

**COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject

Competitive Procurement

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Purpose

To establish a Board of Supervisors policy that requires competitive procurement of goods and services, defines the various methods of competitively procuring goods and services, and sets forth exemptions and exceptions from the competitive procurement requirements for the procurement of certain goods and services. This policy also establishes criteria where the exemptions and exceptions may be used and the process for using exemptions and exceptions. This policy implements the provisions of the applicable State of California and County of San Diego laws and regulations governing the County's purchase of goods and services.

Policy

It is the policy of the Board of Supervisors that:

1. The County shall competitively procure goods and/or services unless otherwise allowed for under this Policy or required by State or federal law.
2. The Board of Supervisors, the Chief Administrative Officer, or the Director of the Department of Purchasing and Contracting, as appropriate, shall determine that the price or cost to the County of any contract for goods or services is fair and reasonable prior to awarding the contract.
3. The competitive procurement requirements of this policy may be satisfied by: (a) Formal Bidding, (b) Competitive Negotiated Procurement, (c) Reverse Auction, or (d) through a contract competitively awarded by another governmental agency or cooperative that includes other governmental agencies.
4. Exemptions and Single Source exceptions to the competitive procurement requirements are set forth in this policy. Applicable Single Source exceptions allowed or required by federal, State, or County laws, regulations, ordinances, or policies may also be used where it is determined that doing so would be in the County's best interests.

Procedure

1. Definitions:
 - A. Formal Bidding: A competitive procurement process by which bidders respond to a Request for Bids (RFB) and award is made to the lowest bidder (or if allowed for in the RFB, bidders) who is both responsive (conforming with material bid requirements) and responsible (competent and otherwise qualified to perform under any resulting contract). The County may initiate this process with an RFB or Request for Statement of Qualifications (RFSQ) to pre-qualify offerors for a subsequent RFB.
 - B. Competitive Negotiated Procurement: A procurement process by which offerors respond to a Request for Proposals (RFP). A Source Selection Committee (SSC) then objectively evaluates

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those proposals based upon the proposed goods or services, qualifications, price, and other relevant evaluation criteria, and recommends for award to the Source Selection Authority (SSA) the proposal or proposals that provide the best value to the County. The County may initiate competitive negotiated procurements by issuing an RFP or an RFSQ to pre-qualify offerors for a subsequent RFP. A contract or contracts may be awarded after completion of successful negotiations with one or more offerors.

- C. Reverse Auction: A procurement process by which offerors submit decreasing incremental offers openly and in real-time and where the award is based on the lowest pricing from a responsive (conforming with material bid requirements) and responsible (competent and otherwise qualified to perform under any resulting contract) offeror (or if allowed for, offerors). The County may initiate a reverse auction directly or by issuing an RFSQ to pre-qualify offerors for a subsequent Reverse Auction.
- D. Single Source: Only one manufacturer, distributor, supplier or service provider can provide the required goods and/or services. The following is a non-exclusive list of examples of a Single Source:
- 1) Competition is precluded because of the existence of patent rights, copyrights, secret processes, control of the basic raw material(s) or similar circumstances, and no equivalent good or service is available.
 - 2) The procurement is for parts or components for equipment, and no information or data is available to ensure that the parts or components obtained from another supplier will perform the same function in the equipment; or the parts or components could compromise the safety or reliability of the product, or would void or invalidate a manufacturer's warranty or guarantee.
 - 3) The procurement is for services from a provider with unique knowledge, skill, or ability not available from other sources.
 - 4) A distributor or service provider has an exclusive franchise or operating agreement with the supplier of goods to be purchased or maintained and no other person or entity may provide, install, service or maintain the goods in the service area. This does not include the purchase of goods where a same or similar good may be purchased and is not otherwise defined as a Single Source item.
 - 5) Standardization: The procurement is for goods and/or services where standardization is beneficial for reasons including maintenance, repair, training, and interoperability.

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- 6) Continuity: The procurement is for goods and/or services where continuity of providers will provide efficiency or critical knowledge, and other providers of the goods and/or services cannot provide similar efficiencies or critical knowledge.

2. Categorical Exemptions from Competitive Procurement Policy:

The following types of procurement of goods and/or services are categorically exempt from the competitive procurement requirements:

- A. Utility Services: The item or service to be procured is from a utility or a direct access provider and qualifies as a Single Source.
- B. Educational Services: Procurement of educational services from a not-for-profit organization.
- C. Federal and State Award Schedules: Procurement of Services and non-services that are based upon federal or State award schedules.
- D. Standard Commercial Off-the-Shelf Software Packages (COTS) or Hardware Products: Procurement of software or hardware products that are ready-made and commercially available for sale to the general public, and designed to be easily integrated into existing systems without the need for more than minimal customization, and where the provider of services and/or items would qualify as a Single Source.
- E. Equipment Maintenance Services: Maintenance services and/or replacement parts where the provider of services and/or goods would qualify as a Single Source.
- F. Operating and Maintenance Services for Software and Hosting Services: Procurement or renewal of operating and maintenance services for existing software and/or hosting services where the provider of services and/or goods would qualify as a Single Source.
- G. Disabled Veteran Business Enterprises (DVBE): Procurements of up to \$50,000 in goods and/or services from a certified DVBE as defined in Board Policy B-39a.
- H. Architectural, Engineering and Related Professional Services: Professional services procured in accordance with Board Policy F-40, applicable laws of the State of California and related County procedures.
- I. Medical or Surgical Equipment, Supplies or Professional Services: Procurement of medical or surgical equipment or supplies or professional services for use by a County facility if funds for such use are appropriated. "Medical or surgical equipment or supplies" means only equipment or

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supplies commonly, necessarily, and directly used by or under the direction of a physician or surgeon in performing their duties in a County facility.

- J. Simplified Procurement Procedure: Procurement of goods and/or services with a total contract value not to exceed \$250,000, or a contract value not to exceed \$100,000 annually and for a term not to exceed five (5) years, where the procurements are made through the use of quotations and award is based on terms, price, and other appropriate factors and in accordance with the procedures set forth by the Director of the Department of Purchasing and Contracting.
- K. Publications and Subscription Services: Notices, advertisements, and publication services used to post notices required by law or necessary to support the County operations. Information sources governed by publisher agreement, subscriptions (on-line or print) to newspapers, journals, and other periodicals. Legal research services and publications used for legal research and analysis.
- L. Small Business Enterprise (SBE) and Veteran Owned Business (VOB) Set-Aside: Use of competition or Simplified Procurement Procedures with a total contract value not to exceed \$100,000, and where eligibility to compete for award is reserved exclusively for SBEs and VOBs as defined in Board Policies B-53 and B-39a respectively.
- M. Authorization for the Chief Administrative Officer (CAO) to Contract for Services: The CAO is authorized to approve, without a competitive procurement, a service contract, not to exceed an annual value of \$30,000, where the contract services relate to the discharge of CAO official duties for the purpose of directly assisting the CAO with the performance of such duties. The CAO may instruct the Director of the Department of Purchasing and Contracting to execute the service contract approved by the CAO. The Assistant CAO, in the absence of the CAO, is authorized to approve service contracts pursuant to this provision. The CAO or the ACAO as the case may be, may not delegate the authority granted under this provision.
- N. Interim Contracts: Interim contract or extension of an existing contract where the required goods or services are the subject of an ongoing procurement and where the results of that procurement have been protested in accordance with Board Policy A-97 (Protest Procedures for Award of Contracts), or litigation has been initiated or is believed to be forthcoming, or where an unforeseen and intervening event has delayed the award or caused the procurement to be cancelled or a portion of the procurement to be redone; or where the goods or services are or were provided through a contract that has been or is expected to be terminated or suspended,
- O. Community Services Agreements: Procurement of non-public works services such as clean up, weed abatement, graffiti removal, and other similar work acquired from not-for-profit organizations providing job training or transitional employment through the performance of the contracted work, not to exceed an annual value of \$500,000. The Director of the Department of

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Purchasing and Contracting shall provide guidance on the selection process to be used by departments where multiple potential contractors exist.

- P. Emergency Purchases: Procurement, subsequent approval, or modification of an existing (emergency or non-emergency) contract in case of emergency as defined in section 402 of the County Code of Administrative Ordinances where the value of the goods and/or services acquired for the emergency does not exceed \$100,000 in value.

To confirm an exemption from this policy, the procuring department shall cite and justify the applicability of the categorical exemption in its request for approval of the procurement transmitted to the appropriate contracting authority (e.g., the Board of Supervisors or the Director of the Department of Purchasing and Contracting).

3. Single Source Exceptions to Competitive Procurement:

- A. The competitive procurement requirements of this policy may also not apply if, under the particular circumstances of the procurement, (i) the goods and/or services qualify as a Single Source and the purchase of those goods and/or services otherwise complies with the requirements of this Policy and ii) procuring the goods and/or services from a Single Source would be in the County's best interest. In order to be in the County's best interest, the Single Source must provide the goods and/or services at a price and with terms that the Board of Supervisors, or as appropriate under this Policy or the Board's direction, the Chief Administrative Officer or the Director of the Department of Purchasing and Contracting determines to be fair and reasonable.

Unless otherwise allowed under the County Code of Administrative Ordinances or this Policy, Single Source procurements with an estimated annual value may be approved as follows:

- 1) Contracts up to \$50,000 – Director of Purchasing and Contracting.
- 2) Contracts over \$50,000 and up to \$100,000 – Chief Administrative Officer.
- 3) Contracts over \$100,000 – Board of Supervisors.
- 4) In cases of Emergency, as defined in section 402 of the County Code of Administrative Ordinances, the Chief Administrative Officer or the department heads may approve Single Source procurements over \$100,000 without prior Board of Supervisors' approval.

B. Requesting a Single Source Exception to this Policy:

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Whether requesting approval by the Director of the Department of Purchasing and Contracting, the Chief Administrative Officer, or the Board of Supervisors, requests for an exception to this policy shall be in writing and shall conform to the following format and include the following information:

- 1) Introductory paragraph about the procurement.
- 2) Goods or services, term period, and estimated value.
- 3) Benefits to the County of San Diego.
- 4) Why the procurement qualifies for an exception.
- 5) Basis for determination of fair and reasonable price.

4. Public Notice of Procurement:

To maximize competition, the Director shall comply with the following notice and publication requirements:

- A. For all procurements when competition is required, the Director shall post the procurement and make available to the vendor community notice of the procurement in accordance with procedures and processes established by the Director.
- B. The Director shall provide notice and publication of the procurement as required by funding source requirements or federal or State law or regulation.

Responsible Departments

1. Department of Purchasing and Contracting

Sunset Date

This policy will be reviewed for continuance by 12-31-2020.

References

Board Action 02-24-81 (134)
02-06-90 (43)
05-15-96 (11)
01-28-03 (16)
02-27-07 (9)
12-09-08 (33)

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06-28-11 (9)
12-04-12 (13)
08-06-13 (8)
12-15-15 (21)