



## Town of Discovery Bay

<b>Program Area:</b> Finance	<b>Policy Name:</b> Purchasing & Procurement	<b>Policy Number:</b> 011
<b>Date Established:</b> November 3, 2010	<b>Date Amended:</b> March 4, 2020	<b>Resolution:</b> 2020-05

### **PURCHASING AND CONTRACTING**

A purchasing system is adopted in order to establish efficient procedures for the purchase or procurement of supplies, services and equipment at the lowest possible cost commensurate with the level of quality required, to exercise financial control over the purchase or procurement, and to clearly define authority for the purchasing function.

#### **I. Purchasing Agent Designated;**

a. The General Manager is the designated Purchasing Agent. The Purchasing Agent may delegate all or a portion of the purchasing duties to any District staff member. The Purchasing Agent shall have the authority to:

- Purchase or contract for supplies, services and equipment required by the District, in accordance with purchasing procedures outlined in this policy;
- Negotiate and recommend execution of contracts for the purchase of supplies, services and equipment;
- Act to procure for the District the necessary quality in supplies, services and equipment at the lowest responsible cost to the district;
- Prepare and recommend to the Board of Directors revisions and amendments to the purchasing rules;
- Establish and maintain such forms as reasonably necessary to the operation of purchasing guidelines;
- Supervise the inspection of all supplies, services and equipment purchased to insure conformance with required specifications;
- Recommend the sale or disposal of all supplies and equipment which cannot be used by the District, or which are no longer suitable for District use;

- Maintain a bidder's list and other records necessary for the efficient acquisition of goods and services.
- b. The General Manager (or designee) is hereby authorized to sign all contracts for the purchase of goods or services awarded pursuant to this section or separately approved by the Board of Directors.

**Purchase or Procurement of Goods or Services Exceeding \$25,000**

- a. When the amount or value involved is at least \$25,000, the purchase shall be made through competitive bid as outlined below:
  - Notice inviting bids shall include a general description of the services and/or articles to be purchased or sold, where bid blanks and specifications may be obtained, the time and place for bid openings, and whether bid deposit or bond and faithful performance bond will be required
  - Notice inviting bids shall be posted on the Districts website at [www.todb.ca.gov](http://www.todb.ca.gov) and in at least two public places in the District that have been designated as the location for posting public notices, at least 10 days before the date of opening the bids.
  - The Purchasing Agent shall also solicit sealed bids from all responsible prospective suppliers whose names are on the bidder's list and may advertise the notice inviting bids in applicable publications.
  - When deemed necessary by the Purchasing Agent or Board of Directors, any bidder may be required to submit a bid deposit or bond in an amount determined by the Purchasing Agent or Board of Directors. A successful bidder (and the bidder's surety, if a bond is furnished) shall be liable for any damages upon the bidder's failure to enter into a contract with the District or upon the failure to perform in accordance with the tenor of their bid.
  - When deemed necessary by the Purchasing Agent or Board of Directors, any person or entity entering into a contract with the District may be required to furnish a faithful performance deposit or bond in an amount determined by the Purchasing Agent or Board.
  - Bids shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than 30 calendar days after the bid opening.
  - At its discretion, the Board of Directors may reject all bids presented and re-advertises for bids.

- Contracts shall be awarded by the Board of Directors to the lowest responsible bidder, except as otherwise provided herein.
- All contracts shall be processed with a tracking Purchase Order and all funds encumbered at the contract value.
- If two or more bids received from responsible bidders are for the same total amount or unit price, quality and service being equal, preference shall be given to the local vendor, or the Board of Directors may accept the lowest bid made by negotiation with the tie bidders and the Purchasing Agent at the time of the bid opening.

## **II. Award of Bid**

- a. Purchase or Procurement or Contracts shall be awarded after consideration of the following factors:
  - The ability, capacity and skill of the bidder to perform the contract or provide the service required;
  - The ability of the bidder to perform the contract or provide the service promptly or within the time specified, without delay or interface;
  - The reputation and experience of the bidder;
  - The previous experience of the District with the bidder;
  - The previous existing compliance by the bidder with federal, state, and local laws and ordinances;
  - The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
  - The quality, availability, and adaptability of the supplies or contractual services to the particular use required;
  - The ability of the bidder to provide future maintenance and service of the use of the subject of the contract;
  - The number and scope of conditions attached to the bid.

- b. The provisions of this section requiring competitive bidding shall not apply to the following:
- Contracts involving the acquisition of professional or specialized services, such as, but not limited to, services rendered by architects, attorneys, engineers, and other specialized consultants;
  - When the District's requirements can be met solely by a single patented article or process;
  - When no bids have been received following bid announcements under other provisions of this section;
  - When the amount involved is less than \$25,000;
  - When an emergency requires that an order is placed with the nearest source of supply;
  - When a purchase involves goods of a technical nature, and it would be difficult for a vendor to bid on a standard set of specifications, the Purchasing Agent shall undertake a thorough review of known products and a comparison of features which would most closely meet the District's needs at the least cost;
  - For janitorial services for District buildings and facilities;
  - When another agency has administered a competitive bidding process within the past two years for the same or substantially similar supplies, services or equipment and the District desires to utilize that other agency's bidding process.
- c. When the procurement falls into any of the categories listed above, and the amount does not exceed \$25,000, the Purchasing Agent may authorize the use of the other purchasing procedures set forth in this section, depending on the value of the goods or services. When the procurement falls into one of the categories listed above, and the amount exceeds \$25,000, procurement without competitive bidding must be authorized by the Board of Directors by simple majority, except as otherwise provided above.
- d. Any request for an exception under this section shall include the nature of the contract, amount of the contract, and the reasons why competitive bidding is not feasible.

### **III. Purchase or Procurement of Goods or Services that exceed \$50,000**

- a. All purchases or procurement for goods or services that exceed \$50,000 shall be authorized by the Board of Directors at a Regular or Special Meeting thereof.
- The provisions of this section requiring Board authorization shall not apply for maintenance and repair of District owned buildings or facilities.

- b. If the amount or value involved in a purchase is less than \$25,000, the Purchasing Agent may allow the purchase without written bid, by informal price checking through telephone or mail inquiry, comparison of prices on file or otherwise, subject to Board authorization.
- c. Every attempt shall be made to receive at least three price quotations.
- d. At the discretion of the Purchasing Agent, the acquisition of goods and services the value of which less than \$25,000, the formal competitive bid process may be used.

**IV. Purchase or Procurement between \$5,001 and \$24,999**

If the amount or value involved in a purchase is at least \$5,001, but less than \$24,999, the Purchasing Agent may make the purchase, without written bid, by using purchase orders or by direct purchase and through comparison pricing from at least 3 sources via telephone, internet, written price proposal or using on site information.

**V. Purchase or Procurement Up To \$5,000**

If the amount or value involved in a purchase is \$5,000 or less, the Purchasing Agent may make the purchase, without written bid, by using direct purchase, including by using available petty cash.

**VI. Credit card purchases.**

It is recognized that certain authorized employees are issued a District Credit card for incidental purchases. Incidental purchases include fuel for vehicles, small supplies such as hardware, and online purchases where a credit card is the only method of payment. In addition, while traveling on District business, credit cards may be used for transportation, hotel, and meals when applicable and authorized by the General Manager. All credit card purchases shall be authorized by the General Manager. Credit Card purchases shall not be used for the purpose of evading the competitive bidding provisions of this Policy.

**VII. Purchase Orders.**

All Purchase or Procurement over \$5,000 shall be documented by a purchase order prepared by the Purchasing Agent. The original copy shall be directed to the vendor and one copy shall be retained for the purchase order file. The final copy shall be directed to the department for whose benefit the purchase is being made to be used as a receiving report.

**VIII. Availability of Sufficient Funds.**

No purchase order shall be issued until it has been ascertained that there is to the credit of the department of the District for whose benefit such purchase is to be made a sufficient unappropriated balance in excess of all unpaid obligations to defray the amount of such order.

**IX. Inspect and Review.**

The Purchasing Agent shall require the inspection of supplies and equipment delivered, and contractual services performed, to determine their conformance with the specifications and requirements set forth in the order or contract.

**X. Surplus Supplies and Equipment.**

At such times as determined by the Purchasing Agent, reports shall be prepared showing all supplies and equipment which are no longer used or which have become obsolete or worn out. The Purchasing Agent shall have the authority to sell trade or exchange all said supplies and equipment. The manner of disposing of surplus property shall be consistent with the procedures for Purchase or Procurement set forth in this section, depending on the value of the property.

**XI. Splitting Orders Prohibited.**

It is unlawful to split or separate into smaller orders the purchase of supplies, materials, equipment or services for the purpose of evading the competitive bidding provisions of this Policy.

**XII. Exceptions – Public Projects.**

This Policy is expressly made inapplicable to bids for public projects as defined by Public Contracts Code Section 20680 and where the expenditure required for the public project exceeds the limit set by Public Contracts Code Section 20682. The provisions contained in Public Contracts Code Section 20680 et seq.

**XIII. Exceptions – Contracting during Declared Emergencies, Emergency Cleanup, or Emergency Cleanup of Hazardous Materials or Waste.**

When, in the discretion of the General manager, or designee, it is determined that a declared Emergency exists, or a hazardous spill has occurred and that immediate cleanup is required to prevent the spill from entering the storm drain system or any watercourse, the General Manager, or designee, may contract for the cleanup of the spill. Any such contract in the amount of \$1,000,000 or less may be entered into on behalf of the District by the General Manager, or designee, without prior Board of Directors approval; however, a contract in excess \$1,000,000 shall be ratified by the Board of Directors at the next regular or special meeting of the Town of Discovery Bay Board of Directors.

**XIV. Protest Procedure.**

After the award of any contract, any unsuccessful bidder may challenge the bid procedure by filing a written protest with the General Manager. The protest must set forth the reasons for the challenge and must be filed within 10 days of the award of the contract. The General Manager shall review the protest and provide a written reply in an expeditious manner. The decision of the awarding authority with respect to the protest shall be final. Failure to file a timely protest shall be deemed a waiver of any challenge to the procedure or award of contract.