

**BEAR MOUNTAIN RECREATION
AND PARKS DISTRICT
PURCHASING HANDBOOK**



10300 San Diego Street, Lamont, CA 93241

INTRODUCTION AND GUIDELINES FOR PROCUREMENT

The intent of this handbook is to acquaint District personnel with the basic procedures to be used when purchasing supplies, materials, equipment or services. The District's goal is to provide an organizational structure that will effectively control the procurement and distribution of all goods and services, and to ensure that the District is in compliance with all legal and State requirements, and Board policies.

All approvals that are required for a particular requisition are to be submitted to the District Manager. The District Manager will process all requisitions and issue a purchase order for goods and services needed. The average time to generate a purchase order is one to four days. Orders can be generated immediately when necessary, if the appropriate documentation and approvals are provided.

The procurement function is one of the major business responsibilities of the District's Board of Directors (hereinafter "Board"), and the Board shall retain sole approval authority and responsibility for all purchase contracts of the District except as delegated by official action of the Board, as more fully explained in this handbook.

This purchasing handbook provides reference information on the methods used within the District and will assist the user in answering the day-to-day questions pertaining to purchasing and other related procurement activity.

This handbook is in compliance with the *Government Code* of the State of California, sections 54202 and 54204, which mandate the following:

54202: Every local agency shall adopt policies and procedures, including bidding regulations, governing purchases of supplies and equipment by the local agency. Purchases of supplies and equipment by the local agency shall be in accordance with said duly adopted policies and in accordance with all provisions of law governing same. No policy, procedure, or regulation shall be adopted which is inconsistent or in conflict with this statute.

54204: If the local agency is other than a city, county, or city and county, the policies provided for in Section 54202 shall be adopted by means of a written rule or regulation, copies of which shall be available for public distribution.

Purchasing functions for the District are centralized under the direction of the Board, with the actual function, unless noted otherwise, delegated to the District's General Manager.

It is the intent of the Board to ensure that the Purchasing Department, on behalf of the District, shall:

- Serve the best interest of the District in all transactions;
- To regard public service as sacred trust, giving primary consideration to the District by which we are employed;
- Obtain the maximum value for each dollar expended;
- Comply will all applicable provisions of Local, State, and Federal laws governing purchasing;
- Purchase and contract without favoritism or prejudice, avoid unfair practices and giving all Vendors an equal opportunity;
- Purchase equipment, supplies and services on a competitive basis when required by law;
- To solicit formal bids when required by this purchasing handbook;
- Establish specifications that are descriptive of materials desired and, whenever possible, Attract and develop a group of responsible bidders able to offer the best prices, best quality, and best service;
- Conduct the purchasing function in a manner that utilizes the most efficient procedures, records and reports;
- Maintain a bidder's list and vendor file for the District;
- Publicly open advertised bids at the prescribed time and place;
- Grant awards and contracts to the lowest responsible bidder(s) who meet all specifications or reject all bids;
- Standardize equipment and supplies used within the District;
- Employ the use of open or blanket purchase orders with those vendors where a continual flow of supplies is utilized by the District;
- To cooperate with all organizations and individuals engaged in enhancing the development and integrity of the purchasing profession.
- Utilize piggyback contracts when authorized by the Board to obtain equipment or supplies to the extent allowed by law;
- Keep abreast of all local, State and Federal laws as they pertain to public purchasing;
- Support every purchasing transaction with the timely processing of a requisition, purchase order, formal contract, or other written instrument, as applicable;
- To decline personal gifts or gratuities;
- To regard each transaction on its own merits; to foster and promote fair, ethical and legal trade practices; and

STAFF/USER PROCEDURES

The following procedures are established by the Board to assist District employees in the procurement of goods. These requirements will ensure proper compliance with the various applicable laws of the State of California. The adherence to all requirements is mandatory.

1. All requests for pricing and all purchases shall be made through the District Manager, unless noted otherwise. Requests will be delivered to the District Manager through a District requisition, and purchases will be made and/or approved by the District Manager with a District Purchase Order.
2. The demonstration of machines, equipment and materials for the District should be arranged through the General Manager.
3. No direct purchase of any materials whatsoever will be made by District employees other than the District Manager or those employees specifically authorized by the Board, or persons authorized to purchase through the emergency procedures or revolving cash funds.
4. Items for purchase will be sent to the General Manager via a District purchase requisition. The General Manager will issue and forward a Purchase Order to the vendor. Purchase requisitions will not be used as a Purchase Order. District employees who contact vendors and authorize shipment of goods or supplies utilizing a purchase requisition number will be held financially responsible for such goods and/or services.
5. District employees, other than the General Manager or those District employees designated by the Board shall not correspond with vendors or contractors in writing or fill out forms, which may be interpreted as agreements authorizing the delivery of merchandise and/or service.
6. Employees shall not contract for services (workshops, assembly speakers, workshop purchases, etc.) without a signed Purchase Order and/or contract. Such communication is often considered LEGALLY BINDING and will place the employee in the position of having to PERSONALLY make payment for the goods or services provided.
7. Pursuant to *Government Code* §§1090-1092, District employees must not have a financial interest in any contract with the district for goods and/or services under the following conditions:
 - a. The contract is between the District and the employee.
 - b. The contract is between the District and a partnership or unincorporated association of which the employee is a partner or in which he/she is the owner or holder, directly or indirectly, of a proprietorship interest; or
 - c. The contract is between the district and a corporation in which any employee is the owner or holder, directly or indirectly, of five percent (5%) or more of the outstanding common stock.
8. Statement of preference for a particular material or equipment is a prerogative of each using requisitioner; however, the General Manager has the authority to review the quality and kind of material or equipment requested and to make recommendations relative to safety, health, economy, and substitute materials or equipment. Disagreements over materials that cannot be reconciled between the General Manager and the requisitioner will be forwarded to the Board for disposition.

9. Departments requesting to evaluate, on a trial basis, equipment, software or other services, may do so without a purchase order being issued during the trial period. If during the trial period the using department feels that the product meets the needs of the department, a requisition for the product will be generated, sent through the requisition approval process, and approved. After approval of the requisition, the General Manager will issue a purchase order for the product. If the product being evaluated is replacing an existing product or service, a purchase order must be in place prior to the expiration of the product being replaced.

PURCHASING STAFF PROCEDURES - VENDOR RELATIONSHIPS

To maintain a professional and courteous relationship with vendors, the following procedures are necessary and will be adhered to by the staff of the District. In doing so, appropriate conduct and staff integrity will be maintained.

1. All suppliers' representatives may have a meeting at the discretion of the District Manager relative to their products the first time they make contact with the District. Subsequent requests for visits will be promptly and courteously acknowledged and interviews may be granted or not, depending upon the circumstances. District personnel are not required to indiscriminately place their time at the disposal of a salesperson, however frequent his/her visits and/or mission. It is advised that suppliers schedule such meetings.
2. District staff will not extend favoritism to any vendor. Each order is to be placed on the basis of quality, price, service and delivery, with past performance being a factor if all other considerations are equal. When two or more vendors make offers which are identical in price, service, delivery and past performance, the General Manager shall choose the vendor by lot.
3. District staff will conduct all necessary negotiations for price adjustments. All arrangements for return or exchange of merchandise must be made through the District Manager.
4. At no time shall the District staff solicit funds, donations and/or materials from vendors, however worthwhile the purpose may be.
5. In order to eliminate favoritism to vendors, District staff will not have any personal relationships with any vendor that does business with the District.
6. No District employee or Board member shall accept personal gifts, commissions or expense-paid trips from individuals or companies selling equipment, materials or services required in the operation of District programs. This policy does not prohibit employees from accepting promotional or advertising items such as calendars, desk pads, notebooks or other office supplies, or attending informative lunches and seminars, which are offered by businesses free to all as part of their public relations and information programs.
7. Authorized District staff may visit a vendor's place of business to acquaint themselves with a product line and to determine the company's capability to serve the District.

UNAUTHORIZED PURCHASES

Only authorized individuals appointed by the Board may financially obligate the District. The District requires issuance of a signed purchase order or contract to a vendor prior to furnishing any services or shipping materials.

Accordingly, it is the policy of the Board that the District Manager shall conduct or supervise all purchase transactions for the District. In the event that an unauthorized purchase is made, the following applies:

1. Any purchase of supplies or equipment made by staff members, without a purchase order or contract approved by the General Manager will not be paid for by the District.
2. Purchases made in the name of the District without an authorized purchase order shall be considered an obligation of the person making the purchase, and not an obligation of the District. Deliveries of materials or services, which are made without a purchase order or contract, are made at the seller's risk.

The only exception to this practice is when the District Manager has provided a department manager a writing which authorizes said manager to purchase up to \$300.00 without a pre-approved purchase order. However, even if such an exception exists, a requisition should be submitted whenever possible to generate a purchase order for the items.

PRICE SOLICITATION PROCEDURES - BIDS AND QUOTATIONS

This section applies to all equipment, materials, or supplies, whether patented or otherwise. This section shall not apply to professional services or advice, insurance services, or any other purchase or service otherwise exempt from this section, or to any work done by day labor.

The contract shall be let to the lowest responsible bidder who shall give security as the Board requires, or else reject all bids.

The Purchasing Department will adhere to the established District policies, Public Contract Code, Education and Government Codes, and regulations pertaining to bidding and quotation solicitation.

- A. Purchasing will be accomplished through competitive bidding or solicited quotations, with awards made to the lowest responsible bidder or proposer meeting all District specifications, instructions and conditions.
- B. The Purchasing Department will seek estimates, quotations and bids from those sources able to offer the best prices consistent with quality, delivery and service.
- C. Competitive bidding shall be practiced (advertised bid, written price quotations, oral price quotations) whenever required by law or this Purchasing Handbook.

BID PROCEDURES - CONSTRUCTION AND PUBLIC WORKS PROJECTS

Procurement of Materials, Supplies, Non-Capitalized Equipment, Equipment, Equipment Replacement and Services, shall require the number of written proposals as listed by the corresponding dollar amounts:

PROCUREMENT THRESHOLD	PROCUREMENT PROCESS
1. \$0.01 to \$4,999.00	At least One (1) written proposal, but more is optimal to save on pricing. Requisitions must include all information obtained (Verbal quotes should have company name, items requested, and amount listed on the requisition).
2. \$5,000.00 to \$25,000.00	At least Two (2) written proposals must be obtained and submitted with the District requisition for purchase of the item. The General Manager retains authority to deem the proposal “fair and reasonable” and solicit additional proposals if pricing is not deemed “fair and reasonable.”
3. \$25,000.01 - \$50,000.00	At least three (3) written proposals must be obtained by the District Manager. The District Manager will award a Purchase Order to the vendor who has submitted pricing that is deemed lowest, reasonable and most responsive by the District Manager or his/her designee.
5. \$50,000.01 and above	Formal bidding process by the District.

Pursuant to *Public Resources Code* §5549, the General Manager has the following administrative and executive functions, powers, and duties. The general manager shall do the following:

1. Bind the district, in accordance with board policy, and without advertising, for the payment for supplies, materials, labor, or other valuable consideration for any purpose, including new construction of a building, structure, or improvement, in amounts not exceeding twenty-five thousand dollars (\$25,000). All expenditures shall be reported to the board of directors at its next regular meeting.

Pursuant to *Public Resources Code* §5594, all contracts for furnishing supplies, materials, labor, or other valuable consideration furnished the district, for maintenance projects involving contractor services to preserve, maintain, or repair any existing building, structure, or improvement, or for constructing any new building, structure, or improvement, when the expenditures will exceed the applicable amount specified in §5549, shall be let to the lowest responsible bidder, after notice inviting bids, published in a newspaper in the District at least one week before the time of receiving bids. The Board may reject all bids and re-advertise, or by a five-sevenths vote may elect to purchase the materials or supplies in the open market, or to construct the building, structure, or improvement by force account.

Bear Mountain Recreation and Park District participates in the Uniform Public Construction Cost Accounting Act, Public Contract Code 22000, which raises bidding thresholds for informal bids to \$45,000.00 and bidding thresholds for formal bids to \$175,000.00. The Board shall let any contract for a public project, as defined in Public Contract Code section 22000, involving an expenditure of One Hundred Seventy Five Thousand Dollars (\$175,000.00) or more, to the lowest responsible bidder who shall give security as the board requires, or else reject all bids. All bids, whether formal or informal, for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security:

1. Cash.
2. A cashier's check made payable to the District.
3. A certified check made payable to the District.
4. A bidder's bond executed by an admitted surety insurer, made payable to the District.

Upon an award to the lowest bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the District beyond sixty (60) days from the time the award is made.

- A. In this regard, the District will follow the provisions of Public Contract Code Section 22033 which states:

It shall be unlawful to split or separate into smaller work orders or projects any work, project, service, or purchase for the purpose of evading the provisions of this article requiring contracting after competitive bidding.

- B. The District will act in accordance with Public Contract Code section 20112, which reads:

For the purpose of securing formal bids the Board shall publish at least once a week for two weeks in some newspaper of general circulation published in the District, or if there is no such paper, then in some newspaper of general circulation circulated in the county, a notice calling for bids, stating the work to be done or materials or supplies to be furnished and the time and place where bids will be opened. Whether or not bids are opened exactly at the time fixed in the public notice for opening bids, a bid shall not be received after that time.

- C. All bid instructions and specifications will be clear and complete, setting forth all necessary conditions for competitive bidding.
- D. Bid, payment (labor and material) and performance bonds shall be required as per

statute. However, the District may, in its discretion, set lower limits as deemed necessary.

- E. All advertised bids shall be opened in public at a prescribed time and place. Interested parties may receive prices and other information listed in the bid at the public opening. After the bids have been opened and tabulated, they will be made available for interested parties to review. The General Manager shall receive, open, announce and secure all bids within the District. No original bid document will be removed from the District, without the written authorization of the District Manager or his/her designee.
- F. Any bid received after the time specified in the advertised notice will be returned unopened to the bidder. (*Government Code* section 53068)
- G. All bids received will be evaluated and recommendations made to the Board for Board approval. Evaluations will be based upon responsiveness to District specifications by the vendor. Awards shall be made to the lowest responsive and responsible bidder meeting all specifications.
- H. When identical low responsible and responsive bids are received, the District will choose amongst the low bids by lot or reject all bids.
- I. The Board reserves the right to:
 - Reject all bids.
 - Reject any part of any bid unless the bidder expressly limits the bid to “all or none.”
 - Accept any part of a bid at prices quoted, unless the bidder expressly limits the bid to “all or none.”
 - Waive any informality or minor irregularity in any bid.

BID THRESHOLDS - CONSTRUCTION AND PUBLIC WORKS PROJECTS

The California Legislature passed the California Uniform Public Construction Cost Accounting Act (Public Contract Code 22000 et seq.) to promote uniformity of bidding procedures and cost accounting standards on construction projects performed and contracted by public entities in the State. The act is an excellent tool for local public agencies which want to:

- Raise their bidding thresholds to \$45,000.00;
- Simplify the bidding process for projects valued at less than \$175,000.00
- Increase the likelihood of receiving bids from responsible contractors;
- Minimize limits on using employees for public works.

Obtaining proposals for construction projects that fall under the informal bid limit of \$30,000.00 is as follows:

Purchasing Thresholds	Purchasing Process
\$0.00-\$10,000.00	Solicitation of at least Two (2) written proposal for the project. The project will be awarded to the contractor or vendor whose proposal is most fair, reasonable and responsible.
\$10,001.00-\$30,000.00	Solicitation of at least Three (3) written proposals for the project. The project will be awarded to the contractor or vendor whose proposal is most fair, reasonable and responsible.
\$30,000.01-\$45,000.00	Solicitation of at least Three (3) or more written proposals for the project. The project will be awarded to the contractor or vendor whose proposal is most fair, reasonable and responsible. Any project with a value greater than \$25,000.00 requires a payment and performance bond per California Civil Code Section 3247 et seq.

INFORMAL BIDS

Projects that exceed \$45,000.00 but not more than \$175,000.00 in value must be informally bid per *Public Contract Code* §§22030 – 22045. Projects that are informally bid should adhere to the following procedures, although the District can make certain procedures optional.

1. It is the District's option to develop plans and specifications for construction projects that the District deems necessary.
2. Newspaper publication is not a requirement for informal bids. The District may publish a notice inviting bid to attract additional contractors to bid on the job.
3. Informal bid notices must be sent to contractors on the District's bid list as well as the trade newspapers representing Kern County.
4. Informal bid notices sent to contractors should describe the project in general terms, describe how to obtain more detailed information on the project, time and place for the submission of bids, estimated cost of project, work to be performed, bonding requirements and other pertinent information. The District has the option of putting together a full bid package and sending to contractors on the bid list.
5. The notice inviting bid must be mailed not less than ten (10) days before the bids are due. The District has some discretion as to who the bids are mailed to and must follow one of the listed methods:
 - a. Mail notices inviting informal bids to all listed contractors for the category of work being performed.
 - b. To all construction trade journals designated for Kern County.
 - c. To all contractors and trade journals.

After bids are opened from an informal bid, the District may at its option place the award of the informal bid on the agenda for approval by the Board.

FORMAL BIDS

Public Works projects that are valued at more than \$175,000.00 must be let to contract by formal bidding. Formal bidding procedures require the following:

1. Approval to bid the project by the Board.
- 2.
3. Publication in a newspaper of general circulation at least 14 days before the date of opening of bids. The notice is only required to be published once.
4. Publication of bid project to construction trade journals designated for Kern County.
5. The bid should include all information about the project, including bonding requirements. The District has the option of mailing bids to the contractors on the bid list.
6. The notice inviting formal bids must be mailed to the designated trade journals at least 30 days before the date of the opening of bids.
7. The bid award requires approval by the Board before creation of the contract or contracts.

PROFESSIONAL SERVICES

In accordance with Government Code sections 4528 and 53060, certain professional services are exempt from competitive bidding. The District may want to send out a “Request For Proposal” to the firms requesting qualifications and pricing for comparison. These services may include:

1. Architectural firms.
2. Landscape architectural firms.
3. Engineering firms.
4. Land survey firms.
5. Program management firms.
6. Construction management firms.
7. Inspection firms.
8. Financial firms.
9. Legal services.
10. Accounting services.

The Board must approve all contracts entered into for professional services before a contract or purchase order is signed and delivered to the firm for work.

The Board shall call for bids by advertising in a local newspaper of general circulation, or if no such paper exists, then in some newspaper of general circulation, circulated in the county, at least once per week for two consecutive weeks for equipment and materials bids, and at least one week for formal construction bids. The notice shall state the work to be done or materials or supplies to be furnished, and the time and place where bids shall be opened (*PCC 20112*). In addition, the Notice Inviting Bids will be posted on the District’s website.

The notice shall contain the time, date and location of any mandatory pre-bid conference, site visit or meeting. The notice shall also contain when and where the project documents, including final plans and specifications are available. Any such mandatory conference, site visit or meeting shall not occur within a minimum five (5) calendar days of the publication of the initial notice (*PCC 6610*).

Bid instructions and specifications shall include the following requirements and information:

1. All formal bids shall be presented under sealed cover and shall be accompanied by one of the following forms of bidders’ security (*PCC 20107, 20111*):
 - a. Cash
 - b. A cashier’s check made payable to the District
 - c. A certified check made payable to the District
 - d. A bidder’s bond executed by an admitted surety insurer and made payable to the District.

The security of the unsuccessful bidders shall be returned in a reasonable period of time, but no later than 60 days after the bid is awarded (*PCC 20111*).

2. Bids shall not be accepted after the advertised bid opening time, regardless of whether the

bids are actually opened at that time (*PCC 20112*).

3. When two or more identical low and responsible bids are received, the Board may determine which bid will be accepted by lot of the Boards choosing (*PCC 20117*).
4. If the District requires that the bid include prices for items that may be added to or deducted from the scope of work in the contract, depending on the availability of funds, the bid solicitation shall specify which one of the following methods will be used to determine the lowest bid. In the absence of such a specification, only the method provided in item (a) below will be used (*PCC 20103.8*):
 - a. The lowest bid shall be the lowest bid price on the base contract without consideration of the prices on the additive or deductive items.
 - b. The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that were specifically identified in the bid solicitation as being used for the purpose of determining the lowest bid price.
 - c. The lowest bid shall be the lowest total of bid prices on the base contract and those additive or deductive items that when taken in order from a specifically identified list of those items in the solicitation, and added to, or subtracted from, the base contract, are less than, or equal to, a funding amount disclosed by the District before the first bid is opened.
 - d. The lowest bid shall be determined in a manner that prevents any information that would identify any of the bidders or proposed subcontractors or suppliers from being revealed to the public entity before the ranking of all bidders from lowest to highest has been determined.
5. Any subsequent change or alteration of a contract shall be governed by the provisions of *Public Contract Code* section 20118.4.
6. After being opened, all submitted bids become public records pursuant to *Government Code* Section 6252 and shall be made available pursuant to the law.

REQUEST FOR PROPOSALS

The Purchasing Department will issue Request For Proposals (RFP's) on service items that meet the requirements of *Government Code* sections 4528, 53060, which are not required to be formally bid. Procedures for the issuance of a Request For Proposal are as follows:

1. The requesting department will notify and request authorization from the General Manager to solicit proposals from all vendors for a specific service.
2. After review and approval from the General Manager, the General Manager will draft the Request For Proposal and forward to those companies that are qualified to perform the requested services for the District.
3. The General Manager will receive the proposals and open the received proposal on the date and time specified in the Request For Proposal.
4. The General Manager will review the proposals with the Board. A committee will be selected to evaluate proposals and select a winner.
5. The General Manager will create the necessary agenda information and vendor selection, and forward to the Board for Board approval.
6. Once approved by the Board, the selected vendor will be issued a contract for the services listed in the Request For Proposal.

REQUISITIONS

The procedure for the purchase of materials, supplies and equipment for which payment is to be made from District funds, is as follows:

1. Requisitions for purchases will be developed into Purchase Orders only when there are unencumbered funds available or arrangements have been made for additional appropriations through established channels. This approval shall be in advance of purchase, with the only exceptions being for an emergency purchase.
2. Specifications pertaining to the purchase must be as complete as possible when submitted to the General Manager. No commitments to vendors are to be made by employees when securing information about products and/or services.
3. All persons responsible for providing or using materials and services are urged to anticipate their needs so that purchases may be arranged in an orderly fashion and not on an emergency basis.
4. Requisitions are not a legal contract for purchase. Purchases may not be made using requisitions. A Purchase Order will be generated after the requisition has met all of the above requirements.

OPEN PURCHASE ORDERS

Open purchase orders are valid only for the time period stated and the amount stipulated on the purchase order. The purchase order number must be indicated on all invoices. Open purchase orders may not be used for the any single item that has a value over \$500.00.

The personnel listed on the open purchase order are authorized to make purchases or pickups from the vendor who appears on the purchase order.

When generating a requisition for an open purchase order, the requisition must include:

1. A not to exceed amount.
2. Valid dates that the purchase order is open.
3. Authorized names of employees who will be picking up orders from vendors.

Invoices that are generated from using an open purchase order must have the following:

1. Be itemized, extended and totaled with sales taxes included.
2. Include the purchase order number
3. Include those items received at the time the material is picked up. Back orders should be invoiced at the time they are delivered or picked up.
4. Be signed by the authorized employee at the time of purchase, pickup or delivery.
5. Must be delivered to the General Manager the first working day after the purchase is made. If there is a receipt, the receipt must be signed and dated. **If a receipt is not turned in, the vendor will not receive payment.**

Keep open purchase orders to an absolute minimum. The entire amount of the open purchase order will be encumbered and will not be available for other purchases.

If you are using an open purchase order with Wal-Mart, The Home Depot, Smart & Final, Staples, Best Buy, Lowes, Costco or Office Depot, please check with the General Manager to determine if the District has a credit card for such stores. If a credit card exists, you must check out the credit card from the General Manager. The card is to be returned immediately after each use as other District employees may require use of the cards. NOTE: If you are using an open purchase order to Costco, you must use the District membership card, not a personal membership card.

EMERGENCY PURCHASES

In case of emergency affecting the operation of the District, the General Manager may authorize issuance of a Purchase Order for District emergencies. **An emergency is defined as a safety issue that presents danger to the health and safety of the public and/or employees or the inability of a District department to carry out their assigned responsibilities because of the loss of critical/important equipment, materials and/or vehicles.** The General Manager may sign Purchase Orders and shall submit them to the Board for approval/ratification. In the case of an Emergency Purchase, the following procedure shall be followed:

1. The emergency will be identified and submitted in writing to the Assistant General Manager for approval.
2. A requisition will be generated and include proper account numbers.
3. The General Manager will issue a Purchase Order/Contract for the purchase and forward it to the requesting employee. In the event that General Manager is not available for issuance of a Purchase Order, the department manager may authorize purchase of emergency items.
4. The purchase must be placed on the next Board meeting agenda for ratification.

Purchases for convenience will not be considered as an emergency, and as such, will not be authorized or approved.

Emergency purchase orders or contracts that exceed bid limits must have Board approval through a resolution with a unanimous vote.

SOLE SOURCE PURCHASES

Specifications for contracts for construction, alteration or repair of District facilities may not limit bidding to any one product or supplier. Specifications designating a particular brand name shall list at least two brands of comparable quality or utility and follow the description with the words “or equal” (*Public Contract Code 3400*)

Specifications for contracts may designate a product by brand or trade name (sole sourcing) when one or more of the following conditions apply: (*Public Contract Code 3400*)

1. The product is designated to match others in use on a particular public improvement that has been completed or is in the course of completion.
2. One product has a unique application required to be used in the public interest.
3. Only one brand or trade name is known.

CHANGE ORDERS – MATERIALS AND SUPPLIES

Change Orders will be issued for Materials and Supplies when there is a necessity to change the price, delivery date, delivery point, quantity increases and decreases, account codes, employee names, vendor addresses, shipping costs, etc.

Change Orders shall not be issued against an existing purchase order to add additional items or used as a means to keep a purchase order open for an indefinite amount of time, or used as a blanket purchase order to a vendor.

Change Orders will not be issued against a Purchase Order that increases the quantity of an item if the order has been delivered and received by the District.

Change Orders will not be issued on items that exceed the dollar threshold which requires Board approval.

The procedure for issuance of a change order is as follows:

1. The employee authorized to make a change will issue a formal change order request to the General Manager. The change order must contain the purchase order number, vendor and changes requested.
2. The General Manager will review the requested change request for validity and determine if it meets the necessary criteria for a change order.
3. If the change order increases the quantity of an item, the General Manager will check the District accounts to verify existence of funds.
4. If the requested change order meets the necessary criteria, the General Manager will issue a change order and forward to the appropriate departments and vendor. If a change order requires a change to the quantity or delivery point, an original change order will be forwarded to the vendor.

REQUESTING CHECKS/CREDIT CARD PAYMENT FOR VENDORS

Occasionally there is a need to purchase equipment or supplies from vendors who will not accept a purchase order. In this event, there are two options for the District.

1. You must complete a "Request for Commercial Warrant" form for an advanced payment.
2. You can request that the General Manager issue a check made payable from the District's General Operating Account.
 - The determination of whether a check may be issued by the General Manager out of the District's General Operating Account will be made at the discretion of the General Manager.
3. You can request that the General Manager make the purchase via ATM Card/Debit Card which is linked to the District's General Operating Account.
 - The determination of whether the purchase may be effectuated via ATM Card/Debit Card, which is linked to the District's General Operating Account will be made at the discretion of the General Manager.

Please follow the listed steps for purchases when a vendor will not accept a purchase order:

1. Obtain a quotation from the vendor for the item. If the vendor will not submit a written proposal, a verbal quote may be used. Please make sure that the verbal quote includes the name of the person, date, time, amount and other charges.
2. For commercial warrants, request a Commercial Warrant be processed by the General Manager.
3. When requesting a check be issued, or that the purchase be made using the District's ATM Card/Debit Card by the General Manager out of the District's General Operating fund, you must generate a requisition and send the requisition through the approval chain. (A purchase order will not be generated.)

These guidelines are only to be used on those occasions where vendors will not accept a purchase order. Whenever possible, utilize the regular requisition process.

PROTEST BY BIDDERS

A bidder may protest a bid award if it is believed that the award was inconsistent with Board policy, bid specifications or was not in compliance with the law.

AUTHORITY TO RESOLVE PROTESTS. The General Manager shall have authority, prior to the commencement of an administrative review, to settle and resolve protests of an aggrieved bidder, offeror or contractor, actual or prospective, concerning the solicitation or award of contract. This authority shall be utilized in a manner consistent with the regulations governing the procurement of supplies, services, equipment and construction for the District.

STEP ONE REVIEW: Any actual or prospective bidder, offeror, or contractor who believes they have been aggrieved in connection with the solicitation or award of a contract may protest to the General Manager. The protest, setting forth the grievance, shall be submitted in writing within ten (10) calendar days after such aggrieved persons know or should have known the facts giving rise thereto, but in no circumstance after fifteen (15) calendar days of notification of *Notice of Intent to Award*. If the protest is not resolved by mutual agreement in Step One Review, the General Manager shall promptly issue a decision in writing within ten (10) calendar days. The decision shall state the reasons for the decision reached.

STEP TWO REVIEW: The decision reached in the Step One Review shall be final and conclusion, unless fraudulent, or unless the original bid protestor(s) requests in writing a review of the decision(s) reached in the Step One Review to the Board within ten (10) calendar days of receiving the Step One Review decision(s).

The Board shall review the protest and shall have the right to interview all necessary parties involved with the procurement and bid award. The Board shall render a decision on the bid protest in writing within thirty (30) calendar days from receipt of the request for a Step Two Review. The decision reached in the Step Two Review shall be final.

REIMBURSEMENT FOR REASONABLE COSTS and AUTHORITY TO GRANT OTHER RELIEF: The request for a Step Two Review shall not stay the contract unless the contract has been fraudulently awarded. Upon receipt of this *Application for Relief* the Board may order the computation and award of a reasonable reimbursement amount, including reimbursement of bid preparation costs, and may order such other and further relief as justice dictates, including but not limited to a re-award or re-bid of the contract. The decision of the Board is the final administrative review of the procurement action by the District.

SUSPENSION OF VENDOR

Per *Public Contract Code* 10285.1, the District may suspend, for a period of up to three (3) years from the date of conviction, any vendor from bidding upon, or being awarded, a public works or services contract with the District under this part or from being a subcontractor at any tier upon the contract, if that person, or any partner, member, officer, director, responsible managing officer, or responsible managing employee thereof, has been convicted by a court of competent jurisdiction of any charge of fraud, bribery, collusion, conspiracy, or any other act in violation of any state or federal antitrust law in connection with the bidding upon, award of, or performance of, any public works contract, as defined in *Public Contract Code* Section 1101, with any public entity, as defined in *Public Contract Code* Section 1100. A state agency may determine the eligibility of any person to enter into a contract under this code by requiring the person to submit a statement under penalty of perjury declaring that neither the person nor any subcontractor to be engaged by the person has been convicted of any of the offenses referred to in this section within the preceding three years.

Before suspending any vendor under this code, the District will follow the same procedures as debarment of a vendor and shall provide a hearing upon reasonable notice to the vendor. In determining whether to suspend, and the duration of any suspension, the District shall consider, in addition to any other relevant factors, both of the following:

- (a) The degree to which the person cooperated with the state or federal authorities in the criminal proceeding.
- (b) The degree to which the person has agreed to restitution for any damages incurred by the District as a result of the acts upon which the conviction was based.

Per *Public Contract Code* 10285.4, in the event that the District has suspended any person under this code, the District may terminate the suspension if it determines that termination is in the best interest of the District. In the event of termination, any suspension by adoption pursuant to section 10285.3 by the Board also shall be terminated.

NON-DISCRIMINATION IN CONTRACTING

In compliance with Article I, Section 31 of the California Constitution, the District will not “discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, national origin, marital status, sexual preference, creed, ancestry, or medical condition in the operation of public employment, public education, or public contracting.”

In accordance with this mandate, the District shall:

1. Include all qualified businesses on solicitation lists
2. Assure that all qualified businesses are solicited whenever they are potential sources.
3. Utilize the services and assistance of all organizations which provide the names of qualified businesses.

If any subcontracts are to be let, the District encourages the prime contractor to follow the policies described in 1 through 3, above.

PREQUALIFICATION OF CONTRACTORS

For any contract for which bids are legally required, the Board may require that each prospective bidder complete and submit a standardized questionnaire and financial statement. For this purpose, the General Manager or his/her designee shall supply a form which requires a complete statement of the bidder's financial ability and experience in performing public works. Prospective bidders shall submit the questionnaire and financial statement at least ten (10) days before the date fixed for public opening of sealed bids. The information shall be verified under oath in the manner in which civil law pleadings are verified. The questionnaires and financial statements shall not be public records and shall not be open to public inspection (*Public Contract Code* section 20111.5)

The General Manager or his/her designee shall establish a uniform system for rating bidders on the basis of completed questionnaires and financial statements in order to determine the size of contracts on which each bidder is qualified to bid. Bidders must be deemed prequalified by the District at least one (1) day before the fixed bid-opening date. (*Public Contract Code* section 20111.5)

The General Manager or his/her designee shall furnish each qualified bidder with a standardized proposal form. Bids not presented on the standard form shall be disregarded. (*Public Contract Code* section 20111.5)

The District may establish a procedure for prequalifying bidders on a quarterly basis and may authorize that prequalification be considered valid up to one calendar year following the date of the initial prequalification. (*Public Contract Code* section 20111.5)

DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION

The Board, or their designee, shall ensure that the District complies with Disabled Veteran Business Enterprise (DVBE) participation goals for State Allocation Board funded projects over \$10,000.00.

Bidders are encouraged to advertise at least fourteen (14) days prior to bid opening, or for as many days as possible. The only exception arises when time constraints imposed by the District prohibit the bidder from advertising; all bidders shall be notified of this exception.

For projects requiring a DVBE participation goal, the bidder shall provide the District with certification that the bidder has satisfied the three percent (3%) participation goal for DVBE's. If the bidder is unable to meet the three percent (3%) participation goal, the District shall evaluate the effort made by the bidder to seek out and consider DVBE's as potential subcontractors or suppliers of equipment or materials. The bidder shall demonstrate a "good faith effort" by submitting documentation of all the following actions:

1. Contact was made with the district to identify DVBE's
2. Contact was made with other state agencies and with local DVBE organizations to identify DVBE's
3. Advertising was published in trade papers and papers focusing on DVBE's
4. Invitations to bid were submitted to potential DVBE contractors and available DVBE's were considered.

Bidders shall be eligible for the award of a District contract if they meet the participation goal or are found to have made a good faith effort to meet the goal.

DEFINITIONS

ACKNOWLEDGEMENT:

A form used by a vendor to advise a purchaser that their order has been received. It usually implies acceptance of the order.

ADDENDUM:

Supplementary documentation, written or graphic, issued prior to the contract award that changes or clarifies information contained in the bid documents. As such, addenda are intended to become part of the contract documents when the construction contract is executed.

AFFIDAVIT:

A written statement sworn to before a notary public.

APPROVED EQUAL:

Material, equipment, or method other than what was actually specified but which is approved by the architect or engineer for use in the work as an acceptable substitute equivalent in essential attributed for the material, equipment or method stated in the contract documents.

AS IS:

A term indicating that goods offered for sale are without warranty or guarantee. The purchaser has no recourse on the vendor for the quality or condition of the goods.

BACK ORDER:

The portion of an order which the vendor cannot deliver at the scheduled time and which they have reentered for a shipment at a later date.

BID:

A binding offer, as a price, whether for payment or acceptance. A quotation specifically given to a prospective purchaser upon their request, in competition with other vendors.

BID DOCUMENTS:

The documents distributed to contractors by the owner for bidding purposes. They include drawings, specifications, for of contract, general and supplementary conditions, proposal form, bonding and insurance requirements, and other information.

BIDDER PRE-QUALIFICATION:

A process used by owners to screen bidders based upon their capabilities, capacity, competence and track record on prior similar projects. Its goal is to increase the quality of the bidding pool for the projects. The procedure can vary greatly from owner to owner and generally goes through a legal review prior to implementation.

BILL OF MATERIALS:

A list specifying the quantity and character of materials and parts required to produce or assemble a stated quantity of a particular product.

BOILER PLATE:

A term used to describe standardized language used in contracts and specifications. Items that usually fall into this category would include: Standardized General Conditions language; bid forms and bidder instructions; bid bonds, performance bonds, and labor and material payment bonds; standard forms of agreement; indemnifications documents; warranties etc.

BOND(PERFORMANCE):

A bond executed in connection with a contract and which secures the performance and fulfillment of all the undertakings, covenants, terms, conditions, and agreements contained in the contract.

CASH ON DELIVERY:

Commonly known as C.O.D. Payment due and payable upon delivery of goods.

CHANGE ORDER:

The purchaser's documents used to amend a purchase transaction previously formalized by a purchase order.

COLLUSION:

An agreement by two or more people to obtain something by fraudulent or illegal means.

COMMON CARRIER:

A person or corporation, licensed by an authorized State, Federal, or other Governmental agency, engaged in the business of transporting personal property from one place to another for compensation. A common carrier is bound to carry for all who tender their goods and the price for transportation.

COMPETITIVE BIDDING:

The offer of estimates by individuals or firms competing for contract, privilege, or right to supply specified services or merchandise.

CONTRACT:

A deliberate agreement between two or more competent persons to perform or not to perform a specific act or acts. A contract may be verbal or written. A Purchase Order, when accepted by a vendor, becomes a contract. Acceptance may be in either in writing or be performance, unless the purchase order requires acceptance thereof to be in writing, in which case it must be accepted.

CONTRACTOR:

Any one of the parties to a contract or one who contracts to perform work or furnish materials in accordance with a contract.

CONSTRUCTION CHANGE ORDER:

A document signed by the owner and engineer or architect issued after the execution of the contract that authorizes a change in the work, or an adjustment of the contract sum, or the contract time, or other contract requirements of the original contract. These may be minor or very substantial depending upon the circumstances of the project.

DAMAGES:

Compensation, usually in money, for injury to goods, person, or property.

DELIVERY:

The transfer of possession; as applied to shipping, it occurs when lading is surrendered and title to goods passes to the receiver or consignee.

DISCOUNT- QUANTITY:

An allowance determined by the quantity or value of a purchase.

LOW BIDDER:

The bidder who has submitted the lowest price proposal on a competitively bid project, as determined by a cursory examination of the bids received.

DATE OF SUBSTANTIAL COMPLETION:

The date certified by the architect when the work or a designated portion thereof is sufficiently complete, in accordance with the contract documents, so that the owner may occupy the work or designated portion thereof and use it for the purpose for which it is intended.

ETHICS:

Self-imposed rules or standards of performance or behavior for professionals set by the organization or association to which the professional belongs, or established by public trust.

FINAL PAYMENT:

Payment made by the owner to the contractor, upon issuance by the architect or engineer of the final certificate for payment of the entire unpaid balance, including retentions previously withheld, of the contract sum as adjusted by change orders.

GENERAL CONDITIONS:

The part of a contract that prescribes the rights, responsibilities, and relationships of the parties signing the agreement and outlines the administration of the contract for construction.

GENERAL CONTRACTOR:

A business entity that provides independent contractor services to owners through the use of subcontractors when using the general contracting system.

INSPECTOR OF RECORD:

Consultant hired by a public agency or district to generally oversee the assembly of the components of the construction in accordance with the contract documents and codes affecting their assembly. Specific duties and responsibilities of the IOR may vary depending upon the use of a separate construction manager or available agency/district staff.

INVENTORY:

The amount of property on hand at any given time, or an itemized listing of amounts of property indicated as on hand at a particular time.

INVOICE:

A document showing the character, quantity, price, terms, nature of delivery, and other particulars of goods sold or of services rendered.

LABOR AND MATERIAL BOND:

A guarantee provided by a surety to pay claims against the owner from contractors, subcontractors, laborers, material and equipment suppliers, and union trust funds who have not been paid for labor, material, or equipment incorporated into the project, and fringe benefits due to workers under collective bargaining agreements.

LEAD TIME:

The period of time from date of ordering to the date of delivery which the buyer must reasonable allow the vendor to prepare goods for shipment.

LETTER OF INTENT:

A notice from an owner to a contractor stating that a contract will be awarded to the contractor providing certain events occur or specific conditions are met by the contractor.

LIQUIDATED DAMAGES:

The parties to a contract may provide in advance that a specific sum be recoverable if the contract is breached. If the amount specified is reasonable and if the nature of the contract is such that actual damages would be difficult to determine, liquidated damage provisions are enforced.

NOTICE OF AWARD:

A letter from an owner to a contractor stating that a contract has been awarded to the contractor and a contract will be forthcoming.

NOTICE OF COMPLETION:

The official notice or document signed by the owner of private works of improvement as the conclusion of the project when all work has been completed by the construction team and signed off by the owner, its inspector, and the design team. This notice is recorded with the county recorder in the county in which the project is located.

NOTICE TO PROCEED:

A letter or written notification from the owner to the contractor or construction manager directing the start of work on a contract, subject to specific stated conditions.

PERFORMANCE BOND:

A guarantee provided by a surety to complete a project according to the terms of the contract documents in the event that the bonded contractor defaults on the contract to pay the owner the face value of the bonded amount.

PRE-BID CONFERENCE:

The meeting that is held in advance of the complete bidding process, but is typically after the bidding documents have been made available to the potential bidding community. The conference will typically give a general definition to the scope of the project as well as any special considerations that may not be rapidly apparent to the bidders.

PURCHASE:

To procure property or services for a price; includes obtaining by barter.

PURCHASE ORDER:

The purchaser's document used to formalize a purchase transaction with a vendor.

PURCHASE REQUISITION:

A form used to request the purchasing department to procure goods or services from a vendor.

QUOTATION:

A statement of price, terms of sale, and description of goods or services offered by a vendor to a prospective purchaser; a bid. When given in response to an inquiry, it is usually considered an offer to sell.

REQUEST FOR PROPOSAL:

An invitation to qualified providers of services to submit their qualifications, experience, and price to perform work for a specific service.

SPECIFICATIONS:

A clear, complete, and accurate statement of the technical requirements descriptive of a material, an item, or a service, and of the procedure to be followed to determine if the requirements are met.

SUBCONTRACTOR:

A party who contracts with a prime contractor to perform all or any part of the prime contractor's obligations in a particular prime contract.

TERMS:

A statement of a seller's payment requirements. Included would be cash discounts for prompt payment, if any, and the maximum time allowed for payment.

VENDOR:

One who sells something; a "seller."