



**POLICY GOVERNING PURCHASES OF
MATERIALS, SUPPLIES AND EQUIPMENT AND
PROCUREMENT OF PROFESSIONAL SERVICES
BOARD POLICY #P-2020.02.06-4**

PURPOSE

This policy covers the procedures governing purchases of materials, supplies and equipment and the procurement of professional services. It does not cover the procedures governing the bidding and awarding of contracts for facility projects (public works). The bidding and awarding of contracts for facility projects is covered by the Policy and Procedures Governing Bidding for Facility Contracts. Contracts for professional services in conjunction with facility projects shall also be governed by the Policy and Procedures Governing Bidding for Facility Contracts and not by this policy. This policy does not apply to physician transactions.

It is the intent of the Board of Directors (“Board”) of the Sonoma Valley Health Care District (“District”) to provide an equal opportunity to all qualified and responsible parties wishing to participate in the bidding process with respect to the District and the Sonoma Valley Hospital (“Hospital”).

It is the intent of the Board, consistent with the District’s obligations, to obtain the best value for all expenditures.

It is the intent of the Board to clarify, with this policy, the authority granted to the District President and Chief Operating Officer (“CEO”) by the Board with regard to District and Hospital purchases and contracts. It is also the intent to clarify the authority retained by the Board.

In all instances where authority is granted to the CEO, it is understood that the CEO may in turn delegate this authority to a member of the CEO’s staff. Responsibility for adherence to this policy, when the authority is delegated by the CEO to a staff member, remains with the CEO.

STATEMENT OF BOARD POLICY

1. Scope and Application of the Policy

1.1 Delegation of Authority. The Board hereby makes selective delegation of its authority to the CEO to implement this Policy. By this Policy the Board also limits the CEO’s authority as specified in Section 5 [Limit of Authority Delegated to the CEO].

1.2 Bidding Threshold. The District, with certain exceptions, as covered in Section 2 [Exceptions to Bidding and Lowest Bid Policy], (*Health and Safety Code § 32132*) shall follow the formal bidding procedures outlined in Section 3 [Formal Bidding Procedures] for any contract for materials, supplies and equipment exceeding twenty-five thousand dollars (\$25,000) for services, materials and supplies to be furnished, sold, or leased to the District or the Hospital and shall award the contract to the lowest responsible bidder. Alternately, the District shall reject all bids.

Bidding is not required for contracts that are accepted under Section 2 and for contracts that do not exceed \$25,000, but bidding or other suitable procedures should be followed to obtain the best value for the District

1.3 Authority to Make Purchases. The District's CEO or the CEO's designee are hereby given authority to make all purchases and to execute all purchase orders or contracts for the District duly authorized pursuant to this Policy or other applicable policies referenced herein. All purchases and contracts shall be upon written order, whenever reasonably possible, and the District shall keep and maintain written records of the same.

1.4 Contract File. The CEO shall keep and maintain written records of all contracts. The contract file shall include the method used to select the contractor or service provider, a copy of the request for proposal (RFP) or other form of solicitation, the amount of the contract, the expiration date of the contract, and the name of the contractor or service provider. When the formal bidding procedure is required, file shall also include a copy of the Notice of Bids and the names of all bidders and their proposals.

The contract file for all contracts awarded under the exceptions listed in section 2 shall include a description of the exception and an explanation of the method used to select the contractor or service provider.

The contract file shall include the names of any employee of the District, or any Board member who elected to recuse themselves from the award process because of a conflict of interest.

1.5 Conflict of Interest. With respect to all contracts covered by this Policy, any practices or procedures which might result in unlawful activity shall be prohibited, including practices which might result in rebates, kickbacks or other unlawful consideration. No employee of the District may participate in any selection process when such employee has a relationship with a person or business entity seeking a contract which would subject those employees to the prohibitions in *Government Code § 87100*¹. (See *Government Code §4526*)

1.6 No Advantage. No illegal, unfair, unethical or otherwise improper advantage shall be accorded to any bidder by the District, a Board member or an employee of the District/Hospital.

¹ Section 8100 provides, "No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest."

2. Exceptions to Bidding and Lowest Bid Policy

The District shall not be required to utilize the formal bidding process or to award the contract to the lowest bidder to (a) emergency contracts, (b) contracts for medical or surgical equipment or supplies, (c) electronic data processing and telecommunications goods and services, (d) professional services, (e) energy services contracts, or (f) purchases made through a Group Purchasing Organization (“GPO”) (*Health and Safety Code § 32132(b) & (e).*)

2.1 Emergency Contracts. Notwithstanding anything to the contrary, the Board may award contracts for more than \$25,000, without following the formal bidding and lowest bid policy, if it first determines (i) an emergency exists that warrants such expenditure due to fire, flood, storm, epidemic or other disaster and (ii) it is necessary to protect public health, safety, welfare or property. (*Health and Safety Code §32136.*) In the event that the emergency requires immediate action, the CEO may make the determination that an emergency condition exists and award a contract without first receiving Board approval. The CEO shall inform the Board of the emergency and the contract by email within 24 hours. The Board shall review the emergency and the contract no later than 14 days after the action.

2.2 Medical Equipment and Supplies. Notwithstanding anything to the contrary, the CEO may award contracts for more than \$25,000 without following the formal bidding and lowest bid policy for medical equipment and supplies commonly, necessarily and directly used by or under the direction of a physician or surgeon in caring for or treating a patient. (*Health and Safety Code §32132(b) & (d).*)

2.3 Electronic Data Processing and Telecommunications Goods and Services. Consistent with Health & Safety Code §32138, the District shall employ competitive means to acquire electronic data processing and telecommunications goods and services, where such goods and services exceed a cost of twenty-five thousand dollars (\$25,000). (*Health and Safety Code §§ 32132(b) and 32138.*)

For purposes of this section, “competitive means” includes any appropriate means specified by the Board. “Competitive means” may include (i) the preparation and circulation of a request for proposal to a sufficient number of qualified sources to permit reasonable competition consistent with the nature and requirements of the proposed acquisition, as determined by the Board in its reasonable discretion; (ii) the lowest bid policy; (c) any other appropriate means determined by the Board in its reasonable discretion. (*Health and Safety Code § 32138(b)*)

The CEO shall provide the Board and the Board shall approve the competitive means that will be used for all electronic data processing and telecommunications goods and services.

2.4 Energy Services Contract. Notwithstanding anything to the contrary, the District shall award contracts for more than twenty-five thousand dollars \$25,000 for energy services including conservation, cogeneration, and alternate energy supply sources without following the formal bidding and lowest bid policy if 1) the Board determines that such contract is in the best interest of the District, and 2) the determination is made at a regularly scheduled public hearing of the Board in compliance with the provisions of *Government Code §4217.12*. (*Government Code §§ 4217.11 & 4217.12*)

2.5 Group Purchasing Organizations. Notwithstanding anything to the contrary, the CEO may award contracts that are placed through an accredited Group Purchasing Organization (“GPO”) in excess of twenty-five thousand dollars (\$25,000) without following the formal bidding and lowest bid policy (Revenue and Taxation Code §23704). (*Health and Safety Code* § 32132(e).)

2.6 Professional Services. Notwithstanding anything to the contrary, the CEO may award contracts for professional services and advice in financial, economic, accounting, engineering, legal, architectural or administrative matters (“Special Services”) in excess of twenty-five thousand dollars (\$25,000) without following the formal bidding and lowest bid policy or the use of competitive means, provided such persons are specially trained, experienced and competent to perform the special services required and have been selected based on these qualifications. (*Health and Safety Code* § 32132(b) & *Government Code* § 53060).

The Policy and Procedures Governing Bidding for Facility Contracts shall be followed for the contracts for professional services of architectural, engineering, environmental, land surveying, or construction project management firms if the work is to be performed in conjunction with an approved facility project.

3. Formal Bidding Procedure

3.1 Bid Packet. Where formal bidding is required, (or otherwise deemed desirable by the Board) the CEO shall prepare a bid packet, including a notice inviting formal bids (“Notice Inviting Bids”). The packet shall include a description of the materials or supplies, scope of services, or work in such detail and written with such specificity as may be required to allow all potential bidders to understand the need and give a level playing field to all bidders.

3.2 Notice Inviting Bids. Where formal bidding is required, the CEO shall publish the Notice Inviting Bids at least fourteen (14) calendar days, but preferably twenty (20) calendar days, before the date of opening the bids. Notice shall be published at least twice, not less than five (5) days apart, in a newspaper of general circulation, printed and published in the jurisdiction of the District. (*Public Contract Code* §20150.8).

In addition, the CEO may also publish the Notice Inviting Bids in a trade publication as specified in *Public Contract Code* 22036 or may give such other notice as it deems proper.

3.3 Requirements of Notice Inviting Bids. The CEO shall include all of the following in the Notice Inviting Bids:

- a. A description of the item(s) to be bid upon;
- b. The procedure by which potential bidders may obtain electronic copies of the Specifications;
- c. The final time, date, and, place where bids are to be received (*Government Code* § 53068; *Public Contract Code* §§4104.5, 22037). If the District elects to receive bids electronically, this option must be included in the Notice Inviting Bids.

- d. The appropriate District person to receive the bids and the address for that person, including an e-mail address.
- e. The date, time and place for opening of bids;
- f. Other matters, if any, that would reasonably enhance the number and quality of bids.

3.4 Submission of Bids. The CEO shall accept only written sealed bids from the prospective bidders. The CEO shall date and time stamp all bids upon receipt. All bids shall remain sealed until the date and time set forth for opening the bids in the Notice Inviting Bids. Any bid received by the District after the time specified in the Notice Inviting Bids shall be returned unopened. (Government Code § 53068). Any electronic bids received after the time specified shall have their attachments deleted and the bidder notified electronically of their rejection.

3.5 Examination and Evaluation of Bids. On the date, time and at the location provided in the Notice Inviting Bids, the District shall publicly open the sealed bids. A person designated by the CEO, shall attend and officiate over the opening of bids (“Opening”). The bids shall be made public for bidders and other properly interested parties who may be present at the Opening.

The District reserves the right not to determine the low bidder at the Opening, to obtain the opinion of counsel on the legality and sufficiency of all bids, and to determine at a later date which bid to accept. Such determination shall be made within sixty (60) days of the Opening unless a different period of time is specified in the Notice Inviting Bids.

In the event there are two or more identical lowest bids pursuant to any provision requiring competitive bidding, the District may determine by lot which bid shall be accepted. (Government Code § 53064)

3.6 Award of Contract. When formal bidding is required the CEO shall award the contract to the lowest bidder, provided the bidder is responsible as defined by section 3.7 and the bid is reasonable and meets the requirements and criteria set forth in the Notice Inviting Bids

Any contract awarded by the District shall be subject to all applicable provisions of federal, California and local laws. In the event of a conflict between any contract documents and any applicable law, the law shall prevail.

Notwithstanding anything to the contrary, the District is under no obligation to accept the lowest responsible bidder and reserves the right to reject all bids. (*Health and Safety Code § 32132*)

3.7 Responsible Bidder.

a. For purposes of this Policy, “responsible bidder” means a bidder who has demonstrated the attribute of trustworthiness and quality during prior service, a reputation for reliability and satisfactory service with other clients, sufficient financial capacity and the physical capability and the technical and non-technical expertise in order to perform the contract satisfactorily (Public Contract Code 1103).

b. If the CEO determines that the lowest bidder is not responsible, the Board may award the contract to the next lowest responsible bidder

c. If the Board decides to award the contract to a bidder other than the lowest bidder pursuant to subparagraph (b), the Board shall first notify the low bidder of any evidence, either obtained from third parties or concluded as a result of the District's investigation, which reflects on such bidder's responsibility. The District shall afford the low bidder an opportunity to rebut such adverse evidence and shall permit such bidder to present evidence that it is qualified. Such opportunity to rebut adverse evidence and to present evidence of qualification shall be submitted in writing to the District.

4. Bid Conditions.

All formal bids shall be subject to the following general conditions.

4.1 Minimum Number of Bids. When formal bidding is required the CEO shall consider a minimum of three (3) bids whenever possible; however, where the CEO cannot obtain three bids or when the CEO decides that time will not permit obtaining three bids, the Board may authorize consideration of a minimum of two (2) bids.

The District may accept sole source bids for contracts that are exempt from the formal bidding policy under section 2.

4.2 Multiple Bids. When bids for multiple items are solicited at the same time, the CEO may accept parts of one or more bids (provided the Notice Inviting Bids so indicates) unless the bidder has specified to the contrary, in which event the District reserves the right to disregard the bid in its entirety.

4.3 Minor Deviations. When formal bidding is required, the CEO, after receiving advice from counsel, may waive inconsequential deviations from the specifications in the substance or form of bids received.

4.4 Reference Check. Contracts shall be awarded to the lowest responsible bidder meeting the applicable criteria established by the District, subject to a check of references and review of legal counsel, as applicable.

4.5 Right to Direct Competitive Bidding. The Board reserves the right to direct competitive bidding (including but not limited to lowest bid) for any contract, regardless of whether or not competitive bidding is required by the terms of this policy. (*Public Contract Code §1601*)

4.6 Flexibility and Waiver of Policy Requirements. In recognition of the fact that the contracting and procurement needs of the District may, from time to time, render certain procedures or requirements set forth in this Policy impractical, the CEO or his/her designee is authorized to permit or waive deviations from this Policy, to the extent permitted by law, in consultation with the District's legal counsel and upon making a written finding that such deviations are in the best interest of the District.

5. Limit of Authority Delegated to CEO for Materials and Services

The CEO may sign a contract for an operating expense, the cost of which has been included in the approved (by the Board) operating budget for the current fiscal year. The contract may cover a period of up to 5 years.

The CEO may sign a contract for an operating expense, the cost of which has been included in the approved (by the Board) operating budget for the current fiscal year, but the contract amount is greater than the amount in the budget, if the total dollar amount of contracts exceeding the budgeted amounts is not in excess of \$100,000 for the year. When a contract is signed that exceeds the budgeted amount the CEO should reduce operating costs in other areas to keep the impact of the contract “budget neutral.” The contract may cover a period of up to 5 years.

The CEO may approve a contract for a capital expense, if the item meets the guidelines for capital projects which were included with the capital budget and approved by the Board. The Board may request to review the decision-making process in the selection of the vendor and equipment.