

Section	FIN-5 Finance	Approval Date	10/23/03
Policy	FIN-5.7 Procurement Policy	Latest Revision	08/23/17

FIN-5.7 Procurement Policy

Section 1. Purpose and Authority.

The purpose of this policy is to establish regulations and procedures governing District purchases of supplies and equipment, approval of contracts, and other expenditures. This policy is adopted pursuant to Government Code sections 54202 and 54204, Public Contract Code sections 20680 to 20683, and other applicable law.

Section 2. Definitions.

- A. "Emergency" means a sudden, unexpected occurrence or incident that poses a clear and imminent danger or threat, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.
- B. "Expenditure" means any District expenditure, payment, purchase, contract or lease relating to a District expense or cost item, including, but not necessarily limited to, the purchase of Supplies; professional, consultant or service contracts; equipment service, maintenance or repair contracts; utility service accounts and contracts; procurement of insurance and bonds; purchase of fuel, oil or other vehicle maintenance supplies; and Public Works contracts.
- C. "Lowest Responsible Bidder" means the bidder that timely submits a complete and fully responsive bid and that bests responds in price, quality, service, fitness and capacity to meet the particular bid requirements. Price alone will not be the determinative factor, but will be considered along with other relevant bidder responsibility factors such as bidder reputation, qualifications and experience, ability of the bidder to deliver, quality of the Supplies, and availability of parts or service.
- D. "Public Works" means the construction, alteration, reconstruction, installation or repair of District improvements, facilities, buildings or structures.
- E. "Supplies" means supplies, materials, equipment, and merchandise, including vehicles, computers, other machines, equipment parts, office supplies, chemicals, tools, and furniture.

Section 3. Applicability.

This policy applies to District purchases of Supplies, approval of Public Works contracts and other contracts, and approval of other expenditures.

Section 4. General Manager Duties.

The District General Manager shall have responsibility and authority in connection with purchasing Supplies, approving Public Works and other contracts, and approving other Expenditures in accordance with this policy. The General Manager may delegate to other District officers or employees the authority to make purchases, approve contracts and perform other duties in accordance with this policy. The General Manager may adopt rules and procedures to implement and supplement these regulations so long as they are consistent with this policy.

Section 5. Expenditures Other Than Public Works Less Than \$50,000; General Manager Approval.

- A. Comparative Pricing Generally. For an Expenditure of estimated value less than \$50,000 for which there are unappropriated funds available in the current approved District budget for the item, the General Manager may make the Expenditure on the open market or through the Internet by seeking the most favorable terms and price either through negotiation, comparative pricing or informal competitive bidding, whichever method the General Manager deems most appropriate in the circumstances. The General Manager may approve the Expenditure through a written invoice, purchase order, contract, or other appropriate binding method.
- B. Exceptions. Negotiation, comparative pricing or informal competitive bidding is not required for an Expenditure in the following situations:
 - (i) The amount of the Expenditure is less than \$1,000;
 - (ii) The General Manager determines that the Supplies can be obtained reasonably and efficiently only from one vendor or supplier;
 - (iii) The General Manager determines that it is strongly preferred for efficient operations that the Supplies be of a particular model, brand or make in order to match and be compatible with the model, brand or make of existing in-use equipment or facility;
 - (iv) The Supplies are to be purchased through or from the State of California or other federal, state or local government group sale program;
 - (v) Professional service (e.g., architect, engineer, accountant, attorney, or environmental consultant) contracts;
 - (vi) The General Manager determines that the nature of the Expenditure is such that competitive proposals would not produce an advantage and negotiation, comparative pricing or informal competitive bidding therefore would be undesirable, impractical, unattainable, unfeasible or impossible;
 - (vii) An Emergency under section 9.

Section 6. Expenditures Other than Public Works Over \$50,000; District Board Approval.

For an Expenditure of estimated value over \$50,000 not involving Public Works or an Expenditure of any amount for which there are not unappropriated funds within the current approved District budget, the Expenditure must be authorized by the Board (except for an Emergency under section 8). The General Manager will present an Expenditure recommendation to the Board after seeking the most favorable terms and price either through negotiation, comparative pricing or informal competitive bidding,

whichever method the General Manager deems most appropriate in the circumstances; however, negotiation, comparative pricing or informal competitive bidding will not be required in the exception circumstances described in section 5(B) above.

Section 7. Public Works.

- A. Public Works Less Than \$25,000. For Public Works of estimated value less than \$25,000 for which there are unappropriated funds available in the current approved District budget, the General Manager may procure the work on the open market by seeking the most favorable terms and price either through negotiation, comparative pricing or informal competitive bidding, whichever the General Manager deems most appropriate in the circumstances. The General Manager may procure the work through a written invoice, purchase order, contract, or other appropriate binding method. In his discretion, the General Manager may use the District's own forces for the work if he determines that performing the work under contract would not be in the District's best interests.

- B. Public Works Over \$25,000. The procurement of a Public Works contract of estimated value over \$25,000 must be made pursuant to the following bidding procedures.
 - (i) *Bid Notice*. The General Manager will prepare a notice inviting bids that includes a description of the r Public Work (including, if appropriate, reference to bid plans and specifications), the method to obtain more detailed information about the Public Work, the deadline for receipt of sealed bids, and the time and place of the bid opening. The notice inviting bids will be published at least once in a newspaper of general circulation in the District at least 10 days before the deadline for receipt of sealed bids, be posted on the District website, and be distributed and noticed to responsible prospective suppliers and vendors in such other manner as the General Manager deems appropriate in the circumstances. The General Manager will require bidders to post a bidder's security in a form and amount as determined by the General Manager and include the bid security requirements in the notice inviting bids.

 - (ii) *Bid Opening*. At the time and place for the bid opening, the bids will be opened in public. The General Manager will tabulate all bids received and keep them open for public inspection. Any bids received after the bid receipt deadline will be returned to the bidder unopened.

 - (iii) *Bid Award*. At the next Board meeting following the bid opening, the General Manager will present the bids to the Board and make a recommendation concerning an award to the Lowest Responsible Bidder. In its discretion, the Board may: (i) award the purchase to the Lowest Responsible Bidder; (ii) reject all bids and re-advertise for bids; (iii) reject all bids and not proceed with the purchase; or (iv) reject all bids and direct that an open market or Internet purchase be made by the General Manager if the price to be paid on the open market or Internet is less than the low bid. The Board may waive any irregularity, informality or minor error in any bid that does not affect the bid price. Upon Board award to the Lowest Responsible Bidder, the purchase or award will be confirmed by a written invoice, purchase order or contract. If no responsive bids are received by the bid deadline, the Board may authorize the General Manager to approve the purchase on the open market or through the Internet by seeking the most favorable terms and price

through negotiation, comparative pricing or informal competitive bidding or through such other methods as may be specified by the Board.

Section 8. Procurements Using Federal Funds (Grants or Loans).

All procurements which will utilize federal funds must be conducted in compliance with this policy and the requirements contained within the Federal Code of Regulations Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The Code of Federal Regulations can be found at www.ecfr.gov.

Section 9. Emergency Purchases.

In case of an Emergency, the General Manager is authorized to make and approve necessary Expenditures in the open market or through the Internet. The General Manager shall use his best efforts to first obtain the consent (which may be verbal or via e-mail) of at least two Board members prior to making the Expenditure. Expenditures approved under this section do not require prior Board approval and may be made without complying with comparative pricing or bidding requirements. The General Manager thereafter must promptly report to the Board concerning the type and amount of the expenditure and the Emergency circumstances warranting the Expenditure. Expenditures that ordinarily would require Board approval pursuant to this policy shall be subject to ratification by the Board at its next meeting.

Section 10. Contract Approval.

The General Manager or Board President is authorized to sign contracts and agreements on behalf of the District if the contract or agreement has been approved or authorized in accordance with this policy.

Section 11. Change Orders and Amendments.

The General Manager may authorize change orders or amendments to any contract, up to a cumulative total of the purchasing authority granted in Section 5A. Additionally, the General Manager may authorize change orders or amendments to contracts in excess of the purchasing authority granted in Section 5A, up to a cumulative total of 10% of the original contract amount.

Section 12. Review of Policy.

This policy shall be reviewed and, if necessary, updated every two years to ensure compliance with all applicable laws.

Revision History:

Revision Date	Description of Changes	Requested By
6/28/18	Add Section 8: Procurements Using Federal Funds (Grants or Loans).	Finance Committee