

RESOLUTION NO. 20-010

OF BOARD OF DIRECTORS OF ALAMEDA COUNTY WATER DISTRICT  
ADOPTING PROPOSED REVISIONS TO PROCUREMENT POLICY

---

WHEREAS, the Board of Directors of the Alameda County Water District wishes to adopt proposed revisions for the Board Policy on Procurement of Materials, Supplies, Equipment, Routine Services, Professional Services, and Construction Projects.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of ALAMEDA COUNTY WATER DISTRICT that the Procurement Policy, as documented in Exhibit A, attached hereto and incorporated herein as though fully set forth, is hereby approved.

PASSED AND ADOPTED this 13<sup>th</sup> day of February, 2020, by the following vote:

AYES: Directors Akbari, Gunther, Sethy, Weed, and Huang

NOES: None

ABSENT: None

/s/ JUDY C. HUANG

Judy C. Huang, President  
Board of Directors  
Alameda County Water District

ATTEST:

APPROVED AS TO FORM:

/s/ ANDREW WARREN

Andrew Warren, Assistant District Secretary  
Alameda County Water District  
(Seal)

/s/ PATRICK T. MIYAKI

Patrick T. Miyaki, General Counsel  
Alameda County Water District

**PROCUREMENT POLICY  
ALAMEDA COUNTY WATER DISTRICT**

**PURPOSE**

This Procurement Policy (Policy) provides a broad overview of the standards and methods which will guide the Alameda County Water District (District) in obtaining goods, equipment, materials, and professional and technical services. It shall be the District's policy to procure all goods and services in an open manner that permits, wherever possible, the agency to receive the best quality and best value of public funds. To this end, this Policy has been prepared to give direction to all employees.

Wherever in this Policy the General Manager is the designated authority, such authority shall be understood to include the designee of the General Manager.

**A. Fundamental Principles**

The District's Procurement Policy is guided by seven fundamental principles to:

1. Foster open competition for District contracts;
2. Promote economy and efficiency in District procurement activities;
3. Ensure adherence to proper standards of conduct by District Board members, officers and employees to guard against corruption, fraud, waste and abuse;
4. Maintain procurement policies and procedures that ensure compliance with applicable state and federal laws and regulations;
5. Establish and maintain an arm's length relationship with all vendors;
6. Treat all prospective contractors, consultants, and vendors in a fair and equitable manner; and
7. Provide appropriate public access to contracting information.

Based on these fundamental principles and the general standards of public sector procurement, the following set of procurement and contracting policies have been developed.

**B. Conflicts of Interest**

No director, officer, employee or agent of the District shall participate in any procedure, tasks, or decisions relative to initiation, evaluation, award, or administration of a contract if a conflict of interest, real or apparent, exists. Such a conflict of interest arises when (a) the director, officer, employee or agent, (b) any member of his or her immediate family, (c) his or her business associate, or (d) an organization which employs, or which is about to employ, any of the above described individuals has a financial or other interest in a firm that participates in a District procurement process or that is selected for an award. The standards governing the determination as to whether such an interest exists are set forth in the Political Reform Act (Section 8100 *et seq.* of the California Government Code) and in Sections 1090, 1091, and 1091.5 of the California Government Code.

### **C. Procurement Authority**

1. Board Authorization is required for all procurements exceeding \$100,000.
2. The Board at its discretion may authorize the General Manager to approve all procurements, execute agreements, amend agreements and change orders in an amount greater than \$100,000.
3. The General Manager is authorized to approve all procurements and agreements, in an amount not to exceed \$100,000.
4. The General Manager may approve all contract amendments and change orders as follows:
  - (a) When the original contract amount exceeds \$100,000, (and has been approved by the Board), the General Manager may approve amendments and change orders up to a total cumulative amount not to exceed \$100,000,
  - (b) When the Board approves any contract amendment or change order, the General Manager may approve subsequent contract amendments or change orders up to a total cumulative amount not to exceed \$100,000.
  - (c) The General Manager has \$100,000 authorization to approve contract amendments and change orders after each Board action on that contract.
5. Procedures for procurements less than \$100,000 shall be established by the General Manager.

### **D. Methods of Procurement**

1. All purchases and contracts, whether by informal bidding or formal bidding, shall be made on a competitive basis to the greatest extent practicable.
2. The method of procurement, such as informal bids or, formal competitive bidding, shall be appropriate for the type of procurement and shall be in the best interest of the District.
3. Competitive bids should be requested for maintenance repairs and public work greater than \$25,000 and awarded to the lowest responsive, responsible bidder. Alternative methods of procurement, such as a design build approach, may be utilized and in full compliance with all applicable requirements.
4. Formal competitive bidding should be used when purchasing goods and related services greater than \$25,000 and awarded to the lowest responsive, responsible bidder. On a case by case basis, a best value approach as defined in Section E below may be used in evaluating the bids received.
5. Formal competitive proposals that evaluate factors in addition to price shall be used when purchasing professional services greater than \$25,000. Specialized State and federal laws will apply to the procurement of professional services as identified in section 4525 of the Government Code.

6. An informal procurement method may be utilized for the purchase of goods and services when the estimated expenditure is greater than \$10,000 but does not exceed \$25,000. To the extent reasonable, a minimum of three written quotes shall be obtained that permit prices and other terms to be compared. The District will make every effort to undertake adequate outreach to ensure open competition. The District's informal bidding procedures using a lowest responsive, responsible bidder standard for bid comparison will serve as the typical standard on which to base the purchase of materials, equipment, or supplies; unless it is determined in writing that it is in the District's best interest to apply a "best value" approach.
7. An informal procurement method may be utilized for the purchase of goods and services when the estimated expenditure does not exceed \$10,000. To the extent reasonable, a minimum of one written quote shall be obtained.
8. In certain circumstances, a competitive negotiation process utilizing a Request for Proposal (RFP) process may be necessary or appropriate to accomplish the District's procurement goals, such as to procure specialized goods and related services.
9. The use of existing cooperative agreements (as defined in section L below) resulting from a cooperative procurement is encouraged in order to reduce duplicative effort and to achieve cost economies.
10. The District may purchase items or services without further competition under the following conditions:
  - (a) If the District rejects bids received in connection with a procurement of materials, supplies and equipment requiring formal competitive bidding, or
  - (b) When no bids or proposals are received in response to an Invitation to Bid or Request for Proposals, in which case the General Manager is authorized to procure the required item or services through direct negotiations with a vendor or to resolicit as appropriate.

**E. Procurement Documentation and Consideration of Bids and Proposals**

1. Formal competitive bidding requires preparation of bid documents that clearly set forth all requirements which must be fulfilled in order for the bid to be responsive and, once bids are received, an award, if made, to the lowest responsive and responsible bidder.
2. Formal competitive proposals, including the "best value" approach, require issuance of RFPs, which clearly set forth all the requirements, and state the qualitative factors, in addition to price, which will be used to evaluate and rank the Proposals. An award, if made, will be to the proposer receiving the highest consensus ranking based on the evaluation criteria set forth in the RFP, subject to successful negotiations with the District as may be applicable.

3. Board approval is required when rejecting all bids received for any procurement exceeding \$100,000.
4. The District may only contract with persons, firms or entities that are qualified and possess the ability to perform successfully under the terms and conditions of the solicitation documents.
5. The General Manager is authorized to establish protest procedures for competitive bidding processes.

#### **F. Execution of Procurement Contract Documents**

1. All District contracts and amendments will be in writing and executed prior to beginning performance under the contract.
2. The General Manager shall execute all contracts, with an attestation by the District Secretary, on behalf of the District that are duly approved by the Board of Directors and delegated to the General Manager.
3. The General Manager shall determine procedures for executing contracts, amendments, and change orders not subject to Board approval.

#### **G. Contract Administration**

The District shall administer all contracts to ensure that contractors conform to the terms, conditions, and specifications of all contracts and to ensure all purchases and services are received in a timely manner.

#### **H. Excluded From Procurement Policy**

A non-exclusive list of examples of non-discretionary services not governed under this policy includes, but is not limited to:

1. Electrical, water, or other regulated utility services provided by a municipality or vendor
2. Advertisements placed in a newspaper of general circulation
3. Non-discretionary Payments to other government agencies
4. Association dues
5. Inventory items

#### **I. Sole and Single Source Procurements**

Regardless of the estimated cost of the procurement, the District is not required to engage in the competitive bidding process when procuring materials, equipment, supplies or services for which there exists a single or proprietary sole source of supply. The General Manager is authorized to make a single or sole source determination in lieu of following the competitive procurement requirements outlined in Section D of this policy for procurements that do not

exceed \$100,000. When the total cumulative amount exceeds \$100,000, the approval of single or sole source procurement shall be made by the Board.

**J. Discretion to Waive the Competitive Process**

The Board of Directors may waive the requirements for formal competitive bidding or other procedures set forth in this Policy, when a determination is made that the best interests of the District are served thereby, and provided there is adequate documentation of the need for such material, supplies, equipment, public works or services. These circumstances shall be evaluated on a case-by-case basis, keeping in mind the fundamental principles of procurement set forth in this Policy. The findings justifying the waiver must be documented in the record.

**K. Emergency Contracts**

For procurements requiring competitive bidding and/or Board approval, in case of any sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services, the Board hereby authorizes the General Manager to take all necessary and proper measures in such emergency conditions to maintain the District's systems in operation. The Board also grants the General Manager the authority to determine that there is insufficient time for competitive bidding and that public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property. If the General Manager makes such a determination, the General Manager may expend or enter into a contract involving the expenditure of any sum needed in such emergency without observance of the provisions requiring competition, bids or notice. The General Manager shall promptly report on the reasons and necessity for proceeding without a competitive solicitation to the Board of Directors at the next available meeting, provided that the General Manager reports to the Board no later than 30 days after the General Manager takes such emergency action. Upon hearing the General Manager report, the Board shall determine, by a majority vote, whether or not there is a need to continue the emergency action. The Board shall continue to evaluate the emergency action, determining whether or not the emergency procurement is still required, at every regularly scheduled meeting thereafter until the action is terminated.

**L. Cooperative Purchasing Agreements**

To foster greater economy and efficiency, the District may avail itself of national, state and local intergovernmental agreements for procurement or use of common goods, materials and services. Joint procurements, state cooperative purchasing programs, and assignment of existing contract rights ("piggyback" procurements) with other public agencies may be used when consistent with applicable regulatory requirements. Such programs may be used in lieu of following the competitive bidding requirements set forth in this policy.

**M. Purchasing and Accounts Payable Credit Card Programs**

To facilitate small purchases to meet daily operational needs and to take advantage of prompt payment discounts offered by suppliers, employees designated by the General Manager will be authorized to use either a purchasing or accounts payable credit card as issued by a bank under the State of California public agency credit card program known as CAL-Card. Credit card program policies and procedures shall be established by the General Manager.

**N. Disposal of Surplus Materials or Equipment**

Due to procedural changes, certain supplies, materials or equipment are retired from use; design and specification changes sometimes leave commodities unused; new systems can produce stocks of leftover items; and the installation of more complex hardware can render older equipment obsolete. All of these retired, unused and leftover items should be declared surplus or obsolete.

Declared surplus and obsolete items will be stored at the direction of the General Manager until requested by another department or until such time as the item(s) can be disposed of. Surplus supplies, materials or equipment that cannot be effectively utilized by the District must be disposed of in a manner clearly most advantageous to the District as established by the General Manager.

**O. Revenue Generating Contracts/Concessions**

To the extent they are not otherwise governed by District policies, concession agreements are contracts where the District grants permission to use District facilities or property to vendors to sell products or services, for which the District may receive a percentage of the proceeds and/or a flat rate of compensation. Generally, these arrangements are at no direct cost to the District.

Where it is determined that a number of potential vendors are available to provide similar products or services, a competitive procurement procedure should be followed taking into consideration the economic return to the District, quality of the product, service and experience of the vendor, or other criteria that may be established in the RFP.

Contracts generating \$100,000 per year or more in revenue are subject to Board approval. Contracts generating less than \$100,000 per year in revenue shall be approved according to procedures established by the General Manager.

**P. Procurement Administrative Guidelines**

This Policy sets forth the standards and methods to be followed by the District in obtaining goods and services. The District has in place Procurement Administrative Guidelines that set forth implementing guidelines and procedures consistent with applicable law, best procurement practices, and this Procurement Policy. The General

Manager shall have the authority to maintain and update as necessary the Procurement Administrative Guidelines to give effect to this Policy and may make subsequent revisions if necessary to implement changes in applicable laws and regulations and best procurement practices and standards, or other well accepted external references.