

COUNTY OF SAN DIEGO, CALIFORNIA BOARD OF SUPERVISORS POLICY

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Purpose

To establish a Board of Supervisors policy that ~~requires competitive procurement of goods and services, defines the various methods of competitively procuring goods and services, and establishes the criteria and processes for exemptions and exceptions to competitive procurement, implements applicable provisions of State and County laws and regulations governing the County's purchase of goods and services, and sets forth authorities for the Director of Purchasing and Contracting.~~ sets forth exemptions and exceptions from the competitive procurement requirements for the procurement of certain goods and services. This policy also establishes criteria where the exemptions and exceptions may be used and the process for using exemptions and exceptions. This policy implements the provisions of the applicable State of California and County of San Diego laws and regulations governing the County's purchase of goods and services.

Procurement is essential to County operations and the provision of services to the community. Clear and effective procurement practices aligned with the County's Strategic Initiatives, as defined in the County's Strategic Plan, provide an opportunity to leverage the County's procurement spend to support local businesses and communities, advance inclusive contracting, reduce barriers to participation, uplift small businesses and community-based organizations, and promote environmentally responsible and sustainability-focused procurement.

Policy

It is the policy of the Board of Supervisors that:

1. The County shall competitively procure goods and/or services unless otherwise allowed for under ~~this~~ the Administrative Code, Board Policy, or ~~required by~~ State or federal law.
2. ~~The Board of Supervisors, the Chief Administrative Officer, or the Director of the Department of Purchasing and Contracting, as appropriate, shall determine that the price or cost to the County of any contract for goods and/or services is fair and reasonable prior to awarding the contract.~~
- 2.3- The competitive procurement requirements of this policy may be satisfied by: (a) Formal Bidding, (b) Competitive Negotiated Procurement, (c) Reverse Auction, or (d) Qualifications Based Selection, (e) through a contract competitively awarded by another governmental agency or cooperative that includes other governmental agencies, or (f) Informal Procurement Procedures, when conducted in accordance with the procedures set forth by the Director of Purchasing and Contracting.
- 3.4- Exemptions and Single Source exceptions to the competitive procurement requirements are set forth in this policy. Applicable Single Source exceptions allowed or required by federal, State, or County laws, regulations, ordinances, or policies may also be used where it is determined that doing so would be in the County's best interests.

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- a. For procurements other than micro purchases where only a single manufacturer or brand can meet some or all of the County's requirements, competition between distributors or providers is required where practicable. A Single Source Exception or Categorical Exemption is required for the portion of the procurement so specified in a competitive procurement, unless otherwise allowed for in code, policy, or law.
4. Where contract values are referenced in this policy, the value of a contract includes funds agreed to be paid to the contractor for goods and services provided by the contractor or subcontractors and suppliers. It does not include pass-through or other funds administered or managed, and not retained, by the contractor.
5. The Board of Supervisors or the Director of Purchasing and Contracting, as appropriate, shall determine prior to contract award that: (a) the price or cost to the County of any contract for goods and/or services is fair and reasonable, and (b) the terms of the contract are acceptable to the County.
6. Public works projects subject to the procurement requirements of the Public Contract Code shall be procured in accordance with such requirements and any conflicting provisions of this policy shall not apply.

Procedure

1. ~~Definitions~~ Competitive Procurement Methods:

- A. Formal Bidding: A competitive procurement process by which bidders respond to a Request for Bids (RFB) and award is made to the lowest bidder (or if allowed for in the RFB, bidders) who is both responsive (conforming with material bid requirements) and responsible (possessing the attributes of trustworthiness, quality, fitness, capacity, and experience to satisfactorily perform the contract). The County may initiate this process with an RFB or Request for Statement of Qualifications (RFSQ) to pre-qualify offerors for a subsequent RFB.
- 1) Section 401(b)(3)a of the Administrative Code, authorizes the Director of Purchasing and Contracting to award contracts using Formal Bidding with no limitation on value.
- B. Competitive Negotiated Procurement: A procurement process by which offerors respond to a Request for Proposals (RFP). A Source Selection Committee (SSC) then objectively evaluates those proposals based upon the proposed goods or services, qualifications, price, and other relevant evaluation criteria, and recommends for award to the Source Selection Authority (SSA) the proposal or proposals that provide the best value to the

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County. A contract or contracts may be awarded after completion of successful negotiations with one or more offerors. The County may initiate competitive negotiated procurements by issuing an RFP or an RFSQ to pre-qualify offerors for a subsequent RFP. ~~A contract or contracts may be awarded after completion of successful negotiations with one or more offerors.~~

- 1) In accordance with section 401(b)(2) of the Administrative Code, this Policy authorizes the Director of Purchasing and Contracting to award contracts using the Competitive Negotiated Procurement process where the annual value of the contract does not exceed \$2,000,000, and requires Board of Supervisors approval where the annual value exceeds \$2,000,000.
- C. Reverse Auction: A procurement process by which offerors submit decreasing incremental offers openly and in real-time and where the award is based on the lowest pricing from a responsive (conforming with material bid requirements) and responsible (possessing the attributes of trustworthiness, quality, fitness, capacity, or experience to satisfactorily perform the contract) offeror (or if allowed for, offerors). The County may initiate a Reverse Auction directly or by issuing an RFSQ to pre-qualify offerors for a subsequent Reverse Auction.
- 1) Section 401(b)(3)a of the Administrative Code authorizes the Director of Purchasing and Contracting to award contracts using Reverse Auctions with no limitation on value.
- D. Qualifications Based Selection: A procurement process by which offerors respond to a Request for Statement of Qualifications (RFSQ). A Source Selection Committee (SSC) then objectively evaluates those responses and recommends for award to the Source Selection Authority (SSA) the submittal or submittals determined to be qualified or most qualified. A contract or contracts may be awarded after completion of successful negotiations with one or more offerors, which will include negotiation of the price. Qualifications Based Selection is used for the procurement of professional services as defined in section 401(f) of the Administrative Code or where the Director of Purchasing and Contracting determines that conditions are not appropriate for other competitive procurement methods including where the County intends to award contracts to all qualified providers.
- 1) In accordance with section 401(b)(2) of the Administrative Code, this Policy authorizes the Director of Purchasing and Contracting to award contracts using the Qualifications Based Selection process where the annual value of the contract does not exceed \$2,000,000, and requires Board of Supervisors

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approval where the annual value exceeds \$2,000,000.

E. Informal Procurement Procedures (Simplified and Micro): Procurement processes intended to expedite the completion of transactions, minimize administrative burdens, and reduce costs. Under Simplified Procurement Procedures, Quotations are obtained from an adequate number of qualified sources and award is based on terms, price, and other appropriate factors. Under Micro-Purchase Procedures, price is determined to be reasonable based on research, experience, purchase history, or other information. Simplified Procurement and Micro-Purchase Procedures may include the use of a procurement card (P-Card) program established by the Director of Purchasing and Contracting through which limited authority is delegated to authorized County staff.

- 1) The Director of Purchasing and Contracting may award contracts using Simplified Procurement Procedures where the annual value of the contract(s) resulting from a procurement does not exceed \$500,000.
- 2) The Director of Purchasing and Contracting may award contracts using Simplified Procurement Procedures where the annual value of the contract(s) resulting from a procurement does not exceed \$1,000,000 and where the award of such contracts is reserved for small-local businesses as defined in Board Policy B-53 Small-Local Business Policy (SLBP).
- 3) The Director of Purchasing and Contracting may establish County Micro-Purchase thresholds that do not exceed an annual value of \$10,000 and may award contracts pursuant to this authority.
- 4) The Director of Purchasing and Contracting may establish County Micro-Purchase thresholds that do not exceed an annual value of \$20,000 for contracts awarded to a small-local business as defined in Board Policy B-53 Small-Local Business Policy (SLBP) and may award contracts pursuant to this authority.

~~D. Single Source: Only one manufacturer, distributor, supplier or service provider can provide the required goods and/or services. The following is a non-exclusive list of examples of a Single Source:~~

- ~~1) Competition is precluded because of the existence of patent rights, copyrights, secret processes, control of the basic raw material(s) or similar circumstances, and no equivalent good or service is available.~~
- ~~2) The procurement is for parts or components for equipment, and no information or data is available to ensure that the parts or components~~

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~~obtained from another supplier will perform the same function in the equipment; or the parts or components could compromise the safety or reliability of the product, or would void or invalidate a manufacturer's warranty or guarantee.~~

- 3) ~~The procurement is for services from a provider with unique knowledge, skill, or ability not available from other sources.~~
- 4) ~~A distributor or service provider has an exclusive franchise or operating agreement with the supplier of goods to be purchased or maintained and no other person or entity may provide, install, service or maintain the goods in the service area. This does not include the purchase of goods where a same or similar good may be purchased and is not otherwise defined as a Single Source item.~~
- 5) ~~Standardization: The procurement is for goods and/or services where standardization is beneficial for reasons including maintenance, repair, training, and interoperability.~~
- 6) ~~Continuity: The procurement is for goods and/or services where continuity of providers will provide efficiency or critical knowledge, and other providers of the goods and/or services cannot provide similar efficiencies or critical knowledge.~~

2. Categorical Exemptions from Competitive Procurement Policy:

~~The following types of procurement of goods and/or services are categorically exempt from the competitive procurement requirements:~~

A. The following types of procurement of goods and/or services are categorically exempt from competitive procurement requirements:

- 1) Utility Services: The item or service to be procured is Procurement of gas, electricity, water, sewer, waste disposal, telecommunications, and similar services from a utility or a direct access provider and that qualifies as a Single Source. Utility Services include gas, electric, water, sewer, waste disposal, land-based telephone, internet and television, and similar services.
- 2) B. Educational Services: Procurement of classroom or course-based educational services from a not-for-profit organization a non-profit or public institute of higher education, professional association, or similar provider.

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- ~~3)C.~~ Federal and State Award Schedules: Procurement ~~of Services and non-services that are based upon a~~ federal or State award schedules.
- ~~4)D.~~ Standard Commercial Off-the-Shelf Software ~~Packages (COTS)~~ or Hardware ~~Products~~: Procurement of software or hardware technology products that are ready-made and commercially available for sale to the general public/non-governmental customers, and designed to be easily integrated into existing systems without the need for more than minimal customization, and where the provider of services and/or items would qualify as a Single Source.
- ~~5)E.~~ Equipment Maintenance Parts and Services: Maintenance services and/or replacement parts where the provider of services and/or goods would qualify as a Single Source. Procurement of parts, components, services, or repairs for equipment, where a provider, including a distributor or service provider with an exclusive franchise or operating agreement, is the only provider that may install, service, or maintain the purchased equipment; or where parts, components, or services obtained from another source will not perform the same function in the equipment, could compromise the safety or reliability of the product, or would void or invalidate a manufacturer's warranty or guarantee.
- ~~6)F.~~ Operating and Maintenance Services for Software and Hosting Services: Procurement or renewal of operating and maintenance services for existing software and/or hosting services where the provider of services and/or goods would qualify as a Single Source.
- ~~7)~~ Standardized Items: Procurement of items standardized as to brand or manufacturer by a standards committee in accordance with section 423 of the Administrative Code.
- ~~8)G.~~ Disabled Veteran Business (DVB): Procurements ~~of up to that do not exceed \$50,000~~ \$75,000 in goods and/or services from a DVB as defined in Board Policy B-39a, where the DVB as defined in Board Policy B-39a Veteran Owned Business (VOB) and Disabled Veteran Business (DVB) Program that performs a Commercially Useful Function (CUF), as defined in California Military and Veterans Code Section 999 or successor statute Board Policy B-53 Small-Local Business Policy (SLBP).
- ~~H.~~ Architectural, Engineering and Related Professional Services: Professional services procured in accordance with Board Policy F-40, applicable laws of the State of California and related County procedures.

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- ~~9)I.~~ Medical or Surgical Equipment and Supplies or Professional Services: Procurement of medical equipment or supplies, or supporting maintenance or repair services, that are commonly, necessarily, and directly used by or under the direction of a physician, surgeon, medical laboratory technician, or other medical professional in the performance of their duties in a County facility. ~~or surgical equipment or supplies or professional services for use by a County facility if funds for such use are appropriated. "Medical or surgical equipment or supplies" means only equipment or supplies commonly, necessarily, and directly used by or under the direction of a physician or surgeon in performing their duties in a County facility.~~
- ~~J.~~ Simplified Procurement Procedure: Procurement of goods and/or services with a total contract value not to exceed \$250,000, or a contract value not to exceed \$100,000 annually and for a term not to exceed five (5) years, where the procurements are made through the use of quotations and award is based on terms, price, and other appropriate factors and in accordance with the procedures set forth by the Director of the Department of Purchasing and Contracting.
- ~~10)K.~~ Publications and Subscription Services: ~~Notices~~Procurement of notices, advertisements, and publication services used to post notices required by law or necessary to support the County operations; ~~and the procurement of:~~ Information~~information~~ sources governed by publisher agreement, including subscriptions ~~(on-line or print)~~ to newspapers, journals, and other periodicals; Legal~~legal and legislative research platforms, and databases used research services and publications used for legal research and analysis.~~
- ~~L.~~ Small Business (SB) and Veteran Owned Business (VOB) Set Aside: Use of competition or Simplified Procurement Procedures with a total contract value not to exceed \$100,000, and where eligibility to compete for award is reserved exclusively for SBs and VOBs as defined in Board Policies B-53 and B-39a respectively.
- ~~M.~~ Authorization for the Chief Administrative Officer (CAO) to Contract for Services: The CAO is authorized to approve, without a competitive procurement, a service contract, not to exceed an annual value of \$30,000, where the contract services relate to the discharge of CAO official duties for the purpose of directly assisting the CAO with the performance of such duties. The CAO may instruct the Director of the Department of Purchasing and Contracting to execute the service contract approved by the CAO. The Assistant CAO, in the absence of the CAO, is authorized to approve service contracts pursuant to this provision. The CAO or the ACAO as the case may be, may not delegate the authority granted under this provision.

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- 11) Goods and Services for the CAO or Board Offices: Procurement of goods or services to directly assist the Chief Administrative Officer with the performance of official duties or the office of a member of the Board of Supervisors with the management of its office, where the annual value does not exceed \$50,000 and where the Chief Administrative Officer has determined that contracting with the requested provider is in the best interests of the County.
- 12) Community Services Agreements: Procurement of non-public works services such as clean up, weed abatement, graffiti removal, and other similar work acquired from nonprofit or governmental organizations providing job training or transitional employment through the performance of the contracted work.
- 13)N. Interim Contracts: Procurement, or extension or other modification of an existing contract, with no limitation on value, to satisfy an immediate or short-term need or to prevent potential disruption of services, where:
- a) a procurement has been, or is expected to be, delayed, cancelled, or redone in part or whole, due to an actual or anticipated protest, legal action, deficiency in the procurement, or intervening event; or
 - b) the provision of goods or services under a contract has been, or is expected to be, interrupted due to the actual or anticipated termination or suspension of that contract, or the contractor's actual or anticipated breach of, or inability or unwillingness to perform under the contract.

~~Interim Contracts: Interim contract or extension of an existing contract where the required goods or services are the subject of an ongoing procurement and where the results of that procurement have been protested in accordance with Board Policy A-97 (Protest Procedures for Award of Contracts), or litigation has been initiated or is believed to be forthcoming, or where an unforeseen and intervening event has delayed the award or caused the procurement to be cancelled or a portion of the procurement to be redone; or where the goods and/or services are or were provided through a contract that has been or is expected to be terminated or suspended,;~~

~~O. Community Services Agreements: Procurement of non-public works services such as clean up, weed abatement, graffiti removal, and other similar work acquired from not-for-profit organizations providing job training or transitional employment through the performance of the contracted work, not to exceed an annual value of \$500,000. The Director of the Department of Purchasing and Contracting shall provide guidance on the selection process~~

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~~to be used by departments where multiple potential contractors exist.~~

- 14)P. Emergency Purchases: Procurement, subsequent approval, extension, or other modification of an existing (emergency or non-emergency) contract in case of emergency as defined in Section 402 of the County Code of Administrative Ordinances, where the Board of Supervisors has declared a local emergency, with no limitation of contract value, where the value of the goods and/or services acquired for the emergency does not exceed \$100,000 in value.
- 15) Proscribed Provider: Procurement from a provider that is specified or required by funding source or applicable law or regulation, with no limitation on contract value.
- 16) Other Governmental Agencies (OGA): Procurement from a federal, state, local, or tribal governmental agency, or a contracted service provider acting as an intermediary, subject to either the determination that the procurement is a Single Source or that the price and terms are more favorable than would be obtained through a competitive procurement, with no limitation on contract value.
- B. To confirm ~~an~~ a categorical exemption from this policy, the procuring department shall cite and justify the applicability of the categorical exemption in its request for approval of the procurement, transmitted to the appropriate contracting authority (e.g., the Board of Supervisors or the Director of the Department of Purchasing and Contracting).
- 1) Unless otherwise allowed under the Administrative Code or this Policy, categorical exemptions with an estimated annual value that does not exceed \$2,000,000 or the amount stated in the exemption, may be approved by the Director of Purchasing and Contracting.
- 2) Categorical exemptions that exceed the Director of Purchasing and Contracting's authority require approval by the Board of Supervisors. Board Letters requesting Board of Supervisors authorization for the use of a categorical exemption shall include the following information:
- a) Details of the procurement and the goods and/or services to be procured.
 - b) Requested contract term and estimated value.
 - c) Benefits to the County of San Diego, including alignment with the County's Strategic Initiatives.
 - d) Why the categorical exemption is applicable to the procurement.

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e) Basis for determination of a fair and reasonable price.

3. Single Source Exceptions to Competitive Procurement:

A. ~~The competitive procurement requirements of this policy may also not apply~~ Exceptions to the competitive procurement requirements of this policy may be made if, under the particular circumstances of the procurement, only one provider can reasonably or adequately provide the required goods and/or services (“Single Source”); and (i) the goods and/or services qualify as a Single Source and the purchase of those goods and/or services otherwise complies with the requirements of this Policy and ii) procuring the goods and/or services from a Single Source would be in the County’s best interest and aligned with the County’s Strategic Initiatives. In order to be in the County’s best interest, the Single Source must provide the goods and/or services at a price and with terms that the Board of Supervisors, or as appropriate under this Policy or the Board’s direction, the Chief Administrative Officer or the Director of the Department of Purchasing and Contracting determines to be fair and reasonable. The following is a non-exclusive list of examples of a Single Source:

- 1) Unique Capability: The procurement is for goods and/or services where only one product or provider can reasonably or adequately meet the County’s needs, or where the provider has unique knowledge, skill, or ability.
- 2) Standardization: The procurement is for goods and/or services where standardization is beneficial for reasons including maintenance, repair, training, and interoperability.
- 3) Continuity: The procurement is for goods and/or services where continuity of providers will allow the County an opportunity to leverage previously initiated work, or benefit from efficiency or critical knowledge, that other sources of the goods and/or services cannot provide or would require substantial re-work to perform.

B. Requesting a Single Source Exception to this Policy:

Requests for an exception to this policy, including Board Letters requesting Board of Supervisors approval of Single Source procurements, shall be in writing and include the following information:

- 1) Details of the procurement and the goods and/or services to be procured.

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- 2) Requested contract term and estimated value.
- 3) Why only one provider can reasonably or adequately provide the required goods and/or services.
- 4) Why procuring from a Single Source would be in the County's best interest and aligned with the County's Strategic Initiatives.
- 5) Basis for determination of a fair and reasonable price.

C. Approval of Single Source Exception to this Policy

Unless otherwise allowed under the ~~County Code of Administrative Ordinances~~ Code or this Policy, Single Source requests with an estimated annual value may be approved as follows:

- 1) ~~Contracts up to \$50,000~~ Not to exceed \$100,000 – Director of Purchasing and Contracting.
- 2) ~~Contracts over \$50,000 and up to \$100,000 – Chief Administrative Officer.~~ Exceeding \$100,000 but not to exceed \$200,000 – Chief Administrative Officer
- 3) Exceeding \$200,000 – Board of Supervisors
- 4) ~~Contracts over \$100,000 \$200,000 – Board of Supervisors.~~ In cases of Emergency, as defined in section 402 of the Administrative Code, the Director of Purchasing and Contracting, Chief Administrative Officer, department heads, or elected officials may approve Single Source requests without such prior approval.
- 4) ~~In cases of Emergency, as defined in Section 402 of the County Code of Administrative Ordinances, the Chief Administrative Officer or the department heads may approve Single Source procurements over \$100,000 without prior Board of Supervisors' approval.~~

~~B. Requesting a Single Source Exception to this Policy:~~

~~Whether requesting approval by the Director of the Department of Purchasing and Contracting, the Chief Administrative Officer, or the Board of Supervisors, requests for~~

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~~an exception to this policy shall be in writing and shall conform to the following format and include the following information:~~

- ~~_____ 1) _____ Introductory paragraph about the procurement.~~
- ~~_____ 2) _____ Goods and/or services, term period, and estimated value.~~
- ~~_____ 3) _____ Benefits to the County of San Diego.~~
- ~~_____ 4) _____ Why the procurement qualifies for an exception.~~
- ~~_____ 5) _____ Basis for determination of fair and reasonable price.~~

~~4. _____ Public Notice of Procurement:~~

~~To maximize competition, the Director shall comply with the following notice and publication requirements:~~

- ~~A. _____ For all procurements when competition is required, the Director shall post the procurement and make available to the vendor community notice of the procurement in accordance with procedures and processes established by the Director.~~
- ~~B. _____ The Director shall provide notice and publication of the procurement as required by funding source requirements or federal or State law or regulation.~~

Responsible Departments

- 1. Department of Purchasing and Contracting

Sunset Date

This policy will be reviewed for continuance by 12-31-202732.

References

Board Action
02-24-81 (134)
02-06-90 (43)
05-15-96 (11)
01-28-03 (16)
02-27-07 (9)
12-09-08 (33)
06-28-11 (9)

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12-04-12 (13)
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