



## PURCHASING & PROCUREMENT POLICY

### 1. INTRODUCTION

The Purchasing & Procurement Policy (“Policy”) sets forth the general procurement policy and standards that govern DCA’s procurement activities. The DCA has a responsibility to foster free and open competition and to acquire supplies, materials, equipment, operating and maintenance services, consultant services, and public works projects at the best value while adhering to good public policies and practices.

This Policy is to provide guidance and instructions to DCA staff involved in the purchasing and procurement process.

### 2. OBJECTIVES OF PURCHASING AND PROCUREMENT POLICY

This Policy has been developed to achieve the following objectives:

- Ensure impartiality and competition in purchasing and procurement transactions whenever practicable.
- Establish purchasing and procurement authorization procedures, delegation of authority, and accountability.
- Implement effective documentation, processing, accounting, reporting, and audit trail systems to support purchasing and procurement activities.
- Ensure that all procurements comply with the JEPA, JPA and all State and federal applicable laws.

### 3. DEFINITIONS

The definitions contained in this Section govern the interpretation of this Policy:

- A. Amendment – means a change to the terms & conditions to an agreement.
- B. Best Value Procurement – “Best value procurement” means a competitive, negotiated procurement method where qualitative factors in addition to price are considered in order to award a contract that provides the best overall value to the DCA.

- C. Board or Board of Directors – “Board” or Board of Directors” means the DCA’s board of directors.
- D. Change Order – “Change Order” means an amendment that changes the scope and/or price of a construction contract.
- E. Contract – “Contract” means any written agreement to which the DCA is a party.
- F. Construction – “Construction” includes erection, demolition, alteration, repair, and relocation.
- G. DCA – “DCA” means the Delta Conveyance Design and Construction Joint Powers Authority.
- H. DCO – “DCO” means the Delta Conveyance Office within DWR.
- I. DVBE – “DVBE” means a disabled veteran business enterprise certified as such by the State of California.
- J. DWR – “DWR” means the Department of Water Resources, State of California.
- K. Emergency Procurement – “Emergency Procurement” means a purchase immediately necessary for the preservation of life, public health, or property, or, to prevent an immediate interruption or termination of critical DCA functions or activity.
- L. Executive Director – “Executive Director” refers to the DCA’s executive director.
- M. Interagency Agreement – means a contract between DCA, a city, county, state, or federal agency, or other public agency.
- N. JEPA – “JEPA” means the Amended and Restated Joint Exercise of Powers Agreement between the Department of Water Resources, State of California and the Delta Conveyance Design and Construction Authority, dated October 26, 2018, as amended.
- O. JPA – “JPA” means the Joint Powers Agreement Forming the Delta Conveyance Design and Construction Authority, effective May 14, 2018, as amended.
- P. Material Change – “Material Change” means a major change or deviation from the original purpose of the work, or a revision to the contract so extensive or cumulative, that the consultant or contractor would be performing different work than included in the original contract or procurement.
- Q. Policy – “Policy” means the DCA Purchasing & Procurement Policy, as it may be

amended.

- R. Public Works – “Public works” means contracting for the erection, construction, alteration, repair, or improvement, including demolition and installation work, of any public structure, building, road, or other public improvement of any kind. Public works does not include work done by the DCA’s force account, work not paid for out of public funds, or contracting for the purchase of finished products, materials, or supplies.
- S. SBE – “SBE” means a small business enterprise certified as such by the State of California.

#### 4. CONTRACTING AUTHORITY - GENERAL

- A. Contracts of \$250,000 or less. If the amount payable or expected to be paid by the DCA under the terms of a contract is \$250,000 or less, the contract may be awarded and executed by the Executive Director. For service contracts, the \$250,000 limit shall be calculated on an annual basis.
- B. Contracts Over \$250,000. Except as otherwise provided in this Policy, if the amount payable or expected to be paid by the DCA under the terms of the contract is in excess of \$250,000, the contract shall be executed only upon prior approval of and award by the Board.
- C. Emergency Contracts: Notwithstanding Subsection B, in response to an emergency, the Executive Director is delegated the authority to waive competitive bid requirements and award and execute contracts over the amount of \$250,000 for the construction of works or structures, for the purchase of equipment, materials or supplies, or performance of labor or services and take any directly related and immediate action required by that emergency when such construction, purchase of equipment, materials or supplies, or performance of labor or services is determined by the Executive Director to be for an emergency, subject to the following requirements:
  - (1) The Executive Director shall report to the Board not later than 7 days after the emergency action the details of the emergency and reasons justifying the actions taken.
  - (2) At the next regularly scheduled Board meeting following the emergency action, the Board shall determine by four-fifths vote whether there is a need to continue the action or terminate action at the earliest possible date that conditions warrant so that the remainder of the action may be completed through competitive bid procedures.
- D. Grants and Receipt of Funds: Notwithstanding Subsection B, the Executive

Director is authorized to negotiate and execute contracts in which the DCA receives funds of any amount, provided Board approval is not otherwise required.

## 5. CONTRACTING AUTHORITY – CHANGE ORDERS/AMENDMENTS

- A. Non-Construction Contracts. Except for construction contracts, if the cumulative amount of amendments totals \$250,000 or less on an annual basis, the Executive Director is authorized to execute the amendment(s) even if the amendment(s) will bring the total amount payable under the contract to more than \$250,000. Notwithstanding the foregoing, the Executive Director shall not, without prior Board approval, execute one or more amendments totaling more than \$250,000 to a contract involving an original total amount payable of \$250,000 or less.
- B. Construction Contracts. Change orders for construction projects may be executed by the Executive Director without prior Board approval for an aggregate amount of \$250,000 per Contract on an annual basis or an aggregate amount not to exceed 5 percent of the initial amount of the contract, whichever is greater.

## 6. PROCUREMENT PROCEDURES

- A. General Contracts: Excepting public works contracts and contracts subject to Sections 9 and 10, all contracts estimated to cost \$75,000 or more shall be made upon a competitive sealed bidding or best value procurement in the Executive Director's discretion.
- (1) Direct Purchase Requests. With the exception of public works contracts, for contracts with an estimated value of less than \$75,000, the Executive Director shall prescribe the alternative procedure for contracting, which may include competitive bidding as provided in this Policy, or as modified in the Executive Director's discretion. Where consistent with the JEPA, direct contracting may be used for contracts subject to Sections 9 or 10 where DWR provides a written concurrence letter for that agreement. Alternate procedures for contracting other than competitive low bidding or best value procurement may include the following:
- For purchases less than \$5,000, quotes may be obtained through an informal process (e.g., web browsing or phone calls) and documentation of the bids is recommended but not required. Although bid documents are not required, a requisition and purchase order may be issued to document the purchase.
  - For all procurements of materials, supplies, equipment, and services in excess of \$5,000 but less than \$75,000, at least two vendors must be contacted for bids/price quotation and the purchase awarded to

the lowest, most responsive bidder. Bids must be solicited from prospective bidders by written request, email, telephone, legal advertising, or public notice (including DCA website). Regardless of solicitation method, all vendors must receive the same information about specifications and requirements of the product or service, and all bids submitted must be kept in confidence until the bid is awarded. Bidders may be advised that they will be notified only if they submitted the successful bid.

(2) Purchasing Card: Designated DCA staff may be assigned a Purchase (Cal) Card for miscellaneous purchases. The objective of the Purchase (Cal) Card Program is to reduce processing costs associated with low dollar expenditures. Services are not to be acquired on Purchase (Cal) Cards due to lack of insurance and indemnification language associated with these purchases. Each cardholder has pre-defined spending limits which may be increased temporarily or permanently with approval of the Executive Director subject to specified authorization limits. Purchases using the Purchase (Cal) Card are subject to the terms and conditions of the DCA cardholder agreement.

B. Public Works: Public works contracts \$25,000 or more shall be made by competitive sealed bidding.

C. Direct Contract: Notwithstanding Subsections A and B, the following contracts may be awarded through direct contract:

- Contracts for miscellaneous services, such as telephone, telegraph, light, power, and water, where rates or prices are fixed by legislation or by federal, state, county, or municipal regulations.
- Contracts deemed to be for an emergency under the procedures set forth in Section 4(c).
- If competitive procurement could not produce an advantage, or it is impracticable to obtain what is required because of the unique, exploratory, or experimental nature of the work. Prior to award of contract, the Executive Director shall certify that the contract is exempt from competitive procurement and shall set forth in the certification reasons for that determination.
- If the contract is with a governmental agency.
- Change Orders/amendments including, but not limited to, term extensions.

- Contracts for the handling of DCA airline ticketing, lodging, automobile rental reservations, and miscellaneous travel-related services under \$75,000.
  - Contracts for the handling of DCA meetings or events, including audio/video assistance, food and beverage support and facility rental.
  - A sole source award authorized pursuant to Subsection (D) where it would not be possible or practicable to identify a designated product, material, thing, or service as part of an otherwise competitive procurement.
  - Commodities and services which can be obtained from only one vendor.
  - Transactions pursuant to contracts secured by other public agencies which comply with the competitive procurement requirements applicable to those agencies.
  - The acquisition, lease, or rental of real property.
  - When otherwise permitted by applicable law and approved by the Board.
  - If a proposed contract, procurement, advertising or posting for identical articles or services, or articles or services of the same general character, has failed to secure responsive proposals and, in the opinion of the Executive Director, further advertising or posting will not alter this result.
  - Contracts for insurance and insurance premiums.
  - Purchases of miscellaneous expenses, including office supplies, postage, routine fees under \$75,000.
  - Board Room supplies, communication supplies, photography, audiovisual services and repairs, and office computers and laptops under \$75,000.
- D. Sole Source Contracts: In any competitive procurement or direct contract, a designated product, material, thing, or service by a specific brand or trade name may be exclusively requested for any of the following purposes:
- An item is patented, copyrighted, or otherwise unique.
  - In order that a field test or experiment may be made to determine the

designated product's suitability for future use.

- For replacement parts or for equipment where replacement parts or components from another supplier could compromise the safety or reliability of the product or would void or invalidate a manufacturer's warranty or guarantee, as set forth in the certification provided below.
- For replacement parts or components of equipment, where parts or components obtained from another supplier, if available, will not perform the same function in the equipment as the part or component to be replaced, as set forth in the certification provided below.
- For upgrades, enhancement, or additions to hardware or for enhancements or additions to software, where equipment or software from different manufacturers or developers will not be as compatible as equipment or software from the original manufacturer(s) or developer(s), as set forth in the certification provided below.
- For annual hardware and software licensing.

When an item is to be purchased, the Executive Director's designee preparing the request for bids or proposals shall certify that the particular item will best serve the purpose of the DCA, and the reasons for such conclusion shall be documented. In addition, the Executive Director or designee shall include the ability to substitute "or equal" articles as required by the JEPA and to the extent possible.

- E. Interagency Agreements: When DCA enters into an agreement with another government entity, this type of agreement is not competitively bid.
- F. DCO Concurrence: Prior to the award of any contract under Subsections A, C or D, the Executive Director shall obtain the concurrence of the DCO regarding the non-competitive procurement method. The Executive Director may obtain DCO concurrence on a per contract, per type of contract, or any other method as agreed to by the Executive Director and DCO. Notwithstanding the foregoing, DCO concurrence is not separately required for a contract if the DCO reviews and approves this Policy, or the procurement of the contract is conducted in accordance with this Policy.

## 7. COMPETITIVE SEALED BIDDING

- A. General. All contracts awarded pursuant to a competitive sealed bid process shall comply with the procedures set forth in this Section.
- B. Notice Inviting Bid. A notice inviting bids shall be prepared and released prior to

the award of a contract. At a minimum, the notice shall be published not less than once a week for at least two constructive weeks in a newspaper of general circulation within the county where the work will occur. If a project will be located in multiple counties, notice shall be published in a newspaper in a county in which a major portion of the work is to be done. The notice shall include or reference project specifications, award procedures, and other terms and conditions of the contract and bidding process.

- C. Pre-Bid Conference: The Executive Director may conduct a mandatory or optional pre-bid conference.
- D. Award: After receipt of all bids, the contract shall be awarded to the lowest responsible bidder submitting a responsive bid. Notwithstanding the foregoing, the Board or Executive Director, as applicable, may reject all bids.
- E. Prequalification: The DCA may require prequalification of bidders on projects. In such case, each prospective bidder will be required to complete and submit a standardized questionnaire, which may include financial information and prior experience in performing similar work. The DCA shall follow the procedures set forth in Public Contract Code section 20101, as it may be amended.
- F. Alternative Delivery Method. If permitted by applicable law and in lieu of the competitive sealed bid process set forth in this Section, the DCA may utilize alternative project delivery methods.

## 8. BEST VALUE PROCUREMENT

- A. General: The Request For Proposal (RFP) is a competitive proposal method used when proposals can be solicited from an adequate number of qualified proposers and evaluation of other factors other than just price is necessary or beneficial. This method shall not be utilized for a public works construction contracts as set forth in Section 6.B.
- B. Application: The Executive Director shall determine in writing that the best value method of procurement is practical or advantageous for a particular procurement prior to using this method.
- C. Posting and Advertising: Proposals shall be solicited through a RFP or Request For Information (RFI), which shall be posted and advertised in a manner that provides adequate public notice of the request as determined by the Executive Director, provided that, at a minimum, all requests shall be posted online for a minimum of ten (10) business days.
- D. Evaluation Factors: The evaluation factors to be used in the determination of award and the numerical weighting for each factor shall be stated in the RFP.



- E. Evaluation of Responses: Proposals shall be evaluated based on the criteria stated in the RFP and may include interviews. Award will be made to the proposer whose response is determined to be the most advantageous to the DCA, except that the Executive Director may reject all proposals received.

**9. ARCHITECTURAL & ENGINEERING GOVERNMENT CODE SECTION 4525**

- A. General: Contracts for architectural, landscape architectural, engineering, environmental, and land surveying services and construction project management services shall be awarded pursuant to the procedures set forth in Section 8 of this Policy with the modifications set forth in this Section.
- B. Evaluation Factors: Contracts subject to this Section shall be awarded based on demonstrated competence, qualifications for the types of services to be performed and at a fair and reasonable price.
- C. Negotiation and Selection: DCA shall negotiate a contract with the most qualified firm, at a price DCA determines to be fair and reasonable. Should DCA not be able to reach an agreement with the top ranked firm, negotiations shall cease and DCA shall commence negotiations with the second highest ranked firm, until a fair and reasonable price is arrived at.

**10. SERVICE AND CONSULTING AGREEMENTS**

- A. General: To the extent required by the JEPA, service and consulting services agreements shall be awarded under the provisions of this Section, or any other method permitted by Public Contract Code section 10335.5.
- B. RFP: The Executive Director shall issue a RFP for the contract. The RFP shall include a clear, precise description of the work to be performed or services to be provided, a description of the format that proposals shall follow and the elements they shall contain, the standards the DCA will use in evaluating proposals, a description of the methods that will be used in evaluating and scoring the proposals, the date on which proposals are due, and the timetable the DCA will follow in reviewing and evaluating them. The selection criteria shall ensure that substantial weight in relationship to all other criteria utilized shall be given to the contract price proposed by the bidder.
- C. Proposal Evaluation: Proposals shall be evaluated, and the contract awarded in the following manner:
  - (1) Proposals received by the date & time specified in the RFP shall be reviewed for responsiveness to the RFP requirements.
  - (2) All proposals meeting the requirements in the RFP shall then be evaluated by an evaluation committee which shall score the proposals using the

methods specified in the RFP. The evaluation committee may conduct interviews, to be held and scored as specified in the RFP.

- (3) The contract shall be awarded to the proposer whose proposal is given the highest score by the evaluation committee, except that the Executive Director may reject all proposals received.

**11. PROCUREMENT OF INFORMATION TECHNOLOGY**

A. The procurement of Information Technology (IT) generally includes four types of commodities, purchased individually or in combination, as follows:

- Software
- Hardware
- Services
- Support and Maintenance

B. The Executive Director may prescribe the procedure for contracting, which may include competitive bidding as provided in this Article or as modified in the Executive Director’s discretion, but shall include the following purchasing guidelines in obtaining quotes or issuing a formal Request for Qualifications (RFQ), Request for Proposals (RFP) or Invitation to Bid (IFB):

\$0.00 - \$75,000	Minimum two (2) written quotes required.
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\$75,001 & over	Formal RFQ, RFP or IFB.
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C. Due to the often unique and complex requirements, the IT Procurement Manager, with the Executive Director’s approval, should consider the methods, processes, and initiatives appropriate to each IT procurement that allows for flexibility in the procurement process while maintaining transparency and fairness to the prospective vendors. The following are guidelines used to determine the requirements for obtaining quotes.

D. Request for Information (RFI) - The DCA may issue a RFI before writing a scope of work and specifications to gather supplier information in a systematic, transparent, and impartial manner. The information can help determine the need and lead to a scope of work and specifications that are more likely to achieve the desired outcome. The RFI is an informal solicitation requesting information regarding software, hardware, implementation services, products or services that may be available in the marketplace, as well as general pricing information, to determine

how the vendor's proposed solution(s) would meet the DCA's business requirements.

- E. If the purchase is for software, hardware/equipment that connects to the network or a device connected to any network, or the provider will have access to process or store DCA data, a due diligence review must be completed by the DCA IT Contract Manager that assesses the planned IT initiative.

## 12. BONDS

- A. Bidder's Bond. Whenever a payment bond is required, the Executive Director shall require bids with respect to such work or purchase to be accompanied by either cash, a certified check or cashier's check, or bidder's bond executed by a corporate surety authorized to do business in California, made payable to the DCA.
- B. Payment Bond. Every contract involving in excess of \$25,000 for the construction of public works shall be accompanied by a payment bond executed by a corporate surety authorized to do business in California, approved by the Executive Director. The payment bond shall contain the provisions required by Civil Code 9550 *et seq.*, as it may be amended.
- C. Performance Bond. Every contract involving in excess of \$25,000 for the construction of public works must be accompanied by a performance bond in an amount fixed by the Executive Director and executed by a corporate surety authorized to do business in California, approved by the Executive Director, or by a cash guarantee deposit in like amount. The Executive Director may include a performance bond in other contracts as deemed appropriate.

## 13. SMALL AND DISABLED VETERANS' BUSINESS PROGRAM

Consistent with the balance of this Policy, the JEPa and the JPA, the Executive Director shall implement an SBE and DVBE program. Such program shall be based on the following principles:

- A. Pursue an overall SBE goal of 25% and DVBE goal of 3%.
- B. Monitor SBE/DVBE compliance and report annually on SBE/DVBE utilization.
- C. Educate the public about contracting opportunities through the DCA website, social media and community outreach and workshop programs.

## 14. LOCAL PREFERENCE PROGRAM

Consistent with applicable law and the balance of this Policy, the JEPa and the JPA, the Executive Director may implement a local preference program that provides preferences to businesses, vendors, consultants, suppliers, and contractors based or located in the counties

comprising the Sacramento-San Joaquin Delta.

#### **15. PURCHASING PROCEDURES**

Subject to the terms and conditions of this Policy, the Executive Director may adopt and amend administrative procedures to implement this Policy. Such procedures may include specifying the types of solicitation requests that the DCA may utilize, which include requests for qualifications, requests for information, requests for proposals and request or notice inviting bids or informal contracting procedures authorized by the Executive Director. Such procedures may further specify the minimum number and form of responses for solicitation requests which shall be consistent with this Policy and other applicable State or federal law.

#### **16. DELEGATION OF AUTHORITY**

The Executive Director may delegate any authority granted to them under this Policy to other DCA staff as appropriate.

#### **17. CONTRACT FORM**

All contracts subject to the JEPAs shall include the standard clauses and other terms and conditions set forth in the JEPAs.



BOARD OF DIRECTORS OF THE DELTA CONVEYANCE DESIGN AND CONSTRUCTION AUTHORITY

RESOLUTION NO. 23- 09

Introduced by Director: Robert Cheng

Seconded by Director: Martin Milobar

ADOPTING AN AMENDED PURCASHING AND PROCUREMENT POLICY

Whereas, consistent with best practices and Section 5.1.3(c) of the DCA By-Laws, the Board of Directors adopted a purchasing and procurement policy on May 16, 2019; and

Whereas, the Board of Directors wished to adopt an updated purchasing and procurement policy as set forth below.

Now, therefore, the Board of Directors hereby resolves as follows:

1. RECITALS

The above recitals are incorporated into this Resolution by reference.

2. ADOPTION OF POLICY

The Board of Directors hereby adopts the attached Purchasing and Procurement Policy, which shall supersede any prior policy.

3. EFFECTIVE DATE

This Resolution shall be effective upon its adoption.

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This Resolution was passed and adopted this 17th day of August 2023, by the following vote:

Ayes: 7  
Noes: 0  
Absent: 0  
Abstain: 0

  
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Sarah Palmer, Board President

Attest:

DocuSigned by:



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Gary Martin, Secretary