



Midpeninsula Regional
Open Space District

ACTION PLAN AND BUDGET COMMITTEE

R-15-163
November 30, 2015

AGENDA ITEM 3

AGENDA ITEM

Revisions to Board Policy 3.03 - Public Contract Bidding, Vendor and Professional Consultant Selection, and Purchasing

GENERAL MANAGER'S RECOMMENDATIONS

Review the proposed changes to Board Policy 3.03 - Public Contract Bidding, Vendor and Professional Consultant Selection, and Purchasing, and recommend to the Board the adoption of the revised policy.

SUMMARY

As a result of AB495, which amended the District's governing legislation, Public Resources Code (PRC) sections 5500-5595, the Board of Directors (Board) may increase the General Manager's expenditure authority from \$25,000 to \$50,000. To implement this expenditure authority change, the General Manager has made proposed revisions to Board Policy 3.03 "Public Contract Bidding, Vendor and Professional Consultant Selection, and Purchasing." In addition, other changes are proposed in the policy to streamline the purchasing and contracting processes to enhance staff productivity and overall project delivery.

DISCUSSION

On August 10, 2015, the Governor of the State of California approved AB 495 (Attachment 1) revising Section 5549 of the Public Resource Code. Effective January 1 of 2016, the statute allows for raising, with Board approval, the limit of signature authority of the General Manager for the payment of supplies, materials, labor, or other expense from the current limit of twenty-five thousand dollars (\$25,000) to the revised limit of fifty thousand dollars (\$50,000).

In addition to aligning Board Policy 3.03 to AB 495, additional revisions are being proposed to contract bidding, material and supplies procurement, and consultant selection. The proposed policy revisions also include some non-substantive revisions aimed to clarify the intention of the policy language. A summary of the proposed changes is reflected in Attachment 2 and the detailed changes are included in the redline version of the policy in Attachment 3.

The following table summarizes the proposed changes to Section II - Solicitation of Bids of the Board Policy 3.03 aligning it to AB 495.

Current Policy	Current Amount	Proposed Policy Change	Proposed Amount
Formal bid; board approval required	Greater than \$25k	Minor language clarifications	Exceeding \$50,000
Solicit min 3 written proposals; GM or designee approval	Greater than \$10k, but not more than \$25k	Minor language clarifications	Greater than \$25k, but not more than \$50k
Solicit 3 verbal quotes and document in writing	Greater than \$5k, but not more than \$10k	Solicit 3 quotes and document in writing	Greater than \$5k, but not more than \$10k
Solicit 2 verbal quotes and document in writing	Greater than \$3k, but not more than \$5k	Incorporate this category into “Greater than \$5k, but not more than \$10k” to improve efficiency	N/A
Obtain competitive cost info whenever reasonably feasible	Not more than \$3k	Minor language clarifications	Not more than \$5k

The table below summarizes the proposed changes to Section III – Consultant Selection of the Board Policy 3.03 aligning it to AB 495.

Current Policy	Current Amount	Proposed Policy Change	Proposed Amount
RFQ OR RFP; Invite 3 firms	Greater than \$25k	Minor language clarifications	\$ > \$50k
RFQ or RFP not required; 3 Written Proposals	Greater than \$10k, but not more than \$25k	Minor language clarifications	\$25k <u>10k</u> > \$ > \$50k
3 Written or Oral Proposals	Greater than \$3k, but not more than \$10k	Minor language clarifications	5k <u>\$0</u> > \$ > \$25k <u>10k</u>

ALTERNATIVES

1. The Action Plan and Budget Committee (ABC) could consider different “Proposed Amount” than the ones shown in the above table;
2. Should the ABC like to have more time to review the proposed purchasing process revisions to Policy 3.03, or further refine the policy, the ABC may alternatively approve only the expenditure authority changes reflected in Attachment 4. This alternative would revise the current Policy only to the extent of matching the General Manager’s signatory authority limit to the maximum allowed by AB 495 (\$50,000). This alternative would allow the District to take full advantage of AB 495 while the Committee revisits and refines other provisions of the Policy.

FISCAL IMPACT

There is no fiscal impact associated with this action. The policy changes discussed in this report would align the General Manager’s signature authority with that of the current State statute. This

alignment along with the proposed update to the purchasing policy would result in improved operational efficiencies.

PUBLIC NOTICE

Notice was provided pursuant to the Brown Act. No additional notice is necessary.

CEQA COMPLIANCE

No compliance is required as this action is not a project under CEQA.

NEXT STEPS

Following the review by ABC, the revised policy will be presented to the Board for its consideration at the next scheduled regular board meeting on December 9, 2015.

Attachment:

1. AB 495 - Amendment to Section 5549 of the Public Resources Code, relating to open space districts.
2. Summary of Proposed Purchasing Policy Changes
3. Proposed Revisions to Board Policy 3.03 - Public Contract Bidding, Vendor and Professional Consultant Selection, and Purchasing
4. Alternative Revisions to Board Policy 3.03 - Public Contract Bidding, Vendor and Professional Consultant Selection, and Purchasing

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Assembly Bill No. 495

CHAPTER 149

An act to amend Section 5549 of the Public Resources Code, relating to parks.

[Approved by Governor August 10, 2015. Filed with
Secretary of State August 10, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 495, Gordon. Regional park and open-space districts: general manager: powers.

Existing law authorizes the general manager of any park or open-space district, with district board approval, to bind the district, in accordance with board policy, and without advertising, for the payment of amounts not exceeding \$25,000 for supplies, materials, labor, or other valuable consideration for any purpose.

This bill would authorize the general managers of the East Bay Regional Park District and the Midpeninsula Regional Open Space District to bind those districts, with district board approval and in accordance with board policy, for the payment of supplies, materials, labor, or other valuable consideration for any purpose, in amounts not exceeding \$50,000.

This bill would make legislative findings and declarations as to the necessity of a special statute for the East Bay Regional Park District and the Midpeninsula Regional Open Space District.

The people of the State of California do enact as follows:

SECTION 1. Section 5549 of the Public Resources Code is amended to read:

5549. (a) The general manager has the following administrative and executive functions, powers, and duties. The general manager shall do all of the following:

- (1) Enforce this article and all ordinances and regulations of the district.
- (2) Appoint and remove subordinates, clerks, and other employees, and exercise supervision and control over all departments and offices of the district, subject to the personnel rules, civil service or merit system, and policies adopted by the board.
- (3) Attend all meetings of the board unless excused by the board.
- (4) Submit to the board for adoption any measures, ordinances, and regulations he or she deems necessary or expedient.

(5) Enforce all terms and conditions imposed in favor of the district or its inhabitants in any contract and report any violations to the board or the police department, as appropriate.

(6) Prepare and submit the annual budget to the board and perform all other duties imposed by this article or by the board.

(b) (1) With the approval of the board, the general manager may bind the district, in accordance with board policy, and without advertising, for the payment for supplies, materials, labor, or other valuable consideration for any purpose, including new construction of a building, structure, or improvement, in amounts not exceeding twenty-five thousand dollars (\$25,000). All expenditures shall be reported to the board of directors at its next regular meeting.

(2) Notwithstanding paragraph (1), with the approval of the board, the general manager of the East Bay Regional Park District and the general manager of the Midpeninsula Regional Open Space District may bind those districts, in accordance with board policy, and without advertising, for the payment of supplies, materials, labor, or other valuable consideration for any purpose, including new construction of a building, structure, or improvement, in amounts not exceeding fifty thousand dollars (\$50,000). All expenditures shall be reported to the board of directors at its next regular meeting.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique financial situations of the districts affected by this act.

Summary of Changes

Board Policy 3.03

Public Contract Bidding, Vendor and Professional Consultant Selection, and Purchasing Policy

Previous Section No.	Revised Section No.	Section Title	Compliant with AB 495	Format	Clarification	Efficiency	Move to Admin Policy
I.A	I.A	Board Approval for Purchases in Excess of \$50,000	X				
I.A.1	I.A.1	Signature			X		
I.B	I.B	General Manager Approval for Purchases Not Exceeding \$50,000	X				
I.C	-	General Manager Delegated Approval for Purchases Not Exceeding \$15,000			X		X
I.D	I.C	Contract Change Order	X	X	X		
II.A	II.A	Solicitation of Formal Advertised Bids for Expenditures Exceeding \$50,000	X		X		
II.B	II.B	Solicitation of Three Written Bids for Expenditures Exceeding \$25,000 but Not Exceeding \$50,000	X		X		
II.C	II.C	Solicitation of Three Quotes for Expenditures Exceeding \$5,000 but Not Exceeding \$25,000				X	
II.D	-	Solicitation of Two Verbal Quotes for Expenditures Exceeding \$3,000 but Not Exceeding \$5,000				X	
II.E	II.D	Expenditures Not Exceeding \$5,000		X		X	
III.D	III	Professional Services		X	X		

**Summary of Changes
Board Policy 3.03**

Public Contract Bidding, Vendor and Professional Consultant Selection, and Purchasing Policy

Previous Section No.	Revised Section No.	Section Title	Compliant with AB 495	Format	Clarification	Efficiency	Move to Admin Policy
III.D.1	III.A	Selection Procedures for Professional Services in Excess of \$50,000	X	X	X		
III.D.2	III.B	Selection Procedures for Professional Services in Excess of \$10,000 but Not Exceeding \$50,000	X	X		X	
III.D.3	III.C	Selection Procedures for Professional Services Not Exceeding \$10,000		X		X	
III	IV	Exceptions to Standard Purchasing Procedures		X	X		
III.A	IV.A	Emergency Conditions		X	X		
III.B	IV.B	Limited Availability/Sole Source	X	X	X		
III.C	IV.C	Cooperative Purchasing		X	X		
III.C.1	IV.C.1	Purchases Exceeding \$50,000	X	X			
III.C.2	IV.C.2	Purchases Not Exceeding \$50,000	X	X			
III.D.4	IV.D	Renewal of Contracts with Professional Consultants	X	X	X		
III.D.5	IV.E	Conflict of Law		X	X		

**Summary of Changes
Board Policy 3.03**

Public Contract Bidding, Vendor and Professional Consultant Selection, and Purchasing Policy

Previous Section No.	Revised Section No.	Section Title	Compliant with AB 495	Format	Clarification	Efficiency	Move to Admin Policy
III.D.6	IV.F	Special Circumstances		X	X		
III.D.7	IV.G	Prequalified Consultant File		X	X		
III.E	IV.H	Open Purchase Orders for Routine and Repetitive Supplies and Services		X	X		
IV	V	General Provisions		X	X		
IV.A	V.A	Conflict of Interest		X	X		
IV.B	V.B	Credit Cards		X	X		
IV.C	V.C	Purchase of Recycled Products		X	X		

Midpeninsula Regional Open Space District

Board Policy Manual

Public Contract Bidding, Vendor and Professional Consultant Selection, and Purchasing Policy	Policy 3.03 Chapter 3 – Fiscal Management
Effective Date: 7/24/02	Revised Date: 9/23/15
Prior Versions: 12/16/09, 1/27/10	

Purpose

The purpose of this policy is to ensure that the District obtains quality services, supplies, material and labor at the lowest possible cost, and to provide a uniform method for procurement of services and supplies. In addition, through proper documentation, conformance to this Policy will enable the District's constituents to know that their public funds are being spent responsibly, and potential vendors and contractors to know that they are being treated equitably.

I. PURCHASING AUTHORITY

There are three levels of authority for purchases: Board Approval, General Manager Approval and General Manager Delegated Approval. The maximum purchasing authority amounts refer to the total price of an order, including tax and/or shipping, which may include more than one item and also includes change orders and contract amendments. As used in this Policy, the term “purchasing” refers collectively to contracting or procurement of services, supplies, material or labor, including Capital Improvements.

A. Board Approval for Purchases In Excess of ~~\$2550,000~~

If the cost for furnishing services, supplies, materials, labor, or other valuable consideration to the District will exceed ~~Twenty-Five~~Fifty Thousand Dollars (~~\$2550,000~~), approval from the Board of Directors is required prior to entering into the contract.

The Board may reject all bids and re-advertise, or by a five-sevenths vote may elect to purchase the materials or supplies in the open market, or to construct a building, structure, or improvement using District personnel.

1. Signature

Contracts which have been approved by the Board shall be signed by the General Manager, ~~or in the General Manager's absence, the Acting General Manager~~ or designee, unless the Board

has directed that the President sign on behalf of the District. The District Clerk shall sign all such contracts and affix the seal of the District.

B. General Manager Approval for Purchases Not Exceeding \$2550,000

Pursuant to Public Resources Code 5549, the General Manager may obtain bids without advertisement or published notice inviting bids and may authorize and execute contracts for payment for services, supplies, material, labor, or other valuable consideration for any purpose, including the new construction of any building, structure, or improvement, in an amount not exceeding \$2550,000. Such expenditures shall be reported to the Board of Directors at its next regular meeting, and may be reported on the Board's Claims List.

1. Administrative Purchasing Policy/Procedure

The General Manager shall issue an Administrative Purchasing Policy/Procedure, which provides appropriate guidance to staff to ensure that all District purchases are made in accordance with this Policy and required documentation procedures are followed.

~~C. General Manager Delegated Approval for Purchases Not Exceeding \$15,000~~

- ~~1. The Assistant General Manager may be authorized, in writing, by the General Manager to approve purchases not to exceed \$15,000. When acting as the General Manager, in his/her absence, the Assistant General Manager and Department Managers may be delegated the General Manager's authority of \$25,000.~~
- ~~2. The Department Managers may be authorized, in writing, by the General Manager, to approve purchases relating to his/her area of responsibility not to exceed \$10,000.~~
- ~~3. The General Counsel, Assistant General Counsel, and Area Superintendents may be authorized, in writing, by the General Manager to approve purchases not to exceed \$5,000.~~

The General Manager shall issue written delegation of purchasing authority to those job classifications whose duties include making purchases within his or her area of responsibility. Purchasing authority limits shall be consistent with this Policy. Such written delegation of purchasing authority shall include the authority to execute contracts, purchase orders, and other documents necessary to approve a purchase within the employee's purchasing authority.

~~D. Construction~~ C. Contract Change Orders

Staff may issue change orders to a ~~construction~~ contract, provided that the aggregate of all change orders to that contract does not exceed fifteen percent (15%) of the original contract price. A larger contingency may be authorized, based on unusual circumstances. Change orders shall not exceed the total contract amount approved by the Board, General Manager or other District employee as authorized by this Policy, including any contingency amount. Any

expenditure beyond the originally approved contract and contingency amount shall be approved by the party authorized at that expenditure level under this Policy.

II. SOLICITATION OF BIDS

A. Solicitation of Formal Advertised Bids for Expenditures Exceeding ~~\$2550,000~~

When any expenditure for projects, excluding Professional services, is expected to exceed ~~\$2550,000~~, the District shall ~~publish~~conduct a ~~notice inviting bids a minimum of one week prior formal bidding process pursuant to the time of receiving bids, in a general circulation newspaper published in the District.~~ Public Resources Code section 5594.

This type of formal bidding process typically includes the issuance of written plans or specifications describing the goods or services to be provided and the receipt of written bids from the ~~vendors~~bidders involved. ~~Solicitation of Staff shall attempt to solicit~~ formal bids from a minimum of three ~~vendors is required.~~bidders. Following Board approval, the contract shall then be executed by the General Manager ~~(or the Acting General Manager in his/her absence,)~~designee, unless the Board President's signature is required. The Contract shall be awarded to the lowest responsible, responsive bidder, except as otherwise provided in this Policy.

B. Solicitation of Three Written Bids for Expenditures Exceeding ~~\$1025,000~~ but Not Exceeding ~~\$25,000~~ \$50,000

When any expenditure is expected to exceed ~~\$1025,000~~, but not exceed ~~\$2550,000~~, the District shall solicit written proposals from a minimum of three (3) ~~vendors~~bidders. The General ~~Manager, Assistant General Manager, or Acting General~~ Manager's or designee's approval of the contract or purchase order is required as applicable under this Policy.

C. Solicitation of Three ~~Verbal~~ Quotes or Proposals for Expenditures Exceeding \$5,000 but Not Exceeding ~~\$1025,000~~

When any expenditure is expected to exceed \$5,000, but not exceed ~~\$1025,000~~, the staff member responsible for the purchase is to solicit a minimum of three (3) ~~verbal~~ quotes or proposals to provide the goods or services. Such quotes shall be documented in writing pursuant to the Administrative Purchasing Policy/Procedure.

D. ~~Solicitation of Two Verbal Quotes for Expenditures Exceeding \$3,000, but~~ Not Exceeding \$5,000

~~When any expenditure is expected to exceed \$3,000, but not exceed \$5,000, the staff member responsible for the purchase is to solicit a minimum of two (2) verbal quotes to provide the goods or services. Such quotes shall be documented in writing pursuant to the Administrative Purchasing Policy/Procedure.~~

~~E. Expenditures Not Exceeding \$3,000~~

Staff members shall obtain competitive cost information, whenever ~~reasonably~~ feasible, for any District purchase even though formal cost quotations are not required for goods or services costing ~~\$35,000~~ or less.

III. Professional Services

Professional consultant services are of a technical and professional nature, and, due to the nature of the services to be provided, do not readily fall within the “low bid” competitive bidding process. In addition, State law requires that selection of professional consultants in the categories of architects, landscape architects, engineers, surveyors, construction managers, and environmental consulting be made on the basis of demonstrated competence and the professional qualifications necessary for the satisfactory performance of the required services. Professional consultants should be individually selected for a specific project or problem with the objective of selecting the most qualified consultant at a price that is fair and reasonable. Professional services agreements shall include the full scope of anticipated services for the project, program or annual service agreements and shall not be split into smaller units, ~~nor shall contract amendments be used,~~ for the purpose of circumvention of this Policy and the required purchasing procedures.

~~As used in this Policy, “professional service agreement” shall mean and include all professional service agreements, which are part of or related to the same project or program for which the consultant is being retained, and annual service agreements to provide services on an ongoing basis in any fiscal year. This policy shall include, but not be limited to, services in the following fields:~~

- ~~_____ Engineering (for example, civil, acoustical, mechanical, electrical, structural, and traffic)~~
- ~~_____ Architecture~~
- ~~_____ Landscape Architecture~~
- ~~_____ Construction Management~~
- ~~_____ City and Regional Planning~~
- ~~_____ Economic Analysis~~
- ~~_____ Property Appraisals/Analysis~~
- ~~_____ Property Acquisition~~
- ~~_____ Financial Services~~
- ~~_____ Data Processing Services~~
- ~~_____ Project Management~~
- ~~_____ Environmental Planning and Analysis~~
- ~~_____ Land Surveying~~
- ~~_____ Legal Services~~
- ~~_____ Personnel Consultants/Facilitators/Coaches~~
- ~~_____ Recruitment Services~~
- ~~_____ Safety Services~~
- ~~_____ Trainers~~

1.A. Selection Procedures for Professional Services in Excess of \$~~2550~~,000

When the cost for professional services is expected to be in excess of \$~~2550~~,000, the District shall prepare a Request for Qualifications (RFQ) outlining the professional's qualifications, relevant experience, staffing and support and hourly rates ~~as a~~. This information becomes the basis for negotiating a contract or a Request for Proposal (RFP) outlining the terms, conditions and specifications of the services required by the District. The District may also prepare, as an alternative, a Request for Qualifications and Proposal, combining the required elements of the RFQ and the RFP described above. A minimum of three (3) qualified firms or individuals shall be invited to submit qualifications and/or proposals.

District staff will review the proposals received, will select the most qualified firms for interviews, and will rank the consultants based upon criteria including but not limited to the following ~~criteria~~:

- i. Ability of the consultants to perform the specific tasks outlined in the RFP/RFQ.
- ii. Qualifications of the specific individuals who will work on the project.
- iii. Amount and quality of time key personnel will be involved in their respective portions of the project.
- iv. Reasonableness of the fee requested to do the work; comparability of fee to similar services offered by other qualified consultants.
- v. Demonstrated record of success by the consultant on work previously performed for the District or for other public agencies or enterprises.
- vi. The specific method and techniques to be employed by the consultant on the project or problem.
- vii. Ability of the consultant to provide appropriate insurance in adequate amounts, including errors and omissions if applicable.

For the categories of architects, landscape architects, engineers, surveyors, construction managers, and environmental consultants, initial selection of the most qualified and competent consultants shall not include the cost criteria listed in Section III. ~~D.1.ivA.~~ of this Policy. After staff has determined the most qualified and competent consultants, this cost criteria shall be considered in negotiating a professional services agreement with ~~and final selection of the~~ selected consultant.

B. 2. Selection Procedures for Professional Services in Excess of \$10,000 but Not Exceeding \$2550,000

District staff shall solicit written proposals from a minimum of three (3) qualified consultants. A formal RFP/ RFQ is not required. The selection shall be based upon the criteria noted in Section III. ~~D.1.A.~~. The General Manager or ~~his/her authorized~~ designee may approve the selection and execute the agreement.

C. 3. Selection Procedures for Professional Services in ~~Excess of \$3,000 but~~ Not Exceeding \$10,000

District staff shall maintain current files on qualified consultants in appropriate categories. The department shall, by telephone, email, or letter, contact at least three (3) qualified consultants and request them to submit a proposal either orally or in writing. Oral proposals shall be memorialized in writing, pursuant to the Administrative Purchasing Policy/Procedure. The selection shall be based upon the criteria noted in Section III. ~~D.1.A. and per the Administrative Purchasing Policy/Procedure.~~ The authorized Department Manager or other authorized District employee may approve the selection and execute the agreement.

IV. EXCEPTIONS TO STANDARD PURCHASING PROCEDURES

A. Emergency Conditions

An emergency is defined as a breakdown in machinery or equipment or a natural disaster resulting in the inability of the District to provide services, or a threat to public health, safety, or welfare, including, but not limited to, threatened damage to natural resources. In the case of an emergency determined by the District, or federal, or state, or other local jurisdictions requiring an immediate purchase, the General Manager ~~may authorize the Assistant General Manager or Department Manager or his/her~~ designee may authorize to secure in the open market, at the lowest obtainable price, any services, supplies, material or labor required to respond to the emergency, regardless of the amount of the expenditure. The General Manager shall, as soon as possible, provide a full written explanation of the circumstances to the Board.

In the case of a disaster or for civil defense, nothing contained in this Policy shall limit the authority of the General Manager to make purchases and take such other emergency steps as are, or may be, authorized by the Board.

B. Limited Availability/Sole Source

Occasionally, necessary supplies, materials, equipment, or services are of a unique type, are of a proprietary nature, or are otherwise of such a required and specific design or construction, or are ~~specifically necessary~~ for purposes of maintaining ~~cost-effective system~~ consistency and operational efficiency, so as to be available from only one source. After reasonable efforts to find alternative suppliers, the District may dispense with the requirement of competitive bids and recommend negotiating and making the purchase from the sole source. The basis for the sole source recommendation shall be documented in writing and approved, in advance, by the Board for purchases exceeding ~~\$25,000-\$50,000~~, and the General Manager or ~~another other~~ authorized District employee, ~~as designated in this Policy~~, for purchases not exceeding ~~\$25,000~~ \$50,000.

C. Cooperative Purchasing

The District shall have the authority to join in cooperative purchasing agreements with other public agencies, (e.g., the State of California, ~~Santa Clara County or San Mateo County counties, cities, schools, or other special districts~~), to purchase goods or services at a price established by

that agency through a competitive bidding process. The General Manager, or ~~Assistant General Manager in his/her absence~~ designee, may authorize and execute such cooperative purchasing agreements.

1. Purchases Exceeding \$25,000-\$50,000

The formal competitive bidding procedures of Section II.A. for purchases exceeding ~~\$25,000~~ \$50,000 are not required when the other public agency has secured a price through a formal, advertised competitive bidding process. Board approval is required prior to purchase.

2. Purchases Not Exceeding \$25,000-\$50,000

The bidding procedures of Section II. B. for purchases not exceeding ~~\$25,000-\$50,000~~ are not required when the other public agency has secured a price through a competitive bidding process. Approval from the General Manager or ~~his/her authorized~~ designee is required prior to purchase.

D. Renewal of Contracts with Professional Consultants

The District may, at its sole discretion, and after following required consultant selection procedures, enter into consultant agreements which contain provisions authorizing their extension or renewal. However, recommendations to extend or renew an existing contract with a professional consultant should include an annual written evaluation of the work performed by the consultant as well as a determination that the fees being charged are comparable to similar services offered by other consultants at the time of renewal or extension. If the total amount of the original and renewed contract in any one fiscal year does not exceed ~~\$2550,000~~, the General Manager or ~~his/her authorized~~ designee may execute the agreement. If the total amount exceeds ~~\$2550,000~~, the request must be approved by the Board.

E. ~~5.~~ Conflict of Law

These procedures are not applicable where superseded by local, state or federal law, where the terms of grant funding provide for the use of other consultant selection procedures, or where the District is obligated to select consultants through the use of different procedures, such as due to the requirements of an insurance or self-insurance program.

F. ~~6.~~ Special Circumstances

These procedures are not applicable when three (3) ~~qualified firms~~bids or ~~individuals~~proposals are unavailable, or if it is appropriate and in the best interest of the District under the specific circumstances ~~of the project at issue~~, to limit the number of ~~consultants~~bids or proposals solicited. The basis for such action shall be documented in writing and approved by the General Manager, ~~the Assistant General Manager~~, or ~~the Acting General Manager~~designee in his/her absence. When Board approval is required, the documented basis for such action shall be included in the report to the Board.

G. 7.—Prequalified Consultant File

When, after District staff has undertaken the selection procedures as set out in this Policy and determined that a consultant is qualified and competent in the performance of the professional services in the consultant's category, District staff may maintain a current file of such consultants in their appropriate categories. For a period of four (4) years from determination of the qualification of such consultant, District staff may select such a prequalified consultant from the current file of prequalified consultants for the performance of professional services.

H. E.—Open Purchase Orders for Routine and Repetitive Supplies and Services

Open purchase orders may be entered into with vendors who are expected to supply routine services, supplies, materials or labor to the District on a regular basis throughout the fiscal year (such as gasoline, discing, road maintenance, vehicle maintenance, printing, office supplies and field hardware). Open purchase orders shall be closed at the conclusion of each fiscal year. Vendors of repetitive supplies and services shall be selected through the competitive bidding procedures set out in Section II, based upon the anticipated or budgeted cumulative cost of the supply or service. Where competitive bidding procedures cannot feasibly be ~~done~~used, a comparison of vendors' prices ~~on representative sample items~~ will be made and staff will provide written documentation of the price quotations used to select the vendor with the lowest cost, pursuant to the Administrative Purchasing Policy/Procedure. Multi-year contracts can be ~~re~~entered into only when appropriate and necessary to secure the best pricing or assure continuity of service. An annual review of the services and prices provided shall be documented by District staff to assure that the vendor is meeting the District's needs and expectations and remains at a competitive price. Whenever feasible, multi-year contracts for service or supplies shall provide that the option to renew or extend the contract is at the District's sole discretion.

IV

V GENERAL PROVISIONS

A. Conflict of Interest

No District employee or official shall be financially interested, directly or indirectly, in any purchase, contract, sale, or transaction to which the District is a party and which comes before said official or employee for recommendation or action. Any purchase, contract, sale, or transaction in which any employee or official is or becomes financially interested shall become void at the election of the District. No employee or official shall realize any personal gain from any purchase, contract, sale, or transaction involving the District. More information can be found in Board Policy 6.02 – Conflict of Interest Code.

B. Credit Cards

The General Manager may approve the use of District credit cards for District purchases by authorized employees. ~~The employee~~Employees utilizing a credit card ~~cannot~~shall not exceed

his/her purchasing authority, as authorized in this Policy and as delegated by the General Manager, ~~and unless prior approval is given by a supervisor with the appropriate purchasing authority.~~ All card holders must follow the credit card procedures outlined in the Administrative Purchasing Policy/Procedure. District credit cards shall not be issued to individual members of the District Board of Directors.

C. Purchase of Recycled Products

District staff shall purchase recycled products whenever such products are available at equal cost to non-recycled products and when fitness and quality are equal. ~~When recycled products are used, the supplier shall label the products to indicate that they contain recycled materials, and specify the minimum percentage of recycled material in the products.~~

D. Violations of This Policy

Employees are subject to disciplinary action up to and including termination for violation of this Policy.

Midpeninsula Regional Open Space District

Board Policy Manual

Public Contract Bidding, Vendor and Professional Consultant Selection, and Purchasing Policy	Policy 3.03 Chapter 3 – Fiscal Management
Effective Date: 7/24/02	Revised Date: 9/23/15
Prior Versions: 12/16/09, 1/27/10	

Purpose

The purpose of this policy is to ensure that the District obtains quality services, supplies, material and labor at the lowest possible cost, and to provide a uniform method for procurement of services and supplies. In addition, through proper documentation, conformance to this Policy will enable the District's constituents to know that their public funds are being spent responsibly, and potential vendors and contractors to know that they are being treated equitably.

I. PURCHASING AUTHORITY

There are three levels of authority for purchases: Board Approval, General Manager Approval and General Manager Delegated Approval. The maximum purchasing authority amounts refer to the total price of an order, including tax and/or shipping, which may include more than one item and also includes change orders and contract amendments. As used in this Policy, the term “purchasing” refers collectively to contracting or procurement of services, supplies, material or labor, including Capital Improvements.

A. Board Approval for Purchases In Excess of ~~\$5025,000~~

If the cost for furnishing services, supplies, materials, labor, or other valuable consideration to the District will exceed ~~Fifty Twenty-Five~~ Thousand Dollars (~~\$5025,000~~), approval from the Board of Directors is required prior to entering into the contract.

The Board may reject all bids and re-advertise, or by a five-sevenths vote may elect to purchase the materials or supplies in the open market, or to construct a building, structure, or improvement using District personnel.

1. Signature

Contracts which have been approved by the Board shall be signed by the General Manager, or in the General Manager’s absence, the Acting General Manager, unless the Board has directed that the President sign on behalf of the District. The District Clerk shall sign all such contracts and affix the seal of the District.

B. General Manager Approval for Purchases Not Exceeding \$~~5025~~,000

Pursuant to Public Resources Code 5549, the General Manager may obtain bids without advertisement or published notice inviting bids and may authorize and execute contracts for payment for services, supplies, material, labor, or other valuable consideration for any purpose, including the new construction of any building, structure, or improvement, in an amount not exceeding \$~~5025~~,000. Such expenditures shall be reported to the Board of Directors at its next regular meeting, and may be reported on the Board's Claims List.

1. Administrative Purchasing Policy/Procedure

The General Manager shall issue an Administrative Purchasing Policy/Procedure, which provides appropriate guidance to staff to ensure that all District purchases are made in accordance with this Policy and required documentation procedures are followed.

C. General Manager Delegated Approval for Purchases Not Exceeding \$15,000

1. The Assistant General Manager may be authorized, in writing, by the General Manager to approve purchases not to exceed \$15,000. When acting as the General Manager, in his/her absence, the Assistant General Manager and Department Managers may be delegated the General Manager's authority of \$25,000.
2. The Department Managers may be authorized, in writing, by the General Manager, to approve purchases relating to his/her area of responsibility not to exceed \$10,000.
3. The General Counsel, Assistant General Counsel, and Area Superintendents may be authorized, in writing, by the General Manager to approve purchases not to exceed \$5,000.

The General Manager shall issue written delegation of purchasing authority to those job classifications whose duties include making purchases within his or her area of responsibility. Purchasing authority limits shall be consistent with this Policy. Such written delegation of purchasing authority shall include the authority to execute contracts, purchase orders, and other documents necessary to approve a purchase within the employee's purchasing authority.

D. Construction Change Orders

Staff may issue change orders to a construction contract, provided that the aggregate of all change orders to that contract does not exceed fifteen percent (15%) of the original contract price, and does not exceed the total contract amount approved by the Board, General Manager or other District employee as authorized by this Policy, including any contingency amount. Any expenditure beyond the originally approved contract and contingency amount shall be approved by the party authorized at that expenditure level under this Policy.

II. SOLICITATION OF BIDS

A. Solicitation of Formal Advertised Bids for Expenditures Exceeding ~~\$5025~~,000

When any expenditure is expected to exceed ~~\$5025~~,000, the District shall publish a notice inviting bids a minimum of one week prior to the time of receiving bids, in a general circulation newspaper published in the District. This type of formal bidding process typically includes the issuance of written plans or specifications describing the goods or services to be provided and the receipt of written bids from the vendors involved. Solicitation of formal bids from a minimum of three vendors is required. Following Board approval, the contract shall then be executed by the General Manager (or the Acting General Manager in his/her absence,), unless the Board President's signature is required. The Contract shall be awarded to the lowest responsible, responsive bidder, except as otherwise provided in this Policy.

B. Solicitation of Three Written Bids for Expenditures Exceeding \$10,000 but Not Exceeding \$25,000

When any expenditure is expected to exceed \$10,000, but not exceed \$25,000, the District shall solicit written proposals from a minimum of three (3) vendors. The General Manager, Assistant General Manager, or Acting General Manager's approval of the contract or purchase order is required as applicable under this Policy.

C. Solicitation of Three Verbal Quotes for Expenditures Exceeding \$5,000 but Not Exceeding \$10,000

When any expenditure is expected to exceed \$5,000, but not exceed \$10,000, the staff member responsible for the purchase is to solicit a minimum of three (3) verbal quotes to provide the goods or services. Such quotes shall be documented in writing pursuant to the Administrative Purchasing Policy/Procedure.

D. Solicitation of Two Verbal Quotes for Expenditures Exceeding \$3,000, but Not Exceeding \$5,000

When any expenditure is expected to exceed \$3,000, but not exceed \$5,000, the staff member responsible for the purchase is to solicit a minimum of two (2) verbal quotes to provide the goods or services. Such quotes shall be documented in writing pursuant to the Administrative Purchasing Policy/Procedure.

E. Expenditures Not Exceeding \$3,000

Staff members shall obtain competitive cost information, whenever reasonably feasible, for any District purchase even though formal cost quotations are not required for goods or services costing \$3,000 or less.

III. EXCEPTIONS TO STANDARD PURCHASING PROCEDURES

A. Emergency Conditions

An emergency is defined as a breakdown in machinery or equipment resulting in the inability of the District to provide services, or a threat to public health, safety, or welfare, including, but not limited to, threatened damage to natural resources. In the case of an emergency requiring an immediate purchase, the General Manager may authorize the Assistant General Manager or Department Manager or his/her designee to secure in the open market, at the lowest obtainable price, any services, supplies, material or labor required to respond to the emergency, regardless of the amount of the expenditure. The General Manager shall, as soon as possible, provide a full written explanation of the circumstances to the Board.

In the case of a disaster or for civil defense, nothing contained in this Policy shall limit the authority of the General Manager to make purchases and take such other emergency steps as are, or may be, authorized by the Board.

B. Limited Availability/Sole Source

Occasionally, necessary supplies, material, equipment, or services are of a unique type, are of a proprietary nature, or are otherwise of such a required and specific design or construction, or are specifically necessary for purposes of maintaining cost effective system consistency, so as to be available from only one source. After reasonable efforts to find alternative suppliers, the District may dispense with the requirement of competitive bids and recommend negotiating and making the purchase from the sole source. The basis for the sole source recommendation shall be documented in writing and approved, in advance, by the Board for purchases exceeding \$25,000, and the General Manager or another authorized District employee, as designated in this Policy, for purchases not exceeding \$25,000.

C. Cooperative Purchasing

The District shall have the authority to join in cooperative purchasing agreements with other public agencies, (e.g. the State of California, Santa Clara County or San Mateo County), to purchase goods or services at a price established by that agency through a competitive bidding process. The General Manager, or Assistant General Manager in his/her absence, may authorize and execute such cooperative purchasing agreements.

1. Purchases Exceeding ~~\$5025~~,000

The formal competitive bidding procedures of Section II.A. for purchases exceeding ~~\$5025~~,000 are not required when the other public agency has secured a price through a formal, advertised competitive bidding process. Board approval is required prior to purchase.

2. Purchases Not Exceeding ~~\$5025~~,000

The bidding procedures of Section II. B. for purchases not exceeding ~~\$5025~~,000 are not required when the other public agency has secured a price through a competitive bidding process. Approval from the General Manager or his/her authorized designee is required prior to purchase.

D. Professional Services

Professional consultant services are of a technical and professional nature, and, due to the nature of the services to be provided, do not readily fall within the “low bid” competitive bidding process. In addition, State law requires that selection of professional consultants in the categories of architects, landscape architects, engineers, surveyors, construction managers, and environmental consulting be made on the basis of demonstrated competence and the professional qualifications necessary for the satisfactory performance of the required services. Professional consultants should be individually selected for a specific project or problem with the objective of selecting the most qualified consultant at a price that is fair and reasonable. Professional services agreements shall not be split into smaller units, nor shall contract amendments be used, for the purpose of circumvention of this Policy.

As used in this Policy, “professional service agreement” shall mean and include all professional service agreements, which are part of or related to the same project or program for which the consultant is being retained, and annual service agreements to provide services on an ongoing basis in any fiscal year. This policy shall include, but not be limited to, services in the following fields:

- Engineering (for example, civil, acoustical, mechanical, electrical, structural, and traffic)
- Architecture
- Landscape Architecture
- Construction Management
- City and Regional Planning
- Economic Analysis
- Property Appraisals/Analysis
- Property Acquisition
- Financial Services
- Data Processing Services
- Project Management
- Environmental Planning and Analysis
- Land Surveying
- Legal Services
- Personnel Consultants/Facilitators/Coaches
- Recruitment Services
- Safety Services
- Trainers

1. Selection Procedures for Professional Services in Excess of ~~\$5025~~,000

When the cost for professional services is expected to be in excess of ~~\$5025~~,000, the District shall prepare a Request for Qualifications (RFQ) outlining the professional's qualifications, relevant experience, staffing and support and hourly rates as a basis for negotiating a contract or a Request for Proposal (RFP) outlining the terms, conditions and specifications of the services required by the District. A minimum of three (3) qualified firms or individuals shall be invited to submit proposals.

District staff will review the proposals received, will select the most qualified firms for interviews, and will rank the consultants based upon the following criteria:

- i. Ability of the consultants to perform the specific tasks outlined in the RFP/RFQ.
- ii. Qualifications of the specific individuals who will work on the project.
- iii. Amount and quality of time key personnel will be involved in their respective portions of the project.
- iv. Reasonableness of the fee requested to do the work; comparability of fee to similar services offered by other qualified consultants.
- v. Demonstrated record of success by the consultant on work previously performed for the District or for other public agencies or enterprises.
- vi. The specific method and techniques to be employed by the consultant on the project or problem.
- vii. Ability of the consultant to provide appropriate insurance in adequate amounts, including errors and omissions if applicable.

For the categories of architects, landscape architects, engineers, surveyors, construction managers, and environmental consultants, initial selection of the most qualified and competent consultants shall not include the cost criteria listed in Section III. D.1. iv of this Policy. After staff has determined the most qualified and competent consultants, this cost criteria shall be considered in negotiating a professional services agreement with and final selection of the consultant.

2. Selection Procedures for Professional Services in Excess of \$10,000 but Not Exceeding \$25,000

District staff shall solicit written proposals from a minimum of three (3) qualified consultants. A formal RFP/ RFQ is not required. The selection shall be based upon the criteria noted in Section III. D.1. The General Manager or his/her authorized designee may approve the selection and execute the agreement.

3. Selection Procedures for Professional Services in Excess of \$3,000 but Not Exceeding \$10,000

District staff shall maintain current files on qualified consultants in appropriate categories. The department shall, by telephone or letter, contact at least three (3) qualified consultants and

request them to submit a proposal either orally or in writing. Oral proposals shall be memorialized in writing, pursuant to the Administrative Purchasing Policy/Procedure. The selection shall be based upon the criteria noted in Section III. D.1. The authorized Department Manager or other authorized District employee may approve the selection and execute the agreement.

4. Renewal of Contracts with Professional Consultants

The District may, at its sole discretion, and after following required consultant selection procedures, enter into consultant agreements which contain provisions authorizing their extension or renewal. However, recommendations to extend or renew an existing contract with a professional consultant should include an annual written evaluation of the work performed by the consultant as well as a determination that the fees being charged are comparable to similar services offered by other consultants at the time of renewal or extension. If the total amount of the original and renewed contract in any one fiscal year does not exceed \$~~5025~~,000, the General Manager or his/her authorized designee may execute the agreement. If the total amount exceeds \$~~5025~~,000, the request must be approved by the Board.

5. Conflict of Law

These procedures are not applicable where superseded by local, state or federal law, where the terms of grant funding provide for the use of other consultant selection procedures, or where the District is obligated to select consultants through the use of different procedures, such as due to the requirements of an insurance or self-insurance program.

6. Special Circumstances

These procedures are not applicable when three (3) qualified firms or individuals are unavailable, or if it is appropriate and in the best interest of the District under the specific circumstances of the project at issue, to limit the number of consultants solicited. The basis for such action shall be documented in writing and approved by the General Manager, the Assistant General Manager, or the Acting General Manager in his/her absence. When Board approval is required, the documented basis for such action shall be included in the report to the Board.

7. Prequalified Consultant File

When, after District staff has undertaken the selection procedures as set out in this Policy and determined that a consultant is qualified and competent in the performance of the professional services in the consultant's category, District staff may maintain a current file of such consultants in their appropriate categories. For a period of four (4) years from determination of the qualification of such consultant, District staff may select such a prequalified consultant from the current file of prequalified consultants for the performance of professional services.

E. Open Purchase Orders for Routine and Repetitive Supplies and Services

Open purchase orders may be entered into with vendors who are expected to supply routine services, supplies, materials or labor to the District on a regular basis throughout the fiscal year (such as gasoline, discing, road maintenance, vehicle maintenance, printing, office supplies and field hardware). Open purchase orders shall be closed at the conclusion of each fiscal year. Vendors of repetitive supplies and services shall be selected through the competitive bidding procedures set out in Section II, based upon the anticipated or budgeted cumulative cost of the supply or service. Where competitive bidding procedures cannot feasibly be done, a comparison of vendors' prices on representative sample items will be made and staff will provide written documentation of the price quotations used to select the vendor with the lowest cost, pursuant to the Administrative Purchasing Policy/Procedure. Multi-year contracts can be let only when appropriate and necessary to secure the best pricing or assure continuity of service. An annual review of the services and prices provided shall be documented by District staff to assure that the vendor is meeting the District's needs and expectations and remains at a competitive price. Whenever feasible, multi-year contracts for service or supplies shall provide that the option to renew or extend the contract is at the District's sole discretion.

IV GENERAL PROVISIONS

A. Conflict of Interest

No District employee or official shall be financially interested, directly or indirectly, in any purchase, contract, sale, or transaction to which the District is a party and which comes before said official or employee for recommendation or action. Any purchase, contract, sale, or transaction in which any employee or official is or becomes financially interested shall become void at the election of the District. No employee or official shall realize any personal gain from any purchase, contract, sale, or transaction involving the District.

B. Credit Cards

The General Manager may approve the use of District credit cards for District purchases by authorized employees. The employee utilizing a credit card cannot exceed his/her purchasing authority, as authorized in this Policy and as delegated by the General Manager, and must follow the credit card procedures outlined in the Administrative Purchasing Policy/Procedure. District credit cards shall not be issued to individual members of the District Board of Directors.

C. Purchase of Recycled Products

District staff shall purchase recycled products whenever such products are available at equal cost to non-recycled products and when fitness and quality are equal. When recycled products are used, the supplier shall label the products to indicate that they contain recycled materials, and specify the minimum percentage of recycled material in the products.

D. Violations of This Policy

Employees are subject to disciplinary action up to and including termination for violation of this Policy.