

FEATHER RIVER AIR QUALITY MANAGEMENT DISTRICT  
PURCHASING, BIDDING, AND CONTRACTING POLICY

INTRODUCTION

This policy sets forth the District's requirements and guidelines for the purchase of materials and equipment and the retention of consultants. The Feather River Air Quality Management District (District) Board of Directors (Board) reserves the authority to change spending limits and procedures set forth in this policy via adoption of a resolution for a specified amount of time or for a specified circumstance.

DEFINITIONS

APCO – Air Pollution Control Officer of the Feather River Air Quality Management District or an employee of the District designated by the APCO to act in these matters. The APCO shall have all the authority of a purchasing agent.

Bid – Any proposal submitted to the District in competition for supplying materials and equipment. Bids are not submitted for the provision of consultant services.

Consultant – Individual, firm, partnership, corporation, association or other legal entity that provides a special service or expertise required by the District.

Contract or agreement – One of the District's standard personal service or independent contractor agreements or any agreement approved by the District's legal counsel.

Contractor – Individual, firm, partnership, corporation, association or other legal entity that enters into an agreement with the District to supply materials or equipment or to perform certain studies, investigations, services or work.

District – The Feather River Air Quality Management District.

Total cost – The total and complete cost of the item or work including purchase or contract price, applicable sales tax, shipping cost and handling cost.

GENERAL

- 1) Separation into smaller projects: equipment, materials, consulting services and public construction shall not be split or separated into smaller contracts, projects or quantities for the purpose of evading the requirements of this policy.
- 2) Sole Source Determination
  - a) On occasion, due to availability, experience or overall cost (including operating and maintenance costs), certain materials, equipment, consultant services or public

construction services are available from only one source. In the case of the purchase of budgeted materials or equipment valued between \$2,500 to \$10,000, if the APCO makes a determination that the budgeted materials or equipment are available from only one source, those materials or equipment may be purchased without first conducting a formal or informal bid procedure and without prior Board approval. The APCO must make the sole source determination in writing and must present the determination to the Board, as an informational item only, at their next regularly scheduled meeting.

a)b) In the case of unbudgeted materials and equipment, or materials and equipment valued at greater than \$10,000, the Board shall make the sole source determinations.

b)c) In the case of contracting for consultant or public construction services for which a request for proposals, informal bids or formal bids are normally required, the Board may make a determination that based on availability, required specifications or experience, certain services could best be performed by a sole source. If the Board makes such a determination, it may enter into a contract with the sole source to perform the desired services without first conducting a request for proposals, informal or formal bidding procedure. A record of the Board's sole source determination shall appear in the meeting minutes. However, the required specifications shall not purposefully allow only one item, one supplier or one contractor to meet the specification.

- 3) District will ensure that discrimination in the award and performance of contracts does not occur on the basis of race, color, sex, national origin, marital status, sexual preference, creed, ancestry, medical condition, or retaliation for having filed a discrimination complaint in the performance of District contractual obligations.
- 4) Disadvantaged Business Enterprises (DBE), Minority Business Enterprises (MBE) and Women-Owned Business Enterprises (WOB): To the extent required by existing law, regulation or executive orders, contracts, agreements or grants involving federal and state funds, the District shall ensure that DBE, MBE, and/or WOB are invited to participate in the bidding process, and that specifications are written in such a way that these enterprises are not excluded from the process.

#### MATERIALS AND EQUIPMENT

- 1) The purchase of all materials and equipment falls into one of three categories:
  - a) Total cost is less than or equal to \$2,500 – There is no requirement for formal or informal bid procedures and no requirement for the preparation of specifications.
    - i) The purchase of all materials and equipment that cost less than or equal to \$2,500 shall be made in accordance with the District's Cal Card policy.
  - b) Total cost is greater than \$2,500, and less than or equal to \$10,000 – The materials or equipment shall be secured via an informal bid procedure. Upon completion of the informal bid procedure, the materials or equipment purchase shall be authorized by the APCO and shall be purchased by means of a District purchase order or a District contract in a form approved by District Counsel or charged to a district account.

- c) Total cost is greater than \$10,000 – The materials shall be secured via a formal bid procedure. Upon completion of the formal bid procedure, a contract or purchase order for the materials or equipment purchased shall be authorized and executed by the Board.
  - d) The Board may determine on a case by case basis that a purchase may be made without requiring a formal bid procedure.
- 2) Informal Bid Procedure
- a) Procedures for purchases of equipment and materials subject to an informal bid shall be as follows:
    - i) A request for informal bids and a description or specifications for the item(s) shall be prepared. The specifications shall be detailed enough to thoroughly characterize the item(s) but should not contain so much detail as to purposefully allow only one item, one supplier or one manufacturer to meet the specifications. If only one item could be the specifications, it may be appropriate to make a sole source determination.
    - ii) The text of the request for informal bids should contain a statement that the District reserves the right to negotiate directly with any party responding thereto and may enter into a contract with any responding party regardless of price if it is advantageous for the District to do so.
    - iii) The request for informal bids shall be posted in the public office of the District and posted on the District's website. The request for informal bids should designate the time and place that bids are to be received.
    - iv) After a period of not less than forty-eight (48) hours after distribution of the request for informal bids, the APCO shall evaluate all bids received. All bids received must be signed by an agent of the supplier authorized to submit binding bids. The materials or equipment shall be purchased from the lowest bidder that meets all the requirements set forth in the specifications.
- 3) Formal Bid Procedure
- a) Procedures for purchases of equipment and materials subject to a formal bid shall be as follows:
    - i) A request for formal bids and a description or specifications for the item(s) shall be prepared. The specifications shall be detailed enough to thoroughly characterize the item(s) but should not contain so much detail as to purposefully allow only one item, one supplier or one manufacturer to meet the specifications. If only one item could meet the specifications, it may be appropriate to make a sole source determination.
    - ii) The request for formal bids and specifications shall also contain instructions to bidders as to bid, delivery and payment conditions. These additional instructions and conditions are to be considered part of the specifications. In order for bids submitted to be acceptable, all instructions and conditions must be adhered to by the bidders.
    - iii) The text of the request for formal bids should also include: (1) a statement that the District reserves the right to negotiate directly with any party responding thereto and may enter into a contract with any responding party regardless of price if it is advantageous for the District to do so and (2) no public opening of proposals shall be required.

- b) The APCO shall cause an advertisement inviting formal bids to be published as a legal notice stating the materials or equipment to be purchased and the time and place of opening of sealed bids. The notice shall be published at least once a minimum of ten (10) days prior to bid opening.
- c) At the time and place designated in the notice inviting bids, the APCO shall open all bids received. All bids received must be signed by an agent of the supplier authorized to submit binding bids. Bids submitted by FAX are not acceptable. The District, at its discretion, may reject all bids. The materials or equipment shall be purchased from the lowest bidder that meets all the requirements set forth in the specifications. If two or more bids meet all the requirements and are the lowest, the District will select the successful bidder by lot.
- d) In the event that all bids are rejected after the second invitation for bids, the Board may pass a resolution vote declaring that the materials or equipment may be purchased at a lower price on the open market. In the event that the Board fails to pass the aforementioned resolution, the project shall be re-advertised for bids or abandoned.

**DISPOSAL OF SURPLUS MATERIALS**

- 1) The disposal of all District materials, equipment and assets, deemed to be a surplus, shall take place as follows:
  - a) No more than once per year, District staff may review the condition and usefulness to the District of all materials, equipment and assets and prepare a list of surplus materials for disposal via public auction. The list of items to be disposed of, along with a disposal justification for each item and an estimated “as-is” value, shall be submitted to the Board for their review and approval. The Board will approve the list of items to be sent to auction and the list of items to be disposed.
  - b) Items to be sold at auction: surplus property with moderate value; that which the District should be able to re-coup expenses for handling/processing for sale at auction, shall be sent to an auction.
  - c) Items to be disposed of: items for immediate disposal would include any damaged, broken, obsolete or items deemed to have no or minimal resale value.
  - c)d) The District may also transfer surplus equipment to other agencies which have a need for such equipment.

**RETENTION OF CONSULTANTS**

- 1) Consultants providing special services or shall be retained via a formal contract with the District. An exception to this requirement is made for consultants providing a specific commodity or skilled labor service, such as laboratory analytical services or for professional services less than or equal to \$7,500. In these cases, the consultant’s services may be secured with a District purchase order.

**Commented [CB1]:**  
This is A LOT.  
  
Can we reduce it to posting on the District website, or only ONE notice in the newspaper?  
  
In some cases – like vehicles – we actually hand deliver notices to all vendors in the District.

**Commented [GU2R1]:** I agree. Revised using Sutter County's language

**Commented [CB3]:** The District usually has Sutter County handle surplus equipment for us.  
  
We do remove it from inventory however.

**Commented [GU4R3]:** Should I revise subsection (b) and (c) to read: Sutter County may sell or dispose of any surplus property on behalf of the district in accordance with current Sutter County policies.

**Commented [CB5R3]:** Sounds fine to me – LuAnn?

**Commented [LM6R3]:** Yes please revise.

**Commented [LM7R3]:**

**Commented [CB8]:** For example if we have a handheld tester for pollutant that is no longer used in the District we can give or sell that equipment to the District which can use it.

**Commented [GU9R8]:** It would be considered a gift of public property, the Board would need to find a public purpose for the donation.

**Commented [CB10]:** We may want to make sure this is consistent with Regulation 7.2

“Whenever the APCO finds that an analysis of the emissions from any source is necessary to determine the extent and amount of pollutants being discharged into the atmosphere which cannot be determined by visual observation, the APCO may order the collection of samples and/or analysis made by qualified personnel. The time required for collecting samples, making the analysis, and preparing the necessary reports shall be charged against the owner or ...

**Commented [CB11R10]:** Generally we hire an EPA certified source tester – who is not currently under contra ...

**Commented [CB12R10]:** Also see Rule 9.3

**Commented [GU13R10]:** Would this fall within the exception for specific commodity or skilled labor less than \$7,500? Or are the costs generally over \$7,500?

**Commented [CB14R10]:** The cost varies – usually under \$7,500 – but in theory it could go over.

- 2) The retention of a consultant to provide a special service or expertise required by the District falls into one of two categories:
  - a) Total cost of services is less than or equal to \$10,000 – There is no requirement for conducting a request for proposal process, see below. The APCO will execute a contract (or if appropriate, a purchase order).
  - b) Total cost of services is greater than \$10,000 – The consultant’s services are to be secured by means of a request for proposals process. The contract (or if appropriate, the purchase order) to provide the required services shall be authorized and executed by the Board prior to the start of services.
- 3) Request for Proposals Process
  - a) The request should contain project background information, project objectives, a scope of work, a project schedule and conditions and instructions to proposers regarding submittal of proposals. The request should also have a sample contract attached.
    - (1) The text of the request for proposal should also include: (1) a statement that the District reserves the right to negotiate directly with any party responding thereto and may enter into a contract with any responding party regardless of price if it is advantageous for the District to do so and (2) no public opening of proposals shall be required.
  - b) A list of consultant firms appropriate to the project is compiled and requests for proposals are sent to those firms.
  - c) Proposals are received and evaluated by the APCO.
  - d) If appropriate, a “short list” of not less than two consultants most qualified to perform the work is established.
  - e) The short list firms are ranked on the basis of their qualifications to perform the work. The District shall solely determine the criteria upon which qualifications are evaluated. Evaluation criteria may include, but are not limited to:
    - i) Responsiveness to the requirements set forth in the requests for proposals;
    - ii) A demonstrated understanding of the scope of work;
    - iii) Recent similar experience;
    - iv) The quality and quantity of personnel assigned to the project;
    - v) The financial stability of the consultant;
    - vi) References from previous clients;
    - vii) The proposed project schedule;
    - viii) The cost to perform the work.
  - f) A contract is negotiated with the most qualified short list consultant. If a contract cannot be satisfactorily negotiated with the most qualified consultant, negotiations are terminated, and the District enters into negotiations with the next ranked consultant and repeats the process until a contract is successfully negotiated.
  - g) The contract (or if appropriate, a purchase order) is presented to the Board for their approval and execution.
- 4) Contract Amendments
  - a) Contract for consultant services may be changed or altered by the mutual consent of both parties, if the change or alteration is in writing in accordance with the provisions of the

**Commented [CB15]:** What happens if less than 3 respondents?

**Commented [GU16R15]:** revised to two consultants

current contract, is in a format approved by the District's legal counsel and is executed by both parties.

- b) The APCO is authorized to approve and execute consultant amendments if the total cost associated with the amendments for the contract does not exceed:
  - i) Five thousand dollars (\$5,000) when the original amount of the contract does not exceed fifty thousand dollars (\$50,000);
  - ii) Ten percent (10%) of the original amount of any contract exceeding fifty thousand dollars (\$50,000), however, in no case shall the APCO execute consultant contract amendments totaling more than twenty-five thousand dollars (\$25,000) on any one contract.
- c) All other contract amendments shall be approved and executed by the Board.

#### EXISTING GOVERNMENT CONTRACT

- 1) Informal and formal bidding procedures are not required for material and equipment and services obtainable:
  - a) From any other governmental agency and owned or provided by such other governmental agency; or
  - b) From any private vendor which has an agreement or contract with another public agency and such private vendor produces satisfactory documentation that:
    - i) Such other contract is currently then in effect, and
    - ii) Such agreement or contract was let through a competitive process, such as competitive written bids, request for proposals, informal quotations or competitive evaluations such as the California Multiple Award Schedule (CMAS) and US Government Services Agency (GSA) for such items, and
    - iii) Such items to be acquired by the District are of comparable description and quality as the items described in such other governmental contract, and
    - iv) The price of such items to be acquired by the District is not greater than that specified in such other governmental contract.

#### PUBLIC CONSTRUCTION CONTRACTING

- 1) As a public agency, construction projects are subject to the prevailing rate of wages for public works projections as set by California Labor Code section 1720 et seq.

#### EMERGENCY PURCHASES

- 1) Emergency circumstances may arise which warrant immediate purchase in order to avoid a substantial hazard to life or property or serious interruption of the operation of the District, or the necessary repair of equipment required for the operation of the District. The APCO is authorized to approve emergency costs up to \$21,000. The APCO must inform the Board of

the emergency purchase and the reasons for the emergency purchase at the Board's next regularly scheduled meeting.