

**SUSTAINABLE ENERGY UTILITY INC**  
**PURCHASING POLICY & PROCEDURES**

Delaware  
Sustainable  
Energy Utility



**EFFECTIVE DATE: May 18, 2012**

**SUSTAINABLE ENERGY UTILITY INC.**  
**PURCHASING POLICY**

**SECTION 1 - THE PURPOSE AND GENERAL GUIDELINES**

The purpose of a purchasing policy is to establish the authority, limits and procedures relating to the purchasing of materials, supplies, equipment, construction, and professional services.

1.1 Guidelines

- Purchases of goods and services are made only after review, documentation, and approval.
- Competitive means such as requests for bids are used wherever they can be effective.
- Negotiation is used wherever it can be effective.
- Technical assistance is sought from disinterested experts whenever it can be effective.
- Staff responsible for purchasing process has a level of training and experience appropriate to the type and amount of the purchase and the level of negotiating required.
- When making purchase decisions, the use of funds and personnel time is appropriate to the total amount of the purchase.
- The organization recognizes community and sustainability considerations in its purchasing activities.
- The organization will strive for transparency in its purchasing decisions.

1.2 The Staff is responsible for reporting the overall expenditures to the Board of Directors and the Executive Committee at regularly scheduled meetings.

1.3 This policy may be modified at any time and should be reviewed with the Board of Directors on a three-year basis. Policies should be stated with enough generality that there should be no need for frequent review; however, all policies should be reviewed periodically to keep pace with changes in the organization and changes in practices.

**SECTION 2 - ETHICS IN PURCHASING**

2.1 Employees and Board Members must discharge their duties impartially so as to assure competitive access to responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of SEU procurement.

2.2 Acceptance of any gift items or any free services for personal use is PROHIBITED.

2.3 All purchasing related records must be kept in the Office Manager as a matter of public record.

2.4 No SEU Board member or employee or official may participate on behalf of the SEU in the review or disposition of any matter pending before the SEU in which the board member or employee has a personal or private interest. No SEU employee or Board member shall benefit from any contract with the SEU, or solicit any contract, and shall not enter into any contract with the SEU (other than an employment contract). No person who has served as a SEU employee or official shall represent or otherwise assist any private enterprise on any matter involving the SEU, for a period of two years after termination of his employment or elected or appointed status with the SEU, if he gave an opinion, conducted an investigation or otherwise was directly and materially responsible for such matter in the course of his official duties as a SEU Board member, employee or official.

## **SECTION 3 – MATERIALS AND NON PROFESSIONAL SERVICES**

This section outlines the purchasing limits and guidelines for materials, supplies, and nonprofessional services based on the purchase amount. No SEU employee or board member shall commit the expenditure of SEU funds until the procedures of this section have been complied with.

For the purpose of this policy, the purchase amount is considered the purchase order total.

### **3.1 SUBDIVIDING PURCHASES:**

Multiple purchase orders issued by the SEU for the same items during the same time frame in an attempt to negate the purchasing policy restrictions will be considered a clear violation of the purchasing policy; also considered subdividing purchases.

### **3.2 PURCHASING THRESHOLD TABLE**

#### **3.3 LESS THAN \$10,000:**

Open market; staff discretion to obtain quotes; Purchases will be made by Office Manager or Executive Director. Approved invoices sent to Executive Director of payment. Item numbers, quantities, unit cost, and extension must be completed on every invoice for materials or paying for contracted labor at hourly rates.

#### **3.4 TOTAL COST \$10,000 TO \$24,999:**

Solicit no less than three (3) written quotations; if fewer than three (3) quotations, justification must be included. Fax and email quotations are acceptable.

Quotations and support documentation are to be maintained in Office Manager Files as public record. Use the quotation worksheet in Appendix B.

Award shall be made to the lowest and/or most responsive quotation. Vendor references may be checked. The Board shall approve payment unless materials or supplies has been included and approved in the SEU budget in which case the Executive Director approves payment.

Item numbers, quantities, unit cost, and extension must be completed on every invoice for materials or paying for contracted labor at hourly rates.

#### **3.5 TOTAL COST \$25,000 & OVER:**

Formal Invitation to Bid (ITB) is required; there can be no less than three (3) potential vendors.

Public sealed bid or sealed proposal procedures as outlined in Appendix A. Faxed and email bids are not acceptable for this category.

Lowest and/or most responsive bid will be accepted; Vendor references may be checked to verify ability to meet contract requirements.

Public Advertising at least in publication with circulation in each county of the State once a week for two consecutive weeks; posting of advertising on SEU website, and State of Delaware bidding website. Additional advertising discretionary.

Public Bid/Proposal Opening - Time and date of public bid opening shall be stated in the notice for bids; Delivered to Office Manager, 109 South State Street, Dover, DE 19901.

Bid Bond or certified check in the amount equivalent to ten percent (10%) of the bid amount for items/contracts over \$25,000; can be waived by SEU Executive Director.

3.6 COOPERATIVE PURCHASING:

The Sustainable Energy Utility, Inc. is permitted to use state, county, municipal, and other government contracts to purchase material once it has been determined that the procedures outlined within this policy will not be violated.

3.7 INSPECTION AND FULL PAYMENT:

Upon receiving materials and equipment and upon completion of construction, the Sustainable Energy Utility, Inc. shall cause a detailed inspection. Full payments for the purchases will be made only upon complete satisfaction as to the fulfillment of all of the conditions of the contract. The SEU Executive Director will notify Office Manager that the purchase order may be released for payment.

3.8 VENDOR POOLS:

For certain recurring projects, such as evaluations, feasibility studies, quality assurance/control, SEU may create contractor pools in a fair and open process, and pool contractors may later be assigned to specific projects without further competition.

**SECTION 4 - PROFESSIONAL SERVICES GUIDELINES**

This section provides the guidelines and procedures for the procurement of professional services. Examples of the professional services covered under this section are: audit services, financial services, insurance services, public relations and marketing services, and computer related consulting. These are only examples, and the scope of the provisions of this section is not limited to these examples.

4.1 TOTAL COST UP TO \$10,000:

Professional services covered under this section may be obtained using open market prices and maybe approved by the SEU Executive Director. It is the SEU Executive Director's discretion to require written proposals from the service providers. The decision to award the contract for professional service shall be based on performance track records, fees, time schedule and known quality of work. Fax and email proposals are acceptable for this category.

4.2 TOTAL COST BETWEEN \$10,000 TO \$25,000:

Professional services covered under this section may be obtained using open market prices and must be approved by the SEU Board. It is the SEU Board's discretion to require written proposals from the service providers. The decision to award the contract for professional service shall be based on performance track records, fees, time schedule and known quality of work. Fax and email proposals are acceptable for this category.

4.3 TOTAL COST GREATER THAN \$25,000:

For professional services with fees and expenses totaling more than \$25,000, the SEU shall use the "Request for Proposal" method as outlined in Appendix A. The request for proposal will clearly include the following:

- 1) Scope of work;
- 2) Schedule for work;
- 3) Request to provide fees, expenses and payment schedules;
- 4) Last date for submitting the proposal;
- 5) Evaluation method;
- 6) Address, contact person and phone number.

SEU Board approval is required.

4.4 SUBDIVIDING THE PURCHASES OF SERVICES:

The SEU shall NOT subdivide the purchase or the contract for professional services to avoid the requirements of this purchasing policy.

4.5 VENDOR POOLS:

For certain recurring projects, such as evaluations, feasibility studies, quality assurance/control, SEU may create contractor pools in a fair and open process, and pool contractors may later be assigned to specific projects without further competition.

**SECTION 5 - RECEIVING**

5.1 While taking delivery of items the individual accepting the item will sign any one of these documents: Receiving/payment copy of the purchase order, vendor's invoice, delivery slip or packing ticket. The person receiving the goods and signing the receipt document must verify the quantity and item description/part number with the purchase order or any other document and must check the condition of the items/packages to make reasonably sure that there are no problems with the delivery. If the problems are observed, the notes must be made on the receiving documents or the delivery must be returned. Partial delivery is acceptable. The original receipt of all documents must be forwarded to Office Manager.

**SECTION 6 – GREEN PROCUREMENT**

6.1 The Sustainable Energy Utility, Inc. is committed to using and purchasing energy efficient/environmentally preferable products in the most cost effective and environmentally responsible manner possible. Purchasing energy efficient products reduces energy costs without compromising quality. Purchases should be based on:

1. Consideration on the impact to the environment, economy, and human health and well-being.
2. Consideration of specification compliance, delivery time and price.
3. Preference given to environmentally preferable materials when they perform satisfactorily and can be obtained at a reasonable.

6.2 The US Government in Executive Order 12873 defined environmentally preferable products as “products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose.” This should include items that are energy efficient, conserve water, reduces toxins, conserve natural resources, contains recycled material and minimize waste.

6.3 There shall be a price preference of up to ten percent (10%) for recycled and other environmentally preferable products. This price preference must be established in advance of any bid and must be included in the bid specifications, cover letter or evaluation criteria. This percentage may be modified from time to time at the discretion of the Procurement Manager with the objective of maximizing the SEU’s purchase of environmentally preferable products.

6.4 The SEU shall perform lifecycle costing analysis on equipment that has the potential to reduce operating, maintenance or energy costs over the useful life of the equipment. On the basis of said analysis, the contracting agency shall incorporate specifications in the contract for equipment that has the lowest total cost of ownership and operation over the useful life of the equipment. The use of lifecycle costing analysis may be waived by the SEU Executive Director, in writing, if the equipment is not appropriate for lifecycle costing analysis.

6.5 The SEU shall purchase Energy Star products, as designated by the federal Environmental Protection Agency, when such products are available. The SEU may include non- Energy Star rated equipment as an alternate in the bid documents to enable lifecycle costing analysis to be performed as part of the analysis of responsive bids. The SEU shall be required to award a contract that includes the procurement of Energy Star rated equipment unless they can demonstrate, in writing, to the satisfaction of the SEU, that the interests of the SEU would be

better served by procuring non-Energy Star rated equipment.

## **SECTION 7 - EXCEPTIONS**

### **7.1 Sole Source Procurement:**

A procurement contract may be awarded without competition by the Board of Directors if there is only one source for the required professional service. Sole source procurement shall not be used unless there is sufficient evidence that there is only one source for the required procurement and that other vendor will satisfy the requirements of the SEU. The SEU shall examine cost or pricing data prior to an award under this section. Sole source procurement shall be avoided, except when no reasonable alternative sources exist. A written determination on the basis for the sole source procurement shall be included in the procurement file. The document shall include the specific efforts made to determine the availability of any other source and an explanation of the procurement need.

The agency shall negotiate with the single supplier, to the extent practicable, a contract advantageous to the agency. The agency shall enter into a formal contract stating the terms and conditions of the procurement.

The following are examples of circumstances which could necessitate sole source procurement:

- Where the compatibility of equipment, accessories, or replacement parts is the paramount consideration; items of comparable quality and equal function are not to be considered under sole source procurement;
- Where the sole supplier's item is needed for trial use or testing;
- Only the proposed entity can meet the project schedule, which is vital to the project; and/or there is not time to conduct even a simple solicitation.
- The proposed contractor has specialized experience with the SEU that cannot be duplicated without a significant investment of time or resources; is or has the predominant experts in the field; has exclusive, specialized experience that is vital to the project, including with particular organizations, institutions, conventions, techniques or processes; has complex or specialized facilities or equipment that are vital to the effort; has exclusive patent rights, copyrights, trade secrets, technical data, or other proprietary data that are vital to the project; and/or has other qualifications making clear that only he/she can perform the work.

### **7.2 Local Vendor Preference:**

Local vendor preference shall be considered for materials, equipment, service, construction contracts, and utility contracts. Local vendor preference shall be three percent (3%) of the value of the award. A local vendor is a vendor with a "remit to" address or physical store location within the State of Delaware.

### **7.3 Change Orders:**

If, after a purchase contract is awarded, it becomes necessary to add items/work because of unforeseen findings or a scheduled change, a change order can be issued without Board approval for purchases up to and including 10% of the original purchase amount when the item is still within the amount budgeted for that item. When the change order causes the purchase or contract amount to exceed the threshold under which the original contract or purchase was approved, the approval authority required for the higher contract threshold is required to approve the change order.

## **SECTION 8 – CONTRACT AND CONTRACT SIGNING AUTHORITY**

A contract is an agreement between two or more persons (this also encompasses businesses, organizations or government agencies) to do, or refrain from doing, certain things in return for something of legal value. The contract sets out the specific terms of the agreement (who, what, when, where and how) and can be written or verbal, or even implied by actions. A contract is needed if there is an obligation for SEU to do something or perform in some way, whether or not there is any exchange of money involved. All contracts binding SEU must be signed by an authorized person to be valid. Contract shall not be signed until approval by the SEU General Counsel. The SEU will not retain any firms or individuals to provide professional services without having a contract. No contract shall be approved for

a term greater than five (5) years unless it is for a contract that traditionally requires longer terms such as real estate leases or SREC Auction Transfer Agreements.

All contracts binding SEU must be in writing. The contract should shall describe the scope of work, and, if feasible, identify the anticipated total cost of the engagement prior to start of services. There should be a cap on total cost of the services where possible. The Contract should identify the individuals who will perform the services, and the hourly rates to be charged, if the SEU agrees to the engagement on an hourly fee basis. If the matter is to be billed in some manner other than by hourly rates, the rate structure must be placed in writing in the contract. Matter must be billed on a monthly basis unless expressly agreed upon otherwise.

Contracts should include a statement that the SEU does not pay interest on balances due, expenses are to be charge at their actual cost; and hourly rates cannot be change without the SEU approval; any expansion of the scope of work must be approved in advance pursuant to a new or amended letter of engagement

8.1 The contract signing authority is as follows:

- Legal Service Contracts. Legal Service Contracts, other than the SEU General Counsel contract, are to be performed under the general supervision of the SEU General Counsel. Bills for legal services shall reviewed by the General Legal Counsel.
- Contracts Over \$10,000. All contracts over \$10,000 require Board approval of basic terms. The Board may require the Executive Director to bring the final version of the actual negotiated contract back for Board review and approval before execution. The Executive Director may not execute subsequent amendments that would make major changes in contract terms (e.g., more than 10% change in funds obligated, more than 20% change in energy saved or produced, time by which savings will be achieved) unless the Board has first reviewed and approved the basic terms of the change.
- Contracts at or Under \$10,000. All contracts at or under \$10,000 may be signed by the Executive Director or, if Executive Director is unavailable, the SEU General Counsel, without Board review or approval of basic terms.
- Personnel Contracts. Personnel contracts and agreements may be signed by the Executive Director or, if Executive Director is unavailable, the General Counsel or corporate officer designated by the Executive Director, without Board review or approval of basic terms.
- Contracts with No Dollar Expenditure. Contracts not involving dollar expenditure (for example, nondisclosure agreements) may be signed by SEU Executive Director.

**APPENDIX A**

**INVITATION TO BID AND REQUEST FOR PROPOSAL PROCEDURES**

**Competitive Sealed Bids versus Competitive Sealed Proposals**

<b>Activity Description</b>	<b>Competitive Sealed Bids</b>	<b>Competitive Sealed Proposals</b>
Specifications	Specific as to performance/design	End results oriented by Scope of Work. Proposer must develop and provide solution.
Opening	Public – all data available to other bidders and the public	Public – only names of proposers are read; no pricing or other data made available.
Evaluation	Based strictly on Technical Specifications – <i>NO</i> material changes allowed.	Based on <i>quality</i> with multi-member Criteria Evaluation Committee assigning weighted values to various parts of each proposal.
Discussion	None	Individual discussions with each proposer to determine understanding of proposal requirements
Changes	None	Each proposer is allowed to re-submit a Best and Final Offer that might change the solution and the price.
Award	Lowest Responsive and Responsible Bidder.	<i>Best Value</i> Proposal – not necessarily the <i>lowest price</i> .
Public Notification	Public Advertising at least in publication with circulation in each county of the State once a week for two consecutive weeks; posting of advertising on SEU website, and State of Delaware bidding website. Additional advertising discretionary. The SEU shall consult the DE Minority and/or Women Business Enterprise Directory ( <a href="http://gss.omb.delaware.gov/omwbe/index.shtml">http://gss.omb.delaware.gov/omwbe/index.shtml</a> ) for potential vendors	Public Advertising at least in publication with circulation in each county of the State once a week for two consecutive weeks; posting of advertising on SEU website, and State of Delaware bidding website. Additional advertising discretionary. The SEU shall consult the DE Minority and/or Women Business Enterprise Directory ( <a href="http://gss.omb.delaware.gov/omwbe/index.shtml">http://gss.omb.delaware.gov/omwbe/index.shtml</a> ) for potential vendors
Notification Content	Name of product or service, how to obtain specifications; closing date ; time and date of public bid opening shall be stated in the notice for bids; bid delivery instructions.	Name of service, how to obtain scope of work; closing date; time and date of public proposal opening shall be stated in the notice for bids; bid delivery instructions.
Announcement Content	The product or service specification; criteria for selection; indication of how interested bidders can apply for consideration; the SEU's intention to award to more than 1 firm, if applicable; and description of the selection process to be used.	The project identification; description and scope of the project, location; criteria for selection of professionals including any special criteria required for any particular project; indication of how interested professionals can apply for consideration; the agency's intention to award to more than 1 firm, if applicable; and description of the selection process to be used.



## **I. COMPETITIVE SEALED BIDS**

- A. The SEU will prepare the complete specifications. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply, service, or construction item, or procurement from a sole source, unless no other manner of description will suffice. Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.
- B. If only one responsive bid is received in response to an invitation to bid or request for proposal, an award may be made to the single bidder if the SEU Board determines that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise the bid/proposal may be rejected and new bids or offers may be solicited or the proposed procurement may be cancelled.
- C. Bids are to be delivered to the Office Manager, 109 South Street, Dover, Delaware 19901. They will be opened in the presence of a witness. All bids shall become public record and shall be available for public inspection after it has been determined that there is no proprietary information within the bids. If the bid includes proprietary information it may be reacted at the request of the bidder. Copies of bids will not be provided to competing vendors. The documents related to the bids and award of the contracts shall be retained for a minimum of three years for unaccepted bids and five years for accepted bids.
- D. The SEU reserves the right to pre-qualify bidders. This pre-qualification does not prohibit the SEU from determining, in its sole opinion, the most suitable bid for the particular product or projects.
- E. For purchases \$25,000 and greater, vendor references may be checked. This will be done to verify the bidder's ability to perform the contract requirements, the quality of work and the ability to meet obligations in case of non-fulfillment of the contract.
- F. The bid notice shall provide the specifications or details of how vendors can obtain specifications. The bid notice shall also specify the closing date, time and place for receiving the bids, opening of the bids, where potential bidders may obtain contract documents, and the fee for each contract. A fee in an amount capable of recovering the cost of preparation of the specifications may be charged when specifications are picked up by the vendor.
- G. A bid bond or certified check in the amount equivalent to ten percent (10%) of the bid amount should be required with each bid for construction work, materials, supplies, or equipment over \$25,000. The requirement for a bid bond may be waived by Executive Director. If a bid does not comply with security requirements, it shall be rejected as being non-responsive. The check or bid bond of the bidder to whom the contract is awarded will be forfeited to the Sustainable Energy Utility, Inc. as liquidated damages in case the contract and performance bond are not executed within fifteen days after receiving official notification of award.
- H. A performance bond shall be required from the successful bidder for a construction contract. Such a bond shall be for the full amount of the contract. If the contractor fails to provide such a bond or a binder within fifteen days of the award of the contract, the award of the contract or the contract shall be void

Other insurance or bonds as required by State and/or Federal laws shall be furnished by the contractor. The amounts and the types of the bonds and insurance required shall be disclosed in the bid specifications. The bond shall be released by the Sustainable Energy Utility, Inc. upon successful completion of the contract and upon a detailed inspection of the contracted work.

- I. The Sustainable Energy Utility, Inc. shall have the right to reject any or all bids if deemed to be in the best interest of the SEU.
- J. All bids submitted to the Sustainable Energy Utility, Inc. shall be such as to comply with the applicable local, state and federal requirements.

## **II. COMPETITIVE SEALED PROPOSALS**

Prequalification is permitted to screen potential vendors in which such factors as financial capability, reputation and management are considered in order to develop a list of qualified vendors. The vendors should provide background information on their company, implementation methods, and references. Once the list of qualified vendors is established a Request for Proposal will be developed to include clear specifications, expectations and clearly outlined evaluation criteria. A price range may be requested but is not necessary. Detailed information will be provided during the RFP process

Evaluation of proposals must adhere to the following guidelines:

- a. There must be a process for evaluating and selecting proposals.
- b. There must be a determination as to what proposals are acceptable and unacceptable.
- c. A determination that a proposal is unacceptable shall be in writing, state the basis for the determination and be retained in the procurement file
- d. The offeror shall not be afforded an opportunity to modify its offer.

Negotiation with individual offerors

- a. The SEU can negotiate with individual offerors after their proposals are opened.
- b. Formalized procedures should be established and consistently applied to each offer.
- c. Disclosure of one offerors price to another is prohibited.
- d. The SEU must send a written request for best and final offers setting forth the date, time, and place for submission of best and final offers.
- e. The SEU must inform the offerors that if they do not submit a notice of withdrawal or a best and final offer, their immediate previous offer will be construed as their best and final.

Final Award

- a. The contract shall be awarded within 90 days of the closing date.
- b. The SEU shall award a contract to the offeror whose proposal is determined in writing to be most advantageous to the SEU.
- c. The determination shall explain the basis of the award.
- d. Office Manager shall notify each unsuccessful offeror in writing of the award.

**APPENDIX B**

**SEU QUOTATION WORKSHEET**

**Item/Service:** \_\_\_\_\_

**Estimated Dollar Value:** \_\_\_\_\_

**Account Code:** \_\_\_\_\_ **Project Code:** \_\_\_\_\_

**Vendors (At least three vendors must be used. Include at least one minority or women owned vendor if available. Go to <http://gss.omb.delaware.gov/omwbe/index.shtml> for the Minority and/or Women Business Enterprise Directory):**

**Vendor 1:** \_\_\_\_\_

**Vendor 2:** \_\_\_\_\_

**Vendor 3:** \_\_\_\_\_

**If more than three vendors are used, list them on the reverse of this form.**

**Date sent out for quotes:** \_\_\_\_\_

**Date due back:** \_\_\_\_\_

**Date of award:** \_\_\_\_\_

**Vendor receiving the award:** \_\_\_\_\_

**Total dollar amount of purchase or estimated total contract value: \$** \_\_\_\_\_