

PROCUREMENT POLICY MARINA COAST WATER DISTRICT

1.0. 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.

2.0. 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

3.0. 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.

4.0 Definitions

“Emergency Procurement” shall mean the procurement of supplies or services necessary to expeditiously repair a breakdown in machinery or equipment, which caused the interruption of the provision of an essential District service, or necessary to prevent or mitigate a distinct threat to public health, safety, or welfare.

“General Level 1 Procurement” shall mean all procurements of \$5,000 or less, which are not an emergency or petty cash procurement.

“General Level 2 Procurement” shall mean all procurements of more than \$5,000 but do not exceed \$45,000, which are not an emergency procurement.

“General Level 3 Procurement” shall mean all procurements of more than \$45,000, which are not an emergency procurement.

“Intergovernmental procurement” shall mean a Federal, State and/or local cooperative or intergovernmental agreement to procure common supplies, equipment, or services for District purposes in which the goods or services were procured in accordance with 24 CFR 85.36.

“Petty cash procurement” shall mean a procurement for less than \$50.00 (or less than \$100 if an emergency procurement), which procurement needs to be made before District checks are normally processed.

“Procurement” means 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; or (B) services.

“Professional services” shall mean the procurement of services provided by a person or firm engaged in a profession based on a generally recognized special knowledge or skill or for which a specific license or certification is needed to engage in that profession.

“Public works” means as that term is defined in Labor Code Sections 1720, which includes, but is not limited to, construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, the laying of carpet in a public building, preconstruction inspection and land surveying work, and post construction job site cleanup.

“Sole source procurement” shall mean a procurement from a single source if written justification is provided and if one of the following applies:

- To obtain a necessary item or service that is only reasonably available from a single source.
- To match other products in use by the District or on a particular District improvement either completed or in the course of completion.
- To field test or experiment a product’s suitability for future use by the District.

5.0 Procurement Requirements for the Different Procurement Types

5.1 Emergency Procurement

For any emergency procurement, the General Manager or 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 and without the need to solicit offers or proposals from more than one source or contractor. The General Manager shall report all emergency procurements to the Board of Directors as soon as practicable.

5.3 Petty Cash Purchases

Petty Cash Accounts may be established by the General Manager 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 individuals authorized by the General Manager shall have access to the account. These accounts should be reconciled and replenished periodically.

5.4 Sole Source Procurements

All proposed sole source procurements must be supported by a good faith review of available sources and written justification provided to the General Manager or the Board of Directors depending on the amount for review and approval. At the beginning of each fiscal year, staff may submit to the General Manager a list of proposed vendors for sole source purchasing up to \$45,000 with a written justification for each such vendor for review and approval. The General Manager may submit to the Board of Directors a list of proposed contractors for sole source purchasing over \$45,000 with written justification for each such contractor to the Board of Directors for review and approval. The approval of both lists may be in effect for that fiscal year.

Public Contract Code Section 3400 provides in part that bid specifications for the construction, alteration, or repair of public works shall not be drafted (1) in a manner that limits the bidding directly or indirect to any one specific concern, or (2) calling for a designated material, product, thing, or service by specific brand or trade name unless the specification is followed by the words “or equal.” All District public works procurements shall comply with Section 3400 in its entirety.

5.5 General Level 1 Procurements; Credit Card Purchases

For purchases of goods and services less than \$5,000, only one quote is required to be obtained from a qualified source 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) or in writing by fax, email. The General Manager shall develop standard terms and conditions for General Level 1 Procurements.

If the purchase is made through an intergovernmental agreement, 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 goods and services obtained under a Federal cooperative purchasing agreement must have been procured in accordance with 24 CFR 85.36.

Purchases deemed public works procurements within Level 1 require the District and all bidders and contractors to comply with the Department of Industrial Relations’ requirements for public works including, but not limited to, contractor registration, payment of prevailing wages, certified payroll reporting, and apprenticeships. See Attachment 2.

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. 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.

5.6 General Level 2 Procurements

For purchases of goods and services over \$5,000 but less than \$45,000, three (3) quotes are required to be obtained from a qualified source. 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) or in writing by fax, email or through the competitive procurement method. 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 and approved in writing by the applicable District contracting officer in Attachment 1.

The General Manager shall develop standard terms and conditions for General Level 2 Procurements, which are not carried out through sealed bids or competitive proposals.

If the purchase is made through an intergovernmental agreement, 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 Federal cooperative purchasing agreement must have been procured in accordance with 24 CFR 85.36.

Purchases deemed public works procurements within Level 2 require the District and all bidders and contractors to comply with the Department of Industrial Relations' requirements for public works including, but not limited to, contractor registration, payment of prevailing wages, certified payroll reporting, and apprenticeships. See Attachment 2.

5.7 General Level 3 Procurements

General Level 3 Procurements are for purchases of goods and services of \$45,000 or greater and shall be carried out using either sealed bids or competitive proposals (unless the purchase is made through an intergovernmental agreement) and requires Board approval.

If the purchase is made through an intergovernmental agreement, 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 Federal cooperative purchasing agreement must have been procured in accordance with 24 CFR 85.36.

Purchases deemed public works procurements within Level 3 require the District and all bidders and contractors to comply with the Department of Industrial Relations' requirements for public works including, but not limited to, contractor registration, payment of prevailing wages, certified payroll reporting, and apprenticeships. See Attachment 2.

Sealed Bids

Sealed Bids are the preferred method for procuring public works contracts and/or goods that will exceed the general purchase threshold of \$45,000. Under sealed bids, the District publicly solicits bids and award a contract (lump sum or unit price) to the responsible bidder whose bid, conforming with all the material terms and conditions of the solicitation, provides the lowest cost to the District, price and other award factors specified in the bid specification considered.

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 approved by the General Manager.

Competitive Proposals

Competitive Proposal process, also known as the Request for Proposals process, is the preferred method for procuring professional services that will exceed the general purchase threshold of \$45,000. 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 or request for proposals 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.

6.0 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 Public Records Act.

7.0 Code of Conduct

7.1 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.

7.2 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 preparing the procurement documents, soliciting offers, proposals, or bids, evaluating, recommending, approving or making the award;
- His/her relative (including father, mother, son, daughter, brother, sister, grandparent, grandchild, 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 spouse or legal partner; or

- An organization which employs or is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

7.3 Gratuities and Use of Confidential Information

No District 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. All District officers, employees, Board members, and agents shall comply with the then current District Employee Handbook regarding accepting of gifts and gratuities.

7.4 No Splitting or Dividing Up Procurements to Avoid Procurement Requirements

The District shall not split or divide up a procurement that would aggregate \$5,000 or less or \$45,000 or less in order to avoid any requirement that apply to procurements that exceed either procurement threshold.

7.5 Amendments to Service Contracts

The District shall make every effort to minimize the amount of amendments to service contracts. If an amendment significantly changes the scope of work or the amount of the contract, the Board will consider whether or not it is in the best interest of the District to issue an amendment or to go through the competitive proposal process.

8.0 **Board Delegation of Procurement Actions**

8.1 The Board delegates to the General Manager the responsibility and authority to make sure that all procurement actions are conducted in accordance with the policies contained herein.

8.2 The Board delegates to the General Manager to sign all contracts on behalf of the District.

8.3 Notwithstanding the above, the Board of Director's approval is not required for the following:

- Where the Board has otherwise directed or given authority to the General Manager.
- Construction change orders or contract amendments within previous Board approved contract limits and the Board has delegated that approval authority to the General Manager or other District contracting officer.
- 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 procurements specifically authorized by the Board when the Board approved the Annual Technology Plan Appendix.
- Vehicle replacement approved in the then current approved Annual Budget and in accordance with the District's Vehicle Replacement Policy.

9.0 **Delegation of Procurement Authority by the General Manager**

9.1 While the General Manager has overall responsibility for ensuring that the District'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 1 of this document lists procurement authority as delegated by the General Manager to specified District managers who are authorized to act as District contracting officers within their delegated authority.

9.2 The General Manager shall establish District procedures or regulations to implement this Policy to the extent the General Manager deems appropriate and necessary.

10.0 Documentation and Record Retention

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.

11.0 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.

12.0 Funding Availability

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

13.0 Self Certification

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 \$10,000	<ul style="list-style-type: none">● Director of Administrative Services● Human Resources/Customer Relations Manager	All Administration and Conservation
\$ -	to \$25,000	<ul style="list-style-type: none">● District Engineer● Operations and Maintenance Superintendent	Engineering and CIP O&M and Lab
\$ -	to \$45,000	<ul style="list-style-type: none">● General Manager	All

ATTACHMENT 2

ADDITIONAL PUBLIC WORKS PROCUREMENT REQUIREMENTS

1. Bidders and Contractors for Public Works Procurements must:
 - Register with the Department of Industrial Relations as a Public Works Contractor
 - Pay prevailing wages
 - Maintain and submit certified payroll records
 - Follow apprenticeship requirements for projects \$30,000 or more.

2. The District must:
 - Notify potential contractors that they must register with DIR and that the project is subject to enforcement by DIR
 - Require proof of registration before accepting a bid or awarding a contract
 - Post or require contractors to post job site notices on Public Works requirements
 - Register Public Works projects with DIR within five days of awarding the contract
 - Ensure that Public Works contractors pay prevailing wages and are in compliance with Public Works laws
 - Report any suspected Public Works violations to the Labor Commissioner