

PROCUREMENT POLICY MARINA COAST WATER DISTRICT

GENERAL PROVISIONS

General

The Marina Coast Water District (MCWD or District) shall: provide for a procurement system of quality and integrity; provide for the fair and equitable treatment of all persons or firms involved in purchasing by the District; ensure that supplies and services (including construction) are procured efficiently, effectively, and at the most favorable prices available to the District; promote competition in contracting; and assure that MCWD purchasing actions are in full compliance with applicable Federal standards, State, and local laws.

Application

This Procurement Policy applies to all procurement actions of the District, except where the application of such conflicts with funding requirements, such as Federal grants. In addition, this policy will be applied in coordination with all other District policies including but not limited to:

- Annual Technology Plan Appendix
- Reimbursement and Travel Policy
- Surplus Property Policy
- Vehicle Replacement Policy
- Local Hire Policy
- Local Apprenticeship Policy

Changes in Laws and Regulations

In the event an applicable law or regulation is modified or eliminated, or a new law or regulation is adopted, the revised law or regulation shall, to the extent inconsistent with these Policies, automatically supersede these Policies.

Definition

The term “procurement,” as used in this Policy, includes the procuring, purchasing, leasing, or renting of: (A) goods, supplies, equipment, and materials defined as tangible or physical items that can be shipped, stored, and consumed in the course of District operations; and (B) Services which are intangible acquisitions and fall into the following subcategories:

- Construction and Maintenance Services
- Professional Services
- Other Services

Public Access to Procurement Information

Most procurement information that is not proprietary is a matter of public record and shall be available to the public to the extent provided in the California Freedom of Information Act.

ETHICS IN PUBLIC PROCUREMENT

General

The MCWD hereby establishes this code of conduct regarding procurement issues and actions and shall implement a system of sanctions for violations. This code of conduct, etc., is consistent with applicable Federal, State, or local law.

Conflicts of Interest

No employee, officer, Board member, or agent of the MCWD shall participate directly or indirectly in the selection, award, or administration of any contract if a conflict of interest, either real or apparent, would be involved. This type of conflict would be when one of the persons listed below has a financial or any other type of interest in a firm competing for the award:

- An employee, officer, Board member, or agent involved in making the award;
- His/her relative (including father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister);
- His/her partner; or
- An organization which employs or is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

Gratuities, Kickbacks, and Use of Confidential Information

No officer, employee, Board member, or agent shall ask for or accept gratuities, favors, or items of more than \$25 in value from any contractor, potential contractor, or party to any subcontract for personal gain and shall not knowingly use confidential information for actual or anticipated personal gain.

TYPES AND METHODS OF PROCUREMENT

Types of Procurement

There are several different types of supplies, services, and equipment that are typically purchased by the District. These procurement types are defined by the nature of the commodity or services purchased. Within each procurement type, the District has established cost thresholds, which, in turn, determine the procurement method (discussed in “Methods of Procurement” below) to be followed. The following breakdown will help identify the various types of procurement, and thus, the proper procurement method to be used when making MCWD purchases.

General Purchasing

- The purchase of tangible goods, supplies, nonprofessional services, and equipment under \$5,000.
- Construction and maintenance services.
- The purchase of any asset valued at \$5,000 or more, such as vehicles, technology, and capitalized equipment.

Professional Services Procurement

The purchase of services provided by a person or firm engaged in a profession based on a generally recognized special knowledge or skill and whose services are considered distinct and unique.

Emergency Procurement

An emergency is defined as a breakdown in machinery or equipment resulting in the interruption of an essential service, or a distinct threat to public health, safety, or welfare. In the case of an emergency requiring immediate purchase of supplies, materials, equipment or contractual services, the General Manager or ~~Deputy General Manager/District Engineer~~ his designee may authorize staff to secure in the open market, any supplies, materials, equipment, or contractual services required, regardless of the amount of the expenditure.

Methods of Procurement

The District uses a variety of methods for procuring goods and services. These methods refer to the way goods and services are purchased (as opposed to the type of goods and services purchased, as discussed above), and generally fall into the following categories:

Petty Cash Purchases

Purchases that need to be made prior to a check run under \$50 may be handled through the use of a petty cash account. Petty Cash Accounts may be established in an amount sufficient to cover small purchases made during a reasonable period, e.g., one week. For all Petty Cash Accounts, the District shall ensure that security is maintained and only authorized individuals have access to the account. These accounts should be reconciled and replenished periodically.

General Purchase Procedures

For any amounts above the Petty Cash ceiling or that can be paid through other means, but not exceeding \$25,000, the District may use general purchase procedures. Under general purchase procedures, the District shall obtain a reasonable number of quotes (preferably three); however, for purchases of less than \$1,500, only one quote is required provided the quote is considered reasonable. To the greatest extent feasible, and to promote competition, general purchases should be distributed among qualified sources. Quotes may be obtained orally (either in person or by phone), by fax, in writing, or through-procurement. Award shall be made to the qualified vendor that provides the best value to the District. If award is to be made for reasons other than lowest price, documentation shall be provided in the contract file. MCWD shall not break down requirements aggregating more than the general purchase threshold into several purchases that are less than the applicable threshold merely to: (1) permit use of the general purchase procedures or (2) avoid any requirements that apply to purchases that exceed the general purchase threshold.

Sealed Bids

Sealed bidding shall be used for all contracts that exceed the general purchase threshold of \$25,000 for procurements not using a Competitive or Non-Competitive Proposal process. This method may be used for procuring services within the general purchase threshold as well, if it is deemed necessary. Under sealed bids, the District publicly solicits bids and awards a firm fixed-price contract (lump sum or unit price) to the responsible bidder whose bid, conforming with all

the material terms and conditions of the solicitation, is the lowest price. MCWD shall use the sealed bid method if the following conditions are present:

- A complete, adequate, and realistic statement of work, specification, or purchase description is available;
- Two or more responsible bidders are willing and able to compete effectively for the work;
- The contract can be awarded based on a firm fixed-price;
- The selection of the successful bidder can be made principally on the lowest price.

Form of Solicitation – An invitation for bids shall be issued which includes the specifications and all contractual terms and conditions applicable to the procurement, and a statement that award will be made to the lowest responsible and responsive bidder whose bid meets the requirements of the solicitation. The invitation for bid must state the time and place for both receiving the bids and for the public opening.

Bid Opening and Award – Bids shall be opened publicly. All bids received shall be recorded on an abstract (tabulation) of bids, and then made available for public inspection. If only one responsive bid is received from a responsible bidder, award shall not be made unless the price can be determined to be reasonable, based on a cost or price analysis.

Competitive Proposals

Competitive Proposal process is the preferred method for procuring professional services that will exceed the general purchase threshold of \$25,000. This method may be used for procuring services within the general purchase threshold as well, if it is deemed necessary. The Competitive method permits: consideration of technical factors other than price; discussion with submitters concerning offers submitted; negotiation of contract price or estimated cost and other contract terms and conditions; revision of proposals before the final contractor selection; and the withdrawal of an offer at any time up until the point of award. Award is normally made on the basis of the proposal that represents the best overall value to the District, considering price and other factors, e.g., technical expertise, past experience, quality of proposed staffing, etc., set forth in the solicitation and not solely the lowest price.

Architectural and Engineering Services (A/E) - The District will contract for A/E services and related professional services using Qualification Based Selection (QBS) procedures, utilizing a Request for Qualifications (RFQ) or Request for Proposals (RFP). Under QBS procedures, qualifications are evaluated and the most qualified concern is selected, subject to negotiation of fair and reasonable compensation. Price is not used as a selection factor under this method.

Noncompetitive Proposals

Procurement by noncompetitive proposals (sole-source) may be accomplished with justification and approval of the Board of Directors, or when the award of a contract is not feasible using general purchase procedures, cooperative purchasing, or competitive proposals, and if one of the following applies:

- The item or service is only reasonably available only from a single source, based on a good faith review of available sources;

- An emergency exists that seriously threatens the public health, welfare, or safety, or endangers property, or would otherwise cause serious injury to the District, as may arise by reason of a flood, earthquake, epidemic, riot, equipment failure, or similar event. In such cases, there must be an immediate and serious need for supplies, services, or construction such that the need cannot be met through any of the other procurement methods, and the emergency procurement shall be limited to those supplies, services, or construction necessary simply to meet the emergency;

Each procurement action based on noncompetitive proposals shall be supported by a written justification for the selection of this method.

Blanket Purchase Order Procurement

Blanket purchase orders may be used to purchase regularly-used goods or services from the same vendor on an “as needed” basis over a period of one year or less, when numerous shipments are required for standard materials and supplies, or when a volume commitment will provide favorable pricing to the District.

Blanket purchase orders may not be used when there is no additional benefit over using a regular purchase order, when the quality of the vendor service is questionable, or when the control over District purchases could weaken significantly.

Cooperative Purchasing/Intergovernmental Agreements

MCWD may enter into State and/or local cooperative or intergovernmental agreements to purchase or use common supplies, equipment, or services. The decision to use an interagency agreement instead of conducting a direct procurement shall be based on economy and efficiency. If used, the interagency agreement shall stipulate who is authorized to purchase on behalf of the participating parties and shall specify inspection, acceptance, termination, payment, and other relevant terms and conditions. The District may use Federal or State excess and surplus property instead of purchasing new equipment and property if feasible and if it will result in a reduction of project costs. The goods and services obtained under a cooperative purchasing agreement must have been procured in accordance with 24 CFR 85.36.

Credit (or Purchasing) Cards

MCWD credit cards are to be used for travel to District-related seminars, conferences, and out-of-town meetings in compliance with the District’s Reimbursement and Travel Policy; and for emergency or special situations when goods or services cannot be reasonably or cost-effectively obtained through the normal procurement process. The District credit card transaction limit is \$2,500 per transaction. Any misuse of the District credit cards is considered improper use of District property and is subject to disciplinary action up to and including termination.

BOARD APPROVAL OF PROCUREMENT ACTIONS

The Board of Directors’ approval is required for this Procurement Policy and for any procurement action exceeding \$25,000 or for any services that will be provided directly to the Board of Directors such as legal and audit services. Otherwise, the Board charges the General Manager with the responsibility to make sure that all procurement actions are conducted in accordance with the policies contained herein.

Exceptions for Board approval of procurement actions include the following:

- Where the Board has otherwise directed or given authority to the General Manager ~~or Deputy General Manager/District Engineer~~ (such as authorization to sign consultant agreements per ~~their~~ employment contracts or by separate resolution).
- Construction change orders or contract amendments within previous Board approved contract limits.
- Annual operations and maintenance programs, insurance, employee benefits, and utility costs authorized through approval of the District's Annual Budget (such as meter replacement, property and liability insurance, health benefits, telephone, and electricity).
- Technology purchases authorized through approval of the Annual Technology Plan Appendix.
- Vehicle replacement in accordance with the District's Vehicle Replacement Policy

DELEGATION OF CONTRACTING AUTHORITY

While the General Manager is responsible for ensuring that the MCWD's procurements comply with this Policy, the General Manager may delegate procurement authority as is necessary and appropriate to conduct the business of the District. Attachment I of this document lists procurement authority as designated by the General Manager.

Further, and in accordance with this delegation of authority, the General Manager shall, where necessary, establish operational procedures (such as a procurement manual or standard operating procedures) to implement this Policy.

DOCUMENTATION

The District must maintain records sufficient to detail the significant history of each procurement action. Records are to be retained for a period of seven years after the fiscal year end in which final payment was made and/or all matters pertaining to the contact are closed.

DISPOSITION OF SURPLUS PROPERTY

Property no longer necessary for MCWD's purposes shall be transferred, sold, or disposed of in accordance with the District's Surplus Property Policy.

FUNDING AVAILABILITY

Before initiating any contract, the District shall ensure that there are sufficient funds available to cover the anticipated cost of the contract or modification.

SELF-CERTIFICATION

The MCWD self-certifies that this Procurement Policy, and the MCWD's procurement system, complies with all applicable Federal and State regulations.

ATTACHMENT I – PROCUREMENT AUTHORITY

<u>Limits</u>	<u>Position</u>	<u>Department</u>
\$ - to \$2,500	● Management Services Administrator	Administration
\$ - to \$5,000	● Director of Administrative Services ● Operations and Maintenance Superintendent ● District Engineer	All Conservation, Lab, O&M Engineering/CIP
\$ — to \$10,000	● Deputy General Manager/District Engineer	All
\$ - to \$25,000	● General Manager	All