

**MUNICIPAL ASSISTANCE CORPORATION
FOR THE CITY OF TROY**

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PROCUREMENT CONTRACT GUIDELINES

Effective January 1, 2009

Adopted March 29, 2010

I. Purpose

- A. Adoption.** These guidelines are adopted by the Board of Directors of the Municipal Assistance Corporation for the City of Troy effective as of January 1, 2009, pursuant to section 2879 of the Public Authorities Law of the State of New York.
- B. Scope.** These guidelines specify the policies and procedures relating to the use, awarding, monitoring and reporting of procurement contracts entered into on or after January 1, 2009. For purposes of these guidelines, a procurement contract is a written agreement for the acquisition of goods or services of any kind, in the actual or estimated amount of \$5,000 or more.
- C. Review and Amendment.** These guidelines shall be reviewed and approved by the Board of Directors annually and may be amended by the Board of Directors from time to time.

II. Use and Award

A. Use

1. Primary ongoing functions of the Corporation are to be performed by employees of the Corporation to the greatest extent possible.
2. Certain services, however, are to be provided on a regular basis by outside firms possessing special expertise, experience or resources, including those services specified in Section II (B) (2) (d) of these guidelines and such other services as may be determined by the Board of Directors or the Executive Director.
3. Additionally, procurement contracts may be used upon determination by the Executive Director, taking into account such factors as the short-term or infrequent need for services, the nature of the services to be rendered, and their costs, that it is substantially more beneficial for such services to be contracted for than performed by employees of the Corporation.

B. Award

1. Contractors shall be selected on a competitive basis except when competition is not required by these guidelines. When competition is required, price quotations shall be requested by letter or telephone and the contractor, if any, selected from among those submitting quotations. The Executive Director shall select procurement contractors following evaluation of quotations received, giving strong consideration to the respective price quotations, but also considering the experience, capabilities and reputations of the contractors, in order to best satisfy the needs of the Corporation in the circumstances.
2. Selection of contractors for procurement contracts on a competitive basis shall not be required in the following circumstances:
 - a. When goods or services are obtainable from one source only;
 - b. When the constraint of time or other circumstances make competition impracticable or inappropriate.
 - c. When the provider of the services has unique qualifications to provide a particular service at a particular time.
 - d. Legal, accounting, financial advisory, investment advisory, underwriting, securities printing, report production, banking, credit and trustee and related custodian services;
 - e. When the cost of the goods or services is not expected to exceed \$5,000; and
 - f. In such other instances as may be determined by the Board of Directors or the Executive Director from time to time.

III. Procedures

A. Authorization

1. The Board of Directors shall annually review and authorize all fee arrangements with the firms providing the services specified in Section II (B) (2) (d) of these guidelines.
2. The Board of Directors shall authorize all procurement contracts with firms whose charges to the Corporation are expected to exceed \$5,000 within the fiscal year of the Corporation and involving services to be provided over a period no greater than one-year.
3. All procurement contracts with firms whose charges to the Corporation are not expected to exceed \$5,000 within the fiscal year of the Corporation and involving

services to be provided over a period no greater than one year shall be authorized by the Executive Director.

- B. Contracts.** All procurement contracts shall be in writing and executed by the Executive Director except if authorized by resolution of the Board of Directors. However, such officer may give verbal authorization to contractors to commence performance where prior written agreement is impracticable, provided that the contract shall be reduced to writing as soon as practicable.
- C. Provisions.** All procurement contracts shall contain the following: description of goods or services; terms of compensation; provision for payment; duration; monitoring of performance; use of Corporation supplies and facilities; and other provisions applicable to the particular goods or services being provided. All procurement contractors shall be responsible for performance in accordance with the terms contained in their respective contracts.

IV. Special Provisions

- A. Minority and Women-Owned Businesses.** The Corporation shall become knowledgeable of the existence of minority or women-owned business enterprises so as to identify areas or types of contracts for which they may best bid. It shall encourage their seeking such contracts and supply pertinent information to enable them to bid, or provide offers for contracts with the Corporation.
 - 1. A minority business enterprise is a business enterprise, including a sole proprietorship, partnership or corporation that is:
 - a. At least fifty-one percent owned by one or more minority group members or in the case of a publicly-owned business at least fifty-one percent of the common stock or other voting interests in which is owned by one or more minority group members;
 - b. An enterprise in which the minority ownership is real, substantial and continuing;
 - c. An enterprise in which the minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and
 - d. An enterprise authorized to do business in New York State independently owned and operated and not dominant in its field.
 - 2. Minority group member means a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:
 - a. Black persons having origins in any of the Black African racial groups not of Hispanic origin;
 - b. Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;
 - c. Asian and Pacific Islander persons having origins in any of the Far East, southeast Asia, the Indian sub-continent or the Pacific Islands; or
 - d. Native American persons having origins in any of the original peoples of North America.

3. A woman-owned business enterprise is a business enterprise, including a sole proprietorship, partnership or corporation which is:
 - a. At least fifty-one percent owned by one or more United States citizens or permanent resident aliens who are women or in the case of a publicly-owned business at least fifty-one percent of the common stock or other voting interests of which is owned by United States citizens or permanent resident aliens who are women;
 - b. An enterprise in which the ownership interest of women is real, substantial and continuing;
 - c. An enterprise in which the women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and
 - d. An enterprise authorized to do business in New York State, independently owned and operated, and not dominant in its field.

B. Former Personnel. A former officer or employee of the Corporation shall not be permitted, for a period of two years following termination of Corporation employment, to perform personal services for or supply goods to the Corporation, either as an individual or as an officer or employee of a private business entity. However, this restriction may be waived by the Executive Director upon determination that such person's performance of the personal service or delivery of the good: (1) will result in a substantial benefit to the Corporation; and (2) will not constitute a conflict of interest.

V. Annual Reports

A. Contents. Annually, the Executive Director shall prepare and the Board of Directors shall review and approve a Procurement Contract Report, covering the fiscal year of the Corporation, which shall include:

1. The Procurement Contract Guidelines;
2. An explanation of the Guidelines and any amendments made during the fiscal year;
3. A list of the procurement contracts entered into during the fiscal year and the selection process used to select contractors;
4. A list of fees, commissions or other charges paid to contractors during the fiscal year;
5. A list of all procurement contracts that were exempt from the publication requirements of Article 4-C of the Economic Development Law and the basis for such exemption; and
6. The status of existing procurement contracts.

- B. Submission.** The Procurement Contract Report shall be submitted to the New York State Office of the State Comptroller (OSC) and the Authority Budget Office (ABO), as required by the Public Authorities Law, General Municipal Law and OSC Regulations. To support the reporting activities, ABO and OSC have developed a comprehensive on-line reporting system.

VI. Use of Discretionary Funds

It is the policy of the Municipal Assistance Corporation that the funds of the Corporation are to be expended only for purposes that relate to and support its mission. The funds of the Corporation may not be spent in support of the private or personal interests or the benefit of directors, management or staff. The following expenses are considered inappropriate use of the Corporation's funds and will not receive Board approval:

- Food, beverages, and other refreshments purchased for the personal use of directors, management or other employees, or by persons with whom the authority conducts business (unless prior authorization is received);
- Flowers and gifts for staff, directors or family members;
- Subsidized or free use of authority services for the personal use of current or former board members, staff, or family members of staff;
- Celebrations for special occasions that do not directly related to the purpose of the authority, such as catering or decorations for summer picnics, office parties or holiday or retirement parties;
- Charitable contributions or sponsorships of events not associated with the authority's mission;
- Purchases of alcohol or tobacco products;
- Membership dues in professional organizations on behalf of employees;
- Renewal of professional licenses for staff;
- Personal use of authority vehicles, unless properly documented for tax purposes;
- Costs to purchase or mail holiday cards, invitation or expressions of sympathy to staff or families of authority staff; or
- Assignment of cell phones or vehicles to non-authority staff.

VII. Applicability

These guidelines shall govern all procurement contracts entered into by the Municipal Assistance Corporation for the City of Troy on or after January 1, 2009. Nothing contained in these Guidelines shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement entered into in violation of, or without compliance with, the provisions of these Guidelines.