

**POLICY NUMBER:** 1.7

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**NAME OF POLICY:** Finance – Purchasing

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**LAST REVISED:** December 17, 2020

**PREVIOUSLY REVISED:** N/A

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**PURPOSE:** Policy Regarding the Procurement of Equipment, Supplies, Services, and Contracts for Construction Projects

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**POLICY:**

**I. AUTHORITY CONTRACTS WITH OUTSIDE CONTRACTORS, VENDORS, AND CONSULTANTS**

**A. Procurement of Equipment, Supplies, and Services**

1. Purchases and Contracts Under \$25,000. If the estimated cost of the equipment, supplies, and services is less than \$5,000, the General Manager will attempt to secure the best value for the Authority, but need not solicit quotes, bids, or proposals. If the estimated cost is between \$5,000 and \$10,000, the General Manager will solicit informal quotes, bids, or proposals from at least two vendors/consultants. If the estimated cost exceeds \$10,000, but is less than \$25,000, the General Manager will solicit informal quotes, bids, or proposals from at least three contractors, vendors, or consultants. For all purchases or contracts for equipment, supplies, or services below \$25,000, the General Manager may award the contract or purchase order, without further approval by the Commission.

2. Purchases and Contracts of \$25,000 or More. When the estimated cost of equipment or supplies is \$25,000 or more, the General Manager will solicit formal written bids/proposals through means and methods which he or she determines to be most cost-effective, which may include advertisement in a newspaper of general circulation in the Authority.

When the estimated cost of services is \$25,000 or more, the General Manager will solicit informal proposals through means and methods which he or she determines to be most cost-effective. With the exception of contracts for services procured pursuant to California Government Code Section 4525 et seq., all services contracts shall be awarded to the proposer(s) that offer the best value to the Authority, which is defined as the overall combination of quality, price, and other elements of a proposal that, when considered together, provide the greatest overall benefit to the Authority in response to the requirements described in the solicitation documents.

All contracts in the amount of \$25,000 or more shall be submitted to the Commission for approval.

3. Qualifications Based Solicitations. Pursuant to California Government Code Section 4525 et seq. (the Mini-Brooks Act), the Authority will use qualifications-based competitive proposal procedures for the procurement of architectural, landscape architectural, engineering, environmental (but, not where the scope of work consists of planning services), land surveying or construction project management services regardless of the contract value. Under this method, proposals will be evaluated based upon qualifications and demonstrated competence.

## **B. Procurement of Construction Projects**

1. California Uniform Public Construction Cost Accounting Act. The Authority has opted in to the California Uniform Public Construction Cost Accounting Act (California Public Contract Code Section 22000 et seq., the "Act"). Pursuant to the Act projects for the construction, reconstruction, erection, alteration, renovation, improvement, demolition, repair work, painting, or repainting of Authority-owned, leased, or operated facilities will be procured as follows:

a. Projects of \$60,000 (or the current threshold set forth in California Public Contract Code Section 22032(a)) or less may be let by negotiated contract or purchase order, or performed by the Authority's own employees by force account.

b. Projects of \$200,000 (or the current threshold set forth in California Public Contract Code Section 22032(b)) or less may be let by informal procedures set forth in the Authority's informal bidding resolution and in the Act.

c. Projects of more than \$200,000 (or the current threshold set forth in California Public Contract Code Section 22032(c)) will be let by formal bidding procedures set forth in the Act.

2. Maintenance Work. The Authority may, but is not required to, use the procedures set forth in this section B for maintenance work, which includes routine, recurring, and usual work for the preservation or protection of any Authority-owned or operated facility for its intended purposes, minor repainting, resurfacing of streets and highways of less than 1 inch, landscape maintenance, and work to keep, operate, and maintain Authority-owned water, power, or waste disposal systems.

3. Other Statutorily Authorized Methods. Alternative methods of procurement, such as a design build approach, may be utilized if authorized by state law and in full compliance with all applicable requirements.

**C. Sole Source**

Regardless of the estimated cost of the procurement, the Authority is not required to follow the processes detailed in this Policy when procuring materials, equipment, supplies, or services for which there exists only a sole source of supply.

**D. Leasing of Equipment**

If the total rental payments due under a lease are below \$25,000, the General Manager will follow the procedure in Section I.A.1. If the total rental payments due under a lease are \$25,000 or more, the General Manager will follow the procedure in Section I.A.2.

**E. Reporting**

The General Manager will report to the Commission on all contracts entered into under the General Manager's authority.

**F. Contract Extensions**

Commission approval is required for extension of contracts or purchase orders beyond one (1) year where the cost of the extension is estimated to be \$25,000 or greater.

**G. Minority Business Enterprises/Women's Business Enterprises Policy**

The Authority recognizes the value of diversity and it is the intention of the Authority to create a level playing field on which Minority Business Enterprises and Women's Business Enterprises can compete fairly for contracts and subcontracts.

**H. Splitting Procurements Prohibited**

The Authority will not arbitrarily split purchases into smaller segments or partial orders to remain below the authorized dollar threshold for formal solicitation in an effort to take advantage of informal solicitation procedures or otherwise avoid requirements of this Policy.

**II. AUTHORITY CONTRACTS WITH MEMBER AGENCIES FOR WORK BY MEMBER AGENCY EMPLOYEES****A. Contracts with Member Agencies**

The Authority has entered into contracts with its member agencies for the operation and routine maintenance of Authority Facilities and additional tasks, as requested by the Authority. Work performed pursuant to contracts between the Authority and its member agencies will conform to the East Bay Dischargers Authority Amended and Restated Joint Exercise of Powers Agreement, this Policy, and the respective contract. In particular, each member agency contract will require the member agency to indemnify the Authority against all losses that may arise out of the performance of the work. Furthermore, the Authority will require the member agency to maintain insurance in

such types and amounts as the Authority may from time to time establish and naming the Authority and the member agencies as additional insureds.

#### **B. Operations and Maintenance Manager Determination**

Consistent with the above referenced contracts with the member agencies, the Authority's Operations and Maintenance Manager may authorize one or more member agencies to perform work on Authority Facilities when he or she determines that the agency(ies) can perform such work more cost effectively than if the work were let to contract by the Authority.

### **III. COOPERATIVE PROCUREMENTS WITH MEMBER AGENCIES**

To foster greater economy and efficiency, the Authority may avail itself of joint procurements and assignment of existing contract rights ("piggybacking") with its member agencies.

### **IV. PURCHASE OR LEASE OF REAL PROPERTY**

Any contract for the purchase of real property must be submitted to and approved by the Commission. Any lease or sublease of real property, including any renewal or extension of an existing lease or sublease, for which the annual rent is \$25,000 or greater, must be submitted to and approved by the Commission. For any lease or sublease of real property, including any renewal or extension of an existing lease, for which the annual rent is below \$25,000, the General Manager may approve and execute the lease, sublease, renewal, or extension, without further approval by the Commission.

### **V. GENERAL MANAGER SIGNATURE AUTHORITY**

#### **A. Signature Authority Generally**

Except as otherwise described in this Policy, the General Manager is authorized to expend funds, issue purchase orders, and sign contracts for procurements and activities for equipment, supplies, and for professional or other services where the cost is less than \$25,000.

#### **B. Change Orders and Amendments Generally**

The General Manager is authorized to issue change orders or amendments where the cost is less than \$25,000 without further Commission approval, so long as such change order or amendment would not result in a total contract value of \$25,000 or greater. The Commission reserves to itself the right to approve all amendments to contracts previously approved by the Commission.

General Manager is authorized to administer all contracts on behalf of the Authority.

**VI. EMERGENCY CONTRACTS****A. Competitively Bid Emergency Contracts**

The General Manager has been authorized by the Commission to take all necessary and proper measures in emergency conditions to keep the Authority Facilities in operation. The Authority's practice is to competitively solicit contracts for emergency services in advance of any emergency, consistent with the California Governor's Office of Emergency Services (CalOES) and Federal Emergency Management Agency (FEMA) reimbursement requirements.

**B. Non-Competitively Bid Emergency Contracts**

In the event the Authority does not have a current contract for emergency services and the emergency conditions do not permit a delay resulting from a formal competitive solicitation process, the General Manager is authorized to make emergency purchases without giving notice for bids or proposals and to enter into such contracts without prior Commission approval. The General Manager will promptly report on the reasons and necessity for proceeding without a competitive solicitation to the Commission as required by Public Contract Code Section 22050 et seq.

**C. Ratification**

Commission ratification is required for any emergency contract where the cost is \$25,000 or more and will be obtained as soon as it is practicable to do so.

**VII. WAIVER**

The Commission may suspend or waive the requirements of this Policy in any instance when the Commission deems it in the best interest of the Authority to do so.