

RESOLUTION NO. 9-19

A RESOLUTION OF THE BOARD OF DIRECTORS OF
TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT
AMENDING AND RESTATING PURCHASING POLICIES AND PROCEDURES

A. Recitals.

(i) Government Code Section 54202 authorizes any local agency, including a county water district, to adopt policies and procedures, including bidding regulations, governing purchases of supplies and equipment.

(ii) By Resolution No. 20-10, the District first adopted purchasing policies and procedures.

(iii) It is desirable to amend and restate said Resolution.

B. Resolution.

NOW, THEREFORE, be it found, determined and resolved by the board of Directors of Tehachapi-Cummings County Water District as follows:

1. Each of the above recitals is true and correct and the Board so finds and determines.

2. The amended and restated Purchasing Policies and Procedures attached hereto as **Exhibit A** and incorporated herein by reference, are hereby approved and adopted.

ADOPTED and APPROVED this 21st day of August, 2019.



James Pack, Board President

(SEAL)

ATTEST:



Catherine Adams, Board Secretary

SECRETARY'S CERTIFICATE

I, CATHERINE ADAMS, Secretary of the Board of Directors of Tehachapi-Cummings County Water District, hereby certify as follows:

The foregoing is a full, true and correct copy of Resolution No. 9-19 duly adopted at a regular meeting of the Board of Directors of the District duly and legally held at the regular meeting place thereof on August 21, 2019. All of the members of the Board of Directors received due notice of the meeting and a majority thereof was present. At the meeting the resolution was adopted by the following vote:

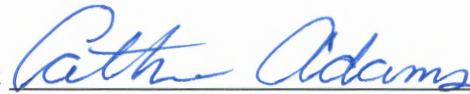
AYES: Cassil, Hall, Pack, Schultz, Zanutto

NOES: None

ABSTAIN: None

ABSENT: None

ATTEST:



Catherine Adams, Board Secretary

(SEAL)

EXHIBIT A

TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT PURCHASING POLICIES AND PROCEDURES

PART A. PURPOSE

Section 1: Pursuant to the provisions of the Government Code of the State of California, commencing with Section 54201, the following Policies and Procedures have been adopted governing the purchase of equipment, materials, supplies, and services by the Tehachapi-Cummings County Water District, hereinafter referred to as "District". Said policies and procedures are not intended to conflict with applicable provisions of state law and, in the event of any such conflict, the provisions of state law shall govern.

Section 2: Pursuant to Government Code Section 54202, the Board of Directors of the District has delegated the authority and power of purchasing equipment, materials, supplies, and services to the General Manager of the District, hereinafter referred to as "Purchasing Agent," subject to the general laws of the State of California, and the duties and powers prescribed by the policies of the Board of Directors.

PART B. DEFINITIONS

Section 1: The following terms, whenever used in these rules, shall be construed as follows:

- a. "Department" is any unit of the Tehachapi-Cummings County Water District.
- b. "Equipment" is any and all pieces of automotive and vehicular equipment and any other such items that are normally considered capital outlay equipment.
- c. "Materials" are any and all materials for use in construction, maintenance and repair of pipelines, water services, including water meters, and materials for repair of electric motors, natural gas engines and pumping equipment, and other District facilities.
- d. "Supplies" are any and all supplies that are to be used in the normal operation of the District to carry on its general operation including, but not limited to, office supplies, fuel and lubricants (including natural gas), and welding supplies.
- e. "Services" are any and all services including, but not limited to, the maintenance of equipment, machinery and other District-owned property. The term does not include services rendered by District officers or employees, nor does it include provisions for other contractual services which are by their nature unique and not subject to competition.
- f. "Lowest Responsible Bidder" will be determined after the following factors have been considered:
 - (1) Price.

- (2) The ability, capacity and skill of the bidder to perform the contract.
 - (3) Whether the bidder has the facilities to perform the contract promptly, or within the time specified, without delay or interference.
 - (4) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
 - (5) The bidder's record of performance of previous contracts or service.
 - (6) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.
 - (7) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.
 - (8) The quality, availability and adaptability of the equipment, materials, supplies, or services to the particular use required.
 - (9) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.
 - (10) The number and scope of conditions attached to the bid.
- g. "Responsible Bid" is an offer, submitted by the Responsible Bidder to furnish equipment, materials, supplies, and services in conformity with the specifications, delivery terms and conditions, and other requirements included in the invitation for bids.
- h. "Responsible Bidder" is a Bidder who submits a responsible bid and who is not only financially responsible, but is possessed of the resources, reputation, judgment, skill, ability, capacity, and integrity requisite and necessary to perform the contract according to its terms.
- i. "Purchases" includes purchases of equipment, materials, supplies, and services, and shall include leases or rentals, as well as transactions by which the District acquires ownership.
- j. "Open Market" pertains to purchases or transactions that are executed without resort to formal purchasing procedures.

- k. "Purchase Order" is a document which authorizes the delivery of specified merchandise and the making of a charge for such merchandise. All purchase orders are sequentially numbered.
- l. "Sole Source of Supply" pertains to purchases that are executed without resort to formal purchasing procedures because only one vendor is capable of providing a particular good or service.
- m. "Single Brand" pertains to purchases that are executed without resort to formal purchasing procedures because of the long-run cost efficiencies of purchasing from one supplier, often in bulk. Brand specific ink cartridges are an example.
- n. "Preferred Vendor" pertains to purchases that are executed without resort to formal purchasing procedures to facilitate timeliness, cost efficiencies, and to encourage qualified local vendors and suppliers to compete for District business.
- o. "Over-the-Counter" pertains to purchases of less than \$15,000 that are executed without any specific purchasing requirements other than approval by the Purchasing Agent or a designee thereof to expedite operational efficiencies. Competitive bidding will be used whenever practical.

PART C. PURCHASING SYSTEM

Section 1: Adoption of Purchasing System - In order to establish efficient procedures for the purchase of equipment, materials, supplies, and services to be secured for the District at the lowest possible cost commensurate with quantity needed, to exercise positive financial control over purchases, to clearly define authority for the purchasing function and to assure the quality of purchases, there is hereby adopted a centralized purchasing system.

Section 2: Purchasing Agent - The General Manager is hereby appointed as the Purchasing Agent. The Purchasing Agent shall have the authority to:

- a. Purchase or contract for equipment, materials, supplies, and services required by any department in accordance with the purchasing procedures prescribed herein in such administrative regulations as the Purchasing Agent shall adopt for internal management and operation, and such other policies as shall be prescribed by the Board of Directors.
- b. Negotiate and recommend execution of contracts for the purchase of equipment, materials, supplies, and services.
- c. Act to procure for the District the needed quality/quantity in equipment, materials, supplies, and services at the least possible expense to the District.

- d. Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases.
- e. Prepare and recommend to the Board of Directors rules governing the purchase of equipment, materials, supplies, and services for the District.
- f. Prepare and recommend to the Board of Directors revisions and amendments to the purchasing rules.
- g. Keep informed of current developments in the field of purchasing, prices, market conditions, and new products.
- h. Prescribe and maintain such forms as are reasonably necessary to the operation of this rule and other policies of the District.
- i. Supervise the inspection of all equipment, materials, supplies, and services purchased to ensure conformance with specifications.
- j. Recommend the transfer of surplus or unused supplies and equipment between departments, as needed, and the sale of all supplies and equipment which cannot be used by any department, or which have become unsuitable for District use.
- k. Maintain records needed for the efficient operation of the purchasing system.
- l. Delegate to other District employees various functions as is necessary to acquire equipment, materials, supplies, and services for District use.

Section 3: Estimates of Requirements - All using departments shall file detailed estimates of their requirements in equipment, materials, supplies, and services in such manner, at such time, and for such future periods as the Purchasing Agent shall prescribe.

Section 4: Bidding - Purchases of equipment, materials, supplies, and services, and the sale of personal property shall be by bid procedures pursuant to Parts F and G of these Purchasing Policies and Procedures. Bidding shall be dispensed with only when an emergency requires that an order be placed with the nearest available source of supply, when the commodity can be obtained from only one vendor, when a single brand is more cost efficient, when use of a preferred vendor is deemed prudent, when an over-the-counter purchase is more practically efficient, or when, in the opinion of the purchasing agent and with the approval of the Board of Directors, in light of the purposes to be accomplished, the best economic result for the public would be to dispense with bidding. In the latter event, the Board of Directors shall base its approval on the purposes to be accomplished, the uniqueness of the equipment, materials, supplies, or services, the uniformity of result (when material to the proposed purchase),

whether competitive bidding would produce an economic advantage, whether it is practically impossible to obtain what is required by competitive bidding, and like considerations. Documentation to support approval of waiver of bidding requirements shall be provided by the Purchasing Agent.

Section 5: Purchase Orders - Purchases of equipment, materials, supplies, and services shall be made only by purchase order signed by the Purchasing Agent or a designee thereof. The Purchasing Agent may designate the following District employees the authority to sign and approve purchase orders: Business Manager, Operations Manager, and Department Supervisors. The Purchasing Agent may authorize annualized purchase orders for vendors preferred or regularly used by the District for purchases included in the approved budget. The Purchasing Agent may authorize Over-the-Counter purchases not exceeding \$15,000.

Section 6: Purchases Made by Credit Card – The General Manager, Business Manager, and Operations Manager are authorized to use a District credit card issued in their individual name.

- a. All credit card bills shall be paid timely to avoid late fees and finance charges.
- b. All credit card expenses shall be reasonable and necessary to the furtherance of District business. No personal expenses shall be charged on a District credit card. If a transaction involves both personal and District business, the employee shall pay for the transaction personally and request reimbursement by the District for the appropriate portion of the expense.
- c. All credit card transactions shall have third-party documents (receipts) attached and the District purpose annotated by the cardholder.
- d. The Business Manager shall review and approve credit card transactions by the General Manager. The General Manager shall review and approve credit card transactions by the Business Manager or the Operations Manager.

Section 7: Inspection and Testing - The Purchasing Agent shall perform, supervise or delegate the inspection of supplies and equipment delivered, and contractual services performed, to determine their conformance with the specifications set forth in the order or contract. The Purchasing Agent shall have authority to require chemical and physical samples be submitted, or samples of materials and/or commodities be delivered, when necessary to determine their quality and conformance with specifications.

PART D. EMERGENCY PURCHASES

Section 1: Conditions - While the need for occasional emergency purchases is recognized, the practice must be curtailed as much as possible by anticipating needs so that the normal purchasing procedure utilizing bidding may be used. An emergency shall be deemed to exist if:

- a. There is a great public calamity.
- b. There is immediate need to prepare for national or local defense.
- c. There is a breakdown in machinery which requires the immediate purchase of supplies or equipment to protect the public health, welfare or safety.
- d. An essential departmental operation affecting the public health, welfare or safety, or the essential functions or facilities or property of the District would be greatly hampered if the prescribed purchasing procedure would cause an undue delay in procurement of the needed items.

Section 2: Purchasing Agent Authority - In case of an emergency requiring the immediate purchase of equipment, materials, supplies, or services, the Purchasing Agent is authorized to secure, at the lowest obtainable price, any equipment, material, supplies, or services regardless of the amount of the expenditure.

Section 3: Recorded Explanation - A full report of the circumstances of each emergency purchase in excess of \$15,000 shall be filed by the Purchasing Agent with the Board of Directors and shall be entered into the meeting minutes of the Board of Directors.

PART E. PURCHASING LIMITS

Section 1: The Purchasing Agent, on behalf of the District, shall:

- a. Purchase items of equipment involving an expenditure of less than \$25,000 by the Open Market procedure, so long as the equipment being purchased had prior budget approval of the Board of Directors.

Notwithstanding the foregoing, the Purchasing Agent may, after obtaining prior approval of the Board of Directors, make purchases of equipment without going to formal bid if the Purchasing Agent produces reasonable and satisfactory evidence to the Board that such purchase will result in a direct or indirect cost savings to the District.

- b. Purchase items of materials for construction, such as pipes, valves, fittings, water meters and other related materials, up to an expenditure not to exceed \$25,000 per item by the Open Market procedure, so long as the materials being purchased had prior budget approval of the Board of Directors.

Notwithstanding the foregoing, the Purchasing Agent may, after obtaining prior approval of the Board of Directors, make purchases of materials without going to

formal bid if the Purchasing Agent produces reasonable and satisfactory evidence to the Board that such purchase will result in a direct or indirect cost savings to the District.

- c. Enter into and execute, pursuant to California Water Code Section 30544, construction contracts of less than \$25,000 by Open Market procedure, so long as the construction being contemplated had prior budget approval of the Board of Directors.
- d. Purchase items of supplies involving an expenditure of less than \$15,000 by the Open Market procedure, so long as the supplies being purchased had prior budget approval of the Board of Directors. Supplies of natural gas may be purchased regardless of the price, provided the Purchasing Agent notifies the Board of Directors timely as to the rate and total cost of the natural gas.
- e. Purchase items of services, involving expenditure of less than \$15,000 by the Open Market procedure, so long as the services being purchased had prior budget approval of the Board of Directors.

PART F. FORMAL CONTRACT PROCEDURE

Section 1: Except as set forth in Part C, Sections 4 - 5, and Part E, Section 1, construction contracts, purchases and contracts for equipment or materials of an estimated value greater than \$25,000, or purchases of supplies, or services of an estimated value greater than \$15,000 shall be by written contract with the lowest Responsible Bidder, pursuant to the procedures prescribed herein.

- a. **Notice Inviting Bids** - Notice Inviting Bids shall include a general description of the articles to be purchased or sold, shall state where bid blanks and specifications may be secured, and the time and place for opening bids.
- b. **Published Notice** - Notice Inviting Bids shall be published at least ten (10) days before the date of opening of bids in a newspaper of general circulation as defined in California Government Code section 6000, et seq., or posted in at least three (3) public places in the District.
- c. **Bidders Security** - When deemed necessary by the Purchasing Agent, bidder's security may be prescribed in the public Notices Inviting Bids. Bidder shall be entitled to return of bid security provided that a successful bidder shall forfeit said bid security upon refusal or failure to execute the contract within the time allowed by the District after Notice of Award has been mailed, unless the District is responsible for the delay. The Board of Directors may, on refusal or failure of

the successful bidder to execute the contract, award it to the next lowest Responsible Bidder. If the Board of Directors awards the contract to the next lowest bidder, the amount of the lowest bidder's security shall be applied by the District to the difference between the low bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder.

- d. **Bid Opening Procedure** - Sealed bids shall be submitted to the Purchasing Agent and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty (30) days after the bid opening.
- e. **Rejection of Bids** - At its discretion, the Board of Directors may reject any and all bids presented and re-advertise for bids.
- f. **Award of Contracts** - Contracts shall be awarded by the Board to the lowest responsible bidder except as otherwise provided herein. Pursuant to California Water Code Section 30544, the Board may prescribe the authority to execute the contract to the General Manager (Purchasing Agent).
- g. **Tie Bids** - If two or more bids received are for the same total amount or unit price, quality and services being equal, and if the public interest will not permit the delay of re-advertising for bids, the Board of Directors may accept either bid by choosing or by lot or may accept the lowest bid made by negotiation with the tie bidders at the time of the bid opening. Nothing contained in this subsection shall relieve the Board of its obligation in the first instance to award the contract to the lowest responsible bidder.
- h. **Bonds and Insurance** - Before entering into a contract, the Board of Directors shall have authority to require performance, labor and/or materialmen's bonds and insurance in such amount as it shall find reasonably necessary to protect the best interests of the District. If the Board of Directors requires such bonds and insurance, the form and amount thereof shall be described in the Notice Inviting Bids.

PART G. OPEN MARKET PROCEDURE

Section 1: Except as set forth in Part C, Sections 4 - 5, and Part E, Section 1, construction contracts, purchases of equipment, materials, supplies, services, and sales of personal property as an estimated value in the amounts set forth in Part E, may be made by the Purchasing Agent in the Open Market without observing the procedures prescribed by Part F.

- a. **Minimum Number of Bids** - Open market purchases shall, wherever possible, be based on at least three (3) bids, and shall be awarded to the lowest Responsible Bidder. If less than three bids can be reasonably obtained, the Purchasing Agent shall explain the circumstances to the Board of Directors. The Board of Directors shall consider the justification prior to award.
- b. **Notice Inviting Bids** - The Purchasing Agent or a designee thereof shall solicit bids by written or telephone request to prospective vendors.
- c. **Written Bids** - Written bids shall be submitted to the Purchasing Agent or a designee thereof and may be submitted in person, by mail, by fax or by email.
- e. **Documentation** - A record of all Open Market orders and bids shall be kept for a period of one (1) year after the submission of bids or the placing of orders. This record, while so kept, shall be open to public inspection.

PART H. PROFESSIONAL SERVICES

Section 1: Whenever the District seeks to acquire the services of a professional, consultant, or other services that are unique and not subject to competitive bidding, the District's Purchasing Agent shall provide potential applicants with a Request for Proposal (RFP), describing the services needed and asking for responses to some or all of the following:

- (a) Recommended approach to the proposed project.
- (b) A statement of background and experience indicating the ability, capacity and skill of the applicant to perform the contract.
- (c) A schedule of fees and anticipated costs.
- (d) Whether the applicant has the resources to perform the contract promptly or within the time specified.
- (e) A list of representative clients who can and will attest to the character, integrity, reputation, judgment, experience and efficiency of the applicant.
- (f) The sufficiency of the financial resources and ability of the applicant to perform the contract or provide the service.
- (g) The ability of the applicant to provide future maintenance and/or service.
- (h) A schedule of completion.

- (i) Any other information which may be required for a particular project or service.

The Purchasing Agent shall select and approve contracts with Applicants for Professional Services with a value of less than \$15,000. For contracts in excess of \$15,000, Applicants shall be selected and approved by the Board of Directors on the recommendation of the General Manager (Purchasing Agent). The recommendation and approval shall be based upon the demonstrated competence and qualifications of the individual or firm for the services to be provided. The District need not select the applicant providing the lowest cost for services where the demonstrated competence and qualifications of another applicant out-weigh the cost considerations. The price of the services must be fair and reasonable to the District.

PART I. SURPLUS SUPPLIES, MATERIALS AND EQUIPMENT

Section 1: Exchanges or Trade-Ins - Whenever the Purchasing Agent has authority to purchase an item of supplies, materials or equipment designed to replace a similar item which can no longer be used by the District, or which has become unsuitable for District use, the Purchasing Agent shall also have the authority to sell, exchange, or trade in the item to be replaced. Such sale, exchange, or trade-in shall be made in connection with the purchase of the replacement item, and shall be subject to the same policies or procedures, terms, conditions, and monetary limitations as applied to the purchase of the replacement item. The amount realized on any sale, exchange, or trade-in shall not be considered in determining the value of the replacement item for purposes of ascertaining the rule applicable to the purchase thereof. Items considered to be expendable in their normal course of use, such as supplies, small tools, etc. may be disposed of when they have become unsuitable for district use in any manner the Purchasing Agent deems appropriate and as allowed by law.

Section 2: Sale of Surplus Equipment - Prior to the sale of equipment which has become unsuitable for District use and for which no replacement is sought, the Purchasing Agent shall prepare a detailed list of such equipment and present the list to the Board of Directors for their approval to sell or dispose of the equipment. The Purchasing Agent shall make such equipment available for inspection by the Board of Directors prior to their meeting.

Section 3: Auctions - If it is determined to be in the District's best interest, the Board may authorize the Purchasing Agent to utilize the services of an auctioning agency to sell, at either a public or private auction, supplies, materials, equipment, or other items no longer suitable for District use. Notice provided by the auctioning agency shall be deemed adequate, so long as the notice complies with the minimum requirements set forth in Part F, Section 1.b hereof.

PART J. ACQUISITION AND DISPOSITION OF REAL PROPERTY

Section 1: District shall comply with the Surplus Unimproved Land Act (Government Code section 54220, et seq.) in selling surplus unimproved land which is capable of park and recreation development or open-space purposes and which is not being held by the District for the purpose of exchange.

- a. "Surplus land" is defined as the land that is determined by the Board of Directors to be no longer necessary for District use.
- b. "Open-space purposes" is defined as the use of land for public recreation purposes, enjoyment of scenic beauty, or conservation or use of natural resources.
- c. District shall send a written offer to sell the surplus land at fair market value to any park or recreation department of any city/county within which said land is located, to any regional park authority having jurisdiction, to the State Resources Agency, and to any county-located authorities.
- d. District may otherwise dispose of property after waiting sixty (60) days from the receipt of notice by the above-named entities or, if during said period no mutually satisfactory sales price is agreed upon.
- e. District may provide for a payment period of up to twenty (20) years in any contract or sale by trust deed to the above-named entities.
- f. If more than one offer to purchase is received from the above-named entities, the District shall have discretion as to which offer to accept.

Section 2: District shall comply with Government Code section 65402 when acquiring real property by dedication or otherwise for public purposes, when disposing, vacating or abandoning real property, or when constructing or authorizing the construction of a public building/structure.

- a. District shall notify the planning agency of the city or county having jurisdiction of the location, purpose and extent of such proposed acquisition, disposition, or construction.
- b. The planning agency shall report to the District if the proposed acquisition, disposition, or construction is in conformity with the adopted general plan of the county/city within forty (40) days after the District has submitted the matter. Failure to report within said time period shall be conclusively deemed a finding of conformity with the general plan.

- c. Disapproval by the planning agency as to location, purpose or extent of the proposed acquisition, disposition or construction may be overruled by the District.

Section 3: All acquisitions and dispositions of real property by the District shall be subject to the formal contract procedure to the greatest extent possible.

PART K. FEDERAL SURPLUS PROPERTY

Section 1: District may acquire from the United States or State any federal surplus real or personal property in any manner, and without regard to any law relating to notice, bids, or delivery prior to payment.

- a. The Board may authorize an offer to make a down payment or payment in full in the bidding and sale.
- b. Any statute, resolution, or other provision inconsistent with this rule is suspended to the extent it is inconsistent.

PART L. SEVERABILITY

Section 1: If any section, subsection, subdivision, sentence, clause or phrase of these Policies and Procedures is, for any reason, held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of these policies and procedures. The Board of Directors hereby declares that it would have passed these Policies and Procedures, and each section, subsection, subdivision, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases be declared unconstitutional.