



Meeting: **Reservoir Committee Agenda Item 2.2**

October 22, 2021

Subject: **Procurement and Contract Policy**

Requested Action:

Approve a new Procurement and Contract Policy.

Detailed Description/Background:

As the Sites Reservoir Project continues to advance, there is a need to procure materials and services using a standardized approach in conformance with Policy established by the governing body. The attached proposed Procurement and Contract Policy is a new document that memorializes the informal practices previously applied and adds new conditions (based on common public water agency practices) that operationalize the procurement and contracting aspects of the Delegation of Authority Matrix December 18, 2020. The proposed Policy provides the Sites Project Authority's with standards for procurement and contracting in alignment with the values established in the 2020 Strategic Plan. The proposed policy is also in full compliance with funding agreements, applicable law and the bylaws of the JPA. Of particular note, to the extent not specifically provided for in the Authority's JPA or enabling JPA Act, the proposed policy reflects the powers and laws applicable to Westside Water District.

The policy provides definitions and guidance for the below procurement and contracting methods to be conducted by the Sites Project Authority:

- Micro-Purchase
- Small Purchase Procedures
- Sealed Bids
- Competitive Proposal
- Sole Source

Prior Action: None.


Fiscal Impact/Funding Source:

The preparation of the Policy was completed within the budgeted funds for Controls activities.

Staff Contact: Joe Trapasso

Primary Service Provider: Brown and Caldwell

Attachments: Attachment A – Sites Project Authority Procurement & Contract Policy

	DOCUMENT TYPE	Policy
	DOCUMENT NO.	A02
	ADOPTED	TBD
	LAST UPDATED	TBD

SITES PROJECT AUTHORITY PROCUREMENT AND CONTRACT POLICY

1. Purpose:

This Procurement and Contract Policy establishes the Sites Project Authority (“Authority”)’s service procurement and contract standards. These standards align with the values of transparency, accountability, trust, integrity, diversity, and inclusivity and promote the effective procurement of services in a manner that complies with applicable law.

2. Definitions:

Adequate Number: At least two service procurement/proposal submissions.

Administrative Procedures: A separate detailed documentation of processes that is developed, implemented, and revised by staff.

Professional Services: Services performed by a firm or vendor that is selected based on qualifications applicable to the services sought.

Competitive Proposal: Procurement method by which more than one service provider is solicited to submit a proposal, qualifications, or offer to perform services.

Contract: A legally binding agreement to exchange something of value between two or more parties, one of which is the Authority. Contracts can include, but are not limited to, any agreement intended to have a binding effect, such as consulting services agreements or task orders.

Contract Negotiation: The process of coming to an agreement on a set of legally binding terms, conditions, rights, obligations, and legal considerations.

Delegation of Authority Matrix: A separate document providing delegations of authority to parties in a contractual agreement with the Authority.

Non-competitive Procurement: Procurement method that results from only one Professional Services provider responding to a Request For Proposals (RFP).

Procurement: The process for requisitioning goods or services for the Authority with an agreed-upon scope, schedule, and deliverables.

Project: The Sites Reservoir Project.

Stakeholder(s): Agents, employees, and Reservoir Committee and Authority Board members currently in a contract with the Sites Project Authority. In certain circumstances a Stakeholder could include an existing Professional Service providers contracted by the Authority.

3. Policy:

Procurements will be conducted to acquire Professional Services or materials that are deemed necessary by the Authority to implement the Project. The Executive Director is authorized to initiate procurement of Professional Services or materials on behalf of the Authority. Contracts may be awarded by the Authority after evaluating quality, expected life, and other factors deemed necessary to ensure the best outcome for the Project. Funds to support Contract payments will be authorized within the approved Authority budget and not to exceed the Contract authority provided by the Authority Board at the time of Contract award.

Conduct During Procurements:

In addition to the Authority's Conflict of Interest Code and conduct standards applicable to Stakeholders through their designating agencies, Stakeholders shall abide by the standards listed below to promote fair and open competition while a procurement is being conducted:

- No Stakeholder shall participate in the selection, award, or administration of a bid or contract if the individual has a real or apparent conflict of interest as determined by the Authority Board. A conflict of interest would include, but not be limited to, a circumstance in which a Stakeholder, any member of the Stakeholder's family, the Stakeholder's business partner, or an organization that employs or is about to employ any of the parties indicated herein has a financial interest or other personal benefit from the Professional Service provider or other contracting party considered for a contract.
- Stakeholders shall neither solicit nor accept gratuities, gifts, consulting fees, trips, or favors from a potential Professional Services provider, or from the immediate family or employees of a Professional Services provider, potential Professional Services provider, or bidder, or from any party to a sub-agreement or ancillary Contract entered into pursuant to a Contract.

Procurement Methods and Resulting Contract Types:

- a. **Micro-Purchase:** Micro-purchase enables non-competitive acquisition of Professional Services or materials in which the aggregate dollar amount of a single contract does not exceed \$10,000. The Executive Director may approve and complete any micro-purchases.
- b. **Small Purchase Procedures:** Small purchase procedures provide a simple and informal competitive procurement method for securing Professional Services, materials, or other property that do not cost more than the simplified acquisition threshold of \$250,000. The Executive Director may approve and complete the procurement of any necessary Professional Services, materials, or combination thereof in any amount of no more \$100,000 per occurrence, in aggregate. Purchases

of materials, supplies, Professional Services, or equipment over \$100,000 must be approved by the Reservoir Committee and Authority Board. A formal written Contract will be awarded to the highest value provider as determined by the Executive Director. The Executive Director will determine the type of Contract to be awarded.

- c. **Sealed Bids:** Publicly solicited and formally advertised procurement method that allows selection based principally on cost (i.e., the lowest submitted bid) from a responsive and responsible bidder and, in a Competitive Proposal, is provided in addition to the submitted proposal. These are bids that are publicly solicited for Professional Services or materials. The following are required in a Sealed Bid procurement:
- Bids must be solicited from an adequate number of known suppliers and must provide sufficient response time prior to the established bid opening date.
 - The invitation for bids will include any specifications and pertinent attachments and must adequately define the supplies or services for the bidder to properly respond.
 - All responsive bids will be opened at the time and place described in the invitation for bids.
 - A firm fixed-price Contract award will be made in writing to the highest value qualified, responsive, and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life-cycle costs will be considered in determining which bid is lowest.
 - A low bidder may be rejected due to non-responsiveness or non-responsibility after a notification of and evidence for rejection and an opportunity to present evidence as a rebuttal are provided.
 - Any or all bids may be rejected if the above standards are not satisfied by any bidder.
 - Sealed bids may be provided in addition to a Competitive Proposal.
- d. **Competitive Proposal:** Competitive Proposal procurements may be authorized by the Executive Director. Proposals are solicited by a publicized Request for Proposals (RFP) or request for qualifications (RFQ) that identifies all evaluation factors and their relative importance. The Executive Director may authorize the release of an RFP or RFQ. Proposals must be solicited from an Adequate Number of qualified sources. In the instance there is insufficient competition due to an inadequate number of responses, the Authority may complete a Non-Competitive procurement. Complete responses received from responsible sources by the date and time specified within the RFP or RFQ will be considered to the maximum extent practical. Competitive Proposal procurement may include an interview process. If Contract Negotiation, including price, cannot result in terms acceptable to the Authority, the Authority reserves the right to negotiate acceptable contract terms with next

lowest, responsive, responsible bidder. The Authority will rank responsive and responsible proposals based on qualifications best meeting the needs of the Authority as determined by the Authority's Executive Director or designee. Competitive Proposals may include cost evaluation in the form of a sealed bid. The method for evaluating proposals is further defined in the Administrative Procedure.

e. **Sole Source Proposal:** The Authority uses this procurement method that solicits a proposal from only one Professional Services provider under the following conditions:

- Unique Professional Services, expertise, specialized knowledge, or proprietary materials are required for which there are no other known providers.
- Authority declared public emergency exists.
- Express authorization by funding agencies.

Non-competitive Proposal procurement results in either a fixed price or cost-reimbursement-type contract.

Contracts:

- a. **Contracting Authority:** On behalf of the Authority, the Executive Director may:
- Authorize service Contracts up to the amount specified in the approved Delegation of Authority Matrix for any Professional Services except legal services
 - Authorize purchase Contracts up to the amount specified in the approved Delegation of Authority Matrix
 - Amend Contracts within the approved Contract budget
 - Conduct Contract negotiations

On behalf of the Authority, the agent responsible for Contract management may authorize notices to proceed for existing contracts.

On behalf of the Authority, the Reservoir Committee and Authority Board, in alignment with each other, may:

- Authorize Professional Services Contracts for legal services
- Authorize Contract amendments that exceed the approved Contract budget

- b. **Contract Negotiations:** A Contract requires among the parties a common understanding of the Contract's terms, conditions, rights, obligations, and legal considerations. Contract Negotiations will be conducted in good faith to reach agreement on Contract terms and conditions.

Diversity and Inclusion:

The Authority will take the following affirmative steps to ensure local businesses, small businesses, minority businesses, women's business enterprises, disadvantaged veteran business enterprises, and labor surplus area firms are used when possible:

- Placing qualified local businesses, small and minority businesses, women's business enterprises, and disadvantaged veteran business enterprises on solicitation lists whenever they are potential providers,
- When feasible, segmenting tasks or quantities to permit maximum participation by local businesses, small and minority businesses, women's business enterprises, and disadvantaged veteran business enterprises,
- Establishing delivery schedules that encourage participation by local businesses, small and minority businesses, women's business enterprises, and disadvantaged veteran business enterprises,
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce
- If subcontracts are allowed, requiring the prime contractor to take the affirmative steps listed above

4. Process:

Procurements will be conducted in accordance with the Administrative Procedures.

5. Reporting:

All Sealed Bid or Competitive Proposal procurements will be publicized by posting to the Authority website, an email notification to firms on solicitation lists, and any other public platforms deemed necessary or appropriate by the Authority.

All procurements authorized and Contracts executed by the Executive Director will be reported in alignment with the approved Delegation of Authority Matrix. The authorization of any Contract, Contract amendment, or justification for Non-competitive Proposal procurement will be documented in the approved minutes of the appropriate Reservoir Committee and Authority Board meeting(s). In the instance of an emergency, the Executive Director will provide immediate notification to the Authority Board and Reservoir Committee and provide a justification at the next Reservoir Committee and Authority Board meeting(s) for any Contract entered into in response to an emergency. Any recourse of a respondent may be presented in the method specified in the RFP/RFQ or at an Authority Board meeting.