



PURCHASING POLICY

I. OVERVIEW

This Purchasing Policy ("**Policy**") provides a broad overview of the standards and methods which will guide West County Wastewater ("**WCW**") in purchasing goods (equipment, materials, and supplies) (see Cal. Gov. Code § 54202), and contracting for services and for the construction of Public Projects (see Cal. Pub. Contract Code § 22002(c)) (together "**Procurement Activities**"). It shall be WCW's policy to procure all goods and services in an open manner that permits, wherever possible, WCW to receive the best quality and best value of public funds. To this end, this Policy has been prepared to give direction to all employees. Wherever in this Policy the General Manager is the designated authority, that authority shall be understood to include the designee of the General Manager. This policy is not intended to address every issue, exception or contingency that may arise in the course of Procurement Activities.

A. Fundamental Principles of Ethical Procurement.

WCW's Procurement Activities, and this Policy, reflect its commitment to fundamental principles of ethical procurement, which are as follows:

1. Foster maximum open and free competition for WCW contracts;
2. Promote the greatest economy and efficiency in WCW procurements;
3. Ensure adherence to proper standards of conduct by WCW board members, officers and employees to guard against corruption, fraud, waste, and abuse;
4. Maintain purchasing policies and procedures that ensure compliance with applicable state and federal laws and regulations;
5. Establish and maintain an arm's length relationship with all contractors, vendors, and consultants;
6. Treat all prospective contractors, vendors, and consultants in a fair and equitable manner; and

7. Provide guidance for remedy and resolution of contract claims or disputes.

B. Conflicts of Interest.

No WCW director, officer, employee, or agent may participate in any procedure, tasks, or decisions relative to initiation, evaluation, award, or administration of a contract if a conflict of interest, real or apparent, exists. Such a conflict of interest arises when (a) the director, officer, employee, or agent, (b) any member of their immediate family, (c) their business associate, or (d) an organization which employs, or which is about to employ, any of the above described individuals has a financial or other interest in a firm that participates in a WCW purchasing process or that is selected for an award. The standards governing the determination as to whether such an interest exists are set forth in the Political Reform Act (Section 81000 et seq. of the California Government Code) and in Sections 1090 et seq. of the California Government Code.

C. Gift Prohibition.

1. When a Procurement is Pending. No director, officer, or employee of WCW, for them or family, and whether or not that employee's position is included in the WCW's Conflict of Interest Code, may accept or solicit a gift of any value, including travel, from a person the director, officer, or employee knows, or has reason to know, has a financial interest in a pending procurement with WCW. "Pending procurement" refers to a procurement that is underway during the following time periods:
 - a. Beginning 60 days prior to WCW's issuance of any request for information, quotes, bids or proposals; through the solicitation and evaluation of quotes, bids or proposals; up until award of a contract or abandonment of the procurement process by WCW; and
 - b. Within the 60 days prior to the expiration of the term of an existing contract and during negotiations of a contract renewal or exercise of any contract option.
 - c. Regardless of the time frame, a procurement is "pending" if a reasonable person would consider that WCW is contemplating the procurement.
2. When a Procurement is not Pending. Under the Political Reform Act, certain individuals in positions designated in the Conflict of Interest Code or who are covered by Government Code section 87200 are prohibited from receiving gifts totaling more than \$520 (or such other amount established in the California Code of

Regulations) from any single source in a calendar year. For purposes of this Policy, no WCW director, officer, or employee, for themselves or their family, and whether or not such employee's position is included in the WCW's Conflict of Interest Code, may receive gifts totaling more than \$520 in a calendar year from any single source that provides or that seeks to provide services, supplies, materials, machinery or equipment of the type utilized by WCW.

This annual limit will automatically increase or decrease consistent with modification to the gift limit established by the FPPC every two years.

II. METHODS OF PROCUREMENT

A. Goods: Equipment, Materials, and Supplies.

1. **Less than \$25,000.** For purchases of equipment, materials, and supplies with an estimated expenditure of **less than Twenty-Five Thousand Dollars (\$25,000)**, WCW does not need to solicit competitive quotes, bids, or proposals. WCW will attempt to secure the best value and will document that the price obtained is fair and reasonable.
2. **\$25,000- \$50,000.** For purchases of equipment, materials, and supplies with an estimated expenditure between **Twenty-Five Thousand Dollars (\$25,000) and Fifty Thousand Dollars (\$50,000)**, WCW will solicit informal quotes from at least three vendors, consultants, or contractors through means and methods which are determined to be most cost-effective and which may include a combination of web postings, email notification, advertisement in a newspaper of general circulation, phone calls or other methods of dissemination. WCW will make every reasonable effort to undertake adequate outreach to ensure open competition. WCW will award a contract to the offeror that will provide the best value to WCW, considering a variety of qualitative factors, including price, as determined by WCW.
3. **Greater than \$50,000.** For purchases of equipment, materials, and supplies with an estimated expenditure greater than **Fifty Thousand Dollars (\$50,000)**, WCW will ordinarily solicit formal written proposals and award to the proposer that offers the best value to WCW, considering a variety of qualitative factors, including price. WCW will solicit formal proposals through means and methods which are determined to be most cost-effective and which may include a combination of web postings, email notification, advertisement in a newspaper of general circulation, phone calls or

other methods of dissemination.

4. Leasing of Equipment. The provisions of Section II.A will apply to leasing of equipment and the estimated expenditure will be based on the total rental payments due under the lease.
5. WCW may purchase equipment, supplies, or materials without further competition under the following conditions:
 - a. If WCW rejects all bids or proposals received in connection with a procurement requiring formal competitive solicitation, or
 - b. When no bids or proposals are received in response to a solicitation for formal written bids or proposals, in which case the General Manager is authorized to procure the required item through direct negotiations with a vendor or to resolicit as appropriate.
 - c. Emergency Contracts, as described in Section IV.

B. Services.

1. **Less than \$25,000.** For purchases of services with an estimated expenditure of **less than Twenty-Five Thousand Dollars (\$25,000)**, WCW need not solicit competitive quotes, bids, or proposals. WCW will attempt to secure the best value for WCW and will document that the price obtained is fair and reasonable.
2. **\$25,000- \$50,000.** For purchases of services with an estimated expenditure between **Twenty-Five Thousand Dollars (\$25,000) and Fifty Thousand Dollars (\$50,000)**, WCW will solicit informal proposals from at least three vendors, consultants, or contractors through means and methods which are determined to be most cost-effective and which may include a combination of web postings, email notification, advertisement in a newspaper of general circulation, phone calls or other methods of dissemination. WCW will make every reasonable effort to undertake adequate outreach to ensure open competition. WCW will award a contract to the proposer that will provide the best value to the WCW, considering a variety of qualitative factors, including price, as determined by WCW.
3. **Greater than \$50,000.** For purchases of services with an estimated expenditure of greater than **Fifty Thousand Dollars (\$50,000)**, WCW will ordinarily solicit formal written proposals and award to the proposer that offers the best value to WCW, considering a variety of qualitative factors, including price. WCW will solicit

formal proposals through means and methods which are determined to be most cost-effective and which may include a combination of web postings, email notification, advertisement in a newspaper of general circulation, phone calls or other methods of dissemination. WCW will advertise solicitation opportunities to minority owned businesses by web posting.

4. Qualifications Based Solicitations. Pursuant to California Government Code Section 4525 et seq. (the Mini-Brooks Act), WCW will use qualifications-based competitive proposal procedures for the procurement of architectural, landscape architectural, engineering, environmental, land surveying or construction project management services regardless of the contract value. Under this method, proposals will be evaluated based upon the professional qualifications necessary for the satisfactory performance of the services required and demonstrated competence.
5. WCW may purchase services without further competition under the following conditions:
 - a. If WCW rejects all proposals received in connection with a procurement soliciting formal written proposals, or
 - b. When no proposals are received in response to a solicitation for formal written bids or proposals, in which case the General Manager is authorized to procure the required item through direct negotiations with a vendor or to resolicit as appropriate.
 - c. Emergency Contracts, as described in Section IV.
6. Additional Requirements for Services Contracts.
 - a. No services contract will exceed a five-year term that includes a three-year base term and up to two option years. Notwithstanding the foregoing sentence, for project-based services contracts, the term of the contract should coincide with the term of the project to the extent feasible. All services contracts will include an expiration date.
 - b. Services contracts must include a not-to-exceed compensation amount. Consultants may be compensated on the basis of a fixed fee, time and materials, or other method determined to be in the best interest of WCW, up to the not-to-exceed compensation amount.
 - c. For recurring services, WCW will endeavor to re-solicit the

services contracts at least every five years, unless a shorter period is appropriate based on the term of the contract.

- d. For on-call services contracts, where the services to be furnished by the consultant will vary based on WCW's needs, the actual services to be provided will be described in the specific work directive or task order.

C. Public Projects. WCW has opted in to the California Uniform Public Construction Cost Accounting Act (California Public Contract Code Section 22000 et seq., the "**Act**"). Pursuant to the Act, projects for the construction, reconstruction, erection, alteration, renovation, improvement, demolition, repair work, painting, or repainting of WCW-owned, leased, or operated facilities ("**Public Projects**") will be procured as follows:

1. **\$60,000 or Less**. Public Projects of Sixty Thousand Dollars (\$60,000) (or the current threshold set forth in California Public Contract Code Section 22032(a)) or less may be let by negotiated contract or performed by WCW's own employees by force account.
2. **\$200,000 or Less**. Public Projects of Two Hundred Thousand Dollars (\$200,000) (or the current threshold set forth in California Public Contract Code Section 22032(b)) or less may be let by informal procedures set forth in WCW's informal bidding ordinance (Ordinance 2020-1, as may be amended from time to time) and in the Act.
3. **Greater than \$200,000**. Public Projects of more than Two Hundred Thousand Dollars (\$200,000) (or the current threshold set forth in California Public Contract Code Section 22032(c)) will be let by formal bidding procedures set forth in the Act.
4. Maintenance Work. WCW may, but is not required to, use the procedures set forth in this section II.C for maintenance work, which includes routine, recurring, and usual work for the preservation or protection of any WCW-owned or operated facility for its intended purposes, minor repainting, resurfacing of streets and highways of less than 1 inch, landscape maintenance, and work to keep, operate, and maintain WCW-owned water, power, or waste disposal systems.
5. Other Statutorily Authorized Methods. Alternative methods of procurement, such as a design-build approach, may be utilized if authorized by state law and in full compliance with all applicable requirements.
6. Project Stabilization Labor Agreement. WCW will require compliance with any current, valid, and enforceable Project

Stabilization Labor Agreement, in all applicable contracts.

- D. Splitting of Purchases Prohibited. WCW will not arbitrarily split purchases into smaller segments or partial orders to remain below the authorized dollar threshold for formal solicitation in an effort to take advantage of informal solicitation procedures. All purchases and contracts, whether by informal or formal solicitation, shall be made on a competitive basis to the greatest extent practicable. The method of procurement, such as informal quotes or formal competitive bidding, shall be appropriate for the type of procurement and shall be in the best interest of WCW.
- E. Cooperative Procurements. To foster greater economy and efficiency, WCW may avail itself of national, state, and local intergovernmental agreements for procurement or use of common equipment, materials, supplies, and services. Joint procurements, state cooperative purchasing programs, and assignment of existing contract rights ("piggyback" procurements) with other public agencies may be used when consistent with applicable regulatory requirements. Such programs may be used in lieu of following the competitive solicitation requirements set forth in this policy.
- F. Single and Sole Source. Regardless of the estimated cost of the procurement, WCW is not required to follow the processes detailed in this Policy when procuring materials, equipment, supplies, or services for which there exists a single or proprietary source of supply. The General Manager is authorized to make a single or sole source determination in lieu of following the competitive procurement requirements outlined in Section II of this Policy for procurements within the General Manager's purchasing authority.
- G. Real Property. The General Manager, shall have the authority to accept, on behalf of WCW, easements and other real property rights and interest required for effective performance of the WCW's legitimate functions. The Board of Directors reserves to itself the sole authority to convey real property or real property rights.

III. PURCHASING AUTHORITY

- A. Except as otherwise described in this Policy, the General Manager is authorized to expend funds, issue purchase orders, and sign contracts without Board approval as follows:
 - 1. Operating & Maintenance Expenses. Equipment, materials, supplies or services (including special counsel legal services) when the total amount is \$50,000 or less, per vendor per fiscal year.
 - 2. Capital Facilities Replacement and Improvements. Capital facilities

replacement and improvement expenses (including design services) when the total amount is \$75,000 or less except for items that fall under Section II.C. of this policy.

3. Public Projects. The General Manager is authorized to award contracts for Public Projects at or below the thresholds established in the California Uniform Public Construction Cost Accounting Act, Public Contract Code Sections 22032(a) and 22032(b), as may be amended from time to time.
 4. Change Orders and Amendments. The General Manager is authorized to issue change orders or amendments, including extensions of the contract term, up to the maximum approved contract amount.
- B. The General Manager may sub-delegate the Board-granted authority to any designee, referred to here as the "approving employee." Such delegation must be in writing, include defined monetary limits, and be consistent with this Policy. Wherever in this Policy the General Manager is delegated authority, that authority will be understood to include the further sub-delegation to an approving employee. Any sub-delegation will be undertaken in accordance with the following:
1. The approving employee will be accountable for ensuring that all requirements of law, WCW policies, and WCW procedures have been met. The approving employee may only bind WCW to the extent of the authority delegated to them.
 2. The approving employee will exercise the highest standards of professional integrity and ethical conduct, and will monitor all transactions to assure that no conflicts of interest exist. The approving employee will be a designated employee for the purposes of WCW's Conflict of Interest Code and will file an annual Statement of Economic Interests in accordance with applicable law.
 3. The approving employee will assure at the earliest practicable date that sufficient funds are available for the obligation.
 4. The approving employee will be familiar with this Policy and will adhere to fundamental principles of public procurement set forth in this Policy.

The Board shall retain the authority to approve all WCW expenditures in excess of the purchasing authority delegated to the General Manager. Furthermore, in the event the Board declares a fiscal emergency, the Board will rescind its delegation of purchasing authority to the General Manager, as described in this Section III, with regard to any purchases made, purchase orders issued, and contracts awarded after the date of the declaration of a fiscal emergency. Such

rescission will not in any way apply to or affect any purchases made, purchase orders issued, or contracts awarded prior to the date the Board declares a fiscal emergency.

IV. EMERGENCY CONTRACTS

In the event of an emergency (a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services), the General Manager has been authorized to repair or replace any WCW asset, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts. The General Manager shall promptly report to the Board the reason(s) why the action is necessary to respond to the emergency, why a prompt response to the emergency is needed, and why that prompt response will prevent WCW from taking the time needed to conduct a competitive procurement. The General Manager will make this report not later than seven days after the action, or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action. Upon hearing the General Manager report, the Board shall determine, by a four-fifths vote, whether or not there is a need to continue the emergency action. The Board shall continue to evaluate the emergency action, determining whether or not the emergency procurement is still required, at every regularly scheduled meeting thereafter until the action is terminated. Board ratification is required for any emergency contract that exceeds the purchasing authority delegated to the General Manager and will be obtained as soon as it is practicable to do so.

V. WAIVER

The Board of Directors may waive the requirements for formal competitive solicitation or other procedures set forth in this Policy, when a determination is made that the best interests of WCW are served thereby, and provided there is adequate documentation of the need for such equipment, materials, supplies, Public Project, or services. These circumstances shall be evaluated on a case-by-case basis, keeping in mind the fundamental principles of ethical procurement set forth in this Policy. The findings justifying the waiver must be documented in the record.

VI. PROCUREMENT DOCUMENTATION AND CONSIDERATION OF BIDS AND PROPOSALS

- A. Formal competitive bidding requires preparation of bid documents that clearly set forth all requirements which must be fulfilled in order for the bid to be responsive and, once bids are received, an award, if made, to the lowest responsive and responsible bidder.
- B. Formal and informal competitive proposals, including the "best value" approach, require issuance of RFPs, which clearly set forth all the requirements, and state the qualitative factors, in addition to price, which

will be used to evaluate and rank the proposals. An award, if made, will be to the proposer receiving the highest consensus ranking based on the evaluation criteria set forth in the RFP, subject to successful negotiations with WCW as may be applicable.

- C. The request for quotations will include a written scope of work, including any time restraints and minimum specifications for purchases which will include physical and functional characteristics and/or performance requirements. WCW will award a contract to the most responsive and responsible offeror that will provide the best value to WCW, considering a variety of qualitative factors, including price as determined by WCW.
- D. WCW may only contract with persons, firms or entities that are qualified and possess the ability to perform successfully under the terms and conditions of the solicitation documents.
- E. The General Manager is authorized to establish protest procedures for competitive bidding processes.

VII. EXECUTION OF CONTRACT DOCUMENTS

WCW will utilize its standard form of contract or purchase order to memorialize agreements for provision of any equipment, materials, supplies, Public Projects, or services, unless otherwise approved by General Counsel. For purchases of equipment, materials, supplies, and services valued at \$25,000 or more, and for all Public Projects, the WCW should use a form contract. In some cases, based on the nature of the supplies, equipment, or services, it may be appropriate to utilize a purchase order or form contract, even if not outlined by this Policy. WCW's General Counsel will answer any questions regarding the appropriate written documentation for a purchase if not outlined in this Policy. All contracts will be executed on behalf of the WCW by the General Manager, designee, unless otherwise directed by the Board.

VIII. CONTRACT ADMINISTRATION

WCW shall administer all contracts to ensure that contractors conform to the terms, conditions, and specifications of all contracts and to ensure all purchases are received in a timely manner.

IX. SURPLUS PROPERTY

The General Manager, or designee, is responsible for the transfer and disposition of surplus WCW property. The Board of Directors has the authority to declare Fixed Assets (items that have a value greater than \$5,000) surplus. The General Manager, has the authority to designate as surplus operating materials and supplies as well as equipment and other items that do not qualify as Fixed Assets.

Each department shall periodically review its equipment, material, and inventory and

shall promptly notify the Administrative Services Department of any surplus property. A surplus property form shall be completed and submitted for each surplus property item if such item was capitalized as a Fixed Asset. Non-capitalized property may be disposed of by the user department through the appropriate means. Under no circumstances will any WCW property, capitalized or non-capitalized, be sold or given to anyone unless approved by the General Manager, and employees must not personally benefit from the disposition of any WCW property.

Methods of Disposition

The General Manager, shall determine the appropriate method of disposition that is in the best interests of the WCW.

A. Trade-In

Property declared as surplus may be offered as a trade-in for credit toward the acquisition of new property. If surplus property is to be applied to a purchase order, the trade-in value shall be itemized on the Purchase Order.

B. Return to Manufacturer

Surplus property may, when possible, be returned to the manufacturer for buy-back or credit toward the purchase of new property.

C. Disposal

Surplus property may be offered for sale or donation by the Director of Administrative Services upon approval by the General Manager, or designee. All surplus property is for sale or donation "as is" and "where is", with no warranty, guarantee, or representation of any kind, expressed or implied, as to the condition, utility or usability of the property offered for sale. Appropriate methods of sale are as follows:

- Public Auction. Surplus property may be sold at public auction. Public Auctions may be conducted by WCW staff or the WCW may contract with a professional auctioneer including professional auction services.
- Sealed Bids. Sealed bids may be solicited for the sale of surplus property. Surplus property disposed of in this manner shall be sold to the highest responsible bidder.
- Selling for Scrap. Surplus property may be sold as scrap if the Director of Administrative Services, or designee, determines that the value of the raw material exceeds the value of the property as a whole.
- Negotiated Sale. Surplus property may be sold outright if the Director of Administrative Services, or designee, determines that only one known buyer, or non-profit recipient for a donation, is available or

interested in acquiring the property.

- No Value Item. Where the Director of Administrative Services, or designee, determines that specific supplies or equipment are surplus and of minimal value to WCW due to spoilage, obsolescence or other cause or where the cost of disposal of such supplies or equipment would exceed the recovery value. The Director of Administrative Services, shall dispose of these items in such a manner as they deem appropriate and in the best interest of the WCW.

Proceeds

Proceeds from the sale or trade-in of surplus property shall be returned to the appropriate fund to offset the cost of the replacement property.

X. ENVIRONMENTALLY PREFERABLE PURCHASING

Consistent with its strategic plan, WCW seeks to ensure that that products purchased by the WCW include recycled content, reduced toxicity and increased durability. WCW will, when feasible, select products according to that conform to this Policy and the guidelines described in WCW procedures.

XI. PROCUREMENT PROCEDURES

This Policy sets forth the standards and methods to be followed by WCW in obtaining goods (equipment, materials, and supplies) and services, and contracting for Public Projects. The General Manager will have the authority to develop, maintain, and update as necessary procedures that are consistent with this Policy.

Changes or deviations from this Policy must be approved by the Board, unless the change results from federal or state law or regulation, in which case the General Manager is authorized to amend this Policy and provide a report to the Board advising it of the change.