

# NASSAU HEALTH CARE CORPORATION EAST MEADOW, NY 11554

## SECTION: LEADERSHIP (LD)

### POLICY/PROCEDURE

<b>TITLE:</b> Nassau Health Care Corporation Procurement Policy
<b>Approved:</b> Board of Directors Quality & Policy Advisory Council (QPAC)
<b>Cross References:</b> Policy LD-200 – Contracts; Policy LD-201- Purchasing Department/Requisition Guidelines

### INTRODUCTION

This Procurement Policy (“Policy”) covers contracts issued by Nassau Health Care Corporation a/k/a NuHealth (“NHCC”) for the procurement of goods, services, and public work.

Pursuant to state law, NHCC is permitted to utilize a number of different procurement approaches for the procurement of goods, services and public work and also has the authority to adopt its own policies consistent with those approaches. This Policy has been approved and adopted by the Board of Directors (the “Board”) of NHCC pursuant to the authority granted to NHCC under the Public Authorities Law.

This Policy sets forth the circumstances under which NHCC may use each of the various procurement methods and the guidelines that apply to each. These methods include:

- A. Preferred Source Procurement
- B. Competitive Bidding
- C. Use of Project Developer for Medical Projects
- D. Contracts for Professional Services
- E. Emergency Procurement
- F. Group Purchasing
- G. Purchases through the New York State Office of General Services
- H. Nassau County Contracts
- I. Purchase through Federal Government General Services Contracts
- J. Sole Source Procurement

- K. Recycled Products and Surplus and Second Hand Supplies
- L. Purchased Services through an Affiliation Agreement
- M. Small Purchases

### ***1. General Guidelines Regarding Procurement Options Available to NHCC***

The starting point for determining which procurement options are available to NHCC is a consideration of whether NHCC is (i) undertaking a public works project, (ii) procuring goods, (iii) procuring non-professional services or (iv) procuring professional services.

*a. Public Works/Construction Contracts.* For contracts for public work, the threshold question is whether the cost of the contract is over \$35,000. If the cost is \$35,000 or under, then the small purchase requirements set forth in Section M apply. If the cost is over \$35,000 then the competitive bidding requirements set forth in Section B apply, unless (i) one of the other methods of procurement set forth in Section B applies, or (ii) the project is a medical project<sup>1</sup> and NHCC elects to use a Project Developer, as described in more detail in Section C.

*b. Goods.* For contracts for the purchase of goods, the threshold question is whether the cost of the contract is over \$20,000. If the cost is \$20,000 or under, then the small purchase requirements set forth in Section M apply. If the cost is over \$20,000 then the competitive bidding requirements set forth in Section B apply, unless NHCC is not required to conduct competitive bidding because one of the exceptions set forth in that section is applicable. Those exceptions include: emergencies; group purchasing contracts with other hospitals; purchases through the State Office of General Services; utilization of Federal government general services contracts; preferred sources; sole source contracts; recycled products, surplus and second-hand supplies (Each of these procurement options is discussed within the Policy). If one or more of these other procurement methods is available, NHCC may choose to purchase goods through any of such other methods, subject to the Board's Policy Directives set forth in the next section.

*c. Non-Professional Services.* For contracts for services, which are not deemed to be "professional" (as defined in the next paragraph), the threshold question is whether the cost of the contract is over \$20,000. If the cost is \$20,000 or under, then the small purchase requirements set forth in Section M apply. If the cost is over \$20,000, then the competitive bidding requirements set forth in Section B apply, unless NHCC is not required to conduct competitive bidding because one of the exceptions set forth in that section is applicable. If one or more of these procurement methods is available, NHCC may choose to procure services through any of such other methods, subject to the Board's Policy Directives set forth in the next section.

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<sup>1</sup> A "medical project" is defined under the Pub. Auth. Law § 3402(8) as "any substantial durable apparatus, equipment, device or system, or any combination of the foregoing, including services necessary to install erect or assemble the foregoing and any appurtenant structures or facilities necessary to house or render the foregoing operational, to be used for the purposes of care, treatment or diagnosis of disease or injury or the relief of pain and suffering of sick or injured persons."

*d. Professional Services.* For procurement of professional services, the provisions of Section D apply. “Professional” services are services that involve specialized expertise, use of professional judgment or a high degree of creativity in the performance of the contract. Professional services can include, without limitation, medical, pharmaceutical, legal, accounting, financial, architectural, engineering, surveying, information technology and similarly technical services.

## **2. Policy Guidelines of the NHCC Board of Directors Applicable to All Procurement Contracts**

The Board has adopted certain general policy guidelines that are to be followed whenever NHCC intends to enter into a procurement contract. Many of these policies are required by statute (and are so noted within this section) and others have been adopted by the Board in the interest of making the procurement process fair as well as administratively efficient. The procedures set forth in Sections A through M of this Policy shall apply to the types of procurement contracts covered under such Sections. In addition, the policy guidelines applicable to *all* procurement performed under this Policy are as follows:

### *a. Requirements Applicable to the Selection of Contractors*

When selecting a contractor to perform a Professional Service, the Board may, by resolution, waive the selection of contractors by RFP or other competitive process whenever the Board determines that it is in the best interests of NHCC to do so. For example, such reasons may include, without limitation, the need for standardization, continuity, exigent circumstances or when the Professional Service is highly specialized or involves a relationship that demands an elevated level of trust and confidence. To the extent practicable, the resolution should establish an alternate means for establishing fair pricing for such professional services.

- Nassau County Professional Service Contracts: NHCC may contract with any vendor who has entered into a contract with the County of Nassau when such vendor is willing to offer the same services to NHCC under substantially similar terms and conditions and at prices not in excess of those contained in the vendor’s contract with the County. [Resolution 69-2007].
- Legal Services: The CEO or his/her designee may enter into contracts for legal services without utilizing a competitive procurement process provided that the vendor offers services at NHCC approved Tier I, Tier II rates or such other rates as approved by the NHCC Board, provided, that, payment for all such legal services in the aggregate does not exceed the approved amount under the annual operating budget as such may be amended from time to time. [Resolution 97-2007].
- Temporary Healthcare Provider Services: The CEO or his/her designee may enter into contracts for temporary healthcare provider services without utilizing a competitive procurement process [Resolution 98-2007].
- NHCC may select project developers pursuant to PAL§ 3402.

### *b. Minority or Women-Owned Businesses (“M/WBE”)*

[PAL §2879(3)(c)]

■ NHCC encourages the participation by M/WBE in all procurement opportunities. To ensure that NHCC promotes and provides full and fair opportunities for minority and women-owned businesses, particularly in Nassau County, NHCC is attempting to align itself with the Nassau County Office of Minority Affairs (“OMA”) through an Intermunicipal cooperative agreement.

- Currently NHCC sends OMA a copy of every competitive bid.

c. Awarding of Contracts Involving Former NHCC Officers or Employees

■ No former NHCC Officer or employee shall, within a period of two (2) years after the termination of such services or employment, provide services or receive compensation from NHCC for the rendering of services unless approved in advance by the New York State Ethics Commission.

■ Former NHCC Officers and employees, who have been designated by NHCC as policymakers, may not appear, practice, communicate or otherwise render services before NHCC in relation to any case, proceeding, application or transaction with respect to any matter which was directly related to that person’s former tenure. [PAL §2879(3)(g)]

d. Participation by New York State Businesses and Residents

The following policies are intended to promote the participation by NYS business enterprises<sup>2</sup> and residents in procurement contracts: [PAL §2879(3)(i)]

■ NHCC shall consult the specifications of NYS business enterprises in developing specifications for any procurement contract for the purchase of goods where possible, feasible, practicable and consistent with open bidding. Where appropriate, NHCC shall make use of the stock item specification forms prepared by the NYS Commissioner of General Services.

■ In procurement contracts equal to or greater than \$1 million, NHCC shall, and shall require its contractor(s) to, provide notice to NYS business enterprises of opportunities to participate as subcontractors or suppliers. A contractor shall be required to document its efforts in this regard by showing that it has (1) solicited bids, in a timely and adequate manner, from NYS business enterprises and minority and women-owned businesses, or (2) contacted the NYS Department of Economic Development to obtain listings of NYS business enterprises, or (3) placed notices for subcontractors and suppliers in local newspapers, journals and other trade publications distributed in NYS, or (4) participated in bidder outreach conferences. If the contractor determines that NYS business enterprises are not available to participate on the contract, the contractor shall provide a statement supporting such determination for review by NHCC.

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<sup>2</sup> For purposes of PAL § 2879, a “New York State business enterprise” means “a business enterprise, including a sole proprietorship, partnership, or corporation, which offers for sale or lease or other form of exchange, goods which are sought by the corporation and which are substantially manufactured, produced or assembled in New York state, or services which are sought by the corporation and which are substantially performed within New York state.” PAL §2879(3)(j).

■ NHCC shall include in all bid documents a statement that information regarding NYS business enterprises and minority and women-owned businesses is available from the NYS Department of Economic Development, and that it is the policy of NYS to encourage the use of NYS business enterprises and minority and women-owned businesses in the procurement of goods and services.

■ In procurement contracts equal to or greater than \$1 million, NHCC shall, and shall require its contractor(s) to, provide notice to NYS residents of employment opportunities arising out of such contracts. A contractor shall be required to document its efforts in this regard by showing that it has listed any available positions through the Community Services Division of the NYS Department of Labor or provided such notice in a manner consistent with existing collective bargaining agreements.

■ NHCC shall notify the Commissioner of Economic Development of the award of any procurement contract in an amount equal to or greater than \$1 million to a foreign business enterprise and comply with all other requirements, in accordance with the provisions of PAL §2879(5).

■ NHCC shall require that its contractors certify their compliance with the Federal Equal Employment Opportunity Act of 1972, as amended.

■ NHCC shall include in all bid documents a statement notifying potential bidders located in foreign countries that NHCC may assign or otherwise transfer offset credits created by such procurement contracts to third parties located in NYS in accordance with the written directions of the NYS Commissioner of Economic Development.

*e. Factors to be Utilized in Choosing Among Permissible Options*

In circumstances where NHCC has more than one procurement path available, NHCC shall choose the option which best meets the interests and needs of NHCC with respect to the procurement of such goods or services.

*f. NHCC Approvals Necessary for Entering into Procurement Contracts*

Professional Services.

Professional service contracts shall be awarded to the vendor who offers the best value to NHCC and such contracts are subject to the following approvals:

- Contracts with a value not exceeding \$50,000 total must be approved by the President/CEO (or his/her designee) and notification of such approval shall be made to both the Contracts Committee of the Board and the Board at their next meeting;
- Contracts valued in excess of \$50,000 total but not exceeding \$250,000 must be approved by (i) the President/CEO and (ii) the Contracts Committee of the Board, and the Board shall be notified at their next meeting; and
- Contracts, if valued in excess of \$250,000 total must be approved by (i) the

President/CEO, (ii) the Contracts Committee of the Board and (iii) the Board.

Notwithstanding the above monetary thresholds, any professional service contract in excess of \$5,000 in the aggregate involving services to be rendered over a period greater than one year shall require the approval of the Board by resolution and an annual contract review by the Board. [PAL §2879(3)(b)(ii)]

Important information in connection with any professional service procurement and contract request, such as method of procurement, justification for such methodology, vendor selected, alternate proposers, and any other relevant information shall be documented by the requesting department on a routing form in accordance with policy LD-200.

#### Goods, Non-Professional Services and Public Work.

Contracts for the purchase of goods (commodities), non-professional services or public work shall be awarded on the basis of the lowest price as among responsible and responsive bidders in accordance with Article 5-A of the General Municipal Law in accordance with PAL §3402(7) and such contracts are subject to the following approvals:

- administrative approval through the requisition process (see Purchasing Department/Requisition Guidelines – Policy LD201) provided there is sufficient funding in the operating or capital budget as determined by the Finance Department (in the event that there are insufficient funds available, NHCC must take appropriate steps to identify funds and/or adjust the budget prior to approval); and
- (i) if valued in excess of \$250,000 total but not exceeding \$500,000, notification of administrative approval shall be made to the Contracts Committee of the Board and the Board at their next meeting; and
- (ii) if valued in excess of \$500,000 total, such contract shall be subject to approval by the Board.

Expedited Approval Exception (applicable to contracts of all types).

- When exigent circumstances exist that do not rise to the level of a “Public Emergency” under Section E of this policy, the expedited approval process set forth below may be invoked if delaying contract approval until the next scheduled meeting of the Contracts Committee of the Board or the Board would result in a substantial risk to property, life, health or safety or loss of revenue or significant business opportunity.
- In order to obtain an expedited approval, the Department seeking such approval shall submit a memorandum to the CEO or his designee which (i) identifies the proposed vendor, the specific goods or services that are the subject of the request, the amount of money, if any, being requested and the duration of time needed (ii) outlines the reason the expedited approval is being requested, (iii) contains

supporting documentation that all administrative approvals have been obtained (i.e. LD-200 and/or requisitions as appropriate) and (iv) contains an attestation from the Department Manager seeking the expedited approval that states, “The contract in question is essential to maintain orderly operations of NHCC facilities and delaying approval of this contract until the next scheduled meeting of the Contracts Committee of the Board or the Board would result in a substantial risk to property, life, health or safety or potential loss of revenue or business opportunity.”

- If the expedited approval request is conditionally approved by the CEO or his designee, the CEO or his designee shall promptly submit the request to the Chair of the Board or the Chair of the Contracts Committee. If such Chair approves, the individual receiving the approval shall document the details of the approval granted and ensure that the Contracts Committee of the Board and the Board receive notice of the approval at their next scheduled meetings. In the event the item is not approved, in order to proceed with the contract, the item must be presented in the normal course of business at a future meeting of the Contracts Committee of the Board or Board as appropriate.
- It should be noted that contracts or purchase orders approved under the Expedited Approval Exception shall be limited to the scope, term and financial commitment necessary to prevent or reduce the harm that would result from delaying such approval, not to exceed three months in duration and Fifty Thousand (\$50,000) Dollars.

### ***3. General Publication Requirements Regarding Procurement***

In addition to specific rules set forth below in this Policy regarding public notice of opportunities to submit bids or proposals for procurement contracts, the following general requirements under the New York State Economic Development Law must be followed in all cases in which NHCC desires to purchase goods, services or construction work, unless an exception under the Economic Development Law (“EDL”) applies.

Under the Economic Development Law, NHCC must submit information sufficient to enable publication of a notice of procurement contract opportunities in the *New York State Contracts Reporter*, and may not award a procurement contract until such a notice has been published. The term “procurement contract” means any written agreement entered into by an agency for the acquisition of goods or services of any kind in the actual or estimated amount of \$15,000 or more, but does not include an agreement for employment in the civil service. [EDL § 141(3)].

Although there are a number of statutory exemptions from this publication requirement, it is not likely that many of them will be available to NHCC on a regular basis. The exemptions are as follows:

Procurement contracts for the following are exempted from the publication requirements [EDL § 144(1)(c)]:

- Commodities produced by the Department of Correctional Services' correctional industries program;
- Commodities and services produced by any Office of Children and Family Services approved charitable non-profit agency for the blind;
- Commodities and services produced by any Office of Mental Health approved special employment program serving the mentally ill;
- Commodities and services produced by any Department of Education approved charitable non-profit agency for other severely disabled persons;
- Commodities and services produced by a United States Department of Veterans' Affairs approved veterans' workshop manufacturing products or performing services within New York State; or
- Commodities provided by any Commissioner of Labor approved apparel manufacturer and contractor on the special September 11th bidders registry.

In addition, procurement contracts offered to non-profit providers of human services pursuant to a non-competitive selection process are exempted from the publication requirements. [EDL § 144(1)(e)]. Finally, procurement contracts that are re-bid or re-solicited for substantially the same goods or services, within 45 business days after the bids or proposals were originally due, are exempted from the publication requirements. [EDL § 144(1)(b)].

#### ***4. Requirements Under New York State Procurement Lobbying Law***

State Finance Law §§ 139-j and 139-k, (collectively, the "Procurement Requirements") effective January 1, 2006, regulate lobbying on government procurement by governing permissible communications between potential respondents and NHCC with respect to a competitive bid during the procurement process; and establish sanctions for knowing and willful violations of the provisions of the Procurement Requirements, including disqualification from eligibility for an award of any contract pursuant to a competitive bid process. The Procurement Regulations require the collection and recording of certain information from contractors seeking a procurement contract with an annual estimated value in excess of \$15,000.

Compliance with the Procurement Requirements requires that (a) all communications from the issuance of a competitive bid through final award and approval of any resulting contract (the "Restricted Period"), be conducted only with the contact person(s) listed in the competitive bid; (b) the completion by respondents of the Offerer Disclosure of Prior Non-Responsibility Determinations and the Offerer's Affirmation of Understanding of and Agreement pursuant to State Finance Law, (See attachments in competitive bid documents- Appendix A), and (c) periodic updating of such forms during the term of any contract resulting from the competitive bid process. Respondents must submit both of these forms, properly completed, as part of their proposals. The Procurement Requirements also require NHCC employees to obtain and report certain information when contacted by prospective bidders during the Restricted Period, make a determination of the responsibility of bidders and make all such information publicly available in accordance with



applicable law. If a prospective bidder is found to have knowingly and willfully violated the State Finance Law provisions, that prospective bidder and its subsidiaries, related or successor entities will be determined to be a non-responsible bidder and will not be awarded any contract issued pursuant to the competitive bid process.

A copy of the State Finance Law Sections 139-j and 139-k can be found at <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>. All potential respondents are solely responsible for full compliance with the Procurement Requirements.

### ***5. Reporting Requirements Regarding Procurement Contracts***

■ On an annual basis, NHCC shall prepare a report summarizing procurement activity for the period covered by the report. Such report shall be available to the public upon reasonable request therefor. The report shall include a listing of all procurement contracts in excess of \$5,000 entered into, all contracts entered into with NYS business enterprises and the subject matter and value thereof, all contracts entered into with foreign business enterprises (defined below) and the subject matter and value thereof, the selection process used to select such contractors; all procurement contracts which were exempt from the publication requirements of the Economic Development Law (see 3, above), the basis for any such exemption and the status of existing procurement contracts. In addition, such report shall list for each contract the following information:

- a description of the duties performed by the contractor;
- the date of the contract and its duration;
- the total value of the contract;
- the full name and address of the contractor;
- the status of the contract including the amount spent or other consideration given pursuant to the contract during the reporting period and for the life of the contract to date;
- whether the contractor is a certified minority or women-owned business enterprise; and
- the total number of bids or proposals received prior to the award of the contract.

■ NHCC shall annually prepare and approve a report on procurement contracts which shall include its policy guidelines (as set forth in 2, above), an explanation of such guidelines and any amendments thereto since the last report.

■ NHCC shall annually submit its report on procurement contracts to the NYS Division of the Budget, with copies to the Department of Audit and Control, the Department of Economic Development, the Senate Finance Committee and the Assembly Ways and Means Committee.

■ NHCC shall notify the Commissioner of Economic Development of the award of a

procurement contract for the purchase of goods or services from a foreign business enterprise<sup>3</sup> in an amount equal to or greater than \$1 million simultaneously with notifying the successful bidder therefor. The notice shall include identifying information regarding the foreign business enterprise, a brief description of the goods or services to be obtained, the amount of the contract and its term. Such notification shall be used by the Commissioner to notify NYS business enterprises of opportunities to participate as subcontractors and suppliers on such procurement contracts and to otherwise promote and encourage the development of new business in the state and the hiring of NYS business enterprises. Except for contracts awarded on an emergency or critical basis or unless the foregoing notice requirement has been waived by the Commissioner, NHCC may not enter into a procurement contract with the successful foreign business enterprise bidder until at least 15 days following the giving of notice to the Commissioner.

■ In accordance with PAL 2879-a and NYCRR Title 2 Part 206, NHCC shall submit certain contracts to the Office of State Comptroller for review, filing and reporting in the manner set forth in the current version of the State Authority Contract Manual published on the State Comptroller's Office website. General guidelines are summarized below for quick-reference informational purposes:

- "Eligible Contracts" must be submitted for prior State approval.
- "Exempt Contracts" must be submitted but are not subject to State approvals.
- Only "Eligible Contracts" must be listed in the annual filing.
- An "Eligible Contract" means a contract with no applicable exemption and the aggregate value is, or reasonably will be, greater than \$1mil and (i) paid in whole or in part from monies appropriated by the State or (ii) awarded as a sole source.
- An "Exempt Contract" is a contract that would otherwise be considered an Eligible Contract, however the contract involves: (1) bonds or commercial paper; 2 (i) approval by DOH, Public Health Council, OMH, OMRDD or OASAS, (ii) services, affiliations or a joint venture involving healthcare or research; (iii) payment for goods or services in connection with the provision of healthcare or (iv) GPO arrangements; (3) emergency procurements or (4) certain energy arrangements.

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<sup>3</sup> For purposes of PAL § 2879, a "foreign business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership, or corporation, which offers for sale or lease or other form of exchange, goods which are sought by the corporation and which are substantially produced outside New York state, or services, other than construction services, sought by the corporation which are substantially performed outside New York state. For purposes of construction services, foreign business enterprise shall mean a business enterprise, including a sole proprietorship, partnership or corporation, which has its principal place of business outside New York State." PAL §2879(5)(b)(i).

## SPECIFIC PROCEDURES GOVERNING PROCUREMENT METHODS

### A. PREFERRED SOURCES

To advance special social and economic goals, certain providers have “preferred source” status under law. The acquisition of commodities and/or services from preferred sources are exempt from statutory competitive procurement requirements. Purchases from preferred sources take precedence over all other sources of supply and competitive procurement methods. The Office of General Services (“OGS”) maintains a list of all commodities and services that are available and being provided by preferred sources. (“List of Preferred Source Offerings” or the “List”). If a commodity or service is not on the List, purchasers may elect to buy the commodity or service from a preferred source but are not required to do so.

<p style="text-align: center;"><b>WHO ARE PREFERRED SOURCES?</b></p>	<p><b>Commodities</b> produced by the State Department of Correctional Services’ Correctional Industries Program. (CORCRAFT)</p> <p><b>Commodities and services</b> produced by any qualified charitable non-profit-making agency for the blind approved by the State Commissioner of Social Services.</p> <p><b>Commodities and services</b> produced by any special employment program serving mentally ill persons, operated by facilities within the State Office of Mental Health and approved by the Commissioner of Mental Health.</p> <p><b>Commodities and services</b> produced by any qualified, charitable, non-profit-making agency for other severely disabled persons approved by the State Commissioner of Education.</p> <p><b>Commodities and services</b> produced by a qualified veterans’ workshop providing job and employment skill training to veterans, operated by the United States Department of Veterans Affairs, that manufactures products or performs services within the State and is approved by the Commissioner of Education.</p> <p><b>Commodities and services</b> produced by any qualified charitable non-profit-making workshop for veterans approved by the Commissioner of Education.</p> <p>[State Fin. Law § 162(2).]</p>
<p style="text-align: center;"><b>FACILITATING AGENCIES</b></p>	<p>These not-for-profit corporations, established by OGS to facilitate the distribution of orders among approved, charitable, not-for profit preferred sources, act as ‘one stop’ contact for purchasers. These</p>

	<p>include: (i) Industries for the Blind of NYS to facilitate orders among agencies for the blind, and (ii) to facilitate orders among agencies for the other severely disabled and the veteran’s workshops. Purchasing should directly contact the facilitating agencies involved.</p>
<p><b>NOTIFICATION TO PREFERRED SOURCES OF REQUIREMENTS FOR SERVICES</b></p>	<p>When NHCC requires services listed on the List, NHCC must make reasonable efforts to notify preferred sources (or a facilitating agent) of its requirements. [State Fin. Law § 162(4)(b)(i).]</p>
<p><b>PURCHASE OF SERVICES FROM PREFERRED SOURCES</b></p>	<p>If, within 10 days of such notification, one or more preferred sources or facilitating entities submit a notice of intent to provide the services required, NHCC shall purchase the service from the preferred source.</p> <p>If more than one preferred source submits a notice of intent, cost is the determining factor in selecting which preferred source to purchase from. [State Fin. Law § 162(4)(b)(ii).]</p>
<p><b>WHICH PREFERRED SOURCES HAVE PRIORITY?</b></p>	<p><b>COMMODITIES</b> must be purchased from preferred sources in the following prioritized order:</p> <p>1st – Department of Correctional Services’ Correctional Industries Program</p> <p>2nd – Approved, charitable, non-profit-making agencies for the blind</p> <p>3rd – Equal priority to the other preferred sources</p> <p>When <b>SERVICES</b> are available, equal priority must be accorded to qualified non-profit-making agencies for the blind and those for the other severely disabled, by qualified special employment programs for mentally ill persons and by qualified veterans’ workshops. If more than one preferred source meets the service requirements, cost shall be the determining factor in selecting among the qualified sources.</p> <p>[State Fin. Law § 162(4).]</p>

<b>WHAT APPROVAL IS REQUIRED?</b>	See NHCC Policy Regarding Approvals Necessary for Entering into Procurement Contracts in section 2(f).
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## B. COMPETITIVE BIDDING

<b>WHAT IS COMPETITIVE BIDDING?</b>	<p>Competitive bidding is a method of procuring goods and services..</p> <ul style="list-style-type: none"> <li>• <u>Formal Sealed Bidding</u>: Contracts for goods, non-professional services and public work are awarded to the lowest responsive and responsible bidder meeting the specifications of an invitation to bid and furnishing the required security.</li> <li>• <u>Request For Proposal (“RFP”)</u>: A contract for professional services and more complex unique items may be awarded to the bidder who offers the “Best Value.”</li> </ul> <p>[Gen. Mun. Law § 103(1).]</p>
<b>WHEN IS SEALED BIDDING USED?</b>	<p>Sealed bidding must be used whenever NHCC is entering into contracts for public works in excess of \$35,000 and contracts for goods and services (other than professional services*) in excess of \$20,000 unless (i) the project is a medical project and NHCC elects to use a Project Developer, as described in more detail in Section C or (ii) one of the other methods of procurement listed below is permissible. (*RFP’s are generally issued for professional services procurements in excess of \$50,000)</p>
<b>UNDER WHAT CIRCUMSTANCES IS COMPETITIVE BIDDING NOT REQUIRED?</b>	<p><b>Emergencies:</b> Contracts may be awarded without competitive bidding in the case of emergency. <u>See Section E</u>, below.</p> <p><b>Group Purchasing:</b> Group-purchasing contracts with other hospitals may be entered into without competitive bidding. <u>See Section E</u>, below.</p> <p><b>Purchases through the Office of General Services:</b> Purchases in excess of \$500, other than of printed materials, may be made without</p>

	<p>competitive bidding through the State Office of General Services. [Gen. Mun. Law § 104.] <u>See Section G</u>, below.</p> <p><b>Purchases through Nassau County Contracts:</b> Purchases may be made through Nassau County contracts without competitive bidding. [PAL § 3404(13)] <u>See Section H</u>, below</p> <p><b>Utilization of Federal Government General Services Contracts:</b> The terms of a federal government general services contract may be used in lieu of competitive bidding. <u>See Section I</u>, below.</p> <p><b>Preferred Sources:</b> Purchases of goods and services from certain preferred sources may be made without competitive bidding. <u>See Section A</u>, below.</p> <p><b>Sole Source:</b> Contracts may be awarded without competitive bidding where goods or services are only available from one source. <u>See Section J</u>, below.</p> <p><b>Recycled Products; Surplus and Second-Hand Supplies:</b> Recycled products and surplus and second-hand supplies may be purchased without competitive bidding. <u>See Section K</u>, below.</p>
<p><b>WHAT PUBLIC NOTICE IS REQUIRED FOR SEALED BIDDING?</b></p>	<p>An advertisement for bids (invitation to bid) must be published in the NYS Contract Reporter and at least one newspaper of general circulation. The advertisement must contain a statement of the time and place where bids will be publicly opened and read.</p> <p>[Gen. Mun. Law § 103(2).]</p>
<p><b>WHAT INFORMATION MUST BE INCLUDED IN AN INVITATION TO BID?</b></p>	<p>The invitation to bid must include specifications setting forth the technical requirements for a material, product or service, as well as the criteria for determining whether these requirements are met.</p> <p>Specifications can be in the form of a detailed description of the required supplies, equipment or services, including, if appropriate, descriptions of raw materials and construction methods. These are known as “design” specifications.</p> <p>Specifications also can be set forth in terms of the tasks that the goods or services are intended to perform or in terms of standards of</p>

	<p>performance. These are known as “functional” or “performance” specifications.</p> <p>Specifications should be drawn in a manner that will maximize competition, and therefore be as clear and precise as is reasonably practicable, consistent with NHCC’s needs.</p> <p>The invitation to bid should include a notice that a contract award is subject to applicable provisions of federal, State and local laws and regulations, including, for example, federal provisions regarding equal employment opportunity.</p> <p>The invitation to bid should state that NHCC reserves the right to reject all bids, to reject any bid that is not responsive, and to reject any bidder that it deems not responsible.</p>
<p style="text-align: center;"><b>INCLUSION OF STATEMENT OF NON- COLLUSION</b></p>	<p>Bidders must include in their bids the following statement:</p> <p>"(a) By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of [such party’s] knowledge and belief:</p> <p style="padding-left: 40px;">(1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;</p> <p style="padding-left: 40px;">(2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and</p> <p style="padding-left: 40px;">(3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition."</p> <p>If a bidder cannot make the foregoing statement, the bidder must submit a signed statement, which sets forth in detail the reasons why it cannot make such a statement. A contract can only be awarded if the head of the purchasing unit determines that such disclosure was not made for the purpose of restricting competition.</p> <p>The fact that a bidder (a) has published price lists, rates, or tariffs covering items being procured, (b) has informed prospective</p>

	<p>customers of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure meeting the requirement for a statement of non-collusion.</p> <p>[Gen. Mun. Law § 103-d.]</p>
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<p style="text-align: center;"><b>WHEN ARE SEPARATE BIDS FOR DIFFERENT PORTIONS OF A PROJECT REQUIRED?</b></p> <p style="text-align: center;"><b>[WICKS LAW]</b></p>	<p>Where (i) the entire cost of construction, reconstruction, or alteration under a public works contract exceeds \$1,500,000, or (ii) the entire cost of for a medical project involving construction of a medical building, exclusive of any medical equipment, apparatus or devised exceeds \$1,500,000, NHCC must obtain separate bids for:</p> <p>(i) plumbing and gas fitting;</p> <p>(ii) steam heating, hot water heating, ventilating and air conditioning apparatus; and</p> <p>(iii) electric wiring and standard illuminating fixtures.</p> <p>[Gen. Mun. Law § 101(1)]</p>
<p style="text-align: center;"><b>WHEN MAY SEALED BIDS BE OPENED?</b></p>	<p>All bids received must be publicly opened at the time and place specified in the advertisement. At least five days must elapse between the date the advertisement is first published and the date on which the bids are opened.</p> <p>[Gen. Mun. Law § 103(2).]</p>
<p style="text-align: center;"><b>RECEIPT AND HANDLING OF BIDS</b></p>	<p>Late bids, regardless of the circumstances, may not be accepted.</p> <p>A bidder may withdraw or modify a bid by giving written notice prior to the opening of bids. If a bid is withdrawn prior to the opening of bids, any bid bond or bid deposit will be returned to the bidder. However, a bid bond or bid deposit shall be forfeited by a bidder that withdraws its bid after the opening of bids if that bidder otherwise would have been the lowest bidder. NHCC shall retain all documents relating to a withdrawn or modified bid.</p>
<p style="text-align: center;"><b>TO WHOM MAY THE CONTRACT BE AWARDED?</b></p>	<p>The contract must be awarded to the lowest responsible, responsive bidder. [Gen. Mun. Law § 103(1).] Only the evaluation factors and formulas stated in the invitation to bid may be considered in determining the lowest responsible and responsive bidder.</p> <p>Where a responsible and responsive bidder’s gross price is reducible by an allowance for the value of used machinery, equipment, apparatus or tools to be traded in by NHCC, the gross price shall be</p>

	reduced by the amount of such allowance for the purpose of determining the low bid. [Gen. Mun. Law § 103(1).]
<b>WHAT IF THERE ARE TWO IDENTICAL BIDS?</b>	Where two or more responsible and responsive bidders submit identical bids as to price, NHCC may award the contract to any such bidder. [Gen. Mun. Law § 103(1).]
<b>MAY NHCC NEGOTIATE WITH BIDDERS?</b>	NHCC may try to negotiate a post-bid price decrease with the lowest responsible and responsive bidder (and that bidder only). NHCC may also try to negotiate more favorable terms and conditions with the lowest responsible and responsive bidder (and that bidder only), provided that there is no increase in price. NHCC may <u>not</u> make any concessions to the lowest responsible and responsive bidder.
<b>MAY NHCC REJECT BIDS AND READVERTISE THE CONTRACT?</b>	NHCC may, in its discretion, reject all bids and re-advertise for new bids.  [Gen. Mun. Law § 103(1).]
<b>WHAT APPROVAL IS REQUIRED?</b>	See NHCC Policy Regarding Approvals Necessary for Entering into Procurement Contracts in section 2(f).

### C. USE OF PROJECT DEVELOPER FOR MEDICAL PROJECTS

<b>WHAT IS A MEDICAL PROJECT?</b>	A medical project is defined as “any substantial durable apparatus, equipment, device or system, or any combination of the foregoing, including services necessary to install, erect or assemble the foregoing and any appurtenant structures or facilities necessary to house or render the foregoing operational, to be used for the purposes of care, treatment or diagnosis of disease or injury or the relief of pain and suffering of sick or injured persons.” [PAL § 3402 (9) (g)(iv)]
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<p><b>WHO IS A PROJECT DEVELOPER?</b></p>	<p>A project developer is defined as “any private corporation, partnership, limited liability company, or individual, or combination thereof which has submitted a proposal in response to an [RFP].” [PAL § 3402 (9)(g)(i)]</p>
<p><b>WHAT INFORMATION MUST A POTENTIAL PROJECT DEVELOPER’S PROPOSAL INCLUDE?</b></p>	<p>Information relating to the experience and expertise of the project developer; the ability of the project developer to secure adequate financing; and proposals for project staffing, implementation of works tasks and the carrying out of all responsibility by a proposed contract. [PAL § 3402(8)(a)(i)]</p> <p>A proposal shall clearly identify and specify all elements of:</p> <ul style="list-style-type: none"> <li>● cost which would become charges to NHCC, in whatever form, in return for the fulfillment of the project developer for the full lifetime of a proposed contract, including but not limited to the cost of planning, design, construction, operation, management and/or maintenance of any facility; and</li> <li>● revenue which would accrue to NHCC from the operation of the facility.</li> </ul> <p>[PAL § 3402(8)(a)(ii)]</p> <ul style="list-style-type: none"> <li>● Such other information as NHCC may determine to have a material bearing on its ability to evaluate any proposal. [PAL § 3402(8)(a)(iii)]</li> </ul>
<p><b>WHAT PUBLIC NOTICE IS REQUIRED FOR AN RFP?</b></p>	<p>Prior to the issuance of an RFP, NHCC must publish a notice of issuance in at least one newspaper of general circulation.</p> <p>[PAL § 3402(8)(b).]</p> <p>Concurrent with the publication of the notice of issuance, NHCC must file a draft RFP with the Nassau County Commissioner of Health. [PAL § 3402(8)(b)]</p>
<p><b>HOW IS AN RFP EVALUATED?</b></p>	<p>Proposals</p> <p style="padding-left: 40px;">➤ <u>shall</u> be evaluated:</p>

	<ul style="list-style-type: none"> <li>• as to net capital cost or, if net revenue is projected, net revenue;</li> <li>• in a manner consistent with provisions set forth in the RFP and                         <ul style="list-style-type: none"> <li>➤ <u>may</u> be evaluated on the basis of additional factors, including but not limited to the technical evaluation of the medical project including:                                 <ul style="list-style-type: none"> <li>• medical facility,</li> <li>• facility design,</li> <li>• system reliability,</li> <li>• energy balance,</li> <li>• annual operating cost and</li> <li>• efficiency.</li> </ul> </li> </ul> </li> </ul> <p>Evaluation of proposals and the determination of whether the project developer is “responsible” may include, but not be limited to, consideration of the project developer’s record in complying with existing labor standards and recognizing state and federally approved apprentice training programs, and the willingness of the project developer to provide for meaningful participation of minority group persons and business enterprises.</p> <p>[PAL § 3402(8)(c)]</p>
<p><b>MAY NHCC SELECT A PROPOSAL OTHER THAN THE ONE WITH THE LOWEST NET COST OR GREATEST NET REVENUE?</b></p>	<p>If any award is made to a project developer whose total proposal does not provide either the lowest net cost or the greatest net revenue of any proposal received, NHCC shall adopt a resolution, which includes particularized findings indicating that such award meets NHCC’s requirements and that such action is in the public interest.</p> <p>[PAL § 3402(8)(d)]</p>
<p><b>WHAT LABOR LAW PROVISIONS APPLY?</b></p>	<p>Whenever a medical project involves construction, the provisions of section 220 of the Labor Law concerning wages, hours, and supplements are applicable.</p>

	[PAL § 3402(8)]
<p><b>COMPETITIVE BIDDING FOR PROJECTS INVOLVING CONSTRUCTION OF A MEDICAL BUILDING</b></p>	<p>In any medical project involving construction of a medical building where the cost is in excess of \$1,500,000, the construction contracts may only be awarded by the project developer through competitive bidding. The project developer shall advertise for bids in a daily newspaper having general circulation in the County. An employee of NHCC shall be designated to open the bids at the time and place specified in the notice. There must be at least 5 days between the publication date and the date on which the bids are opened.</p> <p>[PAL § 3402(9)]</p>
<p><b>WHAT BOND IS NECESSARY?</b></p>	<p>For medical projects involving the construction of a building where the cost of construction (exclusive of the cost of medical devices and equipment) exceeds \$1,500,000, the project developer must furnish a bond guaranteeing prompt payment of moneys that are due to all persons furnishing labor and materials pursuant to the requirements of such construction contract.</p> <p>A copy of the bond must be kept by NHCC and made available for public inspection.</p> <p>[PAL § 3402(9)]</p>
<p><b>WHEN ARE SEPARATE BIDS REQUIRED?</b></p>	<p>When the entire cost for a medical project involving the construction of a medical building, (excluding the cost of any medical equipment, apparatus or devices) exceeds \$1,500,000, the project developer must obtain separate bids and is responsible for the supervision, coordination, and termination of such contracts for:</p> <ul style="list-style-type: none"> <li>(i) plumbing and gas fittings;</li> <li>(ii) steam heating, hot water heating, ventilating and air conditioning apparatus; and</li> <li>(iii) electric wiring and standard illuminating fixtures.</li> </ul> <p>[PAL § 3402(9)(b) and (c)]</p>

<b>WHAT APPROVAL IS REQUIRED?</b>	See NHCC Policy Regarding Approvals Necessary for Entering into Procurement Contracts in section 2(f).
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## **D. CONTRACTS FOR PROFESSIONAL SERVICES**

Contracts for more complex procurements, including professional services, are awarded through the RFP or other process to the proposer who offers the “best value” thereby optimizing quality, cost and efficiency. In these cases, price along with other factors such as past performance, technical excellence ability to comply with NHCC’s time schedule and other factors may be weighed to determine which proposer will provide that best value to NHCC.

<b>WHAT ARE PROFESSIONAL SERVICES?</b>	Professional services are services that involve specialized expertise, use of professional judgment, or a high degree of creativity in the performance of the contract. Professional services include medical, pharmaceutical, legal, accounting, financial, architectural, engineering, surveying, computer and other services. [Op.State.Compt. 88-35]
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<p><b>MIXED PURCHASES OF TECHNOLOGY AND PROFESSIONAL SERVICES</b></p>	<p>Sometimes, a purchase of equipment may also involve the purchase of expert services to design the equipment. As set forth in 1988 Op. State Compt. No. 88-35, such a purchase contract will be considered one for professional services if:</p> <ul style="list-style-type: none"><li>• the professional services component is the primary or predominant part of the acquisition, and</li><li>• there is “<i>inextricable integration</i>” of the professional services and “physical components”. For example, purchase of computer hardware and software may fall within this exception depending on:<ul style="list-style-type: none"><li>➤ the amount of time and effort involved in <i>tailoring</i> the prepackaged hardware or software;</li><li>➤ the degree of <i>customizing</i> necessary;</li><li>➤ the amount of time and effort involved in any <i>personnel training</i> services provided by the vendor, and</li><li>➤ the <i>relative cost</i> of the prepackaged hardware or software and services.</li></ul></li></ul> <p>Any questions regarding whether a particular contract qualifies as a “professional services contract” should be directed to the Office of Legal Affairs.</p>
<p><b>HOW MAY PROFESSIONAL SERVICES BE PROCURED?</b></p>	<p>It shall be within the discretion of the CEO of NHCC whether a contract for professional services which will cost \$50,000 or less shall be procured through the RFP process set forth in this Section, or whether a different method will be utilized to obtain multiple proposals.</p> <p>For professional service procurements valued at \$50,000 or less, if a formal RFP process is not being employed, NHCC shall utilize a process uniquely tailored to each such procurement that is appropriate under the circumstances to (i) ensure the prudent and economical use of NHCC resources, (ii) facilitate the acquisition of such services of maximum quality at the lowest possible cost, and (iii) guard against favoritism, improvidence, extravagance, fraud and corruption, all in the best interests of the public and NHCC. Although not required in all circumstances, when practical, obtaining a minimum of three price quotes/proposals is encouraged.</p>

	<p>Contracts for professional services, which will cost in excess of \$50,000 must be procured through the RFP process except as provided in Section 2(a) of this policy.</p> <p>In all situations, the LD-200 should contain supporting evidence that the fee for the services is fair and reasonable.</p>
<p><b>WHAT INFORMATION DOES AN RFP INCLUDE?</b></p>	<p>An RFP should include each of the following sections:</p> <p><b>1. Purpose/General Information</b></p> <p>Normally, this section shall include:</p> <ul style="list-style-type: none"> <li>● a general description of the services NHCC seeks;</li> <li>● the name of the person at NHCC to contact for further information;</li> <li>● the number of copies required;</li> <li>● a timetable of dates relevant to the proposal submission; and</li> <li>● a notice that the contract award is subject to the applicable provisions of federal, state and local laws and executive orders;</li> </ul> <p>In addition, this section may include:</p> <ul style="list-style-type: none"> <li>● the required format;</li> <li>● the required contents;</li> <li>● a page limitation;</li> <li>● a notice that proposals may be withdrawn or modified prior to the deadline for submitting proposals, but that following the deadline, submitted proposals shall be irrevocable for such period as is specified in the RFP; and</li> <li>● a notice that although discussions may be conducted with the higher ranked proposers submitting responsive proposals, an award may be made without any discussion.</li> </ul> <p><b>2. Specifications</b></p> <p>This section shall include specifications of the services to be performed. Among other things, the specifications may include:</p> <ul style="list-style-type: none"> <li>● a detailed statement of the scope of the services to be performed;</li> <li>● a description of the materials, equipment and methods that are to be used to deliver the services;</li> </ul>



	<ul style="list-style-type: none"> <li>● a timetable of dates for tasks to be completed;</li> <li>● the goal sought to be accomplished;</li> <li>● the performance standards that are to be met and the tests that are to be applied to determine if the standards are met;</li> <li>● the required qualifications of proposers;</li> <li>● the number and type of required references; and</li> <li>● financial and other information needed from proposers.</li> </ul> <p><b>3. Evaluation Criteria</b></p> <p>This section shall explain the criteria that will be used to evaluate proposals and the relative weight that will be assigned to the respective criteria. Factors that may be considered include:</p> <ul style="list-style-type: none"> <li>● Price</li> <li>● Technical excellence</li> <li>● Management capability</li> <li>● Personnel qualifications</li> <li>● Prior experience</li> <li>● Past performance</li> <li>● Ability to comply with NHCC’s schedule</li> </ul>
<p><b>WHAT PUBLIC NOTICE IS REQUIRED?</b></p>	<p>Prior to the issuance of an RFP, NHCC must publish a notice of issuance in the NYS Contract Reporter and at least one newspaper of general circulation. The notice shall set forth:</p> <ul style="list-style-type: none"> <li>● a description of the services being purchased;</li> <li>● how the full RFP may be obtained;</li> <li>● the name and contact information for the person at NHCC to whom questions about the RFP may be addressed;</li> <li>● any eligibility requirements for submitting proposals; and</li> <li>● the deadline and place for submitting proposals.</li> </ul> <p>In addition, the RFP should be distributed by the NHCC Department seeking to obtain services to a minimum of three qualified vendors.</p> <p>The RFP shall also be published on NHCC’s website and a [notice/copy] of same is forwarded to the Nassau County Office of Minority Affairs (“OMA”). OMA will, as appropriate, initiate outreach to minority and women’s business enterprises.</p>
<p><b>AMENDMENTS TO RFP</b></p>	<p>An RFP may be amended at any time prior to the deadline for submitting proposals. Any party that has requested the RFP shall</p>

	<p>promptly be notified in writing or by email about any amendment to the RFP.</p>
<p><b>ESTABLISHMENT OF SELECTION COMMITTEES</b></p>	<p>Before responses, on the RFP are due, or such other method of procurement utilized if an RFP is not required, NHCC should establish a Selection Committee to review the proposals.</p> <p>In general, the Selection Committee should be composed of at least three persons.</p>
<p><b>PRE-DEADLINE DISCUSSIONS WITH PROPOSERS</b></p>	<p>Parties that intend to respond to the RFP shall address any questions regarding the meaning of provisions of the RFP <u>only</u> to the person designated in the RFP as NHCC’s contact person.</p> <p>NHCC may hold a proposers’ conference at which it addresses questions regarding the RFP. Except at the proposers’ conference, all questions must be in writing and will be answered, if appropriate, as promptly as is practical. NHCC may set a deadline for accepting written questions.</p> <p>If the answer to a question requires a clarification of the RFP, such clarification will be sent to all parties known to have requested the RFP.</p>
<p><b>PRE-DEADLINE HANDLING OF PROPOSALS</b></p>	<p>A proposer may withdraw or modify a proposal at any time prior to the deadline for submitting proposals by submitting a written notice to NHCC.</p> <p>NHCC shall return any security bond or deposit to a proposer that withdraws its bid prior to the deadline, but shall retain all documents relating to the withdrawn proposal for its records.</p>
<p><b>POST-DEADLINE HANDLING OF PROPOSALS</b></p>	<p>Proposals submitted after the published deadline shall not be accepted, but the deadline for submitting proposals may be extended by an amendment to the RFP made in accordance with this Policy.</p> <p>Proposals are not required to be opened in public, but shall be either date and time-stamped or opened in the presence of two or more NHCC employees.</p>

<p><b>POST-DEADLINE                  MODIFICATION OF                  PROPOSALS</b></p>	<p>After the deadline for submitting proposals, but prior to the time for submitting a revised or a Best and Final Offer (“BAFO”), if the Selection Committee has decided to enter into discussions with a proposer, the proposer may correct mistakes in its proposal. In addition, a proposer always may modify its proposal when requested to do so by the Selection Committee.</p>
<p><b>SUFFICIENCY OF                  NUMBER OF                  PROPOSALS FROM                  RESPONSIBLE                  PROPOSERS</b></p>	<p>The Selection Committee shall eliminate proposals from any individuals or entities that are not “responsible and responsive.”</p> <p>The Selection Committee must then determine whether it has received a sufficient number of proposals to ensure that the procurement process will be competitive. If it receives less than three such proposals, when it makes a contract award recommendation, it will set forth in writing why it was not possible to attract more qualified proposers.</p>
<p><b>EVALUATION OF                  PROPOSALS</b></p>	<p>The Selection Committee, either on its own or based upon the advice of its technical advisors, shall evaluate proposals based upon the Evaluation Criteria set forth in the RFP.</p>
<p><b>FRAMEWORK FOR                  DISCUSSIONS</b></p>	<p>If the Selection Committee elects to hold discussions with the finalists, it should hold such discussions itself but if there are technical questions that may need to be discussed, the Committee’s technical advisors, if there are any, may also participate.</p> <p>The Selection Committee should:</p> <ul style="list-style-type: none"> <li>➤ Establish an agenda and schedule for all discussions.</li> <li>➤ Accord fair and equal treatment to all finalist proposers with respect to their opportunity for discussion and revision of proposals.</li> <li>➤ Keep records of discussions and their results.</li> </ul> <p>The Selection Committee members and its advisors may not:</p> <ul style="list-style-type: none"> <li>➤ Give one of the proposers an advantage by providing information about the other proposers’ technical or price proposals.</li> <li>➤ Disclose technical information to an individual proposer that will improve its proposal. This does not preclude advising a</li> </ul>

	<p>proposer that it needs to improve its technical proposal by using a phrase like, “sharpen your pencil”. It also does not preclude clarifying any aspects of the specifications that the proposer may have misunderstood.</p> <ul style="list-style-type: none"> <li>➤ Disclose to a proposer what price target it will need to meet to compete successfully. This does not preclude informing a proposer that NHCC will not consider any bid that exceeds a specified “competitive price range”, so long as all bidders are so informed.</li> </ul> <p>If the Selection Committee decides to recommend awarding the contract to one or more of the proposers without soliciting BAFOs from a group of finalists, the Committee still may hold discussions with the winning proposer(s) and attempt to negotiate more favorable terms for NHCC.</p> <p>At the conclusion of discussions, the Selection Committee may decide to recommend awarding the contract to one or more of the proposers based on their existing proposals. However, it often will be useful to request some or all the finalist proposers to submit a BAFO.</p> <p>This request shall be made in writing and shall state the deadline for submitting BAFOs and to whom they must be submitted.</p> <p>The notice also shall specify any additional form or content requirements for BAFOs.</p> <p>BAFOs shall be evaluated in the same manner as the original proposals.</p>
<p><b>SELECTING OTHER THAN THE LOWEST PRICE PROPOSER</b></p>	<p>If the Selection Committee decides to award the contract to other than the lowest cost proposer, it will provide a written justification for doing so to the Contracts Committee of the Board or the full Board, as the case may be. The justification could include:</p> <ul style="list-style-type: none"> <li>➤ The winning proposer had unique experience or expertise.</li> <li>➤ The technical quality of the winning proposal was superior to all other proposals and technical quality is a high priority for the procurement.</li> <li>➤ Other special circumstances justified awarding the contract to the recommended proposer, such as the</li> </ul>

	<p>ability of the proposer to meet the time and deliverability requirements of department.</p>
<p><b>WHAT APPROVAL IS REQUIRED?</b></p>	<p>The CEO of NHCC may approve Professional services contracts of less than or equal to one-year in duration whose cost does not exceed \$50,000.</p> <p>The Contracts Committee of the Board shall approve Professional services contracts whose cost exceeds \$50,000 but are less than \$250,000 and have a term less than or equal to one-year.</p> <p>The full Board shall approve Professional services contracts whose cost exceeds \$250,000 or term is greater than one (1) year.</p> <p>Proposed amendments that (i) increase the total cost of a contract or (ii) extend the term of a contract, shall be subject to approval from the approval authority set forth above based on the aggregate terms of the contract, including the proposed amendment and all prior approved amendments.</p>
<p><b>HOW MUCH TIME SHOULD PASS BEFORE ISSUING A NEW RFP?</b></p>	<p>An RFP procurement resulting in the issuance of a contract shall be considered valid for a period of up to two (2) years from the commencement date of such contract provided that the contract commenced within one (1) year of the date the proposals from the RFP were due. In situations where it is not commercially reasonable to issue a new RFP at the end of such two (2) year period, the Board may, by resolution, dispense with the need to issue another RFP.</p> <p>Nothing contained in this policy shall be deemed to prohibit or discourage the issuance of a new RFP prior to the expiration of the two (2) year period.</p>

**E. EMERGENCY PROCUREMENT**

<p><b>WHAT CONSTITUTES AN EMERGENCY?</b></p>	<p>Pursuant to Section 103(4) of the General Municipal Law, competitive bidding is not required in the event of “a public emergency arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property or the life, health, safety or property of the</p>
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	<p>inhabitants of a political subdivision or district require immediate action that cannot await competitive bidding.”</p> <p>Failure to properly plan in advance does not constitute an emergency.</p>
<p><b>WHAT APPROVAL IS REQUIRED?</b></p>	<p>The operational department(s) managing or responding to the emergency situation must submit an “EMERGENCY WAIVER REQUEST MEMO” to the President as soon as practicable. The memo shall include, at a minimum, (i) an explanation of the circumstances giving rise to the emergency, (ii) if the emergency is not widely recognized by the public and news media, supporting documentation or evidence of the emergency (e.g. photographs, security reports, sworn affidavits etc...) and (iii) a list of the contract(s) or purchase orders to be expedited (including vendor name, term and total dollar amount/cap of the contract).</p> <p>It should be noted that approved emergency contracts or purchase orders shall be limited to the scope, term and financial commitment necessary to alleviate the emergency.</p> <p>Notwithstanding Presidential approval of an emergency waiver, as soon as practicable, the responsible department must still follow standard procedures as would typically be required to enter into a contract or purchase order in a non-emergency situation (e.g. LD-200’s, requisitions, invoice submissions, approvals etc...).</p>

**F. GROUP PURCHASING**

<p><b>WITH WHOM MAY NHCC ENTER INTO GROUP PURCHASING CONTRACTS?</b></p>	<p>Other hospitals, medical schools, other health related facilities having or utilizing hospital services or facilities, voluntary ambulance services, and nutrition programs that receive federal, state or local government funding, whether or not located in New York State.</p> <p>[Gen. Mun. Law § 103(8); Public Health Law § 2803-a.]</p>
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<p><b>FOR WHAT MAY SUCH CONTRACTS BE USED?</b></p>	<p>For the joint purchases of goods, supplies and services.                   [Public Health Law § 2803-a.]</p>
<p><b>ARE THERE ANY OTHER CONSIDERATIONS?</b></p>	<p>Any joint purchases between NHCC and a voluntary ambulance service must be limited to joint purchases of goods and supplies necessary for the support of such ambulance services or otherwise used by NHCC.                   [Pub. Health Law § 2803-a.]</p>
<p><b>WHAT APPROVAL IS REQUIRED?</b></p>	<p>See NHCC Policy Regarding Approvals Necessary for Entering into Procurement Contracts in section 2(f).</p>

**G. PURCHASES THROUGH THE NEW YORK STATE OFFICE OF GENERAL SERVICES (“OGS”)**

<p><b>WHAT CONTRACTS MAY BE SECURED THROUGH OGS?</b></p>	<p>Purchases in excess of \$500, other than of printed materials.                   [Gen. Mun. Law § 104.]</p>
<p><b>WHAT RESTRICTIONS APPLY?</b></p>	<p>When bids have already been received by NHCC, no purchase may be made through OSG unless the purchase may be made upon the same terms, conditions and specifications at a lower price through such contractor.                   [Gen. Mun. Law § 104.]</p>
<p><b>HOW ARE CONTRACTS SECURED THROUGH OGS?</b></p>	<p>State contracts are listed on the OGS web site in four categories: Commodities, Services, Information Technology, and Telecommunications.                   For commodities contracts, the process normally is simply to place a purchase order with the listed vendor. However, if the contract is a “Filed Requirements (Definite Quantity) Contract, then NHCC</p>

	<p>may participate only if it filed a “Requirement Letter” well before bids were opened on the contract.</p> <p>When OGS is preparing to solicit bids on a Filed Requirements Contract, it sends notices to all eligible entities that have indicated in their registrations with OGS that they might be interested in the item. Attached to the notice is a form “Requirement Letter” that must be submitted by any party that intends to purchase off the contract.</p> <p>For many of the Services, Information Technology and Telecommunications contracts, a “How to Use this Contract” document is included on the OGS website section for the contract.</p>
<p><b>WHAT APPROVAL IS REQUIRED?</b></p>	<p>See NHCC Policy Regarding Approvals Necessary for Entering into Procurement Contracts in section 2(f).</p>

**H. PURCHASES THROUGH NASSAU COUNTY**

<p><b>WHEN MAY NHCC PURCHASE THROUGH NASSAU COUNTY?</b></p>	<p>PAL § 3404(13) grants NHCC the power to “use employees, agents, consultants and facilities of the county, paying the county its agreed proportion of the compensation or costs pursuant to an agreement with the county.”</p>
<p><b>WHAT APPROVAL IS REQUIRED?</b></p>	<p>See NHCC Policy Regarding Approvals Necessary for Entering into Procurement Contracts in section 2(f).</p>



## I. USE OF FEDERAL GOVERNMENT GENERAL SERVICES CONTRACTS

<b>WHEN MAY A FEDERAL GOVERNMENT GENERAL SERVICES CONTRACT BE USED?</b>	NHCC may utilize the terms of a federal government general services contract where the terms are to the advantage of NHCC and have been offered to NHCC by the contractor.  [PAL §3402(7).]
<b>WHAT RESTRICTIONS APPLY?</b>	When bids have already been received by NHCC, no purchase under a federal government general services contract may be made unless the purchase may be made upon the same terms, conditions and specifications at a lower price through such contractor.  [PAL §3402(7).]
<b>WHAT APPROVAL IS REQUIRED?</b>	See NHCC Policy Regarding Approvals Necessary for Entering into Procurement Contracts in section 2(f).

## J. SOLE SOURCE PROCUREMENT

<b>WHEN MAY SOLE SOURCE PROCUREMENT BE USED?</b>	Sole source procurement may be used where the Director of Supply Chain Management determines in writing that: <ul style="list-style-type: none"><li>• there is only one source for a particular good or service that has sufficient experience, skill or knowledge to deliver the goods or services required in a timely manner, provided, however, that a vendor's unique qualification may not be based solely on its having a continuing or historic relationship with NHCC in providing the solicited service or a related service; and</li><li>• there are no other goods or services that provide the equivalent or similar benefits; and</li><li>• the cost of the goods or services is reasonable in light of the benefits.</li></ul>
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<b>WHAT APPROVAL IS REQUIRED?</b>	See NHCC Policy Regarding Approvals Necessary for Entering into Procurement Contracts in section 2(f).
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**K. RECYCLED PRODUCTS AND SURPLUS/SECOND-HAND SUPPLIES**

<b>RECYCLED PRODUCTS</b>	<p>Recycled products may be purchased without competitive bidding where such products meet contract specifications and the price of such products is reasonably competitive (i.e., does not exceed 10% of the cost of a comparable non-recycled product, or, if at least 50% of the secondary materials used in producing such product are generated from the waste stream in New York State, does not exceed 15% of the cost of a comparable recycled product).</p> <p>[Gen. Mun. Law § 104-a.]</p>
<b>SURPLUS AND SECOND-HAND SUPPLIES</b>	<p>Surplus and second-hand supplies, materials or equipment may be purchased without competitive bidding from the federal government, the State of New York or from any other political subdivision, district or public benefit corporation.</p> <p>[Gen. Mun. Law § 103(6).]</p>
<b>WHAT APPROVAL IS REQUIRED?</b>	See NHCC Policy Regarding Approvals Necessary for Entering into Procurement Contracts in section 2(f).

**L. PURCHASED SERVICES THROUGH AN AFFILIATION AGREEMENT**

<b>AUTHORITY TO PURCHASE SERVICES THROUGH AN</b>	PAL § 3405 grants NHCC the power to enter into contracts and other agreement “for the purpose of affiliating with a medical college...or
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<p><b>AFFILIATION AGREEMENT</b></p>	<p>institution in conjunction with [NHCC]’s health facilities, which agreements may provide for the . . . provision of . . . services.”</p> <p>Any such contract may be entered into without competitive bidding.</p>
<p><b>WHAT APPROVAL IS REQUIRED?</b></p>	<p>See NHCC Policy Regarding Approvals Necessary for Entering into Procurement Contracts in section 2(f).</p>

**M. SMALL PURCHASES**

Purchases of \$100 or less are considered “Petty Cash” purchases and are not assigned a purchase number. Small purchases are purchases of greater than \$100, but under \$20,000 (under \$35,000 for Public Works) made directly on the open market. However, purchases may not be divided artificially into separate lots in order to fall under these exceptions.

<p><b>PURCHASES OF LESS THAN \$2,500</b></p>	<p>No bids need be solicited, but the purchase price must be determined to be fair and reasonable.</p>
<p><b>PURCHASES BETWEEN \$2,500 AND \$10,000</b></p>	<p>Informal oral or written bids from at least three vendors must be solicited, and the purchase shall be made from the vendor offering the lowest price. The procurement record must support the selection of the vendor and reasonableness of price.</p>
<p><b>PURCHASES BETWEEN \$10,000 BUT NOT EXCEEDING \$20,000 (NOT EXCEEDING \$35,000 for Public Works)</b></p>	<p>Written bids from at least three vendors must be formally solicited, and the purchase shall be made from the vendor offering the lowest price. The procurement record must support the selection of the vendor and reasonableness of price. NHCC must advertise quarterly in the New York State Contracts Reporter for anticipated purchases between \$5,000 to \$15,000.</p>
<p><b>WHAT APPROVAL IS REQUIRED?</b></p>	<p>NHCC’s Director of Supply Chain Management shall have the authority to approve small purchases under this Section.</p>

