

RESOLUTION NO. 19 - 42

**RESOLUTION OF THE NEW JERSEY INFRASTRUCTURE BANK
AUTHORIZING AND ADOPTING AN AMENDED AND RESTATED PROCURMENT POLICY WITH RESPECT
TO GOODS AND SERVICES**

WHEREAS, the New Jersey Infrastructure Bank (the "I-Bank"), pursuant to and in accordance with (i) the "New Jersey Infrastructure Trust Act", constituting Chapter 334 of the Pamphlet Laws of 1985 of the State of New Jersey (codified at N.J.S.A. 58:11B-1 et seq.), as the same may from time to time be amended and supplemented (the "Act"), is authorized to purchase goods and services; and

WHEREAS, pursuant to Resolution 07-23, the I-Bank adopted, and thereafter amended, "New Jersey Infrastructure Bank Policy No. 4.00 Purchase of Good and Services," (formerly known as the "New Jersey Environmental Infrastructure Trust Policy No. 4.00 Purchase of Good and Services;" as amended, the "Procurement Policy") establishing the parameters of procurements of goods and services; and

WHEREAS, the Procurement Policy includes references to Exhibits which incorporate forms of documents and procedures supportive of the Procurement Policy; and

WHEREAS, it is the desire of the I-Bank to amend and restate the Procurement Policy through the authorization and adoption of the Policy Statement attached to and incorporated with this Resolution as Exhibit A to update language within the Procurement Policy and modify the specified roles of I-Bank staff in implementing the procurement process.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the New Jersey Infrastructure Bank (the "Board") that the Board through this Resolution authorizes and approves (i) the amendment and restatement of the Procurement Policy through the adoption by the I-Bank of the Policy Statement attached to and incorporated with this Resolution as Exhibit A, with such immaterial modifications to the Policy Statement as the Executive Director of the I-Bank shall approve, following consultation with Bond Counsel to the I-Bank, and the Office of the Attorney General of the State, and (ii) the implementation of the Policy Statement pursuant to its terms; and

BE IT FURTHER RESOLVED that the Executive Director is authorized to amend the Exhibits to the Policy to conform with State law or practices or make them consistent with long-standing I-Bank practices.

Adopted Date: August 8, 2019

Motion Made By: Kimberly Holmes

Motion Seconded By: Roger Ellis

Ayes: 7

Nays: 0

Abstentions: 0

EXHIBIT A
PROCUREMENT POLICY

NEW JERSEY INFRASTRUCTURE BANK

POLICY AND PROCEDURE

NO. 4.00 (Revised, February 2, 2007) amends April 25, 2005 policy and procedure "Purchase of Office Supplies and Equipment, Policy No. 1.15.(Revised February 17, 2011), (Revised May 10, 2018), (Revised August 8, 2019)

SUBJECT: Purchase of Goods and Services

PURPOSE: Business Operations

POLICY: Purchase of Goods and Services

I. INTRODUCTION:

A. Background

All New Jersey Infrastructure Bank (hereafter "I-Bank") procurement needs, i.e. Goods & Services, will be conducted pursuant to this Policy and Procedure. Members of each Review Committee are designated by the Executive Director in advance based on roles. Each employee designated on any one of the Review Committees engaged in the procurement of goods or services shall annually certify as to the absence of a conflict of interest or appearance of a conflict of interest in writing ¹ within 30 days of the start of the fiscal year or within 30 days of that employee's start date, and submit same to the Ethics Officer.

Due to the unique nature of certain purchases, the Executive Director may delegate more direct purchasing authority in his or her discretion.

B. General Overview:

1. Procurement of Technical and Professional Goods and Services (PS Procurements) and denoted in blueprint.
 - Tier 1-PS Procurements (An estimated contract value in excess of the current Public Bidding Threshold set by State Treasurer pursuant to Local Public Contracts Law (State Threshold))
 - Tier 2-PS Procurements (\$2,501 to State Threshold)
2. Procurements of non-professional, non-technical Goods and Services (GS Procurements) and denoted in brown print
 - Tier 1-GS Procurements (An estimated contract value in excess of State Threshold)

¹ Conflict of Interest Disclosure Statement and accompanying Memorandum are set forth in Exhibit 2. Employees participating in procurements valued in excess of the State Threshold shall submit Certifications of No Change in Conflict Disclosure Status for each such procurement.

- Tier 2-GS Procurements (\$2,501 to State Threshold)

3. All Procurements having a value less than or equal to \$2,500. (Tier 3-PS/3-GS Procurements) and denoted in black print.

II. PROCUREMENT OF PROFESSIONAL AND TECHNICAL GOODS AND SERVICES

A. Purpose

To identify the parameters for the procurement of technical and professional goods and services.

B. Example of Professional and Technical Goods and Services:

This Policy applies to professional² and technical goods and services. The following is a list of PS Procurements covered by this policy and is by no means meant to be exhaustive.

Bond Programs:

- Bond Counsel
- Bond transcript binding
- Bond Trustee
- Bond Verification
- Financial Advisor
- Investment Advisor

Operations:

- Accounting/Auditing
- Computer networking/programming
- Consulting Engineering
- Copy machines
- Insurance and Bonding
- Telephone, Cable, Internet service
- Web site design/support

C. Purchasing Thresholds

1. Contract Purchases valued ³ above the State Threshold shall be effectuated through a competitive selection process as set forth in Section II(D) below (hereafter referred to as "Tier 1-PS Procurements").
2. Contract Purchases valued ³ equal-to or below the State Threshold but greater than \$2,500 shall be effectuated through a competitive procedure and advertising as set forth in Section II(E) below hereafter referred to as "Tier 2-PS Procurements".

² Professional service is one performed by a person authorized by law to practice a recognized profession and whose practice is regulated by law or the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training.

³ Staff within a Sponsoring Unit shall develop an estimated purchase price of a good or service. In developing the estimate, staff shall look to comparable goods or services purchased by the I-Bank in prior instances and to outside prices of goods and services. In developing a price estimate staff shall not bifurcate a good or service for the purpose of negating a purchasing threshold.

3. Purchases equal to or below \$2,500 shall be effectuated through a competitive procedure as set forth in Section II(F)below hereafter referred to as "Tier 3-PS/3-GS Procurements."

D. Contract Purchases valued greater than the State Threshold (Tier 1-PS Procurements).

1. Tier 1-PS Procurement Process Subject to (a) the exceptions set forth in Exhibit 1, (b) the procurement of prequalified firms,⁴ and (c) authorization from the Board of Directors to solicit proposals, procurements shall be conducted in the following manner:

(a) RFP Requests Upon determining that there is a need for procurement services, the Sponsoring Unit (the I-Bank division requiring the particular good or service) shall prepare the following information and documentation: cover memorandum,⁵ an adequately descriptive Scope of Work/Technical Specification written in a manner that achieves the I-Bank's business needs and maximizes competition among vendors; estimated cost of good or service,⁶ a proposed bidders' list⁷ consisting of at least five potential bidders, budgetary authorization from the Chief Financial Officer, proposed schedule for completion of the procurement, contact information of I-Bank employee who shall serve as the Liaison Officer with potential bidders and be responsible for all communications with prospective bidders, proposed members of the Review committee predesignated by the Executive Director based on job function, and other information deemed necessary to the proper processing of a request. For bond counsel procurements, the I-Bank shall work with the I-Bank's Deputy Attorney General in developing the RFP.

(b) RFP Content The request for services to be performed or goods acquired shall be expressed through a Request for Proposal (RFP) which shall include (1) Specifications / Scope

⁴ The prequalification process and procurement of services relevant thereto is set forth in Exhibit 3. The I-Bank may also defer to the Office of Purchase and Property for financial auditor prequalification.

⁵ The memorandum shall be from the senior manager of the Sponsoring Unit or other individual as specified by the Executive Director.

⁶ Staff within a Sponsoring Unit shall develop an estimated purchase price of a good or service. In developing the estimate, staff shall look to comparable goods or services purchased by the I-Bank in prior instances and to outside prices of goods and services. In developing a price estimate staff shall not divide a good or service for the purpose of negating a purchasing threshold.

⁷ See Exhibit 4 for bidders' list requirements, and the obligation of the I-Bank to meet the Small, Women Owned, and Minority Business Set Aside laws. See Section D(4) for the I-Bank's obligation to make a good faith effort to implement minority and women owned business enterprise utilization goals in accordance with state legal requirements.

of Services;⁸ (2) Procurement Notice;⁹ (3) Fee proposal (in other than architect, engineering and professional service procurements); (4) submission deadline; (5) Form contract;¹⁰ (6) ranking criteria and their weights (see below), and (7) various documents to be returned with the Proposal.¹¹

(c) Review Committee Qualifications For procurements other than Financial Auditor, the Executive Director shall designate members of the Review Committee subject to the following:

1. The Review Committee shall have at least three members;
2. The members of the Review Committee shall submit a Certification of No Change in Conflict Disclosure Status to the Ethics Officer for each procurement.¹² The Ethics Officer shall confirm that the Review team complies with State Conflict of Issues requirements.
3. No, I-Bank board member shall serve on a Review Committee, or directly or indirectly participate in the procurement process;
4. All Committee members shall have the relevant experience necessary to evaluate responses to the Procurement;
5. A minimum of one Review Committee member shall have experience in the subject matter of the underlying good or service to be secured. For example, if the contract is for financial auditing services, one member shall have accounting or financial experience. Similarly, if the I-Bank is procuring network consulting services, one Review Committee member must have information technology experience;
6. While Review Committee members shall generally be limited to I-Bank board members, staff and paid consultants, other non-employees may serve on the Review Committee upon the Executive Director's approval¹³; and
7. The Liaison Officer and Review Committee members shall be contacted as to their assignment no later than the date of issuance of the notice of procurement.¹⁴

(d) Financial Audit Committee In considering a Board member's eligibility to serve on a Review Committee for a

⁸ See Exhibit 14 for Specifications and Scope of Services forms.

⁹ See Section D(1)(g) for Procurement Notice contents. See Exhibit 5a for the form of procurement notice.

¹⁰ See Exhibit 6a for form contract and Exhibit 7 for summary of material contract terms and other relevant contract provisions.

¹¹ See Exhibit 15 for documents to be submitted with the Proposal.

¹² Conflict of Interest Disclosure Forms, accompanying memoranda, and Certification of No Change in Conflict Disclosure Status are set forth in Exhibit 2.

¹³ The senior manager of the sponsoring unit shall submit a written request for exceptions to the Review Committee membership to the Executive Director.

¹⁴ See Exhibit 2 for communications to the Liaison Officer / Review Committee team members.

financial audit procurement, the I-Bank shall, in addition to the provisions of paragraph (c) above, ensure:

1. The member has no financial relationship with the I-Bank, nor is the member a partner, shareholder or officer of an organization that has a financial relationship with the I-Bank;
2. Neither the member nor any of the member's relatives is an employee of the I-Bank;
3. Neither the member nor any of the member's relatives is currently employed by, or has in the past three years been affiliated with or employed by, a present or former auditor of the I-Bank;
4. Neither the member nor any of the member's relatives receives or has received in any of the past three years direct or indirect compensation from the I-Bank for consulting, legal or financial services, regardless of the amount received and regardless of whether it is or was paid to the member or to a firm which the member or any member's relative was associated; and
5. The member is in compliance with all standards regarding financial auditors as may appear in generally accepted government auditing standards or may be established by the United State General Accounting Office.

(e) Procurement Summary A list summarizing the procurement shall be prepared as follows: name of the procurement, name of the Liaison Officer, and name and job title of each Review Committee member or if one or more Review Committee members is a member of the I-Bank's Board of Directors (financial audit procurements) identify the name of the Board member and board position.

(f) Purchase Order Number A purchase order for the procurement shall be created. Each purchase order number shall be unique having the prefix of "PS for technical and professional services and "GS" for all other purchases. A written record of all such purchases shall be maintained in an central data base or spreadsheet recording the following categories of information for each such purchase order assigned: (1) key or record #; (2) Liaison Officer; (3) date of assignment; (4) title of procurement; and (5) purchase order number.

(g) Draft RFP Review The draft RFP shall be circulated to the following individuals for review: ¹⁵

- Liaison Officer: (Administrative Review)
- Chief Financial Officer: (Budget Authorization)
- Chief Operating Officers: (Substantive Review)

¹⁵ For financial auditing procurements, the draft RFP, proposed ranking criteria and weights shall be forwarded to each member of the Review Committee for review and comment subsequent to the review of the individuals identified in this Section (g).

- Legal and Compliance Officer: (Legal/Technical Review)
- Deputy Attorney General: (Bond counsel RFP only)

(h) Notice of Procurement The I-Bank shall distribute the Notice of Procurement to the firms listed on the Bidders' List.¹⁶ A form of the procurement notice is set forth in Exhibit 5. The notice shall include, among other things, a description of the services requested, the schedule for completion (optional), the proposal deadline, the date or likelihood of a scheduled presentation or question and answer session (optional), the ranking criteria (as follows) and absolute weight of all such criteria to be applied in the Review Committee's evaluation of proposals and presentations:

1. Ranking Criteria **(Financial Auditing)** - The ranking criteria for financial auditing services shall be established by the Audit Committee inclusive of the following (for firms not pre-qualified by the Office of Purchase and Property):

- The Firm's approach to perform the scope of services and program verification as well as its organizational structure;
- Qualifications and Experience of the Firm;
- Qualifications and Experience of the team to be assigned to conduct the audit;
- Proposed fee for services to both the I-Bank and the State (to be opened and considered subsequent to technical ranking);
- Quality of the Firm's response to the RFP package;
- Demonstrated ability and qualifications to conduct governmental audits;
- Quality of relevant service to governmental entities in previous transactions;
- The Firm's familiarity with federal laws, rules, and regulations, relevant to governmental audits; and
- The Firm's presence in New Jersey.

2. Ranking Criteria **(Investment Advisor)** - The ranking criteria for investment advisory services shall be as follows:

- The Firm possess the experience and qualifications to efficiently manage funds, maintain accounts and records and provide all required services;
- The Firm possesses sufficient assets to assume and execute required responsibilities;
- The Firm's reputation as a respected, nationally known, experienced Investment Firm;
- The Firm's proposal for investment services specifically addressing compliance with federal tax law

¹⁶ See Exhibit 4 for Bidders' List requirements.

and the I-Bank's Investment Policy, and support services including online capabilities;

- Identification of the team to be assigned to service the I-Bank and the Team's relevant experience and qualifications;
- The proposed cost for services and the methodology stated for setting future compensation (to be opened and considered subsequent to technical ranking). ;
- Presentation (optional, scope of presentations and weight assigned when drafting RFP); ¹⁷ and
- The Firm's presence in New Jersey.

3. Ranking Criteria **(Financial Advisor, Financing Senior Managers and Co-managers)** - The following ranking criteria for these services shall be as follows:

- Quality of response regarding the proposed bond structure, credit, and/or marketing strategy;
- Sophisticated cash flow capabilities as required by a particular financing;
- Development of a new idea;
- Demonstrated ability to distribute New Jersey securities;
- Quality of relevant service to the I-Bank in previous transactions;
- Experience with similar financings in which the firm and its proposed financing team participated;
- Proposed fees (to be opened and considered subsequent to all ranking);
- Sufficient capital to participate in underwriting the issue;
- Presentation (optional, scope of presentations assigned when drafting RFP); and
- The firm's presence in New Jersey.

4. Ranking Criteria **(Bond counsel)** ¹⁸ - The following ranking criteria for bond counsel services shall be as follows subject to the procurement practices of the Attorney General:

- Experience of the bond counsel and the proposed team with similar transactions;
- Familiarity with the State laws relevant to the proposed bond issue;

¹⁷ If presentations are going to held, the RFP should specify (a) that they are mandatory, (b) the subject matter thereof, e.g., technical proposal (or an element thereof), (c) the criteria upon which presentations will be evaluated, e.g., qualifications of the team, (d) the weight applied to the presentation, and (e) that the highest [x number] ranked firms will be invited to give presentations. Unlike presentations, no consideration is to be given to information provided by firms in question and answer sessions in the evaluation of proposals.

¹⁸ Notwithstanding the authority of the I-Bank to retain bond counsel pursuant to N.J.S.A. 58:11B-5(L), it permits the Attorney General to administer such procurements pursuant to N.J.S.A.52:17A-13.

- Proficiency with securities, tax, and other laws relevant to the financing;
 - Quality of proposed legal strategy with respect to specific questions posed in the request for proposal;
 - Quality of past legal services rendered to the State and its authorities;
 - Fees (to be opened and considered subsequent to all ranking); and
 - The firm's presence in New Jersey.
- Ranking Criteria **(All Other PS Procurements)** The ranking criteria for all other PS Procurement RFPs shall include the rate or price to be charged by the firm (submitted in an envelope separately sealed from the proposal)¹⁹ and may also include but shall not be limited to the following: The background, qualifications, skills and experience of the Firm including but not limited to expertise concerning the area at issue, similar transactions with similar entities, the I-Bank and State, familiarity with the work, requirements and systems of the I-Bank, and capacity to meet the requirements of the project;
 - The Firm's proposed approach to the issues raised in the project description or specifications;
 - The background, qualifications, skills and experience of the assigned team or staff person;
 - The Firm's references;
 - Presentations (optional, scope of presentations assigned at time of drafting RFP)²⁰; and
 - The Firm's presence in New Jersey.
 - Price (to be opened and considered subsequent to Technical ranking).

(i) Advertisements The I-Bank shall advertise the Notice of Procurement in/on (1) a newspaper having general circulation in the State of New Jersey²¹; (2) a newspaper having general circulation in the vicinity in which the goods and professional / technical services will be utilized (if applicable); (3) the I-Bank's web site; and (4) the website maintained by the State for procurements.

¹⁹ For RFQs such as architectural, engineering and surveying service procurements, fees shall be solicited subsequent to solicitation and ranking of initial proposals.

²⁰ If presentations are going to be held, specify that presentations are mandatory, the subject matter of the presentations, e.g., technical proposal (or an element thereof), the criteria upon which presenters will be evaluated, e.g., qualifications of the team, and the weight to be applied to the presentation, and that only the top x number of firms will be invited to give presentations.

²¹ Generally, procurements shall, at a minimum, be advertised in the Star Ledger (NJ Advance Media) or Bergen Record (North Jersey Media Group) and the Trentonian (Digital First Media). Due consideration shall be given to advertise in additional publications maximizing competition including print and online trade publications.

Inquiries All inquiries from representatives of prospective bidders shall be forwarded to the Liaison Officer . **No I-Bank staff member shall engage in any substantive discussions of the procurement with prospective bidders and shall direct the prospective bidder's representative to the RFP for the requested information. Questions shall be addressed through the formal question and answer process as set forth in the RFP.**

(j) Submission Deadline Each Bidder shall submit its proposal by the specified deadline set forth in the Notice of Procurement, including a technical proposal and all other information and documentation submissions identified as material by the I-Bank in the RFP. Failure to include all such information shall constitute a material breach and result in the immediate rejection of the proposal. (See also Exhibits 7 and 8).

(k) Chapter 51 Submission to Treasury Upon receipt of the technical proposals, each bidder's Chapter 51 Disclosure (Executive Order 134 (Public Law 2005, c. 51)) shall be forwarded to the State of New Jersey Department of Treasury.

(l) Proposal Responsiveness Each RFP response shall be reviewed to ensure that each response includes the material information pertaining to RFP responsiveness as set forth in Exhibit 7.

(m) Form of Proposals All proposals shall be submitted in a form approved by the I-Bank. A bidder's failure to submit a proposal in the form specified in the RFP shall be deemed non-responsive and render the proposal ineligible for contract award. Telephonic proposals and proposals transmitted by electronic means (fax, telephone, computer, etc.) will only be considered when consistent with the RFP.

(n) Review Committee Rankings The proposals, ranking sheets, and RFP shall be forwarded to each member of the Review Committee, along with a Certification of No Change in Conflict Disclosure Status Form.²² Each member shall independently rank the proposals on the sheets provided. Only ranking criteria set forth in the RFP may be considered.²³ Upon receipt of all rankings, the scores shall be tabulated by the Liaison Officer and forward the tabulation to the Review Team members.

(o) Review Committee Meetings The Review Committee shall convene to discuss the individual rankings to confirm consistency of approach and tabulate the individual rankings and scores separately on the basis of the weights and methodology set forth in the RFP.

²² See Exhibit 2 for Conflict of Interest Certification Forms.

²³ Proposed costs, fees, and/or prices considered during the Review Committee's evaluation of proposals pursuant to the ranking criteria, shall be considered after technical review of the proposals.

1. **Review Committee Recommendation - No Presentations**
In the event the RFP does not provide for presentations, upon the I-Bank's receipt of a determination of Chapter 51 compliance by the State Department of Treasury, the Review Committee shall recommend in writing to the Executive Director)²⁴ approval to open fee proposals²⁵ from the highest ranked Bidders (typically three) and negotiate with the highest ranked firm. In the event Treasury determines the recommended Bidder has failed to comply with Chapter 51, the I-Bank shall disqualify that Bidder as lacking the requisite responsibility and the Review Committee shall recommend approval to open fee proposals from the highest ranked Bidders and negotiate with the highest ranked qualified firm, again provided the Bidder is Chapter 51 compliant.

2. **Review Committee Recommendation - Presentations** In the event the RFP requires presentations and sets forth the criteria, weight and methodology to be utilized by the Review Committee in evaluating the presentations, the Review Committee shall hear presentations by all the firms submitting the highest preliminary ranked proposals.²⁶ Subsequent to the presentation, the Review Committee members shall individually rank the proposals based on the presentation criteria and weights set forth in the RFP. Their rankings and scores²⁷ will be tabulated separately by the Liaison Officer and the Review Committee shall review the rankings and scores. Thereafter, the procurement shall comply with Section I above. No information gained from a question and answer session with prospective bidders shall be considered in the rankings.

(p) Review of Recommendation The Executive Director shall either concur with the recommendation or direct the Review Committee to pursue additional evaluation measures, consistent with the RFP, which shall be specified in writing by the Executive Director or his designee.

(q) Consideration of Fee Proposal Upon approval of the recommendation, the Liaison Officer will open the fee

²⁴ If the Executive Director is not satisfied with the recommendation, he or she may:

- a. Instruct the Review Committee to submit further support for its recommendation;
- b. Direct the Review Committee to re-negotiate the fee;
- c. Direct a re-examination of the technical criteria; or
- d. Instruct the Review Committee to re-solicit the contract.

²⁵ For RFQs such as architect, engineering and land surveying procurements, the Project Manager shall request authorization to solicit fee proposals.

²⁶ The RFP shall specify the scope of the presentations, the criteria to be ranked and the associated point value to be applied to the ranking.

²⁷ No Review Team Member shall be assigned the task of receiving or tabulating the team members' ranking.

proposals from the highest ranked firms and share them with the Review Committee.²⁸ For procurements of architectural, engineering and professional surveying services, the Liaison Officer will solicit fee proposals from the highest ranked firms, open the fee proposals, and share them with the Review Committee. The Executive Director may add one or more persons to the Review Committee to assist in the negotiation process for other than financial audit procurements.

(r) Fee negotiations Using the fee proposals as a guideline, the Review Committee shall negotiate a fair and reasonable fee with the highest ranked firm, taking into consideration all relevant factors, including, but not limited to, the estimated value of the services to be rendered and the scope, complexity, and professional nature thereof. If the Review Committee is unable to negotiate a fair and reasonable fee with the highest ranked firm, it shall formally terminate negotiations and undertake negotiations with the second highest ranked firm. Failing accord with the second highest ranked firm, the Review Committee shall formally terminate negotiations upon receipt of approval by the relevant I-Bank Committee chair and undertake negotiations with the third highest ranked firm. If the Review Committee is unable to negotiate successfully with any of the three highest ranked firms, it shall select additional professional firms in order of their competence and qualifications and it shall continue negotiations in accordance with the procedure set forth herein until an agreement is reached. The Executive Director may direct the Review Committee to re-solicit the contract. Once a final fee is agreed upon, the Review Committee shall make its recommendation to the Executive Director.

(s) Contract award Memorandum The Liaison Officer, on behalf of the Review Committee shall prepare a written report, for submission to the Executive Director, outlining its recommendations and activities in reviewing, negotiating, and selecting the recommended firm.

(t) Executive Director Review The Executive Director shall review the written report and/or responses to the RFP. For procurements other than bond counsel and financial auditor, if he or she concurs with the recommendation, the Executive Director shall recommend contract authorization to the I-Bank's Board of Directors in writing. For bond counsel procurements, if the Executive Director concurs with the recommendation, the I-Bank will forward Staff's recommendation to the Attorney General for selection of Bond counsel. The Executive Director may elect to have the Board confirm the selection of Bond counsel upon receipt of the Attorney General's approval. For financial auditor

²⁸ The fee shall be deemed public information upon issuance of the notice of intent to award.

procurements, the Audit Committee shall make a recommendation to the Board for award of the contract of financial auditor. The Board shall review the recommendation and make an award to a firm. A report that sets forth the steps taken to comply with the procedures for selection of the auditor shall be forwarded to the State Department of the Treasury within six months of making the Board Audit Committee's recommendation to the Board.

- (u) Board approval Board approval shall only be made upon receipt of the prior approval of the Executive Director.²⁹
- (v) Notice of Intent to award / Bidder's notification Upon Board approval, the I-Bank shall notify said bidders (with the exception of bond counsel procurements) in writing of the I-Bank's intent to award to the named highest ranked bidder.
- (w) Governor's Veto Period Contract award (other than bond counsel and Financial auditor (see Section D(1)(u) above)) shall not be effective until expiration of the Governor's veto period.³⁵

2. Anomalies to routine procurements.

a. RFP addenda. If, after issuance of an RFP but prior to the scheduled submission deadline, the I-Bank deems it necessary to make changes in quantity, specifications, delivery schedules, opening dates, etc., or to correct a defective or ambiguous RFP, such changes shall be effectuated as an addendum to the RFP issued to all prospective bidders to whom solicitations have been furnished at least 5 days, Saturdays, Sundays, and holidays excepted, prior to the bid due date.³⁰ Before issuing an RFP addendum, the period of time remaining until submission deadline and the need for extending this period by postponing the submission deadline time must be considered.³¹ The Executive Director shall review and approve/reject all such addenda.

b. Late proposals, modifications of proposals or withdrawal of proposals that are not considered for award shall be held unopened, unless opened for identification, until after award.

c. Errors, Mistakes, Irregularities. Provisions pertaining to mistakes and irregularities are set forth in Exhibit 8.

d. Cancellation of Proposals after Opening. An RFP should not be canceled unless cancellation is clearly in the I-Bank's interest, such as

²⁹ Prior approval may be waived during periods of emergency, etc. (See Exhibit 1)

³⁰ Addenda shall be advertised unless the pool of prospective bidders has been limited, e.g., through prequalification.

³¹ When less than 10 days remains before the submission deadline, consideration should be given to notifying Bidders of an extension of time by telephone. Such notification should be confirmed in the addendum.

where there is no longer a requirement for the professional or technical services, the RFP contains material ambiguities, the services are no longer required, proceeding is not in the I-Bank's best interest or where amendments to the RFP would be of such magnitude that a new solicitation is desirable. Where an RFP is canceled, proposals that have been received shall be returned unopened to the Bidders and a notice of cancellation shall be sent to all prospective Bidders to whom RFPs were issued. The notice of cancellation shall identify the RFP, briefly explain the reason the solicitation is being canceled and assure prospective Bidders that they will be given an opportunity to bid on any re-solicitation of proposals or any future requirements for the type of technical or professional services involved.

e. Bidder notification of Proposal non-conformance. Generally, the I-Bank shall not notify a bidder of its determination of proposal ineligibility for contract award. However, when a late proposal, late modification of proposal or late request for withdrawal of a proposal is received, I-Bank shall promptly notify the Bidder that the request or submission was received late and will not be considered.

3. Appeals

a. The I-Bank shall make a determination regarding all disputes arising under this subchapter. The aggrieved bidder shall specifically detail in writing the basis for its dispute. The I-Bank shall produce a decision in writing and mail or otherwise furnish a copy thereof to the aggrieved bidder.

b. An aggrieved bidder may request an administrative hearing within 20 days of receipt of a decision by the I-Bank (Notice of Intent to Award). The request for a hearing shall be sent to the Executive Director, ATTENTION: Adjudicatory Hearing Requests, New Jersey Infrastructure Bank, 3131 Princeton Pike, Building 4 Suite 216 Lawrenceville, NJ 08648. The request for an administrative hearing shall specify in detail the basis for the appeal. Administrative hearings shall be conducted in accordance with the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

c. Following receipt of a request for a hearing pursuant to (b) above, the I-Bank may attempt to settle the dispute by conducting such proceedings, meetings and conferences as deemed appropriate.

4. Women and Minority Business Enterprise Reporting.

The I-Bank shall encourage contracting with minority and women owned businesses, and shall track and monitor the share of contracting dollars paid to minority and women owned businesses in accordance with active legal requirements.

E. Purchases equal to or below the State Threshold but greater than \$2,500 (Tier 2-PS Procurements) .

1. Tier 2-PS Procurements. Subject to the exceptions set forth in Section (E)2 below, procurements shall be conducted in the following manner:

a. The I-Bank shall consider complying with each of the aforementioned procurement processes (Tiers 1-PS) and proceed with the process that provides the greatest opportunity for competition and public notice or

b. If it is unfeasible or uneconomical to implement the Tier 1-PS procurement process, implement a Tier 2-PS Procurement process as follows:

i. The Sponsoring Unit shall prepare the following information and documentation : cover memorandum setting forth an accurate description of the good or service, the time frame in which the good or service is needed, estimated cost of good or service,³² a proposed schedule for completion of the procurement,³³ the proposed Liaison Officer who shall be responsible for all communications during the procurement process with bidders with bidders,³⁴ a proposed bidder's list³⁵ of no fewer than five (5) firms³⁶ having demonstrated experience in the good or service to be provided,³⁷ budgetary authorization from the Chief Financial Officer, and other information deemed necessary to the proper processing of a request.

ii. A purchase order number shall be assigned to the procurement pursuant to Section D(1) (e) above.

iii. The staff members working on the procurement shall submit a Conflict of Interest Disclosure Statement to the Ethics Officer

³² Staff within a Sponsoring Unit shall develop an estimated purchase price of a good or service. In developing the estimate, staff shall look to comparable goods or services purchased by the I-Bank in prior instances and to outside prices of goods and services. In developing a price estimate staff shall not divide a good or service for the purpose of negating a purchasing threshold.

³³ The memorandum shall be prepared by staff within the Sponsoring unit or other individual as specified by the Executive Director.

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³⁵ See Exhibit 4 for bidders' list requirements, and the obligation of the I-Bank to develop bidders' lists that meet the Small, Women Owned, and Minority Business Set Aside laws. The I-Bank shall make a good faith effort to implement minority and women owned business enterprise utilization goals pursuant to Executive Order #34 (Corzine) pursuant to Section D(4) above.

³⁶ Requests for Quotation may be issued to fewer than four (4) firms having a demonstrated experience in the good or service to be procured provided the requesting unit prepares a memorandum explaining the basis for such a variance for each such procurement and the memorandum receives the written approval of the Executive Director.

³⁷ See Exhibit 4 for bidders' lists requirements, and the obligation of the I-Bank to make a good faith effort to develop a bidders' list that meets the objectives of the Small, Women Owned, and Minority Business Set Aside laws.

each December and a certification of No Change in Conflict Disclosure Status³⁸ to the Ethics Officer for each 2-PS procurement initiated.

iv. The requested service to be performed or goods acquired shall be expressed through a request for quotation (RFQ) setting forth an accurate description of the goods or services, the time frame in which the goods or services are to be supplied, the deadline for quote submissions, the criteria and absolute weights to be applied to each criteria and such other information material to the I-Bank's needs.

v. The I-Bank shall distribute the RFQ to the list of firms established in Section E(1)b(i) above and shall post the notice of procurement on the I-Bank's. The I-Bank may in its discretion publish the notice of procurement on the Office of Information Technology's web site.

c. Inquiries. All inquiries from representatives of prospective bidders shall be forwarded to the Liaison Officer. Staff members shall not engage in any substantive discussions of the procurement with prospective bidders and shall direct the prospective bidder's representative to the RFQ for the requested information.

d. Submission Deadline. Each Bidder shall submit its quote by the specified deadline set forth in the Notice of Procurement, including a technical proposal and all other information and documentation submissions identified as material by the I-Bank in the RFQ. Failure to include all such information shall constitute a material breach and result in the immediate rejection of a quote.

e. Chapter 51 Submission to Treasury. Upon receipt of the quote, the I-Bank shall forward each bidder's Chapter 51 Disclosure (Executive Order 134 (Public Law 2005, c. 51)) to the State of New Jersey Department of Treasury.

f. Quote Responsiveness. The I-Bank shall ensure the quotes include the material information pertaining to RFQ responsiveness as set forth in Exhibit 7.

g. Form of Quote. All Quotes shall be submitted in a form approved by the I-Bank. A bidder's failure to submit a Quote in the form specified by the I-Bank in the RFQ shall be deemed non-responsive and render the proposal ineligible for contract award. Telephonic quotes and quotes transmitted by electronic means (fax, telephone, computer, etc.) will only be considered when consistent with the RFP.

h. Ranking of Quotes. The quotes, ranking sheets, and RFQ shall be forwarded to the Liaison Officer for ranking based on the criteria and weights set forth in the RFQ. Each quote shall be ranked based on the criteria and weights set forth in the RFQ. In ranking the quotes, only the ranking criteria set forth in the RFQ shall be considered. The results shall be tabulated and the ranking sheets and

³⁸ Conflict of Interest Disclosure Statement, accompanying Memorandum and Certification of No Change in Conflict Disclosure Status are set forth in Exhibit 2.

results forwarded to the Project Manager, the I-Bank staff member designated by the Executive Director, and the Executive Director for recommendation to the Board Treasurer.

i. Staff shall otherwise abide by the Tier 1-PS procurement provisions of Section I D(1) (o) to Section I(D) (1) (w), as well as Sections I(D) (2) through (4) above with the exception of the following: Approval by the Board of Directors shall be substituted by written approval by the Treasurer (or Chairman in the event of vacancy) of the Board for all contract awards for Tier 2-PS technical and professional goods and services (valued less than the State Threshold).

F. Purchases equal to or less than \$2,500.

1. Tier 3-PS and Tier 3-GS Procurements. Procurements shall be conducted in the following manner:

a. The I-Bank shall implement a Tier 3-PS and 3-GS Procurement process as follows:

1. Purchase Order Purchase:

A. The Sponsoring Unit shall prepare a Purchase Order memorandum including the name of the requesting staff person, date of request, name, description and any catalog or item number of the item to be purchased, the unit price and amount of the item to be purchased, the name, address and phone number of the vendor and the delivery date desired by the requesting staff person.

B. Staff of the Sponsoring Unit shall use its best efforts to identify a minimum of two (2) reputable vendors of the requested goods or services.³⁹

C. The I-Bank shall make a good faith effort to minimize the cost of goods or services through solicitation of telephone pricing or other methods.

D. The individual within the Sponsoring Unit requesting the goods or services shall submit a Conflict of Interest Disclosure Statement to the Ethics Officer in December of each year.

E. The I-Bank shall solicit prices from two or more vendors giving due consideration to the economic savings associated with securing multiple prices in light of the time constraints in which to complete all purchases. Notwithstanding, the I-Bank shall at all times seek to prioritize purchases so as to minimize the expenditure of I-Bank funds.

F. The I-Bank shall assign a unique purchase order number for all purchase order purchases bearing a prefix of "PS" for technical and professional service procurements and "GS" for other

³⁹ See Exhibit 4 for bidders' list requirements.

purchases. The I-Bank shall maintain a written record of all such purchases in an excel type spreadsheet recording the following categories of information for each such purchase order assigned: (1) key or record #; (2) project manager; (3) date of assignment; (4) title of procurement; and (5) purchase order number.

2. Purchase Card Purchases. Purchase Card purchases may be utilized by staff designated by the Executive Director⁴⁰ for certain categories of purchases subject to certain dollar limits. The Executive Director or the Chief Financial Officer may rescind or cancel a Procurement Card in his or her discretion. Procurement Card usage shall be limited to the Authorized User whose name appears on the Procurement Card. While an Authorized User's name is printed on a Procurement Card, Procurement Cards are considered I-Bank property. No Authorized User shall use a Procurement Card prior to signing an annual Agreement with the I-Bank in December of each year.⁴¹

3. Petty Cash Disbursements.

a. I-Bank staff may expend funds as authorized by the Executive Director.

b. The I-Bank shall maintain Petty Cash and distribute to authorized staff as designated by the Executive Director.

c. The I-Bank shall keep a written record of petty cash disbursements recording the date of the disbursement, the name of the employee incurring the expense; the purpose of the disbursement, and the amount of the disbursement.

III. PROCUREMENT OF GOODS AND SERVICES EXCLUDING PROFESSIONAL AND TECHNICAL SERVICES

A. Purpose

To set forth the parameters for the procurement of goods and services excluding professional services and services of a technical nature.

B. Purchasing Thresholds

1. Contract Purchases valued⁴² above the State Threshold shall be effectuated through a competitive selection process and formal advertising

⁴⁰ The Executive Director shall designate authorized Purchase Card users, the categories of authorized purchases, and the dollar limits of individual and cumulative purchases. See Exhibit 10.

⁴¹ See Exhibit 11 for the form of Purchase Card Agreement.

⁴² Staff within a Sponsoring Unit shall develop an estimated purchase price of a good or service. In developing the estimate, staff shall look to comparable goods or services purchased by the I-Bank in prior instances and to outside prices of goods and services. In developing a price estimate, staff shall not divide a good

as set forth in Section III(C) below (hereafter referred to as "TIER 1-GS Procurements").

2. Purchases equal to or below the State Threshold but greater than \$2,500 shall be effectuated through a competitive procedure and advertising as set forth in Section III(D) below hereafter referred to as "Tier 2-GS Procurements."

3. Purchases equal to or below \$2,500 shall be effectuated through a competitive procedure as set forth in Section II(F) above hereafter referred to as "Tier 3-GS Procurements."

C. Contract Purchases valued greater than the State Threshold(Tier 1-GS Procurements).

1. TIER 1-GS Procurement Process. Subject to the exceptions set forth in Exhibit 1 and authorization from the Board of Directors to solicit proposals, procurements shall be conducted in the following manner:

a. Invitation for Bids (IFB) Requests. When requesting procurement services, the Sponsoring Unit shall compile the following information and documentation: cover memorandum,⁴³ an adequately descriptive Scope of Work/Technical Specification written in a manner that achieves the I-Bank's business needs and maximizes competition among vendors;⁴⁴ estimated cost of good or service,⁴⁵ a proposed bidders' list,⁴⁶ consisting of at least six potential bidders, budgetary authorization, proposed schedule for completion of the procurement, designated Project Manager who shall serve as a member of the Review Committee,⁴⁷ and other information deemed necessary to the proper processing of a request.

b. The I-Bank shall create a purchase order for the procurement. Each purchase order number shall be unique having the prefix of "PS" for technical and professional services and "GS" for all other purchases. The A written record shall be maintained of all such purchases in an excel type spreadsheet recording the following categories of information for

or service into component parts for the purpose of generating separate, lower priced purchases for the purpose of negating and the purchasing threshold.

⁴³ The memorandum shall be from the senior manager of the Sponsoring Unit or other individual as specified by the Executive Director.

⁴⁴ The form of the Scope of Services will vary by procurement.

⁴⁵ Staff within a Sponsoring Unit shall develop an estimated purchase price of a good or service. In developing the estimate, staff shall look to comparable goods or services purchased by the I-Bank in prior instances and to outside prices of goods and services. In developing a price estimate staff shall not divide a good or service for the purpose of negating a purchasing threshold.

⁴⁶ See Exhibit 4 for bidders' list requirements, and the obligation of the I-Bank to make a good faith effort to implement minority and women owned business enterprise utilization goals pursuant to Executive Order #34 (Corzine), develop bidders' lists that meet the Small, Women Owned, and Minority Business Set Aside laws.

⁴⁷ The Executive Director shall designate a staff member to be responsible for all communications with bidders during the procurement process, as set forth in Section D(1) (g).

each such purchase order assigned: (1) key or record #; (2) Liaison Officer; (3) date of assignment; (4) title of procurement; and (5) purchase order number.

c. The Liaison Officer shall file a Conflict of Interest Disclosure Statement with the Ethics Officer in December of each year and for each procurement, submit a Certification of No Change in Conflict Disclosure Status⁴⁸ to the Ethics Officer.

d. The request for services to be performed or goods acquired shall be expressed through an IFB which shall include (1) Specifications / Scope of Services; (2) Procurement Notice;⁴⁹ (3) Bid Form;⁵⁰ (4) Form contract;⁵¹ and (5) various documents to be returned with the bid.⁵² Absent written waiver by the Executive Director, the project estimate shall only be deemed public information upon contract award.

e. The draft IFB shall be circulated to the following individuals for review and approval subject to modification by the Executive Director:

- A. Liaison Officer: Technical review
- B. Chief Financial Officer: Budgetary
- C. Chief Operating Officer: Substantive Review
- D. Legal and Compliance Officer: Legal Review

f. Notice of Procurement. The notice shall include, among other things, a description of the services requested, the schedule for completion (optional), and the bid deadline. A form of the procurement notice is set forth in Exhibit 5. The Notice of Procurement shall be distributed to the firms listed on the Bidders' List. The Notice of Procurement shall be advertised in (1) a newspaper having general circulation in the State of New Jersey⁵³; (2) a newspaper having general circulation in the vicinity in which the goods and professional / technical services will be utilized (if applicable); (3) the I-Bank's web site; and (4) the State of New Jersey Office of Information and Technology web site.

g. All inquiries from representatives of prospective bidders shall be forwarded to the Liaison Officer. No staff member shall engage in any substantive discussions of the procurement and shall direct the prospective bidder's representative to the IFB for the requested information.

⁴⁸ The Conflict of Interest Disclosure Statement, accompanying Memorandum, and Certification of No Change in Conflict Disclosure Status are set forth in Exhibit 2.

⁴⁹ See Exhibit 5 for Procurement notice contents and form.

⁵⁰ See Exhibit 13 for Bid Form.

⁵¹ See Section 6b for contract form as well as Section C(1)(j) and Exhibit 7 (Bid Responsiveness and an identification of material contract terms.

⁵² See Exhibit 7 (Bid responsiveness) for documents to be submitted with the bid.

⁵³ Generally, all procurements shall be advertised in the Star Ledger and Bergen Record and Trentonian at a minimum. Due consideration shall be given to advertise in additional publications maximizing competition including print and online trade publications.

h. Bid Deadline. Each Bidder shall submit its Bid by the specified deadline set forth in the Notice of Procurement, including a completed bid form and all other information and documentation submissions identified as material by the I-Bank in the IFB. Failure to include all such information shall constitute a material breach and result in the immediate rejection of the Bid. Telephonic bid submissions and bids transmitted by other electronic means (fax, telephone, computer, etc.) are prohibited absent some reliable mechanism for simultaneous bid opening.

i. Bid Opening. Bid evaluations shall be conducted in a public forum at the designated place and time as set forth in the IFB, where any member of the public may attend to observe the opening of the bids. Bid technical evaluations and bid compliance with IFB provisions other than price shall occur after the close of the bid opening meeting. The Bid opening shall be conducted by an I-Bank staff member designated by the Executive Director. In conducting a bid opening the following information shall be documented: name of procurement, procurement number, date and time of bid opening, method and date of publication, names of newspapers in which notice appeared if applicable, name of bidder, bid price, number and dates of pre-bid meetings, number and dates of IFB addenda, names, signatures and dates of the individual opening the bid and at least two I-Bank Staff members as witnesses to the bid opening. A signature page shall be circulated for the bid to be signed by all members of the public present. The public shall be advised of its right to inspect any aspect of a bid submission (including sealed bid security) and the prohibition of copying of any documents or removal of documents from the room in which the bid opening meeting is being held.

j. Bid Responsiveness. Subsequent to the close of the bid opening meeting the bids shall be evaluated for compliance with the provisions of the IFB and ensure the bidders and their principals do not appear in the State of New Jersey debarment list. A bid shall be rejected if it contains one or more material deviations from the IFB or if the bidder or any of its principals appear on the State debarment list. A rejected bid is ineligible for contract award. Upon completion of his review the findings shall be documented in writing for the procurement file with a copy to the Executive Director. The I-Bank shall maintain the bid security and performance bond in a secure location and forward the remaining portions of the bid packages to the Legal and Compliance Analyst for technical review. Bid evaluations shall be based on the criteria cited in the RFP, and Contracts⁵⁴ shall be awarded to the responsible bidder submitting the lowest responsive bid.⁵⁵

k. Chapter 51 Submission to Treasury. Upon bid opening, each bidder's Chapter 51 Disclosure (Executive Order 134 (Public Law 2005, c. 51)) shall be forwarded to the State of New Jersey Department of Treasury for determination of compliance with political contribution laws.

⁵⁴ Purchase Order Agreements may be substituted for contracts when the I-Bank is procuring a good or non-technical service valued less than \$25,000 subject to the approval of the Executive Director.

⁵⁵ See Exhibit 7 for responsive bid requirements.

1. Recommendation. Upon the I-Bank's receipt of a determination of Chapter 51 compliance by the State Department of Treasury, the Project Manager shall recommend contract award to the responsible bidder submitting the lowest responsive bid in writing)⁵⁶ to the Executive Director.⁵⁷ In the event Treasury determines the recommended Bidder has failed to comply with Chapter 51, the I-Bank shall disqualify that Bidder as lacking the requisite responsibility and the Project Manager shall recommend contract award to the second lowest responsible bidder submitting a responsive bid to the Executive Director, again provided the Bidder is Chapter 51 compliant.

m. Review of Recommendation. The Executive Director shall either concur with the recommendation or direct the Review Committee to pursue additional evaluation measures or reject the bids, consistent with the RFP, which shall be specified in writing by the Executive Director or his designee. Upon receipt of authorization by the Executive Director to proceed with the recommendation for contract award to the I-Bank, the Project Manager shall prepare a memorandum and resolution (through the Executive Director) to the I-Bank Board, authorizing the award of a contract to the responsible bidder submitting the lowest responsive bid for consideration to place same on the agenda of the next scheduled I-Bank meeting.

n. Board approval. Board approval of contract award shall only be made upon receipt of the prior approval of the Executive Director and I-Bank Board.⁵⁸ The Board action shall become effective upon expiration of the Governor's veto period.⁵⁹

o. Notice of Intent to award / Return of Bid Security / Bidder's notification. Upon Board approval, the I-Bank shall return the bid security to all but the three lowest responsible bidders submitting responsive bids at which time the I-Bank shall notify said bidders in writing of the I-Bank's intent to award to the named low responsible bidder submitting the responsive bid. At that time, the I-Bank shall notify the three remaining bidders (responsible bidders submitting the lowest responsive bids) of the I-Bank's intent to award the contract to the responsible bidder submitting the lowest responsive bid and return the Bid security of these three bidders upon contract execution with the bidder submitting the low bid.

p. Governor's Veto Period. Contract awards shall not be effective until expiration of the Governor's veto period.³⁴

2. Anomalies to routine procurements.

⁵⁶ Form memorandum attached in Exhibit 12.

⁵⁷ A copy of the memorandum shall be maintained in the procurement file.

⁵⁸ Prior approval may be waived during periods of emergency, etc. (See Exhibit 1).

⁵⁹ The Governor's veto period is 10 days, See N.J.S.A. 58:11B-4(i). However, this may be expedited through a request for early approval or approval prior to the Board's meeting (prior approval) by the Executive Director to the Governor's Authorities' Unit.

a. IFB addenda. If, after issuance of an IFB but prior to the scheduled bid submission deadline, the I-Bank deems it necessary to make changes in quantity, specifications, delivery schedules, opening dates, etc., or to correct a defective or ambiguous IFB, such changes shall be effectuated as an addendum to the IFB issued to all prospective bidders to whom solicitations have been furnished at least 5 days, Saturdays, Sundays, and holidays excepted, prior to the bid due date.⁶⁰ Before issuing an IFB addendum, the period of time remaining until submission deadline and the need for extending this period by postponing the submission deadline time must be considered.⁶¹ The Executive Director shall review and approve/reject all such addenda.

b. Pre-bid conferences. A pre-bid conference or pre-bid meeting may be used as a means of briefing prospective Bidders and explaining complicated specifications and requirements as early as possible after the IFB has been issued and before the bids have been opened. If a pre-bid conference is to be held, it shall be mandatory and referenced as such in the bid documents. An electronic Question and answer process (typically through a conference call) may also be utilized in lieu of a pre-bid conference provided it is consistent with promoting full and free competition. The pre-bid conference, or electronic Q and A shall never be used as a substitute for amending a defective or ambiguous solicitation.

c. Site Inspections. A pre-bid site inspection may be recommended in a solicitation to ensure that all Bidders fully understand the nature of the work involved. If a site inspection is to be held, the bid documents shall specify whether or not the inspection is mandatory or voluntary. A Bidder's failure to conduct a non-mandatory site inspection will not excuse the Bidder of its obligation to conform the bid to all of the solicitation requirements, and failure to so conform the bid shall constitute grounds for automatic rejection of the bid.

d. Late bids, modifications of proposals or withdrawal of proposals that are not considered for award shall be held unopened, unless opened for identification, until after award. Bids received in the office designated in the Invitation for Bids after the exact time set for opening are "late bids". However, the Executive Director, or his designee, may extend the time for bid opening at the request of a Bidder who notifies the I-Bank that it intends to bid but that, due to an emergency situation, the bid may be late. The Bidder making this request must do so prior to the time of the actual bid opening. All bids will be held and remain sealed until the delinquent bid is received. In no instance shall bid openings be delayed for more than one (1) hour under this provision.

e. Errors, Mistakes, Irregularities. Provisions pertaining to mistakes and irregularities are set forth in Exhibit 8.

⁶⁰ Addenda shall be advertised unless the pool of prospective bidders has been limited, e.g., small business enterprise procurements.

⁶¹ When less than 10 days remains before the submission deadline, consideration should be given to notifying Bidders of an extension of time by telephone. Such notification should be confirmed in the addendum.

f. Cancellation of Bids after Opening. A Bid shall not be canceled unless cancellation is clearly in the I-Bank's interest, such as where there is no longer a requirement for the good or service, the IFB contains material ambiguities, the good or service is no longer required, proceeding is not in the I-Bank's best interest or where amendments to the IFB would be of such magnitude that a new solicitation is desirable. Where an IFB is canceled, Bids that have been received shall be returned unopened to the Bidders and a notice of cancellation shall be sent to all prospective Bidders to whom IFBs were issued. The notice of cancellation shall identify the IFB, briefly explain the reason the solicitation is being canceled and assure prospective Bidders that they will be given an opportunity to bid on any re-solicitation of proposals or any future requirements for the type of technical or professional services involved.

g. Bidder notification of Proposal non-conformance. Generally, the I-Bank shall not notify a bidder of its determination of proposal ineligibility for contract award. However, when a late proposal, late modification of proposal or late request for withdrawal of a proposal is received, the I-Bank shall promptly notify the Bidder that the request or submission was received late and will not be considered.

h. Tie Bids. In the event that prices submitted by two or more Bidders are identical, the contract shall be awarded based on a relative comparison of the following factors:⁶²

1. Delivery advantage: considering time, distance, convenience and facilities of Bidder;
2. History of Bidder performance as evidenced by formal complaints or, if applicable, records of outstanding performance;
3. Whether a bidder is a New Jersey based firm; and
4. Any prompt payment discounts offered.

i. Delay of Contract Award. Should administrative difficulties be encountered after bid opening which may delay the contract award beyond the Bidder's acceptance periods, the I-Bank should contact the Bidder prior to expiration of its bid and asked for a written extension of their bid expiration dates.

3. Appeals.

j. The I-Bank shall make a determination regarding all disputes arising under this subchapter. The aggrieved bidder shall specifically detail in writing the basis for its dispute. The I-Bank shall produce a decision in writing and mail or otherwise furnish a copy thereof to the aggrieved bidder.

⁶² When none of the characteristics set forth in this paragraph are available, the feasibility of splitting the award shall be considered.

k. An aggrieved bidder may request an administrative hearing within 20 days of receipt of a decision by the I-Bank. The request for a hearing shall be sent to the Office of Legal Affairs, ATTENTION: Executive Director, New Jersey Infrastructure Bank, 3131 Princeton Pike, Building 4, Suite 216 Lawrenceville, NJ 08648. The request for an administrative hearing shall specify in detail the basis for the appeal. Administrative hearings shall be conducted in accordance with the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

1. Following receipt of a request for a hearing pursuant to (b) above, the I-Bank may attempt to settle the dispute by conducting such proceedings, meetings and conferences as deemed appropriate.

4. Women and Minority Business Enterprise Reporting.

The I-Bank shall encourage contracting with minority and women owned businesses, and track and monitor the share of contracting dollars paid to minority and women owned businesses in accordance with requirements established by the .Division of Minority and Women Business Development.

D. Purchases equal to or below the State Threshold but greater than \$2,500.

1. Tier 2-GS Procurements. Subject to the exceptions set forth in Exhibit 1, procurements shall be conducted in the following manner:

a. The I-Bank shall consider complying with the Tier 1-GS procurement process or

b. If it is unfeasible or uneconomical to implement a Tier 1-GS procurement process, implement a Tier 2-GS Procurement process as follows:

5. The Sponsoring Unit shall prepare the following information and documentation : cover memorandum setting forth an accurate description of the good or service, the time frame in which the goods or services are needed, a proposed schedule for completion of the procurement,⁶³ the designated Project Manager,⁶⁴ a proposed bidders' list⁶⁵ of no fewer than five (5) firms having demonstrated experience in the good

⁶³ The memorandum shall be from the senior manager of the Sponsoring Unit or other individual as specified by the Executive Director.

⁶⁴ The contact person shall be responsible for all communications during the procurement process with bidders during the procurement process, as set forth in Section III(C) (1) (g) above.

⁶⁵ See Exhibit 4 for bidders' list requirements, and the obligation of the I-Bank to make a good faith effort to develop bidders' lists that meet the objectives of the Small, Women Owned, and Minority Business Set Aside laws. The I-Bank shall also make a good faith effort to award contracts to minority and women owned business enterprises. See Section III(C) (4) above.

or service to be provided,⁶⁶ budgetary authorization, and other information deemed necessary to the proper processing of a request.

6. A purchase order for the procurement shall be created. Each purchase order number shall be unique having the prefix of "PS" for technical and professional services and "GS" for all other purchases. A written record of all such purchases shall be maintained in an excel type spreadsheet recording the following categories of information for each such purchase order assigned: (1) key or record #; (2) project manager; (3) date of assignment; (4) title of procurement; and (5) purchase order number.

7. The Project Manager shall submit a Conflict of Interest Disclosure Statement to the Ethics Officer each December and a certification of No Change in Conflict Disclosure Status⁶⁷ to the Ethics Officer for each project he or she manages.

8. The request for services to be performed or goods acquired shall be expressed through a request for quotation setting forth an accurate description of the goods or services sought, the time frame in which the goods or services are to be supplied, the form and nature of quote submissions, the deadline for quote submissions, and such other information material to the I-Bank's needs.⁶⁸

9. The I-Bank shall distribute the Request for Quotation to the list of firms established in the bidders' list above and shall post the notice of procurement on the its web site.

10. The Tier 2-GS Procurement shall otherwise comply with Section III(C) (1) (h) through F(1) (p), and Sections III(C) (2) through (4) above with the exception of the following: Approval by the board of directors shall be substituted by written approval by the Treasurer (or Chairman in the event of vacancy) of the Board for all GS2 awards for non-technical and non-professional goods and services (valued less than the State Threshold).

E. Purchases equal to or below \$2,500.

The Procurement of Goods and services valued less than \$1,000 shall be conducted pursuant to Section II(E) above.

⁶⁶ Requests for Quotation may be issued to fewer than five (5) firms having a demonstrated experience in the good or service to be procured provided the Division Manager of the Sponsoring Unit prepares a memorandum requesting such a variance setting forth the basis for variance from this criterion for each such procurement and the Executive Director approves such request.

⁶⁷ The Conflict of Interest Disclosure Statement, accompanying Memorandum, and Certification of No Change in Conflict Disclosure Status are set forth in Exhibit 2.

⁶⁸ See Section III(D) (1) (8) above for Request for Quotations contents and form.