

A Resolution Adopting Virginia's First Regional Industrial Facility Authority Procurement Policy

WHEREAS, Virginia's First Regional Industrial Facility Authority ("VFRIFA" or "Authority"), is a body politic, as set forth in Chapter 64 of the Code of Virginia, 1950, as amended; and

WHEREAS, § 15.2-4343 of the Code of Virginia, 1950, as amended, allows implementation of the Virginia Public Procurement Act ("Act") by ordinance, resolution, or regulations consistent with the Act by a public body empowered by law to undertake the activities described by the Act; and

WHEREAS, pursuant to § 2.2-4344 of the Act, regional industrial facility authorities are specifically provided an exemption from the Act's competitive procurement requirements for procurement related to the authority's facilities; and

WHEREAS, VFRIFA believes it is in the best interest of the Authority, the regional citizens, stakeholders, and companies doing business with the Authority that a procurement policy and procedure be adopted to clearly identify how goods and services are procured; and

WHEREAS, VFRIFA is dedicated to securing high quality goods and services at a reasonable cost; ensuring that all purchasing actions be conducted in a fair and impartial manner with no impropriety or appearance thereof; providing all qualified vendors access to VFRIFA business so that no offeror is arbitrarily or capriciously excluded; conducting procurement procedures transparently, efficiently, and with the maximum feasible degree of competition where practical;

WHEREAS, VFRIFA previously adopted the VFRIFA Procurement Policy on June 17, 2015; and

WHEREAS, VFRIFA desires to update that previously adopted VFRIFA Procurement Policy to provide greater efficiency and consistency in procuring certain goods and services; and

NOW, THEREFORE, BE IT RESOLVED that the attached Procurement Policy is hereby adopted and shall take effect immediately upon passage.

Approved: December 12, 2018

Virginia's First Regional Industrial Facility Authority
Procurement Policy
Adopted June 17, 2015
Updated December 12, 2018

Section 1: Title

This Policy shall be known as the Virginia's First Regional Industrial Facility Authority Procurement Policy.

Section 2: Organization

- A. The Executive Director shall be the procurement agent for Virginia's First Regional Industrial Facility Authority ("VFRIFA") and shall have the following power and authority, as it relates to procurement:
- a. Initiate and advertise requests for proposals and invitations for bids to procure goods or services required by VFRIFA for which funding has been included in VFRIFA's adopted annual budget or otherwise appropriated by the VFRIFA Board of Directors ("Board");
 - b. Provided that budgeted or specially appropriated funds are available, to negotiate, award and execute contracts or purchase orders with the winning offerors or bidders, as practicable, not to exceed \$5,000.00, and to forward recommendations to the Board for the award of contracts exceeding such limits; and
 - c. Make timely payments of invoices or bills for goods or services rendered to VFRIFA provided that:
 - i. Funds have previously been approved in the VFRIFA's adopted annual budget or otherwise appropriated for the purposes for which such goods or services are required; and
 - ii. A list of all such payments is provided to the Board at its next regular meeting and placed on the agenda for ratification.
- B. Correspondence related to procurement shall be sent to:
Virginia's First Regional Industrial Facility Authority
Attn: Executive Director
1580 Valley Center Drive, Suite 124
Radford, VA 24141

Section 3: Insurance Requirements

- A. Minimum insurance requirements of all contractors or consultants performing work on property owned by VFRIFA or doing work on behalf of VFRIFA shall be as follows (as applicable):
- General Liability: \$1 million per occurrence; \$2 million aggregate
 - Worker's Compensation: Coverage A: Statutory; Coverage B: \$100,000
 - Automobile: \$ 1 million per occurrence; \$2 million aggregate
 - Professional Liability: \$1 million per occurrence; \$2 million aggregate
 - Umbrella Coverage: can be used in lieu of any of a specific insurance above, as determined by the Executive Director

- B. VFRIFA shall be an additional insured by Endorsement and on the insurance certificate for General Liability, Automobile, and any Umbrella Coverage before entering into a contract with any contractor or consultant.

Section 4: Business License Requirements

- A. Any contractor or consultant performing work on property owned by VFRIFA or doing work on behalf of VFRIFA shall have a valid business license from the location in which the work is being performed.
- B. A copy of the business license shall be provided to VFRIFA before entering into a contract with any contractor or consultant.

Section 5: Procurement Process

- A. Whenever practical, or as required by the Virginia Public Procurement Act ("VPPA" or "Act"), the Executive Director shall use competitive procurement methods to solicit quotes/ proposals/ bids from multiple contractors or consultants.
- B. Small Purchases: The VPPA permits the Authority to establish small purchase procedures, if adopted in writing, not requiring the use of competitive sealed bidding or competitive negotiation for single or term contracts for professional services if the aggregate or sum of all phases is not expected to exceed \$60,000 and for goods and services other than professional services if the aggregate or sum of all phases is not expected to exceed \$100,000; however, such small purchase procedures shall provide for competition wherever practicable. Small purchase procedures shall include but are not limited to the following:
 - i. Purchases from non-governmental sources where the estimated total cost of the goods or services are \$30,000 or greater but less than \$100,000 may be made after soliciting a minimum of four (4) written quotations.
 - ii. Purchases from non-governmental sources where the estimated total cost of the goods or services is \$5,000 or greater but less than \$30,000 may be made after soliciting a minimum of three (3) written or documented verbal/telephone quotations. Written quotes are preferable.
 - iii. Purchases where the estimated total cost of the goods or services is less than \$5,000 may be made upon receipt of one quote that is shown to be fair and reasonable price. An effort shall be made to solicit more than one quotation when practicable.
 - iv. Purchase of used equipment, defined as equipment which has been previously owned and used where the estimated total cost is \$5,000 or greater but less than \$30,000 may be made after soliciting a minimum of two (2) written quotations; award shall be based on the offer deemed to be in the best interest of the Authority. A written determination must be provided and kept in the procurement file if only one source is practicably available and the Authority must negotiate a fair and reasonable price. Prior to the award of a contract for used equipment, a person technically knowledgeable of the type of equipment sought shall document the condition of the equipment stating that this purchase would be in the best interest of the Authority; price reasonableness shall be considered in determining the award.
 - v. Procedures may be established for the use of unsealed Request for Proposals for goods and non-professional services when the estimated total cost of the goods or services is less than \$100,000.
 - vi. Nothing in this section shall preclude requiring more stringent procedures for

- purchases made under the small purchase method.
- C. Other Purchases: refer to VPPA process for competitive negotiations and bidding, unless otherwise exempted by the VPPA.

Section 6: Contract Execution

- A. Small Purchases (less than \$5,000)
 - a. The Executive Director may execute contracts for goods and services up to Five Thousand Dollars (\$5,000) without pre-approval of the Board of Directors, with the condition that any contract entered into without pre-approval shall be ratified by the Board of Directors at the next regularly scheduled Board Meeting.
 - b. The standard VFRIFA Small Purchase Contract may be used to enter into any contracts for less than or equal to \$5,000.
- B. Medium Purchases (contracts between \$5,001 and \$100,000)
 - a. Any Medium Purchase contracts that do not exceed \$20,000 may be authorized by the VFRIFA Executive Committee, with the condition that any contract entered into without pre-approval shall be ratified by the Board of Directors at the next regularly scheduled Board meeting. Any Medium Purchase Contract that exceeds \$20,000 shall require Board of Directors pre-authorization prior to execution.
 - b. The standard VFRIFA Small Purchase Contract may be used to enter into any contracts that exceed \$5,000 but do not exceed \$100,000.
- C. Large Purchases (over \$100,000)
 - a. Any Large Purchase contracts shall require Board of Directors pre-authorization prior to execution.
 - b. An AIA or EJCDC contract, as modified by VFRIFA's attorney, may be used for design and construction contracts that exceed \$100,000, unless a different contract is more appropriate and determined to be in VFRIFA's best interest.

Section 7: Payment

- A. VFRIFA shall not prepay for any services provided, including, but not limited to, deposits for work to be done.
- B. Payment shall be authorized only after goods are received or work is completed. Payment can be made on a completion percentage basis, as long as such payment method is defined in the executed contract.
- C. VFRIFA shall process all payments in a timely fashion, with checks being printed on, at least, a monthly basis.
- D. No late fees shall be paid by VFRIFA for late payments; however, VFRIFA will make every effort to pay all bills on time.

Section 8: Debarment of Contractors/ Consultants

- A. VFRIFA may choose to debar any contractor or consultant from providing particular goods or services for specified periods of time. Any contractor or consultant who is debarred shall be so notified in writing stating the specific reason, specific services that are debarred, and the time frame for which the debarment shall apply. Debarment may occur if unsatisfactory performance has been reported to VFRIFA by any of the member localities or VFRIFA has experienced unsatisfactory performance for goods or services directly provided.

Section 9: Non-Discrimination

- A. VFRIFA does not and will not discriminate against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment in the performance of its procurement activity.
- B. Every effort will be made to actively and diligently promote the procurement of goods and services from small, minority-owned, women-owned, and service disabled veteran-owned businesses in all aspects of procurement to the maximum extent feasible.
- C. Every contract shall include language regarding non-discrimination as specifically defined in the VPPA.

Section 10: Miscellaneous

- A. Bonds
 - a. VFRIFA retains the right to require bonds for construction, payment, or any other purpose allowed under the VPPA.
- B. Insurance and Electric Utility Services
 - a. As provided in the VPPA, VFRIFA can enter into contracts without competitive sealed bidding or competitive negotiation for insurance or electric utility services if purchase through an association of which it is a member if the association was formed and is maintained for the purposes of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance or electric utility services by use of competitive principles.
 - b. Upon a written determination in advance by the VFRIFA Executive Director that competitive negotiation is either not practicable or not fiscally advantageous, insurance may be provided through a licensed agent or broker selected in the manner provided for in the procurement of things other than professional services in the VPPA.
- C. Legal Services
 - a. VFRIFA may enter into contracts without competition for legal services, expert witnesses, and/or other services associated with litigation or regulatory proceedings.
- D. Staffing Services
 - a. VFRIFA may enter into contracts for staffing services for Executive Director and other staffing needs without competition.
- E. Conflict of Interest
 - a. If the Executive Director feels there is a real or perceived conflict of interest in entering into a contract, the Executive Director has the authority to and may request that an officer of the VFRIFA Board of Directors act as the procurement agent for that specific contract.
- F. Rights Retained
 - a. VFRIFA retains the right to implement any and all measures provided under the VPPA, even if not specifically mentioned or referenced in this VFRIFA Procurement Policy.