




Midpeninsula Regional
Open Space District

Memorandum

DATE: March 27, 2019

MEMO TO: Board of Directors

THROUGH: Ana Ruiz, General Manager 

FROM: Susanna Chan, Assistant General Manager

SUBJECT: Contractor Outreach

BACKGROUND

The Midpeninsula Regional Open Space District (District) requires staff to follow Board Policy 3.03 for public contract bidding, vendor and professional consultant selection, and purchasing (Attachment 1). The purpose of the 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. According to Board Policy 3.03, the District shall conduct a formal bid process and attempt to obtain a minimum of three bids when the expenditure for projects, excluding professional services, exceeds \$50,000. District staff has consistently followed Board Policy for contract bidding and vendor selection. Department Managers, Legal Counsel, and the Procurement Specialist regularly check for adherence to the policy.

Unfortunately, the current competitive construction environment and the remote location of District projects have deterred many contractors from bidding on District projects. While many District construction projects receive a minimum of three bids, some projects have received fewer than three and sometimes none, despite District efforts to go above and beyond the Policy requirements by calling contractors and extending bid deadlines to generate interest. Below is a list of recent projects that received fewer than three bids.

- Purisima Creek Redwood Restroom Replacement Project
- La Honda Creek Agricultural Workforce Housing Project
- Bergman Compound Project
- Mount Umunhum Summit Restoration Project

The lack of interest has affected both construction projects and some design projects. The Board of Directors have suggested reaching out to additional local contractors, including ones along the San Mateo Coast, to generate interest and to receive more bids from local contractors for future District projects.

DISCUSSION

In an effort to promote transparency on the District's contracting process and increase interest from local contractors on District projects, staff has identified the following outreach tasks:

- Post the Notice Inviting Bids in *multiple*, local newspapers and magazines. While state law and District Policy only require publishing the Notice Inviting Bids in one general circulation newspaper, many projects warrant publishing the bid notice in multiple newspapers based on project location and scope of work.
- Expand the District's contractors and consultants list by incorporating similar lists compiled by other local government agencies on the Peninsula.
- Create a contractor-friendly pamphlet that provides information about how to bid and work with the District on public construction projects.
- Host contractor outreach events on the coastside and bayside to educate local contractors on the bidding process and requirements, and to showcase upcoming District projects.

Staff is now utilizing on a more regular basis several local newspapers and magazines, including Half Moon Bay Review and San Mateo County Times, to publish the Notice of Inviting Bids for District projects. The costs for publishing in a newspaper range from \$250 to \$2500. In addition to publishing in newspapers, the District also posts bid notices on our website and utilizes BidSync, an online platform for public contract bid notification. We will continue to evaluate the effectiveness of these noticing tools and use them as appropriate.

Staff has also reached out to all local agencies within District boundaries and some adjacent agencies for their contractors list. We received overwhelming responses and have compiled a list containing close to five hundred (500) contractors and two hundred (200) consultants. Approximately 70% of the contractors on the list are located in the Bay Area, with over thirty (30) in District boundaries. Project Managers can now utilize this list to supplement BidSync.

Additionally, staff is working on creating a contractor pamphlet and planning the contractor outreach events. Information to be presented in the pamphlet and outreach events would include:

- California Department of Industrial Relations requirements for public contracts
- The District's contract and agreement requirements
- Public bidding process and requirements
- Ways to get notification on District projects
- Upcoming District projects (for outreach event only)

Staff plans to hold two contractor outreach events in May or June of this year, with one at the District Administrative Office and one at the coast.

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: 12/16/15
Prior Versions: 12/16/09, 1/27/10, 9/23/15	

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.

Policy

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 \$50,000

If the cost for furnishing services, supplies, materials, labor, or other valuable consideration to the District will exceed Fifty Thousand Dollars (\$50,000), 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 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 \$50,000

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 \$50,000. 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.

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.

C. Contract Change Orders

Staff may issue change orders to a 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 \$50,000

When any expenditure for projects, excluding Professional services, is expected to exceed \$50,000, the District shall conduct a formal bidding process pursuant to 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 bidders involved. Staff shall attempt to solicit formal bids from a minimum of three bidders. Following Board approval, the contract shall then be executed by the General Manager or 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 \$25,000 but Not Exceeding \$50,000

When any expenditure is expected to exceed \$25,000, but not exceed \$50,000, the District shall solicit written proposals from a minimum of three (3) bidders. The General Manager's or designee's approval of the contract or purchase order is required as applicable under this Policy.

C. Solicitation of Three Quotes or Proposals for Expenditures Exceeding \$5,000 but Not Exceeding \$25,000

When any expenditure is expected to exceed \$5,000, but not exceed \$25,000, the staff member responsible for the purchase is to solicit a minimum of three (3) quotes or proposals to provide the goods or services. Such quotes shall be documented in writing pursuant to the Administrative Purchasing Policy/Procedure.

D. Expenditures Not Exceeding \$5,000

Staff members shall obtain competitive cost information, whenever feasible, for any District purchase even though formal cost quotations are not required for goods or services costing \$5,000 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 for the purpose of circumvention of this Policy and the required purchasing procedures.

A. Selection Procedures for Professional Services in Excess of \$50,000

When the cost for professional services is expected to be in excess of \$50,000, the District shall prepare a Request for Qualifications (RFQ) outlining the professional's qualifications, relevant experience, staffing and support and hourly rates. 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:

- 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.A. 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 the selected consultant.

B. Selection Procedures for Professional Services in Excess of \$10,000 but Not Exceeding \$50,000

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.A.. The General Manager or designee may approve the selection and execute the agreement.

C. Selection Procedures for Professional Services in 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.A. and per the Administrative Purchasing Procedure. The authorized Department Manager or other authorized District employee may approve the selection and execute the agreement.

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 \$50,000, the General Manager or designee may execute the agreement. If the total amount exceeds \$50,000, the request must be approved by the Board.

E. 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. Special Circumstances

These procedures are not applicable when three (3) bids or proposals are unavailable, or if it is appropriate and in the best interest of the District under the specific circumstances, to limit the number of bids or proposals solicited. The basis for such action shall be documented in writing and approved by the General Manager or 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. 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.

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, state, or other local jurisdictions requiring an immediate purchase, the General Manager or designee may authorize District staff 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 for purposes of maintaining 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 \$50,000, and the General Manager or other authorized District employee, for purchases not exceeding \$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, 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 designee may authorize and execute such cooperative purchasing agreements.

1. Purchases Exceeding \$50,000

The formal competitive bidding procedures of Section II.A. for purchases exceeding \$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 \$50,000

The bidding procedures of Section II. B. for purchases not exceeding \$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 designee is required prior to purchase.

H. 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 used, a comparison of vendors' prices 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 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.

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. Employees utilizing a credit card shall not exceed his/her purchasing authority, as authorized in this Policy and as delegated by the General Manager, 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.

D. Violations of This Policy

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