

JOHNS CREEK CONVENTION VISITORS BUREAU PURCHASING POLICY

Administration

Section 1: Definitions

When used, the following words, terms, and phrases, and their derivations shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Any terms not defined by this section shall have the meaning ascribed to them elsewhere in this policy.

- (a) *Treasurer* means the Treasurer elected to serve as the Treasurer for the CVB by the CVB Board.
- (b) *Purchasing Manager* means the Purchasing Manager for the City of Johns Creek. The Purchasing Manager may prepare specifications, obtain quotes, bids, and other responses for CVB projects as requested.
- (c) *Contract* means any CVB agreement, regardless of form or title, for the procurement or disposition of goods, commodities, and services.
- (d) *Gifts or Favors* means any thing or service of value.
- (e) *Goods or Commodities* means supplies, apparatus, materials, equipment, and other forms of tangible personal property.
- (f) *Governing Authority* means the Johns Creek Convention Visitors Bureau Board
- (g) *Purchase Order* means the document used by the CVB to obtain supplies, goods, commodities, and services from vendors.
- (h) *Purchasing Agent* means the CVB Treasurer, the Finance Director of the City of Johns Creek, or the Purchasing Manager for the City of Johns Creek.
- (i) *Chairperson* means Chairperson of the Convention and Visitors Board.

Section 2: Purchasing Agent

- (a) *Duties.* The Purchasing Agent shall have the following duties and powers:
 - a. Arrange and negotiate the purchase or contract for equipment, supplies and contractual services for the CVB; arrange and negotiate for the sale or otherwise dispose of all surplus equipment and supplies or real estate of the CVB:
 - b. Maintain a perpetual or periodic inventory of all materials, supplies, or equipment including monthly reports that provide
 - i. The titles of all requests for proposals and the method of source selections to be used:
 - ii. All contracts authorized by the CVB Board, the method of source selected used and the total dollar amount
 - iii. All emergency contracts awarded
 - iv. All change orders of contract modifications issued by the CVB, the dollar amount , and the reason;
 - c. Direct efforts to procure services through advertisements of bids as required by this policy and by state law.

- d. Require bonds, insurance and other forms of protection for the CVB on process of procuring goods and services for the CVB.
- e. Terminate solicitations for bids for any good(s) or service(s) when, in the opinion of the Purchasing Agent, it is in the CVB's best interest to do so. This includes termination for breach of contract or anticipated breach of contract.
- f. Reject any and all bids, when in the opinion of the Purchasing Agent it is in the CVB's best interest to do so.
- g. Consult with the CVB's Attorney if a contracting party breaches or is reasonably anticipated to breach its contract with the CVB.

Section 3: General Procurement Efforts

- (a) *Non-Discrimination.* To the extent not required by federal law, the CVB shall not consider race, gender, nation origin, or religion when evaluating bids for CVB contracts or the disposition of CVB property. To the greatest extent practicable, the bids submitted to the CVB will not convey the race or gender of the submitting party or the majority of shareholders in the submitting corporation.
- (b) The CVB Board remains the final policy maker for all decisions of the Purchasing Agent.
- (c) The CVB may procure goods or services through (1) emergency purchases; (2) informal purchases; or (3) formal purchases. Unless otherwise specified, competitive bidding shall apply to informal and formal purchases.
- (d) *Exceptions.* Competitive bidding shall not apply in the following instances:
 - a. A good is available from only one source or supply, or when standardization or compatibility is the overriding consideration.
 - b. The purchase is pursuant to a contract with (a) the United States of America or an agency thereof or (b) any government unit or agency thereof within the United States for the purchase, lease, or other acquisition of goods.
 - c. The purchase is for:
 - i. Works of art for public places
 - ii. Printed copyright material including published books, maps, periodicals, and technical pamphlets (not including software for computer systems), except where a greater savings can be realized by a quantity purchase.
 - iii. Real property, real estate brokerage and appraising, abstract of titles for real property, title insurance for real property, and other related costs of acquisition of real property.
 - iv. Subscriptions, dues, memberships, and Board member fees.
 - v. Services provided directly to individual citizens and employees including reimbursements and other miscellaneous payments
 - vi. Utilities, including but not limited to electricity and telephone service
 - vii. Training, travel, and lodging or meal expenses

- viii. Items for resale that require a particular manufacturer to enhance their marketability
- ix. Legal advertisements
- x. Repair of equipment
- xi. Repair of buildings where the extent of the project cannot be predetermined
- xii. Professional services not covered in this policy

Section 4: Pre-Audit Clearance

The Purchasing Agent shall not approve any contract for goods or services until it is verified there is sufficient unencumbered appropriated balance of all unpaid obligations, to defray the amount of such contract.

Section 5: Small Purchases

Small purchases of less than \$5,000 may be made without formal bid requirement procedures. It will be encouraged that purchases be obligated after obtaining three informal quotes.

Section 6: Emergency Purchases

- (a) Notwithstanding any other section of this policy, when the CVB Chairperson determines that an emergency exists, the Purchasing Agent may make or authorize others to make emergency procurements for supplies, services, construction items, or professional or consultant services. The CVB Chairperson shall make such determination when there exists a threat to public health welfare, or safety under emergency conditions. Such emergency procurements shall be made as much competition as is practicable under the circumstances.
- (b) A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, a listing of the item procured under the contract, and the identification number of the contract file.

Section 7: Informal purchases

- (a) All contracts for the purchase of goods and services involving the estimated expenditure of \$5,000 or more, but no more than \$20,000 (except those described in Section 3 (d), *hereof*) shall be made after informal bids are secured.
- (b) In addition to the normal publication of bids, the Purchasing Agent may directly solicit informal bids from no less than three businesses. The Purchasing Agent shall keep a record of all bids submitted and the record

shall be available for public inspection after the contract is awarded, in the manner provided by law

Section 8: Formal Purchases

Except as otherwise provided in this policy, no contract for the purchase of goods and/or services involving the estimated expenditure of more than \$20,000 of CVB money shall be awarded unless the provisions of this section are followed.

Section 9: Competitive Bidding

- (a) All purchases of, and contracts or agreements for supplies and contractual services, having an approved budget estimate greater than \$20,000 except as otherwise provided herein, shall be based wherever reasonably possible on three or more sealed competitive bids after publishing notice of request for bids as set forth herein.
- (b) Sealed Bid Procedure.
 - a. Bids shall be invited by advertisement in a newspaper having general circulation in the City of Johns Creek. The advertisement shall state the time and place where specifications may be obtained and the time and place for opening of bids unless otherwise directed by the CVB Board. At least fourteen full days must pass between the day the advertisement appears and the day of the bid opening. The advertisement shall state that the CVB reserves the right to reject any or all bids and to make award that is in the best interest of the CVB.
 - b. The Purchasing Agent may require that bid deposits be submitted with each bid. If bid deposits are required, they shall be in an amount equal to 5 percent of the amount of the bid and may be submitted in the form of a bid bond by a surety company authorized to do business in the State of Georgia, certified check issued by a bank or trust company insured by the Federal Deposit Insurance Corporation, or any other form of bid security deemed sufficient by the CVB Attorney or his designee. The bid deposit requirement, including the form in which the bid security may be submitted, shall be included in the specifications.
 - c. Bids shall be sealed. All bids shall be publicly opened and the Purchasing Agent shall make or oversee the making of a record of the bids received. The record and the bids received shall be subject to public inspection after the bid opening in the manner prescribed by law.
 - d. As provided in the invitation for bids, the Purchasing Agent may require the successful bidder to furnish a payment and/or performance bond to secure the faithful performance of all the terms of the contract. The payment and/or performance bond shall be in a form approved by the CVB Attorney and the form of the bonds(s) shall be included in the specifications.

- e. All contracts of more than \$20,000, excluding commodity purchases, to which this section applies shall be in writing and shall be approved by the CVB Board. The CVB Board may reject any and all bids.
- (c) The lowest bid for purchases shall be accepted by the Purchasing Agent or, if the Purchasing Agent, or other contracting authority finds that the lowest bid is not in the CVB's best interest, whereupon the Purchasing Agent may accept another bid or may call for additional bids. The CVB reserves the right to reject all bids. If the Purchasing Agent finds that the lowest bid is not in the CVB's best interest, he must file reasons for that finding with the CVB before the next scheduled meeting.
- (d) In addition to price on all bids or quotations the following shall be considered, but not limited to in determining responsiveness:
 - a. The ability, capacity, and skill of the person or firm offering the bid or quotation to perform the contract or provide the service required;
 - b. Whether the person or firm can perform the contract or provide the service promptly, or within the time frame specified, without delay or interference;
 - c. The quality of performance on previous contracts or services with the CVB or others;
 - d. The previous and existing compliance by the person or firm with laws and policies relating to the contractual service or supplies;
 - e. The sufficiency of the financial resources and ability of the person or firm to perform the contract or provide the service;
 - f. The quality, availability, and adaptability of the supplies, or contractual services to the particular use required;
 - g. The ability of the person or firm to provide future maintenance and services to the particular use required; and
 - h. The number and scope of conditions attached to the bid or quotation.
 - i. The above requirements shall not apply to any projects for which the CVB receives aid from any federal agency, state agency, or foundations, when unit prices have been established by such other agency. The contractor shall be selected from contractors certified by the agency supplying the funds for the project. In addition, the Purchasing Agent shall further ascertain that existing and future procurement procedures are in accord with applicable federal guidelines regulating procurement procedures for recipients of federal funds.
 - j. The above requirements shall not apply in sole source procurements where there is only one vendor capable of providing particular goods or services as determined by the Purchasing Agent.

Section 10: Competitive Sealed Proposals

- (a) When the Purchasing Agent determines, in writing, that the use of the competitive sealed bid is either not practical or not advantageous to the CVB,

a contract may be entered into by use of the competitive sealed proposal. Use of the proposal is dependent upon such factors as:

- a. When the quality, availability, or capability is overriding in relation to price in procurement of technical supplies or services;
- b. When the initial installation needs to be evaluated together with subsequent maintenance and service capabilities and what priorities should be given these requirements in the CVB's best interest;
- c. If a fixed price or cost type is more advantageous or;
- d. Whether the market place will respond better to a solicitation permitting not only a range of alternative proposals, but evaluation and discussion of them before making the award.

(b) Procedure for sealed proposals.

- a. Proposals shall be requested by advertisement in a newspaper having general circulation in the City of Johns Creek. The advertisement shall state the time and place where specifications may be obtained and the time and place for deadline for receipt of proposals unless otherwise directed by the CVB Board. At least 14 full days must pass between the day the advertisement appears and the day of the deadline for receipt of proposals. The advertisement shall state that the CVB reserves the right to reject any or all of the proposals.
- b. Proposals shall be sealed. All proposals shall be received in public and the Purchasing Agent shall make or oversee the making of a record of the proposals received. The name of each proposer shall be announced but no other information shall be disclosed nor shall the proposals be considered an "open record" until a contract is awarded. The record of the proposals received shall be subject to public inspection after the deadline for receipt in the manner prescribed by law.
- c. Award of contract shall be made to the proposer that submits the proposal deemed in the best interest of the CVB taking into account the evaluation factors outlined in the proposal documents. A team consisting of no less than three persons shall conduct evaluation of proposals. This team shall include the Purchasing Agent, CVB Board Member, and an additional representative selected by the Board.
- d. As provided in the invitation for proposals, the Purchasing Agent may require the successful proposer to furnish a performance bond to secure the faithful performance of all the terms of the contract. The performance bond shall be in a form approved by the CVB Attorney and the form of the bond shall be included in the specifications. The CVB Board may reject the bond of any proposer if they find it to be unacceptable.
- e. All contracts of more than \$20,000 to which this section applies shall be in writing and shall be approved by the CVB Board. The CVB Board may reject any and all proposals.

Section 11: Multi-Step Competitive Sealed Procurement

The multi-step competitive sealed procurement method may be used when the CVB desires to award a contract not necessarily based on price, and when specifications may not be readily available or when technical qualifications are essential for the decision making process. This type shall take the form of request for proposals or request for information and shall follow the following format. If time is of the essence, the two steps can be combined with the priced offer submitted in a separate sealed envelope at the time of submission of the technical offer. The pricing data is to remain unopened until evaluation of technical offers is complete.

- (a) The solicitation shall be advertised in a newspaper having general circulation in the City of Johns Creek. The advertisement shall state the time and place where documents may be obtained and the time and place for deadline for receipt of proposal unless otherwise directed by the Board. At least 14 full days must pass between the day the advertisement appears and the day of the deadline for receipt of documents. The advertisement shall state that the City reserves the right to reject any or all documents received.
- (b) The initial step shall consist of solicitation of technical offers with no costs or prices included. Un-weighted evaluation criteria shall be included in the solicitation documents. A team consisting of no less than three persons shall evaluate the results of this solicitation. This team shall include the Purchasing Agent, one CVB Board member, and another and an additional representative selected by the Board.
- (c) In the second step, those who submitted technical offers deemed responsible and responsive in the initial step are then asked to submit price bids.
- (d) Proposals shall be sealed. All proposals shall be publicly opened and the Purchasing Agent shall make or oversee the making of a record of the proposals received. The record and the proposals received shall be subject to public inspection after the proposal opening in the manner prescribed by law.
- (e) Award of proposal shall be made to the bidder that submits the lowest responsible and responsive proposal that meets the specifications contained in the proposal documents and is the best interest of the CVB. The CVB reserves the right to make award if a single proposal is received.
- (f) If required by the soliciting documents, the Purchasing Agent may require the successful contracting party to furnish a payment and/or performance bond to secure the faithful performance of all the terms of the contract. The payment and/or performance bond shall be in a form approved by the CVB Attorney and the form of the bond(s) shall be included in the specifications.
- (g) All contracts of more than \$20,000 or more to which this section applies shall be in writing and shall be approved by the CVB Board. The CVB Board may reject any and all bids.

Section 12: Surplus Property

- (a) All using agencies shall submit to the Purchasing Agent, at such times and in such form as he or she shall prescribe, reports showing stocks of all supplies

which are no longer used or which have become obsolete, worn out or scrapped.

- (b) The Purchasing Agent shall have the authority to transfer surplus stock to other using agencies.
- (c) The Purchasing Agent shall have the authority to sell all supplies which have become unsuitable for public use, or to exchange the same for, or trade in the same on, new supplies, upon approval of the CVB Chairperson.
- (d) The Purchasing Agent may dispose of all personal property of the CVB in a manner consistent with this code section and/or the CVB's adopted Purchasing Policy. Competitive bids shall be encouraged to the extent possible.

Section 13: Bid Protests and Appeals

- (A) Any party that submits a bid pursuant to this Article and has a good faith basis to protest the bid must prepare a formal complaint to be filed with the CVB Chairperson. The complaint shall specify the alleged act or omission by the CVB that provides the basis for the complaint.
- (B) Upon the filing of a complaint, within 3 working days, the CVB Chairperson shall request a response from the Purchasing Agent within 30 days. Failure by the Purchasing Agent to file a response may be considered as evidence by the CVB Chairperson.
- (C) If requested by either party, the CVB Chairperson or his designate shall have a hearing on the complaint and decide the merits of the claim. The CVB Chairperson is empowered to decide that the contract at issue be voided, upheld, or whatever other relief may be necessary. The CVB Board shall approve or reject the CVB Chairperson's decision.
- (D) If the party bringing the complaint disagrees with the conclusions of the CVB Chairperson and CVB Board, the decision may be appealed to the Superior Court of Fulton County.

Adopted this 15th day of July, 2008

Approved:

Bev Miller, Chairperson

Attest:

Monte Vavra, Secretary