

ALBANY COUNTY PINE HILLS LAND AUTHORITY  
Procurement Policy

1. Purpose & Authority. The purpose of this Policy is to outline the procurement policy of Albany County Pine Hills Land Authority (the “Authority”) adopted by the Authority pursuant to Sections 2676-f(11) and 2676-q of Title 28-C of Article 8 of the Public Authorities Law (the “Act”).

2. Reviewing Procedure.

(A) General. Every purchase to be made must be initially reviewed to determine whether it is a procurement contract (goods or services) or a construction contract, the estimated cost of such contract (or the amount expected to be expended in one year if purchases to be made over time), and whether such contract is subject competitive procurement or an exception to the Authority’s requirement for competitive bidding may be applicable.

(B) Construction Contracts. Pursuant to Section 2676-q of the Act, all construction contracts let by the Authority shall in conformity with the applicable provisions of Section 135 of the State Finance Law and shall be let in accordance with the provisions of state law pertaining to prevailing wages, labor standards, and working hours. Note that competitive bidding shall only be required for contracts for public work involving expenditures of more than \$35,000. The Authority may, in its discretion, assign contracts for supervision and coordination to the successful bidder for any subdivision of work for which the authority receives bids. The Authority shall not award any construction contract except to the lowest bidder who, in its opinion, is qualified to perform the work required and who is responsible and reliable. The Authority may, however, reject any or all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The Authority may reject any bid if, in its judgment, the business and technical organization, plant, resources, financial standing, or experience of the bidder justifies such rejection in view of the work to be performed.

(C) Competitive Bidding. The decision that a purchase is not subject to competitive bidding will be documented in writing by the individual making the purchase. This documentation may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase, or any other written documentation that is appropriate.

3. Securing Goods and Services. All contracts for goods and/or services will be secured by use of written requests for proposals, written quotations, verbal quotations, or any other method that assures that goods and/or services will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances: purchases costing less than \$5,000; goods purchased from Preferred Sources pursuant to Section 162 of the State Finance Law; goods purchased from correctional institutions purchase to Section 186 of the Correction Law; or purchases pursuant to Section 5 of this Policy.

4. Method of Purchase.

(A) General. The following method of purchase will be used when competition is required by this policy in order to achieve the highest savings:

<u>Estimated Amount of Purchase Contract</u>	<u>Method</u>
\$5,001-\$10,000	Price obtained by 2 verbal (verbal quotes shall be documented in writing) or written quotations with the approval of the Chief Executive Officer (“CEO”)
\$10,001-\$50,000	Price obtained by 3 written/fax/email Quotations with approval by the CEO
\$50,001 and above	Price obtained through issuance of Request For Proposals with award made by resolution of Board

(B) Number of Proposals or Quotations. A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement.

(C) Documentation.

(1) Documentation is required of each action taken in connection with each procurement.

(2) Documentation and an explanation is required whenever a contract is awarded to other than the lowest responsible offeror. This documentation will include an explanation of how the reward will achieve savings or how the offeror was not responsible. A determination that the offeror is not responsible shall be made by the purchaser and may not be challenged under any circumstances.

5. Circumstances Where Solicitation Of Alternative Proposals and Quotations Not In Best Interest. In the following circumstances, it may not be in the best interests of the Authority to solicit quotations or document the basis for not accepting the lowest bid:

(A) Professional Services. Professional services or services requiring special or technical skill, training or expertise. The individual, company or firm must be chosen based on accountability, reliability, responsibility, skill, conflict of interests, reputation, education and training, judgment, integrity, continuity of service and moral worth. Furthermore, certain professional services to be provided to the Authority, e.g., legal and accounting services, impact liability issues of the Authority and its members, including securities liability in circumstances where the Authority is issuing bonds. These qualifications and the concerns of the Authority regarding its liability and the liability of its members are not necessarily found or addressed in the

individual, company or firm that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures.

In determining whether a service fits into this category, the Authority shall take into consideration the following guidelines: (a) whether the services are subject to State licensing or testing requirements; (b) whether substantial formal education or training is a necessary prerequisite to the performance of the services; and (c) whether the services require a personal relationship between the individual and Authority members. Professional or technical services shall include but not be limited to the following: services of an attorney (including bond counsel/special counsel); services of a physician; technical services of an engineer engaged to prepare plans, maps and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management services; printing services involving extensive writing, editing or art work; management of municipally owned property; and computer software or programming services for customized programs, or services involved in substantial modification and customizing of prepackaged software.

(B) Emergency Purchases. Due to the nature of this exception, these goods or services must be purchased immediately and a delay in order to seek alternate proposals may threaten the life, health, safety or welfare of the public. This section does not preclude alternate proposals if time permits.

(C) Purchases of Secondhand Goods. Purchases of surplus and secondhand goods from any source. If alternate proposals are required, the Authority is precluded from purchasing surplus and second-hand goods at auctions or through specific advertised sources where the best prices are usually obtained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product.

(D) Goods or Services Under \$5,000. The time and documentation required to purchase through this policy may be more costly than the item itself and would therefore not be in the best interests of the taxpayer. In addition, it is not likely that such de minimis contracts would be awarded based on favoritism.

6. Equal Employment Opportunities for Minority Group Members and Women.

(A) All Authority documents soliciting bids or proposals for Authority contracts shall contain or make reference to the following provisions:

1. The Authority will not discriminate against employees or applicants for employment because of race, color, religion, sex, national origin, sexual orientation, gender, age, disability, or marital or domestic partner status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. For purposes of this Section, affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation; and

2. The Authority shall state, in all solicitations or advertisements for employees, that, in the performance of the Authority contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, color, religion, sex, national origin, sexual orientation, gender, age, disability, or marital or domestic partner status.

(B) Any contract awarded by the Authority will include the provisions of Section (A) of this Section in any subcontract, in such a manner that the provisions will be binding upon each subcontractor as to work in connection with the Authority contract.

(C) The provisions of this Section shall not be binding upon contractors or subcontractors in the performance of work or the provision of services or any other activity that are unrelated, separate or distinct from the Authority contract as expressed by its terms.

(D) In the implementation of this Section, the Authority shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal

employment opportunity which effectuates the purpose of this Section. The Authority shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such law and if such duplication or conflict exists, the Authority shall waive the applicability of this Section to the extent of such duplication or conflict.

(E) The Authority shall ensure that “certified businesses” (as defined in Section 310 of the Executive Law of the State of New York) shall be given the opportunity for meaningful participation in the performance of Authority contracts and to identify those Authority contracts for which certified businesses may best bid to actively and affirmatively promote and assist their participation in the performance of Authority contracts so as to facilitate the award of a fair share of Authority contracts to such businesses.

7. Policy Review. This policy will be reviewed annually.