

408 PURCHASING, CONTRACTING AND PROCUREMENT

408.1 Purpose

The Board of Directors of the District will be responsible for the awarding of all contracts. Final approval of all purchases of materials, supplies, equipment, and goods as well as construction, maintenance, repair and alteration services shall comply with the provisions of this policy. Under the direction of the Board of Directors, the General Manager shall act as the purchasing agent for the Board in the procurement of goods and services in accordance with these District policies and applicable provisions of law.

408.2 Purchasing of Materials, Supplies and Equipment Not Related to New Construction

All purchases of items consisting of materials, supplies and equipment will require written approval from the appropriate department supervisor/manager prior to purchase. If the purchase exceeds the spending limit of the purchasers, approval must be obtained from the appropriate higher authority prior to purchase. After the proper approval has been obtained, a District printed purchase order may be issued. The following guidelines will be observed when purchasing such materials, supplies and equipment:

- A. When procuring materials, supplies and equipment costing less than Three Thousand Dollars (\$3,000.00), price competition is not required. However, every attempt should be made to secure the most reasonable price for the goods to be obtained.
- B. When procuring materials, supplies and equipment costing over Three Thousand Dollars (\$3,000.00) the purchase shall be based, wherever possible, on at least three (3) bids/quotes. The bid/quote shall be awarded to the lowest responsible bidder.
- C. When the District requires supplies, materials or equipment which are produced by only one manufacturer, such lists shall also include the phrase "or approved equivalent" to permit bidders to bid on alternative or additional makes, brands or types which are proved to be the equivalent to the manufacturer's make or brand specified. If the manufacturer or his representative is the sole responsible bidder or sole source of supply, the General Manager may negotiate an open market order or contract with the manufacturer or his representative at prices and on terms most advantageous to the District.

When the District requires supplies, materials or equipment which are patented or proprietary, and which are obtainable in two (2) or more equally satisfactory and competitive makes, brands or types, the District may list such acceptable and competitive makes, brands or types in the invitation to bid. Such lists shall also include the phrase "or approved equivalent" to permit bidders to bid on alternative or additional makes, brands or types. It shall be incumbent on each bidder to prove to the satisfaction of the General Manager that the alternate or additional make, brand or type which he offers is actually equal in quality or performance to those listed in the invitation to bid.

- D. The District may request the State Department of General Services to make purchases of materials, equipment, or supplies on its behalf if better value can be obtained by the District by utilizing this method of purchase.
- E. As an alternative, the District may request the purchasing agent of Tuolumne County to make purchases of materials, equipment, or supplies not related to new construction on its behalf if this method of purchase reduces the cost of acquisition to the District.

408.4 Approval Limits for Purchases

The General Manager has signing authority for all budgeted items, and any unbudgeted items up to Ten Thousand Dollars (\$10,000). All unbudgeted items over Ten Thousand Dollars (\$10,000) must be approved by the Board of Directors. The General Manager may delegate signing and authorization responsibilities for budgeted items to department managers and supervisors. Department managers and supervisors have signing authority for up to Three Thousand Dollars (\$3,000).

408.5 Contracting for Projects for New Construction, Alterations and Repairs; Contracting for Purchase of Materials, Supplies and Equipment Related to New Construction, Alterations, Maintenance or Repairs

The District will only use adequately licensed contractors, which shall be verified prior to contract execution. The Contractor's registration with the Department of Industrial Relations shall be verified when such is required. The District has adopted the Uniform Public Construction Cost Accounting Act (hereinafter "UPCCAA") and its contracting policies for projects consisting of: 1) new construction, maintenance, alterations or repairs, and 2) the purchasing of materials, supplies and equipment related to new construction, alterations, maintenance or repairs.

- A. When contracting for projects consisting of new construction, maintenance, alteration or repairs, or the purchasing of materials, supplies and equipment related to such construction, when the cost of materials, supplies and labor will not exceed the bid limits established in law, price competition is not required and the project or purchase may be performed by negotiated contract, by purchase order, or by the employees of the District by force account.
- B. When contracting for projects consisting of new construction, maintenance, alteration or repairs, or the purchasing of materials, supplies and equipment related to such new construction, when the cost of materials, supplies and labor for the project is less than the formal competitive bidding limits established in law, the project or purchase may be let to contract by informal bidding procedures specified in the District's informal bidding ordinance adopted pursuant to the provisions of Public Contract Code 22034.
- C. When the cost of materials, supplies and labor on the project, or the cost of purchase of materials, supplies and equipment related to such construction exceeds the formal competitive bid limits established in law, that project or purchase shall be let to contract by the formal bidding procedure specified in Public Contract Code Sections 22037, 22038 and 22039.
- D. Notice of inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project. The notice shall be published at least fourteen

(14) calendar days before the date of opening the bids in a newspaper of general circulation in the jurisdiction of the District. It shall also be mailed to all construction trade journals specified in Public Contract Code Section 22036 at least thirty (30) calendar days before the date for opening the bids.

- E. Upon receiving such bids for projects for new construction, alterations and repairs, the District Board of Directors may:
 - 1. Accept the bid of the lowest responsible bidder;
 - 2. Reject all bids and re-advertise; or
 - 3. By four-fifths (4/5) vote declare that the project can be performed more economically by the employees of the District and elect to have the project done by force account.

- E. Upon receiving such bids for purchasing of materials, supplies and equipment related to such new construction, alterations or repairs, the District Board of Directors may:
 - 1. Accept the bid of the lowest responsible bidder;
 - 2. Reject all bids and re-advertise; or
 - 3. By four-fifths (4/5) vote elect to purchase the materials, supplies or equipment in the open market.

- F. If two or more bids are the same and the lowest, the District may accept the one it chooses. If no bids are received through the formal or informal procedure, the project may be performed by the employees of the District by force account, or by negotiated contract.

408.6 Emergency Purchases, Repairs and/or Replacements

In the case of an emergency, the District may, pursuant to a 4/5th vote of its Board of Directors, repair or replace a public facility or improvement, take any related and immediate action required by that emergency, and procure the necessary equipment, services, supplies, and materials for those purposes, without giving notice for bids to let contracts, without adopting plans, specifications and/or working details for the project. The emergency work may be done by day labor under the direction of the General Manager, or his designee.

- A. Before the Board of Directors takes any action to repair or replace a public facility or to procure necessary materials, supplies, equipment, or services for emergency purposes, the Board of Directors shall make a finding based on substantial evidence set forth in the minutes of its meeting that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the actions authorized by the Board to repair, replace, or purchase materials and supplies are necessary to respond to the designated emergency.

- B. The Board shall periodically review any action taken in response to such an emergency at its next regularly scheduled meeting and at every regularly scheduled meeting thereafter pursuant to the requirements of Public Contract Code Section 22050.
- C. For the purposes of this section, the term “Emergency” shall mean any event that immediately impacts the health and safety of the public or environment and that by delaying action will result in substantial harm or damage to individuals, property, or the environment.

408.7 Bid Policies

A. Conflicts of Interest

The purchasing agent and the employees of the District are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation, to which a purchase order or contract is, or might be awarded, any rebate, gift, money, or anything of value whatsoever.

B. Consideration of Bids

After bids have been opened and read, they may be checked for accuracy and compliance with the requirements of the bidding documents including any Notice to Bidders, Instructions to Bidders as well as any plans and specifications for the project to be bid or the specifications of any equipment, materials or supplies to be purchased pursuant to bid.

It is the intent of the District to award a contract to the lowest responsible bidder provided the bid has been submitted in accordance with the requirements of the bidding documents and does not exceed funds available. With respect to projects consisting of new construction, maintenance, alterations or repairs, it is the intention of the District to award a contract only to a responsible bidder who has furnished satisfactory evidence that it has the requisite experience and ability and sufficient capital, facilities and plant to enable it to prosecute the work successfully and promptly, and to complete it within the time stated in the contract documents. With respect to the purchasing of equipment, materials, and supplies related to new construction, maintenance, or repairs, it is the intention of the District to award a contract only to a responsible bidder who has furnished satisfactory evidence that it has the requisite experience and ability to provide materials, supplies and equipment which meets specifications of the District.

C. Bid Security

Each bid shall be accompanied by bid security in a form and amount required herein to be specified by the District pledging that the bidder will enter into a contract with the District on the terms stated in the bid and will, if required, furnish bonds covering the faithful performance of the contract and payment of all obligations arising thereunder. Bid security shall be in the amount of not less than ten percent (10%) of the amount of the bid being submitted by the bidder, and may be in the form of a certified check, cashier’s check or surety bond. Should the bidder refuse to enter into such a contract or fail to furnish the bonds

required, then the bidder shall forfeit the amount of bid security to the District as liquidated damages, and not as a penalty.

All surety bonds shall be issued by a surety admitted to do business in the State of California and accompanied by a Certificate of Fact issued by the County of Tuolumne County Clerk pursuant to CCP § 995.640(a) or a Certificate of Authority with respect to such surety issued by the State of California Department of Insurance.

D. Acceptance and Award of Bid

1. Contract Award. The award of the contract will be to the lowest responsible bidder as set forth above.
2. Waive Irregularities. The District shall have the right to waive informalities or irregularities in a bid received and to accept a bid which, in the District's judgment, is in the District's best interest.
3. Alternatives. The District shall have the right to accept alternates in any order or combination unless otherwise specifically provided in the bidding documents, and to determine the low bidder on the basis of the sum of the base bid and alternates accepted.
4. Rejection of Incomplete Bids. Until an award of bid is made, the purchasing agent reserves the right to reject any and all bids, reject a bid not accompanied by any other information required by the bidding documents, or reject a bid which is in any way incomplete or irregular.
5. Rejection of Bid for Technical Defects. Until an award of bid is made, the purchasing agent reserves the right to reject any and all bids and to waive technical defects, if to do so best serves the interests of the District.
6. Notice and Solicitation of Bid for Purchase of Supplies, Equipment and Property. The purchasing agent shall give notice inviting bids to all suppliers, persons and firms who file written requests with the District office for such notice. In addition, the purchasing agent shall send notice inviting bids to such other firms or persons as in his opinion may be necessary to inform the trade.

408.8 Bidder Pre-Qualifications

The purchasing agent may require pre-qualifications of bidders and may require bidders to provide information for the purpose of preparing and maintaining lists of qualified bidders. Pre-qualification shall be based on any available information, including but not limited to information provided by the bidder. A bidder's name may be removed from the list of qualified bidders for any of the following reasons:

1. Failure to respond or providing misleading statements to questionnaires issued by the purchasing agent or to provide a financial statement or other information as may be requested.

2. Failure to respond to three (3) consecutive invitations or requests for bids or quotations on services or an item offered by the bidder.
3. Failure to satisfactorily perform under a previous purchase order or contract.
4. Failure to respond to any inquiry from the purchasing agent regarding whether the bidder continues to be interested in doing business with the District.
5. Submission to the purchasing agent by the bidder of a written request to be removed from the list of qualified bidders.
6. Change in qualifications of a bidder to the extent that he/she no longer meets the minimum requirements applicable to bidders offering the services or item offered by the bidder.