommendation together with a contract package to the President for her/his review and approval and subsequent submission for Board authorization. In instances where the recommended contractor is other than the lowest financial offerer, the contract package shall include a written explanation of why the lowest offerer was not selected, together with appropriate documentation.
- For personal services contracts, the technical merits of the proposals and the experience and capabilities of the person/firms will be significant factors in selecting the contractor, provided that the price, fees, charges or billing rates for performing the services are reasonable and competitive.
- For contracts for commodities, the person/firm selected should usually be the one which has submitted the lowest financial proposal and meets the commercial and technical requirements of the RFP.
- For both commodities and services contracts, prior contract history, financial background and condition of the person/firm, as well as their responsiveness to questions or requests for information shall also be considered as part of the evaluation.
- Where appropriate, for capital construction related contracts in excess of \$100,000, the Trust's evaluation shall include screening and evaluation of such person/firm under the New York City VENDEX system.
- The overall evaluation criteria shall not be altered after opening proposals, with the exception of minor changes and only if the modifications are justified and evidence

presented to ensure that the changes would not materially benefit or disadvantage an offerer.

- The evaluation criteria shall be applied equally and uniformly in the evaluation of proposals. The Trust has a right to eliminate mandatory requirements unmet by all offerers, provided that the RFP discloses to the offerers the agency's right to make such deletions.
- Only proposals received on or before the published proposal due date shall be accepted.

5. Failed Solicitations

A failed solicitation is one where the Trust has issued a RFP for a particular commodity/service but was unable to obtain a qualified proposal for the desired procurement. For example, where a competitive solicitation yields less than three qualified offerers, the Trust has the discretion to deem the solicitation to have failed, however, it is not required to do so if the Trust concludes that it is in the Trust's best interest to proceed with the procurement regardless of the limited number of proposals received. When the Trust deems a Request for Proposals to have failed, the Trust may either re-solicit the procurement, or where it is clear that this will be unlikely to produce a more favorable result, Trust personnel may attempt to procure under an alternative procurement technique.

6. Awarding and Negotiating a Contract

The terms and conditions of a contract that is entered into pursuant to an RFP must be in accordance with the requirements and specifications of the RFP and with the offerer's proposal. Deviations may be considered if the changes are to the Trust's advantage and do not substantially alter the requirements and specifications of the RFP so as to prejudice the other competitors.

- Absent extenuating circumstances that have been documented in the procurement record and approved by the Legal Department, the term of the contract and any renewal or extension provisions must be specified in both the RFP and the contract. Contracts that do not allow for any renewals or extensions beyond the initial term cannot be extended.
- Generally, an RFP process results in the award to a single offerer. The Trust's discretion to award to multiple offerers must be specifically set forth in the RFP. The method as to how the multiple award is to be made must be clearly stated in the RFP.

E. PIGGYBACKING

The term Piggybacking refers to the procurement technique whereby the Trust purchases a commodity/service by attaching to a contract that has already been procured through another governmental entity. A decision of whether to amend the original agreement or to execute a separate, independent contract based upon the original contract must be considered based upon the facts and circumstances. In either event, a justification memorandum should set forth not only the agreed terms of the Piggyback acquisition, but also its effect on the original agreement, if any. Where the Trust is proposing to piggyback using an amendment to an existing contract, consent of the originating agency must be obtained. As a public benefit corporation, the Trust is not obligated to conform to the Piggybacking reporting requirement of State Finance Law Section 163 (10)(e).

Piggybacking contracts entered into by the Trust shall conform to the following requirements:

- **Subject Matter Comparison**

There should be an equivalency between the product or service sought by the Trust and that procured in the original contract which should reflect the Trust's form, function and utility requirements. Trust personnel should address the following questions:

- Does the existing contract encompass the product or service sought?
- Did it anticipate the possibility of contract extension? All relevant factors in the proposed extension acquisition (including but not limited to price, quality, nature of the deliverable) should be clearly identified and compared to the original acquisition.

- **Procurement Method**

The size and scope of the new acquisition should be evaluated in comparison to the original acquisition and its method of award. Trust personnel should address the following questions:

- Does the proposed Piggyback significantly unbalance the original scope, or change the nature, quantity, or scope of the original contract?

- Could a substantially different procurement response or increased offerer pool involving greater competition reasonably be expected based upon the volume of the proposed request?
- **Absence of Other Acceptable Established Contracting Alternatives**

When determining whether Piggybacking is the most appropriate form of contracting for a particular procurement, Trust personnel should address the following questions:

 - Why is Piggybacking the appropriate mechanism to use for this procurement (i.e., timing, level playing field, nature of use)?
 - Were other procurement methodologies considered? Are there any special, unusual or exigent market circumstances underlying this extension request?
- **Pricing Justification**

Similar to other methods of procurement, the Trust must document that the price for the proposed acquisition is reasonable under the circumstances.

F. SOLE OR SINGLE SOURCE PROCUREMENTS

In certain circumstances, Sole Source or Single Source procurement may be appropriate. Sole Source procurement is one in which only one contractor can supply the commodities or perform the services required by the Trust. Procurement by this method must be documented in the procurement record by an explanation of: (i) the unique nature of the requirement; (ii) the basis upon which it was determined that there is only one known contractor able to meet the Trust's need, i.e., the steps taken to identify potential competitors; and (iii) the basis upon which the Trust determined the cost to be reasonable, i.e., a "fair market price" that could be anticipated had normal competitive conditions existed, and how that conclusion was reached. Examples of such a determination may include a comparison to product catalogs, published price lists, retail market surveys, records of previous similar purchases, consulting other purchasing officials, or using professional experience.

Single Source procurement is one in which two or more contractors can supply the commodity or perform the service required by the Trust, but the Trust selects one contractor over the others for reasons such as expertise or previous experience with similar contracts. Circumstances leading the Trust to select this method of procurement may include, for example, the Trust's need for a specific consulting firm where a number of firms are available to perform the work. In such a case, the Trust can demonstrate a rational basis for selecting a single contractor because of specific factors such as past experience with a particular issue, familiarity with specific agency operations, experience with similar projects at other agencies or at other levels of government, demonstrated expertise, or capacity and willingness to respond to the situation. In a Single Source procurement, the Trust must document in the procurement record: (i) the circumstances leading to the selection of the contractor, including the alternatives considered; (ii) its rationale for selecting the specific contractor; and (iii) the basis upon which it determined the cost was reasonable, as in the case of a Sole Source procurement, and how that conclusion was reached.

G. PROCUREMENTS NOT REQUIRING A FORMALIZED COMPETITIVE PROCESS

1. Procurements Valued Under \$5,000

Unless otherwise stated in these Guidelines, the Trust is not obligated to engage in a formal competitive process for purchases valued under \$5,000. Nevertheless, to ensure that a fair price is obtained for the commodity/service valued under \$5,000, wherever practicable, three price quotes shall be obtained from different contractors of the commodity/service sought with the award made to the contractor with the lowest price quote, unless the selection determination is based on other criteria besides cost is documented. Trust personnel shall document the price and selection determination in the procurement record for such purchase. As discussed in Section V, a common mechanism for procuring goods valued under \$5,000 is through a Purchase Order and a common mechanism for procuring services valued under \$5,000 is through a Service Agreement. Please note, Preferred Sourcing requirements apply to all Trust procurement, including those with an estimated value of under \$5,000. Refer to Section II.C. for additional information.

To determine the value of procurement, the Trust shall consider the anticipated annual expenditure for a particular commodity or service. For example, where the Trust places three orders to a

computer software company over the course of a single fiscal year with each order valued at \$2,000, the total annual expenditure to this company would be \$6,000. With an annual expenditure greater than \$5,000, absent documented extenuating circumstances, such purchases should be aggregated and procured through one of the more formalized procurement techniques described herein and follow the mechanisms outlined in Section V for procurements valued at \$5,000 or more.

2. Purchase Of Recurring Commodities and/or Services

As listed below, there are a number of recurring expenses that do not require a formalized procurement technique. This is because the costs associated with these items are set at a standardized market rate, making the competitive procurement process unnecessary. Nevertheless, the Trust should strive to provide confirmation, where available, that it has obtained these services at a reasonable and fair price.

Purchase of Commodities and/or Services Not Requiring a Formal Procurement Process

- Advertising for legal and employment notices
- Court reporting services
- Photography under \$100 (film processing, picture framing)
- News Media services (clipping services, Radio, TV)
- Public hearing officers
- Reproduction and outside printing under \$100
- Petty cash purchases up to \$250
- Renting conference rooms and meals for meetings
- Recurring essential operating expenses including but not limited to the following:
 - Utility charges
 - Real estate tax payments
 - Water and sewer bills
 - Telephone charges
 - Recurring copying charges
 - ADP payroll services
 - Insurance and fringe benefit premiums

- Corporate travel services, i.e. airline and Amtrak
- Leasing/rental of office equipment under \$5,000
- Office and park equipment maintenance and repair work costing under \$1000 provided such equipment is covered under a maintenance agreement
- Messenger services
- Temporary personnel services
- Subscriptions
- Return of security deposits
- Title insurance charges
- Real estate brokerage commissions
- Employment agency fees
- Emergency plumbing or electrical repair services

H. EMERGENCY SITUATIONS

An emergency is considered an urgent and unexpected requirement where health and public safety or the conservation of public resources is at risk. *Failure to properly plan in advance which then results in a situation in which normal practices cannot be followed does not constitute an emergency.*

Where an emergency exists, the Trust may enter into a procurement contract relevant to that emergency without complying with formal competitive bidding requirements (or one of the other approved procurement techniques described above). Under such conditions, a waiver of the competitive bidding requirements must be approved by the Trust's President or his/her designee.

Under such conditions, the Trust shall document each transaction entered into as a result of the emergency situation. Such documentation shall set forth the nature of the emergency situation; the potential effect on the health, public safety, or the conservation of public resources; and a detailed description of the commodities, services and technology to be provided. The Trust shall make all reasonable attempts to solicit at least three oral competitive bids and written confirmation of each solicitation shall be furnished within a reasonable time and maintained as an official record. Contracts entered into as a result of the emergency

situation shall be for only the commodities or services necessary to remedy or ameliorate the situation.



III. PROCUREMENT LOBBYING GUIDELINES

Please refer to the Statutory Definitions below (III.A.(2)) for a complete understanding of the terms referenced throughout this Section of the Guidelines.

A. INTRODUCTION

Pursuant to New York State's Procurement Lobbying Legislation, communications between Offerers and the Trust during the Restricted Period of a Governmental Procurement must be limited to designated contact persons and in accordance with prescribed means. This lobbying legislation also obligates the Trust to collect and record information from contractors seeking a Procurement Contract, and those who advocate on behalf of the contractors to influence Procurement Contracts. Among other things, the Procurement Lobbying Guidelines:

- Require the Trust to designate person/s to act as primary contact regarding a Trust procurement during a Restricted Period.
- Require the Trust to record all contacts made by lobbyists and contractors about a Governmental Procurement so that the public knows who is contacting Governmental Entities concerning particular procurements.
- Authorize New York State to impose penalties against persons/organizations engaging in impermissible Contacts about a Governmental Procurement and provides for the debarment of repeat violators.
- Direct the New York State Office of General Services to disclose and maintain a list of non-responsible offerers pursuant to this new law and those who have been disbarred and publish such a list on its website.
- Require the timely disclosure of accurate and complete information from Offerers with respect to determinations of non-responsibility and debarment.

Covered Transactions

Any Trust procurements or transactions involving an estimated value in excess of \$15,000 for:

- commodity
- service

- technology
- public work
- construction
- revenue contract
- the purchase, sale or lease of real property
- the acquisition or granting of an interest in real property

Restricted Period

These Guidelines restrict Contacts between the Trust and an Offerer from the point in time when the Trust issues its first written document soliciting a response from Offerers that is intended to result in a Procurement Contract or covered real estate transactions until such contract is completed or otherwise closed. The communications between Offerers and the Trust prior to such issuance, including during the preparation of specifications, bid documents, and RFPs, are not covered by such restrictions not governed by this law.

B. STATUTORY DEFINITIONS

Article of Procurement

A commodity, service, technology, public work, construction, revenue contract, the purchase, sale or lease of real property or an acquisition or granting of other interest in real property, that is the subject of a governmental procurement.

Contact

Any oral, written or electronic communication with a governmental entity under circumstances where a reasonable person would infer that the communication was intended to influence the governmental procurement.

Governmental Entity

(1) Any department, board, bureau, commission, division, office, council, committee or officer of the state, whether permanent or temporary; (2) each house of the state legislature; (3) the unified court system; (4) any public authority, public benefit corporation or commission created by or existing pursuant to the public authorities law;

(5) a public authority or public benefit corporation, at least one of whose members is appointed by the governor or who serves as a member by virtue of holding a civil office of the state; (6) municipal agency, as that term is defined in paragraph (ii) of subdivision (s) of section one-c of the legislative law; or (7) a subsidiary or affiliate of such a public authority.

Governmental Procurement

(1) The preparation or terms of the specifications, bid documents, request for proposals, or evaluation criteria for a procurement contract, (2) solicitation for a procurement contract, (3) evaluation of a procurement contract, (4) award, approval, denial or disapproval of a procurement contract, or (5) approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the procurement contract as it was finally awarded or approved by the comptroller, as applicable), renewal or extension of a procurement contract, or any other material change in the procurement contract resulting in a financial benefit to the Offerer.

Offerer

The individual or entity, or any employee, agent or consultant or person acting on behalf of such individual or entity, that contacts a governmental entity about a governmental procurement during the restricted period of such governmental procurement.

Procurement Contract

Any contract or other agreement for an article of procurement involving an estimated annualized expenditure in excess of fifteen thousand dollars. Grants, article eleven-B state finance law contracts, intergovernmental agreements, railroad and utility force accounts, utility relocation project agreements or orders and eminent domain transactions shall not be deemed procurement contracts.

Proposal

Any bid, quotation, offer or response to a governmental entity's solicitation of submissions relating to a procurement.

Restricted Period

The period of time commencing with the earliest written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from offerers intending to result in a procurement contract with a governmental entity with the final contract award and approval by the governmental entity and, where applicable, the state comptroller.

C. PROCEDURES

1. Notification of Procurement Lobbying Guidelines

For each Procurement Contract, the Trust shall designate a person or persons to receive communications from Offerers of such contracts. The contact person/s designated by the Trust shall have knowledge of the specifications or other technical requirements of the procurement.

The Trust shall incorporate a summary of its procurement lobbying procedures in its solicitation documents relating to a Procurement Contract. **Model language is attached as Exhibit C.**

The Trust shall require a written affirmation from all Offerers as to the Offerer's understanding of and agreement to comply with New York State's Procurement Lobbying Law. **See Form, Exhibit D.**

2. Determinations of Responsibility by the Trust

Prior to the award of a Procurement Contract, the Trust must make a responsibility determination with respect to the Offerer to be recommended for the award of the contract based upon, among other things, the information supplied by that Offerer. The Offerer must disclose whether it has been found non-responsible within the last four years by any Governmental Entity for: (1) failure to comply with State Finance Law § 139-j, or (2) the intentional provision of false or incomplete information. This disclosure must be certified by the Offerer and must affirmatively state that the information supplied by the Offerer to the Trust is complete, true and accurate. **See Form, Exhibit D.**

The Procurement Contract must include a provision allowing the Trust to terminate the contract if the certification is subsequently found to be incomplete, false or inaccurate.

Admissions by the Offerer of past findings of non-responsibility may constitute a basis for rejection of the Offerer by the Trust.

The Trust can award a contract to the Offerer despite the past findings of non-responsibility if it determines that the award of the Procurement Contract to the Offerer is necessary to protect public property or public health or safety, and that the Offerer is the only source capable of supplying the required Article of Procurement within the necessary time frame. The basis of such findings must be included in the procurement record of the Procurement Contract.

3. Permissible/Non-Permissible Communications

The Trust shall maintain a record, detailing any Contact from any person or entity. **See Form, Exhibit E.** Please note that, as defined in Section III.B., above, a “Contact” means any oral, written, or electronic communication that a reasonable person would interpret as a communication intending to influence a Trust procurement. All reported Contacts will be submitted to Trust’s Legal Department for review. If after review the Legal Department finds sufficient cause to believe that an Offerer may have violated the procurement lobbying restrictions, the Offerer will be notified in writing of the investigation and will be afforded an opportunity to respond to the alleged violation. If, after investigation, the Legal Department finds that the Offerer knowingly and willfully made prohibited Contact in violation of these procedures, then the Offerer shall be disqualified. If Trust staff is in doubt as to whether a communication is intended to influence the Governmental Procurement, he or she should record the communication and contact HRPT’s Legal Department for further guidance. All records of Contacts must be maintained in the procurement record for the related Procurement Contract.

Permissible communications include communications that a reasonable person would infer are not intended to influence a Governmental Procurement. As such, these communications are not considered Contacts and do not need to be documented as such in the procurement record. Such permissible communications include:

- Inquiries as to the status of the procurement process.
- Requests to be included on the Trust’s Offerer’s list.
- Receipt of advertising material.

- Intra-agency communications of administrative details concerning the procurement.
- Responses to Trust-issued Requests for Information.
- Written questions submitted by Offerers regarding a solicitation during the allowable time period of a competitive procurement.
- Complaints about the procurement process or outcome.
- Participation in an Offerer's conference as provided in a request for proposal.
- Submission of a bid in response to a request for proposal.
- Contract negotiations.
- Debriefing of an Offerer after a contract award has been made.

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IV. PROCUREMENT ADMINISTRATION

A. AUTHORIZATION OF PROCUREMENT CONTRACTS

Contracts Less than \$100,000:

As a general rule, most procurement contracts valued at less than one hundred thousand dollars (\$100,000) can be approved by designated Trust officers to the extent specified:

- **Purchase Orders and Service Agreements up to \$5,000** – Such procurements may be approved by the head of the department initiating the procurement
- **Contracts in amounts up to and including \$50,000** – Such contracts may be approved by the Treasurer, Executive Vice President or the President in accordance with the Trust's Delegation of Authority policy.
- **Contracts in amounts of more than \$50,000 up to \$100,000** - Such contracts require approval by the Executive Vice President or the President or their designee, except that legal retainers in such amounts must also be approved by the General Counsel.

Trust Board Approval Required:

- **Procurement Contracts for amounts of \$100,000 or more** - Require approval by the President and subsequent authorization by the Board of Directors of the Trust.
- **Contracts for Auditing Services** - The selection of the certified independent audit firm to be used for the Trust's annual audit shall be done by the Board of Directors - Audit Committee, in consultation with designated Trust staff. All auditing contracts are subject to approval by the Board of Directors. Note that the certified independent public accounting firm providing the Trust's annual independent audit will be prohibited from providing such services for the current year if the lead (or coordinating) audit partner (having primary responsibility for the audit), or the audit partner responsible for reviewing the audit, has performed audit services for the Trust in each of the five previous fiscal years. Further, while performing a Trust audit, that audit firm is

prohibited from performing any contemporaneous non-audit functions for the Trust absent prior approval from the Board of Directors – Audit Committee.

- **Multi-year Procurement Contracts** - Regardless of aggregate contract value, contracts for a possible term greater than 4 years (for example, a one year term with three or more renewal options) requires Trust Board authorization. Contracts for a possible term of 4 years or less but where the aggregate value of all renewal options, if exercised, would be \$100,000 or greater, also require Trust Board authorization. For example, a contract where the cost of the first term is \$40,000 with two one-year renewal options at the same cost, would require Trust Board authorization because the aggregate amount, if both renewal options were exercised, is \$120,000.00.

B. CONTRACT NUMBER ASSIGNMENTS

The contract number will be issued by the Contract Administrator as follows:

Axxxxx	Architectural Services
Cxxxxx	Construction Contract
Exxxxx	Equipment
Fxxxxx	Consultant
Gxxxxx	General Services
Lxxxxx	Lease Commitment
Pxxxxx	Printing/Photocopying/Graphics
Rxxxxx	Legal Services
Txxxxx	Technical Assistance
Mxxxxx	Maintenance

The Contract Administrator (in the Finance Department) assigns contract numbers and maintains a log of all contract number assignments.

- **Procurement Contracts for amounts of \$100,000 or more** - Require approval by the President and subsequent authorization by the Board of Directors of the Trust.

C. PROCUREMENT RECORD

The Trust shall maintain a procurement record for each procurement which documents all decisions regarding the procurement process, particularly the quantification of the application of criteria to determine an award based on best value or where not quantifiable, the justification which demonstrates that best value will be achieved. For all Trust procurements done through competitive bidding, such record should include, among other relevant information, the solicitation documents, any requests for information and responses thereto, RFP submissions, a memorandum setting forth the methodology employed for selecting the contractor and identifying the Trust staff involved in such procurement. In instances where competitive bidding is not employed, such documentation must include the name of the selected contractor, the Trust staff involved in the procurement, a memorandum setting forth the procurement technique employed and the justification for the selected process.

D. CONTRACTOR RESPONSIBILITY DETERMINATIONS

The Trust should only engage in procurements with contractors that are responsible. Contractor responsibility is generally described as including requirements of financial capacity, legal authority, integrity, and past performance. The Trust is responsible for establishing a contractor responsibility review and determination process. While all contracts must be awarded to a responsible contractor, the scope of the Trust's responsibility review efforts is generally based on the Trust's determination of its level of risk. One risk factor may be the dollar value of the contract. Apart from dollar value and contract complexity, Trust staff's responsibility review may consider other procurement-related factors. For example, procurements that are critical to the Trust's mission may require extensive contractor reviews as would a procurement in which a proposal is significantly lower than those of the competition.

Responsibility determinations should involve a review of the following four major categories: Financial Capacity, Legal Authority, Integrity and Past Performance (FLIP Review). Trust personnel may identify and emphasize the evaluation of certain criteria deemed critical depending upon the nature and scope of the proposed contract. For example, a responsibility

determination for a management or information technology consulting contract may emphasize a contractor's past performance, resumes of project team members, etc. while a commodity award may focus on the firm's capacity to produce and/or supply the commodity.

For capital construction procurements of \$100,000 or more, a responsibility determination shall also include review under New York City's VENDEX system.

E. LETTERS TO PROCEED

Generally, formal contract documents should be fully executed and delivered by both parties prior to commencement of work. However, where necessity dictates, a Letter to Proceed may be issued to the selected contractor by the President or his/her designee prior to the execution of the contract. A Letter to Proceed may authorize the contractor to proceed with preliminary work pending the execution of the contract, and shall expressly provide that the contractor is granted no rights against the Trust in the event a contract is not executed except for the reasonable value of the preliminary work expressly provided for in the Letter to Proceed and actually performed, not to exceed an amount set forth in the Letter to Proceed.

F. CONTRACT RENEWALS/AMENDMENTS

Absent extenuating circumstances that have been documented in the procurement record and approved by the Legal Department, a contract can only be renewed for an additional term if there is specific language in the original contract document providing for such a renewal option. Where such renewal language is present in the contract and Trust staff determines that it is in the best interest of the Trust to continue the contractual relationship with the contractor by renewing for the term specified in the original contract documents, then Trust staff, in consultation with the Legal Department, shall issue a binding renewal letter to such effect specifying what, if any, contract terms have changed from the last term.

Where there is a proposed modification to an existing contract, Trust staff should complete the Contract Amendment Form, **see form, Exhibit F**, and follow the same process/procedures that were followed for the existing contract. See applicable procedures outlined in Section V of these Guidelines.

G. NEW YORK STATE TAX CERTIFICATION

This Tax Law applies to all contracts in excess of \$100,000 for the purchase by the Trust of commodities or services. For the purposes of determining whether or not a contract value exceeds \$100,000, such that the provisions of Tax Law section 5-a would apply, the total cumulative value of the contract, including the original contract award value, and any amendments, extensions, or renewals, as they occur, must be considered. The law applies to centralized contracts. It does not apply to purchases of commodities or services from a preferred source.

New York State Tax Law Section 5-a imposes upon contractors, the obligation to certify to the Department of Taxation and Finance that the contractor, and, to the best of the contractor's knowledge, any affiliates and subcontractors, are registered to collect state sales and compensating use tax, or that the contractor and, to the best of the contractor's knowledge, any affiliates and subcontractors, did not have sales within New York State of tangible personal property or taxable services in excess of \$300,000 during the immediately preceding four consecutive sales tax quarters. The contractor must also certify in writing to the procuring agency that the requisite certification has been made to the Department of Taxation and Finance, or that the certification is not required to be filed, and that the certification is correct and complete. The certification to the procuring agency must be included in the procurement record. Visit the Department of Taxation and Finance's website at <http://www.tax.state.ny.us> for more information or forms.

Contractors subject to this requirement must complete the following forms prior to entering into a contract with the Trust: Form ST-220-CA, *Contractor Certification to Covered Agency* and Form ST0220-TD, *Contractor Certification*, **See Forms, Exhibit G**.

H. LOCAL LAW 34 – NEW YORK CITY’S DOING BUSINESS DATABASE

Local Law 34 of 2007 (LL 34), a New York City campaign finance reform law, seeks to limit the actual or perceived influence that campaign contributions could have on the City’s procurement and award processes. LL 34 limits municipal campaign contributions from principal officers, owners and senior managers of entities that do business with the City and mandates the creation of a Doing Business Database to facilitate enforcement of the law. With the exception of non-prequalified competitive, sealed bids (i.e., any contract entered into pursuant to a sealed RFP where the lowest qualified bidder is selected is excluded) all Trust procurements over \$5,000 (including purchase orders, sole and single sourcing, piggybacking, centralized contracts, and government lists), are subject to the requirements of LL34. As such, the contractors of all such Trust procurement contracts are obligated to provide a completed “Doing Business Data Form” **See Form, Exhibit H.**

I. PROCUREMENT REPORTING REQUIREMENTS

Within ninety days of the close of the Trust’s fiscal year, the Treasurer, or such other Trust officer as shall be designated by the President, shall prepare for Board approval an annual report, in accordance with the Hudson River Park Act and Section 2879 of the Public Authorities Law, summarizing procurement activity by the Trust for the prior year, including a listing of all procurement contracts entered into, all contracts entered into with New York state business enterprises and the subject matter and value thereof, all contracts entered into with foreign business enterprises, and the subject matter and value thereof, the Procurement Technique used to select such contractors. Following Trust Board approval, copies of such report shall be provided to:

- The Governor
- The Speaker of the Assembly
- The Temporary President of the State Senate
- The State Comptroller
- The Chair of the Senate Finance Committee
- The Chair of the Assembly Ways and Means Committee
- The Mayor of the City of New York

- The Speaker of the City Council of the City of New York
- The Comptroller of the City of New York
- Communities Boards One, Two, and Four within the Borough of Manhattan

The annual report shall include:

- The Procurement Guidelines
- Status of existing procurement contracts
- List of procurement contracts entered into since the last annual report
- Amount of fees, commissions or other charges paid to procurement contractors
- All contracts entered into with New York state business enterprises and the subject, matter and value thereof,
- All contracts entered into with foreign business enterprises and the subject matter and value thereof
- The selection process used to select such contractors

Such report shall be available on the Trust's webpage, and shall be made available to the public, upon request.

J. PROCUREMENT CONTRACTS INVOLVING FORMER TRUST OFFICERS/EMPLOYEES

Except to the extent permitted under the Trust's Code of Ethical Conduct and applicable state law, the Trust shall not enter into procurement contracts with its former officers or employees, or with firms employing such officers or employees.

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V. MECHANISMS FOR COMPLETING PROCUREMENTS

All forms discussed in this Section are available electronically on the Trust's HRPT Drive. Purchase Orders are to be handled through the Trust's accounting software and database system, Great Plains. (Any questions concerning inputting and/or processing of purchase orders should be directed to the Trust's Finance Department.)

A. PROCUREMENT MECHANISMS, GENERALLY

"Procurement mechanisms" refer to the type of forms, procedures, and approvals necessary for a particular procurement.

- **Acquiring Commodities**

Acquisitions of commodities are processed through (1) a petty cash voucher, (2) a purchase order, or (2) a standard contract (either long form or short form).

- **Acquiring Services**

Acquisitions of services are processed through either (1) a service agreement, for short-term services with an estimated value of less than \$5,000, or (2) a standard contract (either long form or short form) for services valued at \$5,000 or greater.

B. PETTY CASH

1. When to Use Petty Cash

Petty Cash is primarily used to reimburse employees for expenses incurred on behalf of the company or as reimbursement of expenses incurred by the employee, such as taxi, train, bus, overtime meal expenses, in accordance with the Trust's Employee Reimbursement policy. Petty Cash can also be used for purchases made with or without a purchase order up to two hundred and fifty dollars (\$250). These purchases include, but are not limited to, store purchases where checks are not accepted, purchases made by employee for supplies and/or equipment needed immediately.

2. How to Execute a Petty Cash Procurement

Who can initiate:

Every Trust employee can initiate this process.

Procedure:

- a. Fill out a Petty Cash Voucher. Vouchers are available at the Finance Department.
- b. Attach supporting receipts to voucher.
- c. Have completed voucher approved by employee's department head.
- d. Present approved Petty Cash Voucher to Finance Department for reimbursement.

C. PURCHASE ORDERS

1. When To Use A Purchase Order

All purchases of commodities, except those "recurring expenses" listed in Section II, require either a Purchase Order or a Standard Form Contract. As a general rule, Purchase Orders should only be used for the acquisition of commodities valued under \$5,000. In the event that circumstances dictate that commodities valued at \$5,000 or more are to be acquired through a Purchase Order, such as commodities procured through a Centralized Contract, written justification as to the need to utilize a Purchase Order instead of a Standard Form Contract must be provided in the Procurement Record.

Who can initiate:

Every Trust employee can initiate the Purchase Order process, however, only trained and authorized Great Plains software users may complete Purchase Orders.

2. How to Execute a Purchase Order Procurement

Commodities - Under \$5,000

- a. A Purchase Order must be completed by an authorized Great Plains user.
- b. Procurement Record materials – Include evidence of competitive pricing. Three price quotes shall be obtained from different contractors of the commodity/service sought with the award made to the contractor with the lowest price quote, unless the selection determination is based on other criteria besides cost and is documented.

- c. Submit Purchase Order and Procurement Record materials to department head for approval.
- d. After approval, the procurement initiator may then order the items on the approved Purchase Order directly.
- e. Once the commodities are received, the procurement initiator initials the packing slip indicating receipt of the ordered items, the Great Plains user then enters a receipt into Great Plains and forwards the initialed packing slip to the Finance Department as proof of receipt.

Commodities - \$5,000 or Greater

- a. A Purchase Order must be completed by an authorized Great Plains user.
- b. Procurement Record materials – Include the following materials:
 - Procurement Justification Memorandum describing: (1) the commodities and their need; (2) the selection process; (3) the need to utilize a Purchase Order instead of a Standard Form Contract; and (4) If Sole/Single Sourcing or any Procurement Technique other than competitive bidding procurement, additional justification must be provided.
 - A copy of the advertisement for quotes or description of process for obtaining quotes. Show evidence of at least three quotes or advertisement for quotes from qualified persons/firms.
 - LL34 - Doing Business Form, **Exhibit H**.
 - Procurement Lobby Forms – if procurement has an estimated value in excess of \$15,000, **Exhibit D**.
- c. Submit Purchase Order and Procurement Record materials to department head for approval.
- d. After department head approval, submit Purchase Order and Procurement Record materials to Finance Department for sign off.
- e. After all approvals are received, the Initiator may then order the items on the approved Purchase Order directly.
- f. Once the goods are received, the procurement initiator initials the packing/delivery slip indicating receipt of the ordered goods, the Great Plains user then enters a

receipt into Great Plains and forwards the initialed packing slip to the Finance Department.

D. SERVICE AGREEMENTS

1. When to Use a Service Agreement

Service Agreements are used to procure services valued under \$5,000, that are of a short term nature or a combination of commodities and services within a specific time frame, generally less than one year. Service Agreements are generally used when acquiring limited services from individuals, sole proprietors and/or small companies for short duration. Ex: A face painter or storyteller hired during the Trust summer program season. For services that continue beyond a one-year period or for services with an estimated value of \$5,000 or greater, see procedures below for executing a Standard Form Contract.

2. How to Execute a Service Agreement Procurement

- a. Fill out two (2) original Service Agreements forms, **See Form, Exhibit J.**
- b. Procurement Record materials –Include evidence of competitive pricing. Three price quotes shall be obtained from different contractors of the commodity/service sought with the award made to the contractor with the lowest price quote, unless the selection determination is based on other criteria besides cost and documented.
- c. Submit Service Agreement with Procurement Record materials for review and sign-off to department head and Finance Department.
- d. Obtain Contractor's signature.
- e. Once all approvals have been secured, Finance Department and Contractor retain original copies.

E. STANDARD FORM CONTRACT

1. When to Use a Standard Form Contract

Standard Form Contracts should be used for the purchase of commodities and/or services where the estimated price is expected to exceed \$5,000.

2. How to Execute a Standard Form Contract

- a. Prepare three (3) copies of the Contract. The Contract shall consist of the following documents:
- **Standard Form Contract.** See template, Exhibit J.
 - **Appropriate Schedules** - Schedule A (see attached, Exhibit B) should be attached to all contracts. Schedule B (see attached, Exhibit K) should also be attached where the contract involves the procurement of services.
 - **Scope of Work** - The scope of work should provide a detailed description of the commodity and/or service that the contractor will be delivering and/or performing. Often times, the contractor's scope of work is contained in the bid documents.
- b. Prepare Procurement Record materials. The Procurement Record shall consist of the following documents:
- **Contract Summary Sheet** - Contract Summary Templates (see attached, Exhibit L) are specific to the type of procurement technique utilized (See Section I of these Guidelines for additional information on available Procurement Techniques.) Select the template appropriate for the technique utilized in the specific procurement. The Contract Summary template prompts you to provide justification for the procurement as necessary, depending on the specific technique utilized.
 - **Supporting Documents** –
 - Doing Business Form, if applicable. See Section IV. H.
 - NYS Tax Certification Form, if applicable. See Section IV. G.
 - Procurement Lobbying Forms, if applicable. See Section III.
- c. Circulate the Procurement Record materials along with the three copies of the Contract the following personal/departments, *in the following order*, for their review and sign-off: (1) your supervisor, (2) Legal Department, (3) Finance Department.
- d. Once the Finance Department receives, reviews and signs-off on the proposed contract, the Finance Department shall:
- Submit all three copies of the Contract to the contractor for his/her execution. Include a cover letter instructing contractor to sign and return all three copies of the Contract.
 - Create a file for contract and include in that file the Procurement Record materials.

- Once contractor returns all three executed copies of the contract, Finance shall submit to appropriate party for execution by the Trust. Upon execution by the Trust, Finance shall provide one fully executed original copy to the contractor and one to the originating department.

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VI. ESTABLISHMENT/IMPLEMENTATION OF GUIDELINES

A. IMPLEMENTATION OF GUIDELINES

The Trust's Vice President of Finance, or such other Trust officer as shall be designated by the President, shall be responsible for:

- Preparing for approval by the President or his/her designee such supplemental procedures as may be required to effectively implement the approved Guidelines, and
- Monitoring compliance with these Procurement Guidelines.

The General Counsel shall be responsible for preparing proposed amendments to the Guidelines for approval by the President and the Board of Directors when and as required.

B. MONITORING COMPLIANCE WITH PROCUREMENT GUIDELINES

Each contract awarded must contain a scope of work or services to be provided, identify the product to be delivered, if any, the use of corporate supplies and facilities, and the use of corporate personnel, and must establish starting and completion dates for major components of the contract.

As designated by the President, authorized Trust staff shall be responsible for monitoring the performance of the contract to assure that the contract is performed efficiently and in accordance with its terms. Such monitoring shall include verifying compliance with these Guidelines.

C. THIRD PARTY RIGHTS: EFFECT ON AWARDED CONTRACTS

These Guidelines are intended for the guidance of officers and employees of the Trust only, and nothing contained herein is intended or shall be construed to confer on any person, firm or corporations any right, remedy, claim or benefit under, or by reason of, any requirement or provision hereof.

Nothing contained in these Guidelines shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, these Guidelines.

The Trust shall have the power from time to time to amend such procurement contract guidelines in accordance with the Hudson River Park Act and Section 2879 of the Public Authorities Law.

D. EFFECTIVE DATE

These Guidelines, and any amendments hereafter, shall take effect on and apply to contracts entered into after the date of approval by the Board of Directors, except as otherwise provided by law.



EXHIBIT A
NYS OGS List of Preferred Source Offerings

EXHIBIT B
**Schedule A – Required Terms for Hudson River
Park Trust Contracts**

EXHIBIT C
Model Procurement Lobbying Language for
Procurement Solicitations

EXHIBIT D
Procurement Lobbying Contractor Forms

EXHIBIT E
Procurement Lobbying Record of Contact Form

EXHIBIT F
Contract Amendment Template

EXHIBIT G
NYS Tax Certification Form

EXHIBIT H
Local Law 34 Doing Business Form

EXHIBIT I
Service Agreement Templates

EXHIBIT J
Standard Form Contract Template

EXHIBIT K
**Schedule B – Standard Terms for Hudson River
Park Trust Service Contracts**

EXHIBIT L
Contract Summary Templates