

*Technical Advisor – Mr. Ferrara*

**RESOLUTION TO SATISFY ANNUAL REVIEW AND APPROVAL OF THE REGULATING DISTRICT’S PROCUREMENT POLICY**

WHEREAS, Section 2879 of the Public Authority Law requires every public benefit corporation to adopt by resolution comprehensive procurement guidelines that detail the corporation’s operative policy and instructions to the Board and management regarding the use, awarding, monitoring and reporting of procurement contracts of the corporation; and

WHEREAS, the Hudson River-Black River Regulating District approved resolution 09-17-05 adopting the Regulating District’s revised Procurement Policy; and

WHEREAS, Section 2879 of the Public Authority Law requires every public benefit corporation to annually review and approve its Procurement guidelines adopted by the corporation; and

WHEREAS, the Hudson River-Black River Regulating District is a public benefit corporation organized and operated pursuant to the provisions of the Environmental Conservation Law, and therefore the requirements of Section 2879 of the Public Authorities Law apply to the Hudson River-Black River Regulating District; and

NOW THEREFORE BE IT RESOLVED, that the Board of the Hudson River-Black River Regulating District has reviewed and approves said Procurement Policy, as revised, which is attached hereto and made a part hereof.

Approved as to form:

\_\_\_\_\_  
Robert P. Leslie  
General Counsel

Motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Resolution be approved.

Present and Voting:

<u>MEMBER</u>	<u>AYE</u>	<u>NOE</u>	<u>ABSTAIN</u>
Ms. Beyor.....	_____	_____	_____
Mr. Pintuff .....	_____	_____	_____
Mr. Bartow.....	_____	_____	_____
Mr. Berkstresser.....	_____	_____	_____
Mr. Cornell.....	_____	_____	_____
Mr. Klein.....	_____	_____	_____

## PROCUREMENT POLICY

Chapter 564 of the Laws of 1988, Section 2 of the Public Authorities Law requires every public authority and every public benefit corporation to adopt by Resolution comprehensive guidelines for governing the corporation's operative policy and instructions regarding the use, awarding, monitoring and reporting of procurement contracts. In accordance with this requirement, the following guidelines are set forth to govern all District procurement transactions.

The Chief Fiscal Officer will serve as the District's Procurement Officer. Accordingly, he will establish procedures to affect this policy, and will assure that transactions are adequately supported, recorded, and carried out in accordance with this policy and applicable regulatory guidelines. Interpretation of the intent of this policy and the State laws and regulations that govern procurements will be coordinated by the Procurement Officer with District Counsel.

For internal control purposes, District procurements are categorized into several types:

- Commodities - consumable or durable
- Construction related
- Non-Professional services (not requiring advanced academic degrees and/or certifications)
- Architectural, Engineering, Surveying professional services
- Other Professional Services
- Purchases from Preferred Sources
- Printing Contracts
- Contracts with Not-for-Profit Corporations

Architectural, Engineering, and Surveying (AES) contracts over \$25,000 are governed by State Finance Laws Art 9 §136-a which states "It is the policy of New York state to negotiate [such] contracts . . . on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable fees." For AES contracts up to \$25,000, it shall be the District's policy to engage in price-competitive procurement practices to the extent practical. These procurements are not of a routine nature for the District, and will generally be initiated by the Chief Engineer and coordinated with the Procurement Officer to assure regulatory compliance.

Printing contracts and contracts with not-for-profit organizations are governed by Art 11-B of State Finance Laws. The Procurement Officer, with the advice of Counsel, shall determine when this guideline applies to a District procurement.

All other types of procurements are governed by the Office of General Services (OGS) via guidelines promulgated by the New York State Procurement Council (State Finance Laws Art 11 §161). The District's compliance is subject to oversight and audit by the NYS Office of the State Comptroller (OSC). Procurement Guidelines published by the NYS Procurement Council shall govern all applicable procurement transactions by the District. OSC regulations shall govern all applicable contracts that are bid, negotiated, and awarded by the District. Contracts involving services to be rendered over a period in excess of one year shall require approval of the board by resolution and an annual review of the contract(s) by the board.

NYS Procurement Council guidelines apply to procurement over \$50,000. Procurements of \$50,000 and less are considered "discretionary" and subject to an Agency's own policies.

This policy establishes general guidelines for all procurements, including those of \$50,000 or less. The following general requirements are imposed by the Board on all District procurement transactions:

- **Needs Assessment** - All purchases are subject to a needs assessment. Needs assessments for procurements of \$250 or less may be informal and are approved by the manager of the applicable department. Non-emergency purchases over \$250 to \$2500 are subject to review by the Procurement Officer, who will assure that the need is adequately documented and that budgetary guidelines are being met. Non-emergency purchases over \$2500 require pre-approval of the Executive Director. Board approval, by Resolution, is required for non-emergency purchases over \$5,000 for goods or services not specifically identified in the approved budget, and for all non-emergency purchases for which a budget transfer of \$5,000 or greater is required.
- **Emergency Purchases** - An emergency is an unanticipated, sudden, and unexpected circumstance that imminently threatens the health, safety, or welfare of staff, the public, or, due to the nature of the District's mission, public or private property, including the structural and operating integrity of the District's hydro-infrastructure. When an emergency situation is encountered, the most ranking member of Management available at the time has the authority to approve purchases or engage services to mitigate the emergency. Managers should always attempt to consult with their supervisors and their peers during emergencies when normal procedures are disrupted. The Executive Director must be notified and consulted as promptly as possible.
- **Protocols** - In addition to affirming that all procurement transactions must follow regulatory guidelines, this policy also adopts the following protocols that will apply to all transactions:

**Fair and Open Process** - making every reasonable effort to ensure that vendors are aware of opportunities to compete for District business. Make every effort to reach out to certified MWBE vendors pursuant to PAL Section 2879(3)(C).

**Competition** - to the extent practicable, transactions shall be conducted competitively among responsible vendors for similar-quality products. Favoritism shall be avoided.

**Best Price** - will be the goal for all commodity purchases. Invitations For Bid (IFB) will be used according to OGS guidelines. In other instances, less-formal price comparison methods will be utilized to the extent practicable for purchases of items costing \$250 or more.

**Best Value** - will be the goal when procuring services. Requests for Proposals will be employed according to OGS guidelines. Request for

Qualifications may be used to pre-qualify professional service vendors when appropriate to the project.

- **Sales Tax Exemption** - As a division of New York State government, the District is exempt from sales taxes on all purchases. Conscientious effort will be made to avoid the payment of sales taxes, including casual purchases from infrequent vendors to whom Sales Tax Exemption forms will be furnished at the time of the transaction, when possible.
- **Vendor Relations** - Vendors shall be held responsible to fulfill their obligations fully and in a timely manner. It shall be the District's policy to maintain fair and honest dealing with all vendors, including the avoidance of unreasonable demands and claims.

**Approval of Invoices** - Every purchase transaction must be billed on the vendor's own printed form or on the State Voucher form for that purpose. The Manager that initiated the transaction shall deny or approve invoices, and sign the certifications required by the District's fiscal officer and/or OSC. Approval of invoices for payment is the Manager's certification that the terms of the transaction have been fulfilled. Products and/or services not provided in accordance with our purchase authorizations (written or verbal) shall be resolved by the Manager before approving invoices for payment.

The Chief Fiscal Officer shall establish procedures to assure that purchases and payments are properly documented and executed.

**Prompt Payment** - The District shall make every effort to pay all invoices for products and services in accordance with the agreed upon terms of the transaction.

In accordance with Public Authorities Law Section 2880, Subdivision 11(b), invoices for approved construction and rehabilitation contracts, purchase contracts, service contracts, and consulting contracts shall be made within 30 days after submission of voucher.

All valid invoices shall be processed, approved, and paid in timely manner to avoid incurring late charges, service charges, or interest.

- **Abuse of Purchasing Authority** - Using District purchasing power for personal benefit is strictly prohibited. Employees must not use the District's purchasing power with regard to price, service, credit, or sales tax exemption to achieve an advantage to which he is not otherwise entitled.

It is encouraged that purchases be accomplished via normal trade-credit when possible. Trade credit is defined as credit issued by an individual vendor that does not require payment at the time of purchase, that provides a receipt at the time of a transaction, and mails or delivers a statement directly to a District business office. This policy imposes the following requirements regarding the use of credit and the means of payment when trade-credit is not available or practicable.

- **Credit Card Purchases** - Authorized use of credit cards falls into three categories:

1. District owned/leased vehicle operating expenses (fuel and related service expenses) - Upon authorization by the Executive Director, credit cards may be obtained from fuel-brand companies. These cards are to be used only for fuel and other routine expenses associated with the operation of District owned/leased vehicles.
2. The Executive Director and members of the exempt/management staff that he designates are authorized to use a general purpose credit card (Visa, MasterCard, Novus, American Express) for meetings and travel related expenses such as lodging and meals. When there is no practical alternative, the card may also be used for business purchases, as budgeted and not exceeding \$1,000 that cannot be accomplished via trade credit or petty cash.
3. Vendor specific credit cards may be obtained to facilitate purchases from local vendors that issue cards to identifying purchasers and record trade-credit transactions. This is a common practice among national and regional vendors such as Lowes, Home Depot, Staples and many others. Possession and use of the cards will be the responsibility of managers.

Credit card statements must be matched to receipts that have been approved by management staff and forwarded to the accounting office.

- **Petty Cash Purchases** - the District is authorized to use two forms of Petty Cash payment:

1. Each regional or remote office location may possess a petty cash fund adequate for its routine needs, not to exceed \$250. The fund is to be used for authorized small immediate-need purchases that cannot be accomplished via trade credit. The Chief Fiscal Officer will approve the location and amount

of petty cash funds. Each petty cash disbursement must be evidenced by a receipt. Reconciliations and replenishing of each petty cash fund will be accomplished at least monthly, and will be certified by the appropriate manager.

2. Individual payments of less than \$250 to vendors for authorized purchases may be made from a Petty Cash checking account in accordance with Office of the State Comptroller guidelines and procedures established by the District's Chief Fiscal Officer.

- **Obtaining Credit from Vendors and Credit Companies** - Applications for credit will be initiated only by the Executive Director or the Chief Fiscal Officer upon request by a member of management.

Trade credit with a direct-bill vendor

Trade credit from a local vendor that issues credit cards

Credit from companies that issue general-purpose credit cards - the Chief Fiscal Officer will submit credit applications upon the approval of the Executive Director

- **Disbursements Review and Approval** – The District's disbursements are processed from two (2) separate disbursement funds utilizing different check stock:

1. Petty Cash Fund
  - For purchases under \$250
  - Single approval of Treasurer or Executive Director or Assistant Treasurer in the absence of the Treasurer required
2. General Fund
  - For any purchase or expenditure
  - Dual signatures of District Management required: Treasurer or Assistant Treasurer in the absence of the Treasurer signs as reviewer, Executive Director signs as approver
  - Countersignature of the Office of the State Comptroller required
3. Delegation of Authority
  - The Executive Director or Chair of the Finance Committee may delegate General Fund approver authority to the Treasurer (Chief Fiscal Officer). Delegation must be made in writing and/or via email. Delegation communication must specify the items to be approved.

This Procurement Policy shall be reviewed by the Executive Director and the Procurement Officer at least annually, and shall be submitted to Management staff for suggestions as to applicability, adequacy, and practicality. The Procurement Policy, with any changes recommended by the Executive Director and/or the Procurement Officer, shall be submitted to the Board between June 1<sup>st</sup> and August 15<sup>th</sup> of each year for approval by Resolution. The adopted Procurement Policy shall be filed with the Office of the State Comptroller and other regulatory offices by September 30<sup>th</sup> of each year as required by Article 9 of Public Authorities Law.