

# **MERCED COUNTY ASSOCIATION OF GOVERNMENTS PURCHASING POLICY**

## **The purpose of this policy is to:**

- (a) Establish efficient procedures for the purchase of commodities, equipment, and general services at the lowest possible cost commensurate with the quality needed
- (b) Establish procedures for contracting for professional services
- (c) Exercise positive financial control over purchases
- (d) Clearly define authority for the purchasing function
- (e) Assure the quality of purchases

## **Purchasing Officer and Authority.**

The Executive Director is the Purchasing Officer for the Association. As the Purchasing Officer, the Executive Director shall be responsible for the purchase of all supplies for the Association. No expenditures shall be submitted or recommended to the Board of Directors except on the report and approval of the Executive Director. As Purchasing Officer, the Executive Director shall have sole authority to make purchases for the Association. The Executive Director may delegate any or all purchasing activities.

## **Methods of Procurement--Commodities, Equipment and General Services**

### **Purchases of Five Thousand and No/100ths (\$5,000.00) Dollars or less--Small purchases**

Procurements, the cost of which are Five Thousand and No/100ths (\$5,000.00) Dollars or less in any one transaction, shall be made using simplified and cost-effective operational procedures without the required use of formal or informal bids.

### **Purchases of more than Five Thousand and No/100ths (\$5,000.00) Dollars, to Thirty Thousand and No/100ths (\$30,000.00) Dollars --Informal bid process**

- (a) Informal bid procedure. The purchase of commodities, equipment and general services greater than Five Thousand and No/100ths (\$5,000.00) Dollars to Thirty Thousand and No/100ths (\$30,000.00) Dollars or less, may be made in the open market, following the procedure prescribed below:
  - (1) Minimum number of quotations. Open-market purchases shall, whenever possible, be based on at least three (3) quotations and shall be awarded to the lowest responsible quotation;
  - (2) Notice inviting quotations. The department making the purchase shall solicit quotations by written (including e-mail) or verbal request to prospective vendors;
  - (3) Quotations. Quotations shall be submitted in writing (including facsimile and e-mail) to the department, which shall keep a record of all open-market orders and period specified;
  - (4) Award of contracts. The Executive Director is authorized to award a contract of Thirty Thousand and No/100ths (\$30,000.00) Dollars or less when the Board of

Directors has appropriated funds for the item(s) and the amount of the award is not more than the appropriated amount.

- (b) Exceptions. The open-market procedure may be dispensed with in accordance with provisions set forth in Exceptions to the bidding process.

**Purchases of more than Thirty Thousand and No/100ths (\$30,000.00) Dollars--Formal bid process**

- (a) Formal contract procedures. The Association shall purchase commodities, equipment and general services of a value greater than Thirty Thousand and No/100ths (\$30,000.00) Dollars following the formal bid procedure prescribed below:
- (1) Notice inviting bids. The notice inviting bids shall include a general description of the articles or general services to be purchased, and shall state where bid forms and specifications may be secured and the time and place for opening bids.
    - (A) Published notice. The notice inviting bids shall be published at least ten (10) days before the date of the opening of the bids. Notice shall be published at least once in a newspaper of general circulation.
    - (B) Bidders' list. The Association shall also solicit sealed bids from responsible prospective suppliers whose names are on a bidders' list.
  - (2) Bidders' security. When deemed necessary, the Association shall require bidders' security. Bidders' security shall be in accordance with the provisions of the California Public Contract Code.
  - (3) Bid opening procedure. Bidders shall submit sealed bids to the Executive Director or Designee and shall identify them as bids on the envelope. 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 thirty (30) calendar days after the bid opening.
  - (4) Rejection of bids. At its discretion, the Board of Directors may reject any and all bids presented and may re-advertise for bids.
  - (5) Award of contracts. The Board of Directors shall award a contract for the purchase of commodities or equipment or general services with a value more than Thirty Thousand and No/100ths (\$30,000.00) Dollars. A contract shall be awarded to the lowest responsible bidder, except as otherwise provided here. A contract may be awarded to the next lowest responsible bidder if the successful bidder refuses or fails to execute the contract.
  - (6) Tie bids. If two (2) or more bids received are for the same total amount of unit price and quality, service, and delivery being equal, and if the public interest will not permit the delay of re-advertising for bids, the Board of Directors may accept the one it chooses, or accept the lowest good faith offer by negotiation with the tie bidders.

- (7) Performance bonds. The Association has the authority to require a performance bond before entering a contract, in such amount as is reasonably necessary to protect the best interest of the Association or any of the jurisdictions. If a performance bond is required, the form and amount of the bond shall be described in the notice inviting bids.
- (b) Exceptions. Bidding under this section may be dispensed with in accordance with provisions set forth in Exceptions to the bidding process.

### **Competitive and non-competitive negotiations**

- (a) Applicability. A purchase may be had by negotiations when the purchase is for: A technology product; an addition to, repair to, or maintenance of existing equipment which can be more efficiently added to, repaired, or maintained by a particular company or manufacture; equipment which must be compatible with existing equipment, by reason of the training of the personnel, or an inventory of existing replacement parts kept by the Association. The affected Department Head shall state in writing the basis for determination that this section applies. Before any negotiations take place, that determination and the method of negotiation (competitive or noncompetitive) must be first approved by the Executive Director when the purchase is Five Thousand and No/100ths (\$5,000.00) Dollars or more.
- (b) Competitive negotiation.
  - (1) Request for Proposals. Proposals are requested from a minimum of three (3) vendors. The notice inviting proposals shall be published at least ten (10) days before the date of the opening of the bids if the value of the product is expected to reach more than Thirty Thousand and No/100ths (\$30,000.00) Dollars. Notice shall be published at least once in a newspaper of general circulation. The request for proposals must identify all of the significant evaluation factors, including cost and their relative importance.
  - (2) Receipt of proposals. Sealed proposals must be submitted by the date and time specified on the notice inviting proposals and shall be identified by the Request for Proposal number.
  - (3) Negotiation. The most qualified and responsive proposer will be selected for contract negotiations. If agreement cannot be reached with the first proposer, the second choice proposer (and then the third and so on) will be contacted with the first choice proposer (or other proposers, in order) dismissed from further consideration on that particular project. All elements of the negotiation process shall be documented by the negotiating department and submitted to the Executive Director. Responsible proposers shall be accorded fair and equal treatment with respect to opportunity for discussion and revision of proposals. Any revisions are permitted after submission in writing and prior to the award of a contract.
  - (4) Award and notification. A contract award may be made to the responsible proposer whose proposal will be best for the Association considering evaluation

factors. All proposers participating in the process shall be notified in writing of the successful award.

- (c) Noncompetitive negotiations. When there is only one source, purchase can be made through solicitation and negotiation directly with that source. The affected department head shall state in writing that basis for this determination and, before any purchase is made, that determination must be approved in writing by the Executive Director.

### **Determination of the lowest responsible bidder**

In determining the lowest responsible bidder, the following shall be considered in addition to price:

- (a) Quality of the materials, supplies, and/or equipment offered;
- (b) The ability, capacity, and skill of the bidder to perform the contract or provide the materials, supplies or equipment;
- (c) Whether the bidder can perform the contract or provide the materials, supplies or equipment promptly or within the time specified, without delay or interference;
- (d) The sufficiency of the bidder's financial resources to perform the contract or provide the materials, supplies, or equipment;
- (e) The ability of the bidder to provide future maintenance and services if essential;
- (f) The compatibility of the materials, supplies and/or equipment with the Association's existing inventory of same;
- (g) The quality and timeliness of the bidder's performance on previous orders or contracts for the Association;
- (h) Litigation by the bidder on previous orders or contracts with the Association;
- (i) The ability of the bidder to provide future maintenance and service where such maintenance and service is essential;
- (j) The character, integrity, reputation, judgment, experience, and efficiency of the bidder.

### **Exceptions to the bidding process**

Contracts for goods and/or services for which the cost to the Association in one transaction will be more than Five Thousand and No/100ths (\$5,000.00) Dollars shall be let by either informal or formal competitive bidding or proposals pursuant to this chapter. Procurement requirements shall not be artificially divided so as to avoid the competitive bidding requirement. Nothing in this section shall preclude the solicitation of competitive bids or proposals, when possible. The following are exemptions to the competitive bidding requirements:

- (a) Professional or specialized services;
- (b) Emergency procurements;
- (c) Situations where solicitations of bids or proposals would for any reason be impractical, unavailing, or impossible;
- (d) Cooperative procurements;
- (e) Sole source goods or services;
- (f) Insurance and bonds;
- (g) Procurements funded by grants, donations, or gifts when the special conditions attached to the grants, donations, or gifts require the procurement of particular goods and/or services;
- (h) Goods and/or services obtained from or through agreement with any governmental, public, or quasi-public entity;

- (i) Works of art, entertainment, or performance;
- (j) Surplus personal property owned by another governmental, public, or quasi-public entity;
- (k) Membership dues, conventions, training, and travel arrangements;
- (l) Advertisements in magazines, newspapers, or other media;
- (m) Where competitive bids or proposals have been solicited and no bid or proposal has been received. In such a situation the Executive Director may proceed to have the services performed or the goods procured without further competitive bidding.

### **Local business purchasing preference**

- (a) Notwithstanding any other provision contained herein to the contrary, a five percent (5%) preference shall be granted to local business whenever the Association purchases services, supplies, materials, and/or equipment for Association use through the competitive bid process, which shall be defined herein to include quotes, bids, and proposals. The Executive Director, in evaluating competitive bids, shall determine the lowest responsive bidder, and if the lowest responsive bidder is a non-local bidder, then a five percent preference shall be granted to local bidders. Local preference only applies to the procurement of services, supplies, materials, and/or equipment, and will not apply to bids conducted with other public agencies nor when prohibited by state or federal statutes or regulations to be awarded to the “lowest responsible bidder” or otherwise exempted from local preferences. The total amount of such a preference granted in a single competitive bid shall not exceed five thousand dollars (\$5,000.00) over a non-local bidder.
- (b) The five percent local preference shall be deducted from the total dollar amount bid by local bidders on competitive quotes and bids, and assessed on the total evaluated aggregate score obtained by local bidders on proposals.
- (c) For the purposes of this section, “local business” means any business which meets all of the following criteria:
  - (1) A principal place of business located within the county with a valid and verifiable business license, if applicable, issued by a jurisdiction within the county, or a business located in the unincorporated areas of the county. Post office boxes do not qualify as verifiable local business addresses.
  - (2) Employs at least one full-time employee within the county, or if the business has no employees, shall be at least fifty percent (50%) owned by one or more persons whose primary residence(s) is located within the county; and
  - (3) Has had a fixed office or place of business having a street address within the county for at least six months immediately prior to the issuance of the request for competitive bids by the county.
- (d) To qualify for the local business preference, local bidders may submit proof of the address of its principal place of business and a copy of their current business license, if applicable, with each bid for which a preference is claimed. Proof of address is normally the address to which purchase orders or contracts will be sent.

## **Executive Director authority**

The Executive Director is authorized to enter into and sign on behalf of the Association, without the prior approval of the Board of Directors, a contract:

- (a) Which contains an initial maximum compensation figure of Thirty Thousand and No/100ths (\$30,000.00) Dollars. As to a change order, the limit of authority may not exceed ten (10%) percent of the original contract without additional authority at the time of awarding the contract;
- (b) For Association-managed professional services in an amount up to One Hundred Thousand and No/100ths (\$100,000.00) Dollars if the following criteria are met:
  - (1) A Board of Directors approved reimbursement agreement exists,
  - (2) An applicant for development entitlements has deposited the full amount of the contract with the Association, and
  - (3) The funds are to be used for development related studies, such as an environmental impact report.
- (c) Which, in an emergency, authorizes the expenditure of any unencumbered moneys, notwithstanding the fact that such moneys may not have been appropriated for such purpose, to the extent that other moneys have not been appropriated or are otherwise unavailable; and
- (d) To approve monthly progress payments or release contract retention.

## **Emergency purchases**

The Executive Director, or designee, may make or authorize others to make emergency procurements, regardless of the cost, if there is an urgent necessity to do so for the preservation of life, health or property. Such emergency procurements shall be made with such competition as is practical under the circumstances and shall be limited to those goods and services necessary to satisfy the emergency need. In such circumstances, a written report of the procurement will be given to the Executive Director including a description of the emergency and the basis for selection of the particular contractor, and a copy of this report shall be included in the procurement records. In the event that such emergency action is necessary and the procurement cost is more than Thirty Thousand and No/100ths (\$30,000.00) Dollars in any one transaction, the Executive Director shall make a full and complete report to the Board of Directors at its next regularly scheduled meeting.

## **Methods of Procurement--Professional Services**

### **Professional services with a value of Five Thousand and No/100ths (\$5,000.00) Dollars or less.**

Professional services valued at Five Thousand and No/100ths (\$5,000.00) Dollars or less, shall be contracted using simplified and cost effective operational procedures without the requirement of soliciting requests for proposals from multiple professional service providers

### **Professional services with a value of more than Five Thousand and No/100ths (\$5,000.00) Dollars to Thirty Thousand and No/100ths (\$30,000.00) Dollars**

- (a) Informal request for proposal (RFP) procedure. The procurement of services with a value greater than Five Thousand and No/100ths (\$5,000.00) Dollars up to Thirty Thousand and No/100ths (\$30,000.00) Dollars shall be made following the procedure prescribed below:
  - (1) Solicitation of proposals. The department may solicit proposals by written (including e-mail) or verbal request to prospective consultants. Informal requests for proposals shall, whenever possible, be based on at least three (3) written proposals and shall be awarded to the best qualified and most responsible proposer. The dollar amount of the proposal shall be considered but the award need not be made to the lowest dollar proposal;
  - (2) Award of contracts. The Executive Director is authorized to award a contract in accordance with the authorization granted in the Executive Director Authority described above.
- (b) Exceptions. The request for informal proposal procedure may be dispensed with in an emergency or when the Executive Director in his or her best judgment makes a written finding that compliance with these procedures is not in the best interest of the Association.

**Professional services with a value of more than Thirty Thousand and No/100ths (\$30,000.00) Dollars.**

- (a) Formal request for proposal (RFP) procedures. The Association shall procure services with a value of more than Thirty Thousand and No/100ths (\$30,000.00) Dollars following the procedure prescribed below:
  - (1) Request for proposals. The request for proposal (RFP) shall include a general description of the services to be procured, shall include a proposed professional services agreement, and the time and place for submission of proposals. A notice inviting proposals shall be distributed to at least three (3) consultant firms and shall be posted at the Association at least ten (10) days prior to the deadline for submission of proposals. Proposers shall submit sealed proposals and shall identify them as proposals on the envelope;
  - (2) Evaluation of proposals. All responsive proposals shall be reviewed and evaluated by the Association in order to determine which proposer best meets the Association's needs by demonstrating the competence and professional qualifications necessary for the satisfactory performance of the required services. The criteria by which the Association shall evaluate proposals will be set forth in the request for proposals. The Association reserves the right to reject any and all proposals or waive any irregularities in any proposal or the proposal process;
  - (3) Award of contract. The Executive Director shall award a contract for the services with a value of Thirty Thousand and No/100ths (\$30,000.00) Dollars or less. The Board of Directors shall award a contract for services with a value of greater than Thirty Thousand and No/100ths (\$30,000.00) Dollars.
- (b) Exceptions. Formal requests for proposals under this section may be dispensed with:
  - (1) In an emergency;
  - (2) When the services can be obtained from only one source, which has been reviewed and approved in writing by the Executive Director;

- (3) When processed through a cooperative purchasing agreement with another public agency whose procurement process is consistent with the provisions of this policy;
- (4) Contracts for Association-managed professional services in an amount up to One Hundred Thousand and No/100ths (\$100,000.00) Dollars if the following criteria are met:
  - (A) an Association approved reimbursement agreement exists,
  - (B) an applicant for development entitlements has deposited the full amount of the contract with the Association,
  - (C) the funds are to be used for development related studies, such as an environmental impact report;
- (5) When, in the determination of the Association, compliance with the procedure is not in the best interest of the Association for those professional services, the costs of which are Thirty Thousand and No/100ths (\$30,000.00) Dollars or more.

### **Disposition of Surplus Property**

- (a) Authority. The Executive Director is authorized to sell or dispose of surplus personal property having a salvage value in the open market by public auction, by competitive sealed bids, or by exchange or trade-in for new goods. The sale or lease of surplus personal property to a governmental, public or quasi-public agency may be without advertisement for or receipt of bids.
- (b) Property with no salvage value. Surplus personal property with no salvage value shall be disposed of in a manner that salvages recyclable components, if practical.
- (c) Records. The Association will keep records, which indicate surplus personal property disposed of, the method of disposal, and the amounts recovered from its disposal and shall maintain records for public inspection relative to the disposal of surplus personal property for a period of time in compliance with record-keeping provisions.
- (d) Donations. Surplus personal property may be donated to governmental, public or quasi-public agencies, charitable, or nonprofit organizations.
- (e) Proceeds of sale. Proceeds from the sale of surplus personal property shall be deposited into the appropriate Association fund or account.