

ARTICLE 5 - PURCHASING

2-5.501

PURPOSE AND SCOPE

- a) ~~This Article sets forth the procedures to be employed by the district~~ provides direction regarding the procurement of supplies, equipment, and ~~when procuring~~ works of improvement, professional services, and other goods and services to ensure the District will receive high quality goods and services at a fair price.
- b) The following terms are defined for the purposes of this Article:
- (1) "Formal bidding" means the solicitation of bids after approval of written specifications by the Board and pursuant to publication of a Notice Inviting Bids at least once a week for two successive weeks in a newspaper of general circulation, the last publication to be made not less than two weeks nor more than six weeks prior to the opening of bids.
 - (2) "Informal bidding" means the solicitation of written quotations without specific Board authorization, after approval of written specifications by the General Manager and pursuant to written notice to potential bidders ~~distributed~~ as determined by the General Manager.
 - (3) "Request for proposal" means the solicitation of ana written scope, schedule and cost of the work to be accomplished by a professional ~~outline of the work to be accomplished by a professional, and the associated cost.~~
 - (4) "Goods" means a tangible product, not including a work of improvement.
 - (5) "Service" means an intangible product.
 - (6) "Work of improvement" means the construction of works, structures, and equipment, the furnishing of labor, and the acquisition of real or personal property for works.
 - (7) "Designated qualified vendor" means a vendor selected for the purchase of certain items or classes of items as a result of an informal bid process which results in the receipt of at least three written quotations.

2-5.502

EMERGENCIES

- a) Works of improvements, professional services or gGoods and services, necessary for emergency repair or replacement of public facilities of the District, damaged by unanticipated calamity may be procured without formal bids, informal bids, or requests for proposal, if provisions of this Section are followed.
- b) When a meeting of the Board can be commenced in a timely manner to authorize emergency action, by 4/5's vote, the Board may authorize

procurement of works of improvement, professional services, or goods and services without formal bids, informal bids, or requests for proposal. Such authorization shall be based on substantial evidence set forth in the minutes of the meeting that the emergency will not permit delay and action is necessary to respond to the emergency. Until the emergency subsides or the work is complete, at each subsequent regular meeting the board shall determine by 4/5's vote whether to continue to terminate the authorization for emergency.

- c) When a meeting of the Board cannot be commenced in a timely manner to authorize emergency action, the General Manager may authorize procurement of works of improvement, professional services, or goods or services without formal bids, informal bids, or requests for proposal. The General Manager shall report to the board within 7 days of the emergency or at the next regular meeting scheduled within 14 days after the procurement. The report shall describe the emergency and present evidence that the emergency did not permit delay and action was necessary to respond to the emergency. Until the emergency subsides or the work is complete, at each subsequent regular meeting following the General Manager's action, the board shall determine by 4/5's vote whether the need for emergency action continues.

2-5.503 WORKS OF IMPROVEMENT

- a) The District shall procure works of improvement in accordance with the requirements of the Public Contract Code, Section § 20600, et seq.
- b) Works of improvement estimated to cost less- than \$25,000 may be procured through the informal bid process. If the work is included in the current year budget, the General Manager may solicit informal bids without prior Board approval. If the work is not included in the current year budget, Board approval shall be obtained before informal bids are solicited.
- c) Works of improvement estimated to cost \$25,000 or more shall be procured through the formal bid process. The General Manager may solicit formal bids only with prior Board approval.

2-5. ~~503~~504 PREQUALIFICATION OF BIDDERS

- a) The General Manager may designate public works projects or parts thereof works of improvement that require specialized skills or which cost in excess of five million (\$5,000,000) to be subject to prequalification of bidders.
- b) To become a prequalified bidder, a contractor must submit to the District a prequalification application consisting of a standardized questionnaire, financial statement, and statement of experience will be provided as part of the pre-qualification bidding packet.

c) The questionnaires and financial statements submitted by prospective contractors are not public records and are not subject to public inspection. Records of the names of contractors applying for prequalification status are public records and subject to disclosure. Documents submitted by a prospective contractor will be submitted under penalty of perjury.

d) ~~The District will rate prospective contractors in accordance with a rating system based on (1) the requirements of California Public Contract Code § 20101 and (2) the model guidelines and standardized questionnaire created by the State of California Department of Industrial Regulations, as modified by ~~at~~ the District's discretion to address the needs of the particular project, or projects, to which they are to be applied. The District will devise the questions, process and scoring for the rating system, so as to best evaluate a contractor's ability to successfully complete a particular project. This information will be provided as part of the pre-qualification bidding packet. The rating system will be applied uniformly and objectively to all prospective contractors, which have submitted properly completed documents in accordance with this policy.~~

~~The District may determine that only a certain number of the top scoring pass-rated contractors shall be considered prequalified for a specific project. This determination shall be made prior to issuing the Notice Inviting Prequalification for the specific project.~~

e) The District will devise the questions, process and scoring for the rating system, to best evaluate a contractor's ability to successfully complete a particular project. This information will be provided as part of the pre-qualification bidding packet. The rating system will be applied uniformly and objectively to prospective contractors, which have submitted properly completed documents in accordance with this policy. The District may determine only a certain number of the top scoring pass-rated contractors shall be considered prequalified for a specific project. This determination shall be made prior to issuing the Notice Inviting Prequalification for the specific project.

e)

f) When the District uses this prequalification process, the only contractors eligible to submit a bid are prequalified contractors. Further, such contractors shall submit bids only naming a prequalified subcontractor when subcontractors are prequalified. Any bid received listing an unqualified subcontractor will automatically be disqualified ~~ad~~ as nonresponsive. No bid shall be accepted for the project from unqualified contractors.

f)

g) A contractor's prequalification status will immediately terminate if: (1) The

contractor fails to give the District written notice of change in the information previously provided within 10 days before a bid opening; (2) the contractor's license is suspended or terminated by the California State Licensing Board; (3) the contractor is convicted of ~~any~~ crime of moral turpitude; (4) the contractor's application contains materially false information; or (5) the contractor's control over a public works contract, whether within the District's jurisdiction or otherwise is terminated for cause.

g)

h) The District shall give written notice to each contractor of the prequalification determination for that contractor. A contractor may appeal a rating of "not qualified", including a decision to revoke a previous qualified rating. There is no appeal from a finding that a contractor is not prequalified because of a failure to submit required information or failure to submit required information in a timely manner.

(1) Contractor may appeal the decision as follows:

(i) By giving written notice of appeal to the General Manager no later than ten days after receipt of the not qualified rating.

(ii) The notice of appeal shall contain at least the following:

(a) The name, address and telephone number of the person making the appeal.

(b) A description of the determination which is the subject of the appeal, and the date of the Notice of Determination; or

(c) A brief description of the grounds for the appeal.

(2) The District will provide the contractor with a written statement of the basis for the not qualified determination and supporting evidence received from others or adduced as a result of investigation.

(3) Within 14 days of sending the response to the contractor, the General Manager shall hear the appeal. The hearing shall be an informal one. The contractor may rebut evidence which is the basis for the determination and present evidence why the contractor is qualified.

(4) The General Manager ~~or~~ designee may affirm the earlier determination or reverse the determination and assign an ~~deferent~~-alternate rating. This decision will be in writing containing a summary of the facts that led to the decision. The decision of the General Manager is final. A contractor shall have no right to appeal the decision to the Board.

h)

i) The General Manager may cancel the prequalification process at any time during the prequalification process, even after receiving and scoring applications. If the prequalification process is cancelled, the normal

competitive bidding rules will apply. The District assumes no liability for the cost a prospective contractor may have incurred by submitting an application for prequalification, and the submittal of a prequalification application is a waiver to claim any such cost or losses due to cancellation of the process.

2-5.504~~5~~5 PROFESSIONAL SERVICES

- (a) The District shall procure professional services, such as legal, medical, engineering, architectural, financial, human resources, labor relations, and educational, ~~as set forth in this Section and~~ in accordance with the procedures recommended by the ethics of the discipline involved.
- ~~(a)~~(b) If the professional service is estimated to cost less than \$25,000, and it is included in the current year budget, the General Manager may ~~request proposals from~~ enter into contracts with qualified professionals without prior Board approval.
- c) If the professional service is estimated to cost \$25,000 or more, or it is not included in the current year budget, the General Manager may request proposals from qualified professionals only with prior Board approval. ~~except if the need for professional service is, in the opinion of the General Manager, so critical that time is of the essence, the General Manager may retain the professional service and inform the Board within seven days of such retention, or at the next regular meeting scheduled within fourteen (14) days after the retention.~~

2-5.505~~6~~6 OTHER GOODS AND SERVICES

- (a) The District shall procure goods and services, other than works of improvement and professional services, as mentioned above, pursuant to this section.
- ~~(b) If the goods or services are not included in the current year budget, Board approval shall be obtained before bids are requested, proposals are solicited, or purchases made. Goods and services included in the current year budget and estimated to cost less than \$25,000, shall be purchased without further board action following informal bidding procedures.~~
- ~~(c) Goods and services included in the current year budget and estimated to cost less than \$25,000 or more shall~~ may be purchased by authorized employees without solicitation of the formal ~~or informal bids~~ bidding process. The General Manager may solicit formal bids for these items only with prior board approval.
- ~~(d) Goods and services included in the current year budget and estimated to cost \$500 or more but less than \$25,000, must be purchased by authorized employees only after the General Manager has issued an informal bid request which results in the receipt of at least three written quotations. Except that, goods and services included in the current year budget and estimated to cost \$500 or more but less than \$2,500 per transaction, may be purchased without~~

~~an informal bid process if the vendor has been selected during the past twelve consecutive months as the designated qualified vendor for the items, or classes of items, to be purchased~~

~~(e) Goods and services included in the current year budget and estimated to cost \$25,000 or more, must be purchased by the General Manager through the formal bid process. The General Manager may solicit formal bids for these items only with prior board approval.~~

~~2-5.507~~ ~~OTHER~~

~~a) When works of improvement or goods or services estimated to cost \$25,000 or more are to be purchased pursuant to the Joint Venture Agreement with Triunfo Sanitation District, the procurement shall be subject to Triunfo Sanitation District approval.~~

~~b) Quality Purchases~~

~~i) Goods and services shall be procured from the responsive vendor who provides the greatest value as determined by the criteria specified in the Notice Inviting Bids, the written specifications, or the request for proposal.~~

~~ii) Wherever possible, the selection criteria specified in the Notice Inviting Bids, the written specifications, or the request for proposal, shall clearly identify standards such as price, performance, durability and service.~~

~~iii) Current and former customer satisfaction shall be evaluated and form part of the basis of award bids.~~

~~c) If the cost of goods or services is established by Federal, State or local regulation, such as is the case with utility services and the supplies and equipment appurtenant thereto, the procurement procedures set forth in this Article do not apply.~~

~~d) If a vendor is the sole source for the goods or services, the procurement procedures set forth in this Article relative to formal and informal bidding do not apply. However, the reasons for requiring the specific goods or services must be noted on the request for Board approval and purchasing documentation.~~

~~(e) The procedures, personnel, and system of forms to be used by District employees in the procurement of goods and services shall be determined by the General Manager and set forth in clean and concise written form consistent with the provisions of this Article. The directive shall be made available to all employees of the District and shall become the guide under which all procurement of goods and services is made.~~

~~2-5.507~~ EXCEPTIONS

~~Repealed by Resolution 7-95-2158~~

2-5.507 EXCEPTIONS

(a) The General Manager may approve changes to contracts ("change orders") for the procurement of supplies, equipment, contracts for professional services, and other goods and services provided;

(1) The change order is within the scope of the approved contract by the board, the cost of the changed work does not exceed the adopted budget; and,

(2) The cumulative change orders are within 10% of the original contract amount; and

(3) Other parameters set by the Board are followed.

(b) The General Manager may approve change orders for works of improvement provided the changed work is within the scope of the project approved by the board, the cost of the changed work does not exceed the budget for the work approved by the board, and:

(1) For contracts less than or equal to \$1,000,000:

(i) a single change order does not exceed \$50,000;

(ii) the total of all change orders does not exceed \$100,000;

(2) For contracts greater than \$1,000,000:

(i) a single change order does not exceed 5% of the original amount awarded by the board;

(ii) the total of all change orders do not exceed 10% of the original amount awarded by the board; and

(3) For contracts regardless of amount:

(i) a time extension up to 25% of the time stated in the contract; and

(ii) a deduction change order is within the foregoing parameters but a deduction change order shall not offset the above amounts.

(d) The General Manager shall file a written notice with the clerk when a change order is approved by the General Manager pursuant to this sub-section. The clerk shall distribute to the board as an information item at the next board meeting.

(e) Bidding shall not be required for goods or services in the following circumstances:

(1) Goods and services included in the current year budget and that have an estimated value less than \$2,500.

(2) A vendor is the sole source for the goods or services as determined by the General Manager.

(3) If the vendor has been selected during the past twelve consecutive months as the designated qualified vendor for the items, or classes of items, to be purchased.

(f) The procurement procedures set forth in this Article do not apply if the cost of goods or services is established by Federal, State or local regulation, such as is the case with utility services and the supplies and appurtenant equipment.

2-5.508 MISCELLANEOUS

a) Goods and services shall be procured from the responsive vendor who provides the greatest value as determined by the criteria specified in the Notice Inviting Bids, the written specifications, or the request for proposal.

b) The procedures, personnel, and system of forms to be used by District employees in the procurement of goods and services shall be determined by the General Manager and set forth in clean and concise written form consistent with the provisions of this Article. The directive shall be made available to employees and shall become the process for the procurement of goods and services."

2-5.508 PROFESSIONAL SERVICES

Repealed by Resolution 7-95-2158

2-5.509 ANCILLARY PROCEDURES

Repealed by Resolution 7-95-2158

2-5.510 PROCUREMENT FOR EMERGENCY REPAIRS

Repealed by Resolution 9-95-2162