

**ORDINANCE NO. 2025-01**

**AN ORDINANCE OF THE  
FRESNO COUNTY FIRE PROTECTION DISTRICT BOARD OF DIRECTORS  
SETTING FORTH PURCHASING AND CONTRACTING PROCEDURES**

The Board of Directors (Board) of the Fresno County Fire Protection District (District) ordains as follows:

**WHEREAS**, the District is authorized by the Fire Protection District Law of 1987 (Health & Safety Code section 13800 *et seq.*) to contract for goods and services needed to perform its authorized functions; and,

**WHEREAS**, it is the policy of the District to obtain the highest quality supplies, equipment and services at the lowest reasonable cost; and,

**WHEREAS**, the ability for the District to procure supplies, equipment, and services in an efficient, transparent, and cost-effective manner benefits not only the District, but also local homeowners, businesses, and taxpayers; and,

**WHEREAS**, the District desires to further these goals by establishing updated policies that set forth responsible financial controls for all purchasing and contracting by the District; and,

**WHEREAS**, the purpose of purchasing procedures is to implement a standardized system for the procurement of goods and services at the lowest cost commensurate with quality, to provide positive financial controls, and to meet legal requirements and generally accepted accounting principles; and,

**WHEREAS**, the District's current purchasing policies are outdated, and establishing updated purchase procedures are expected to increase efficiency and minimize delays in procuring new supplies, materials, equipment, and services; and,

**WHEREAS**, District Staff and District Legal Counsel have prepared an updated Procurement Code and corresponding Purchasing Policies to assist with maintaining compliance with exiting law and industry standards for public bidding and other procurement methods. The updated **Procurement Code** is attached as **Exhibit A** and the updated **Purchasing Policies** are attached as **Exhibit B** and incorporated herein by reference.

**NOW THEREFORE BE IT ORDAINED AS FOLLOWS:**

**Section 1.** The Procurement Code attached as **Exhibit A** and the Purchasing Policies attached as **Exhibit B** are established as the controlling purchasing systems for District purchases of supplies, materials, equipment and services.

**Section 2.** The goals of the Procurement Code and Purchasing Policies are to allow the District to secure supplies, materials, equipment and services at the lowest possible cost in an efficient manner without unnecessary delays; to exercise positive financial control over purchases; to clearly define internal authority for approving purchases and contracts; and to ensure the quality of purchased goods and services.

**Section 3.** Staff is authorized to implement clerical/minor revisions to the Procurement Code and Purchasing Policies as needed. Major or substantive future revisions or updates to the Procurement Code and/or Purchasing Policy may be accomplished by the Fire Board via the adoption of a resolution.

**Section 4.** This Ordinance supersedes all prior ordinances and purchasing policies of the District.

**The foregoing Ordinance was PASSED, APPROVED and ADOPTED** by the Board of Directors of the Fresno County Fire Protection District, State of California, this 15<sup>th</sup> day of January, 2025, by the following vote:

**AYES:**  
**NOES:**  
**ABSENT:**  
**ABSTAIN:**

\_\_\_\_\_ Date: \_\_\_\_\_, 2025  
John Arabian, Board President

ATTEST:  
  
\_\_\_\_\_ Date: \_\_\_\_\_, 2025

APPROVED AS TO FORM:  
  
\_\_\_\_\_ Date: \_\_\_\_\_, 2025  
William D. Ross, District Counsel

# **FRESNO COUNTY FIRE PROTECTION DISTRICT** **PROCUREMENT CODE**

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**ARTICLE I.  
GENERAL PROVISIONS**

**Sec. 1-1. Purpose and Applicable Law.**

*Sec. 1-1(1).* The intent of the Fresno County Fire Protection District (“District”) Procurement Code is to:

- (a) Simplify, clarify, centralize, and modernize the District’s rules and regulations governing procurement;
- (b) Provide for increased public confidence in the procurement procedures followed by the District.
- (c) Obtain in a cost-effective and timely manner the materials, services, and construction required by the District to better serve its citizens; and
- (d) Ensure compliance with applicable California state laws and regulations.

*Sec. 1-1(1).* As a California Special District organized under the Fire Protection District Law of 1987, the District’s purchasing procedures are subject to California Law. Unless displaced by the particular provisions of this code, principles of law and equity shall supplement this code, including the California Uniform Commercial Code and California common law.

**Sec. 1-2. Applicability.**

*Sec. 1-2(1).* The provisions of this code shall apply to the following:

- (a) Every expenditure of public monies by the District irrespective of their source, including State and Federal assistance monies, for the procurement of materials, services, and public projects;
- (b) Contracts where there is no expenditure of public monies or where the District is offering something of value to the business community when the District determines source selection and award of a contract.

*Sec. 1-2(2).* The following are exempt from the provisions of this code:

- (a) Grants awarded to the District and approved by the Board of Directors;
- (b) The purchase, sale or lease of District real property;
- (c) Expert witnesses in judicial, or administrative, or other proceedings;
- (d) Agreements negotiated by the District in settlement of litigation or threatened litigation; or
- (e) Contracts with other governmental agencies.

**Sec. 1-3. Definitions.**

In this code, unless the context otherwise requires, the following definitions apply:

*Sec. 1-3(1).* “*Construction-manager-at-risk*” means a project delivery method in which:

- (a) There is a separate contract for design services and a separate contract for construction services.
- (b) The contract for construction services may be entered into at the same time as the contract for design services or at a later time.

- (c) Design and construction of the project may be in sequential phases or concurrent phases.
- (d) Finance services, maintenance services, operations services, preconstruction services and other related services may be included.

*Sec. 1-3(2). "Chief Procurement Officer"* means the official appointed by the Fire Chief as the purchasing and materials manager and the central procurement and contracting authority for the District.

*Sec. 1-3(3). "Construction"* means the process of building, reconstructing, erecting, altering, renovating, improving, demolishing, or repairing any District owned, leased, or operated facility. Construction does not include maintenance work, which is defined to include routine, recurring, and usual work for the preservation or protection of any District owned or operated facility for its intended purposes.

*Sec. 1-3(4). "Contract officer"* means any person duly authorized by the Chief Procurement Officer to facilitate the source selection process, including but not limited to; preparing solicitations and written determinations, conducting negotiations, making award recommendations, and administering contracts.

*Sec. 1-3(5). "Days"*, unless otherwise specified, means calendar days and shall be computed by excluding the first day and including the last working day, unless the last day is a holiday, and then it is also excluded.

*Sec. 1-3(6). "Design-bid-build"* means a project delivery method in which:

- (a) There is a sequential award of two (2) separate contracts.
- (b) The first contract is for design services.
- (c) The second contract is for construction.
- (d) Design and construction of the project are in sequential phases.
- (e) Finance services, maintenance services and operations services are not included.

*Sec. 1-3(7). "Design-build"* means a project delivery method in which:

- (a) There is a single contract for design services and construction services.
- (b) Design and construction of the project may be in sequential phases or concurrent phases.
- (c) Finance services, maintenance services, operations services, preconstruction services and other related services may be included.

*Sec. 1-3(8). "Design professional"* means an architect or engineer, or both, duly licensed for professional practice, who may be employed by an owner for the purpose of designing a project.

*Sec. 1-3(9). "Emergency"* means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

*Sec. 1-3(10). "Emergency for Public Projects"* shall have the meaning provided in Public Contract Code Sections 22035 and 22050.

*Sec. 1-3(11). "Firm"* means any individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the profession of architecture, landscape architecture, engineering, environmental services, land surveying, or construction project management.

*Sec. 1-3(12). "Force account"* means work performed on public projects by the District's regularly employed personnel.

*Sec. 1-3(13). "Invitation for bid"* means all documents, written or electronic, whether attached or incorporated by reference, which are used for soliciting bids in accordance with the procedures prescribed in Section 1-17.

*Sec. 1-3(14). "Maintenance work"* shall have the meaning provided in Public Contract Code Section 22002(d), as that section may be amended from time to time, and shall include the following:

- (a) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.
- (b) Minor repainting.
- (c) Resurfacing of streets and highways at less than one inch.
- (d) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.

*Sec. 1-3(15). "Person"* means any corporation, consultant, business, individual, union, committee, club, other organization or group of individuals.

*Sec. 1-3(16). "Preconstruction services"* means advice during the design phase.

*Sec. 1-3(17). "Professional design services"* means architect services, engineering services, geologist services, landscape architect services, and land surveying service or any combination of those services that are legally required to be accomplished, reviewed, and approved by professionals registered to practice in the pertaining discipline in the State of California.

*Sec. 1-3(18). "Public project" or "public works project"* shall have the meaning provided in Public Contract Code Section 22002(c), as that section may be amended from time to time, and shall include the following:

- (a) Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.
- (b) Painting or repainting of any publicly owned, leased, or operated facility.
- (c) "*Public project*" does not include routine maintenance work, minor repainting, landscape maintenance.

*Sec. 1-3(19). "Request for proposals"* means all documents, written or electronic, whether attached or incorporated by reference, which are used for soliciting proposals in accordance with procedures prescribed in Section 1-18.

*Sec. 1-3(20). "Request for qualifications"* means all documents, written or electronic, whether attached or incorporated by reference, which are used for soliciting responses from qualified respondents in accordance with Article V.

*Sec. 1-3(21). "Responsive bidder"* means a person who submits a bid which conforms in all material respects to a solicitation.

*Sec. 1-3(22). "Responsible bidder, offeror, or respondent"* means a person who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the procurement contract.

*Sec. 1-3(23).* "Sole Source" means a product or service that is available from only one known supplier as a result of unique performance capabilities, manufacturing processes, compatibility requirements or market conditions.

*Sec. 1-3(24).* "Solicitation" means an invitation for bids, a request for technical proposals, a request for proposals, a request for qualifications, a request for quotations, or any other invitation or request by which the District invites a person to participate in a procurement or contract.

**Sec. 1-4. Confidential information.**

All bids, proposals, offers, specifications, or protests submitted to the District are subject to public inspection and disclosure under the California Public Records Act (Government Code Section 6250 et seq.). If a person believes that any portion of its bid, proposal, offer, specifications or protest is exempt from public disclosure, such portion may be marked "confidential." While the District will use reasonable means to safeguard confidential information, the marking of a document as "confidential" does not alone provide the District with grounds to withhold a document from legally valid disclosure, including but not limited to disclosures under the California Public Records Act, a subpoena, or court order. Any applicant/bidder who contests the disclosure of such materials shall bear all responsibility and costs associated with opposing the District's good faith release of such records.

**ARTICLE 2.**  
**CHIEF PROCUREMENT OFFICER AUTHORITY**

**Sec. 2-1. Authority of the Chief Procurement Officer.**

*Sec. 2-1(1).* The Chief Procurement Officer shall serve as the central procurement and contracting authority of the District. The Chief Procurement Officer may adopt operational procedures consistent with this code governing the procurement, disposal, and management of all materials, services, and construction to be procured by the District, and may delegate procurement authority to employees or officials of the District

*Sec. 2-1(2).* Subject to his Code, the Chief Procurement Officer (or their designee) shall:

- (a) Procure or supervise the procurement of all materials, services and construction needed by the District and establish the methods and procedures necessary for the proper, efficient, and economical functioning of the procurement program.
- (b) Establish guidelines for the management of all inventories of materials belonging to the District.
- (c) Sell, trade or otherwise dispose of surplus materials belonging to the District.
- (d) Prepare, revise, and monitor specifications for District materials, services and construction.
- (e) Manage the District's procurement card program.
- (f) Furnish the Board of Directors with such reports and information as the Board may require.

*Sec. 2-1(3).* The Chief Procurement Officer may determine in writing that noncompliance with any provision of this code is not substantial and may allow for correction or may waive minor informalities or irregularities. The basis for the decision shall be included in the determination.

*Sec. 2-1(5).* The Chief Procurement Officer shall have the authority to award contracts not exceeding the amount defined under management authority in the Roles and Responsibilities Matrix. Contracts



exceeding management authority shall be executed by the Chief Procurement Officer upon approval by the Board of Directors.

*Sec. 2-1(6).* Except in cases of (1) emergency pursuant to Section 3-7, (2) where the Board of Directors has retained authority, (3) or otherwise authorized by law or District Policy, no purchase of services, supplies and equipment by any person other than the Chief Procurement Officer or designee shall be binding upon the District or constitute lawful charge against District funds.

## **ARTICLE 3. SOURCE SELECTION AND CONTRACT FORMATION**

### **Sec. 3-1. Methods of source selection.**

All contracts of the District shall be awarded by one of the methods of source selection as (1) specified in this code, (2) informal bidding procedures established by the District on June 19, 2023 consistent with the “*Uniform Public Construction Cost Accounting Act*” (Public Contract Code Section 22000, *et seq.*), as an alternative method for public project contracts, or (3) as otherwise authorized by applicable law.

### **Sec. 3-2. Competitive sealed bidding.**

*Sec. 3-2(1). Invitation for bids.*

- (a) Competitive sealed bids shall be solicited through an invitation for bids. The invitation for bids shall include specifications and any applicable evaluation criteria. Contractual terms and conditions may be included within the solicitation document or incorporated by reference.
- (b) A prequalification process may be conducted prior to the issuance of an invitation for bids in order to establish a list of qualified bidders. In the event a prequalification process is used, the contract officer shall only consider bids that are submitted from prequalified bidders.

*Sec. 3-2(2). Public notice.* Notice of the invitation for bids shall be electronically posted and the invitation for bids shall be available for public inspection not less than fourteen (14) days prior to the date set forth therein for the opening of bids. A shorter time may be deemed necessary for a particular procurement as determined in writing by the Chief Procurement Officer. The public notice shall state the place, date, and time of bid opening.

*Sec. 3-2(3). Pre-bid conference.* The Chief Procurement Officer may conduct a pre-bid conference. If a pre-bid conference is conducted, it shall be not less than seven days before the bid due date and time, unless the Chief Procurement Officer makes a written determination that the specific needs of the procurement justify a shorter time.

*Sec. 3-2(4). Solicitation amendment.* The Chief Procurement Officer shall issue a solicitation amendment to do any or all of the following:

- (a) Make a correction in the solicitation;
- (b) Correct defects or ambiguities;
- (c) Provide additional information or instructions; or
- (d) Extend the offer due date and time if the Chief Procurement Officer determines that an extension is in the best interest of the District.

If a solicitation is changed by a solicitation amendment, the Chief Procurement Officer shall post the amendment electronically and notify registered suppliers. It is the responsibility of the offeror to obtain any solicitation amendments and acknowledge receipt of amendment as specified in the solicitation amendment.

*Sec. 3-2(5). Late bids.* A bid is late if it is received at the location designated in the invitation for bids

after the time and date set for bid opening. A late bid shall be rejected. Bidders submitting bids that are rejected as late shall be so notified.

*Sec. 3-2(6). Bid opening.* Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. A secure web-based system or other appropriate media may be used in lieu of public bid opening, provided that the accuracy, confidentiality, and reliability is maintained. The name of each bidder and the amount of each bid, as well as other relevant information as the Chief Procurement Officer deems appropriate shall be recorded. Unless otherwise determined by the Chief Procurement Officer, this record shall be open to public inspection. In the event no attendees are present for bid opening, the sealed bids shall be opened by District personnel and a "bid" or "no bid" may be recorded on the tabulation. The bids shall not be available for public inspection until after a contract is awarded. After a notice of intent to award is issued or, in the absence of a notice of intent to award, after final execution of the contract, the bids shall be available for public inspection, except to the extent that the withholding of information is permitted or required by law. If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions in accordance with Section 1-6.

*Sec. 3-2(7). Bid acceptance and bid evaluation.* Bids shall be unconditionally accepted without alteration or correction, except as authorized in this code, such as waiver of minor clerical errors or similar matters. Bids shall be evaluated based on the requirements set forth in the invitations for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that is not set forth in the invitation for bids.

*Sec. 3-2(8). Correction or withdrawal of bids; cancellation of awards.* Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written notice received by the District prior to the time set for bid opening. Mistakes discovered after bid opening may be modified or withdrawn only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in bid prices or other bid provisions prejudicial to the interest of the District or fair competition shall be permitted. In lieu of bid correction, a bidder alleging a mistake may be permitted to withdraw its bid if:

- (a) The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
- (b) The bidder submits evidence that clearly and convincingly demonstrates that a mistake was made.

All decisions to permit the correction or withdrawal of bids, or to cancel awards based on bid mistakes, shall be supported by a written determination made by the Chief Procurement Officer.

*Sec. 3-2(9). Contract award.*

- (a) *General.* The contract shall be awarded by appropriate notice to the lowest responsible and responsive bidder whose bid conforms in all material respects to requirements and criteria set forth in the invitation for bids.
- (b) *Public record.* After the District issues a notice of intent to award, or in the absence of a notice of intent to award upon final contract execution, the bids shall be available for public inspection, except to the extent that the withholding of information is permitted or required by law. If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions in accordance with Section 1-6.

- (c) *Encumbrance of funds.* Except in cases of emergency, or in cases where specific authority has been first obtained from the Fire Chief, the Chief Procurement Officer shall not issue any purchase orders for supplies or equipment unless there exists an unencumbered appropriation in the fund account against which said purchase is to be charged. All purchases, regardless of encumbrances, shall be made in conformance with the policies established by this code.
- (d) *Procurement of recycled material.* Recycled products shall be used whenever practicable when they are of comparable quality, of equivalent price and appropriate for the intended use. Recycled products shall be procured in accordance with Public Contract Code, Section 22150, et seq.

*Sec. 3-2(10). Low tie bids.* If there are two (2) or more low responsive bids from responsible bidders that are identical in price and other evaluation criteria and that meet all the requirements and criteria set forth in the invitation for bids, award may be made by random selection in a manner prescribed by the Chief Procurement Officer.

### **Sec. 3-3. Competitive sealed proposals.**

*Sec. 3-3(1). Request for proposals.*

- (a) Competitive sealed proposals shall be solicited through a request for proposals. The request for proposals shall include a scope of work and any applicable evaluation criteria. Contractual terms and conditions may be included within the solicitation document or incorporated by reference.
- (b) A prequalification process may be conducted prior to the issuance of a request for proposals in order to establish a list of qualified offerors. In the event a prequalification process is used, the contract officer shall only consider proposals that are submitted from prequalified offerors.

*Sec. 3-3(2). Public notice.* Adequate public notice of the request for proposals shall be given in the same manner as provided in Section 3-3(2).

*Sec. 3-3(3). Pre-proposal conference.* The Chief Procurement Officer may conduct a pre-proposal conference. If a pre-proposal conference is conducted, it shall be not less than seven days before the offer due date and time, unless the Chief Procurement Officer makes a written determination that the specific needs of the procurement justify a shorter time.

*Sec. 3-3(4). Solicitation amendment.* Solicitation amendments shall be handled in the same manner as provided in Section 1-17(4).

*Sec. 3-3(5). Late proposals.* A proposal is late if it is received at the location designated in the request for proposals after the time and date set for receipt of proposals. Late proposals shall be rejected in accordance with Section 1-17(5).

*Sec. 3-3(6). Receipt of proposals.* Proposals shall not be opened publicly. No proposals shall be handled as to permit disclosure of the contents of any proposal to competing offerors. Proposals shall be open for public inspection after final execution of the contract, except to the extent that the withholding of information is permitted or required by law. If the offeror designates a portion of its proposal as confidential, it shall isolate and identify in writing the confidential portions in accordance with Section 1-6.

*Sec. 3-3(7). Evaluation of proposals.*

- (a) *Evaluation criteria.* The request for proposals shall state the criteria to be used in the evaluation of the proposals and shall include their relative importance. Specific numerical weighting is not required.
- (b) *Selection committee.* The Chief Procurement Officer shall appoint a selection committee to

evaluate the proposals and make a recommendation based on the criteria set forth in the request for proposals. No other factors or criteria may be used in the evaluation.

*Sec. 3-3(8). Discussions and Negotiations with offerors and revisions to proposals.* Discussions and/pr negotiations may be conducted with offerors. Offerors shall be accorded fair and equal treatment in conducting negotiations and there shall be no disclosure of any information derived from proposals submitted by competing offerors.

- (a) *Concurrent negotiations.* Negotiations may be conducted concurrently with offerors for the purpose of determining source selection and/or contract award.
- (b) *Exclusive negotiations.* Exclusive negotiations may be conducted with the offeror whose proposal is determined in the source selection process to be most advantageous to the District. Exclusive negotiations may be conducted subsequent to concurrent negotiations or may be conducted without requiring previous concurrent negotiations. Exclusive negotiations shall not constitute a contract award nor shall it confer any property rights to the successful offeror. If exclusive negotiations are conducted and an agreement is not reached, the District may enter into exclusive negotiations with the next highest ranked offeror without the need to repeat the formal solicitation process.

*Sec. 3-3(9). Contract award.* Contract award shall be made by the Chief Procurement Officer to the responsible offeror whose proposal is determined in writing to be the most advantageous to the District taking into consideration the evaluation criteria set forth in the request for proposals. The contract file shall contain the basis on which the award is made.

#### **Sec. 3-4. Contracting for legal counsel.**

*Sec. 3-4(1). Authority.* Contracts for the services of legal counsel shall be awarded with the authorization of the Board of Directors, except as otherwise provided by law.

*Sec. 3-4(2). Conditions for use.* Unless determined by the Board of Directors that direct selection is in the best interest of the District, the services of legal counsel shall be procured in accordance with this code.

#### **Sec. 3-5. Small purchases.**

*Sec. 3-5(1). General.* Any contract for the purchase of supplies, equipment and services (including maintenance) not exceeding fifty thousand dollars (\$50,000.00) may be made by the Chief Procurement Officer in accordance with the small purchase procedures authorized in this section. Contract requirements shall not be artificially divided so as to constitute a small purchase under this section.

*Sec. 3-5(2). Small purchases over ten thousand dollars (\$10,000.00).* Insofar as it is practical for small purchases in excess of ten thousand dollars (\$10,000.00) but less than fifty thousand dollars (\$50,000.00), no less than three (3) businesses shall be solicited to submit quotations. Award shall be made to the responsible bidder submitting the quotation which is most advantageous to the District and conforms in all material respects to the solicitation. The names of the businesses submitting quotations, and the date and amount of each quotation, shall be maintained as a public record. Nothing herein contained, however, shall preclude the District from utilizing more restrictive procedures if, and when required by federal or state law, where federal or state funds are involved in the contract to be awarded or when the Chief Procurement Officer determines it is in the best interest of the District to do so.

*Sec. 3-5(3). Small purchases less than ten thousand dollars (\$10,000.00).* The Chief Procurement Officer shall adopt operational procedures for making small purchases of ten thousand dollars (\$10,000.00) or less.

### **Sec. 3-6. Sole source procurement.**

*Sec. 3-6(1). General Sole Source – Only One Source Exists.* Notwithstanding any other provisions of this code, a contract may be awarded without competition when the Chief Procurement Officer determines in writing, after conducting a good faith review of available sources, that there is only one source for the required material, service, or construction item. This section is not applicable to the procurement of construction services. District personnel requesting a sole source procurement shall provide written evidence to support a sole source determination. The Chief Procurement Officer may require that negotiations are conducted as to price, delivery, and terms. The Chief Procurement Officer may require the submission of cost or pricing data in connection with an award under this section. Sole source procurements exceeding the amount defined in the roles and responsibilities matrix shall be executed by the Chief Procurement Officer upon approval by the Board of Directors. Sole source procurement shall be avoided, except when no reasonable alternative sources exist. A record of sole source procurements shall be maintained as a public record.

*Sec. 3-6(2). With Justification.* In addition to the authority for sole source procurement, the Board of Directors may authorize sole source procurements for supplies, equipment or services (including maintenance), when the Board of Directors determines that, due to one or more of the unusual or special circumstances outlined below, it would be in the best interest of the District to accomplish the procurement without compliance with competitive sealed bidding or other aspects of this Code, such as:

- (a) *Continuity of Service.* It would not be feasible or advisable to change the current provider (i.e. operational inefficiency);
- (b) *Time is of the Essence.* Timing to obtain needed supplies, equipment or services would not allow for a solicitation process (non-emergency procurements);
- (c) *Significant Cost Savings Factor.* It would be financially prudent to not issue a solicitation and/or change the current provider (i.e. cost prohibitive); or
- (d) *Organizational Need.* A specific provider will provide a significant benefit and satisfy an organizational need (i.e. added value to the organization) that cannot be secured from other providers.

This section is not applicable to the procurement of construction services. The District personnel requesting the sole source with justification procurement shall provide written evidence to support the procurement determination. The determination and the award shall be made by the Board of Directors in accordance with internal departmental procedures ensuring that the procurement is fair, honest, prudent, and is in the public interest.

### **Sec. 3-7. Emergency procurements.**

Notwithstanding any other provisions of this code, the Fire Chief may make or authorize others to make emergency procurements of materials, services, or construction when there exists a threat to public health, welfare, or safety or where compliance with this Code would be contrary to the public interest; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. The District personnel requesting an emergency procurement shall provide written evidence to support an emergency determination. An emergency procurement shall be limited to those materials, services, or construction necessary to satisfy the emergency need. Emergency procurements exceeding the amount defined in the roles and responsibilities matrix shall be executed by the Chief Procurement Officer upon approval by the President or Vice President of the Board of Directors. A written determination of the basis for the emergency and for the selection of the particular contractor shall be maintained as a public record.

### **Sec. 3-8. Cancellation of solicitations.**

*Sec. 3-8(1). Cancellation of solicitations.* An invitation for bids, a request for proposals, a request for qualifications, or other solicitation may be cancelled, or any or all bids, proposals or statements of qualifications may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interest of the District.

*Sec. 3-8(2). Prior to opening.*

- (a) As used in this section, "opening" means the date and time set for opening of bids, receipt of statements of qualifications or receipt of proposals in competitive sealed proposals.
- (b) Prior to opening, a solicitation may be cancelled in whole or in part when the Chief Procurement Officer determines in writing that such action is in the District's best interest for reasons including but not limited to:
  - i. The District no longer requires the materials, services, or construction;
  - ii. The District no longer can reasonably expect to fund the procurement; or
  - iii. Proposed amendments to the solicitation would be of such magnitude that a new solicitation is in the best interest of the District.
- (c) When a solicitation is cancelled prior to opening, notice of cancellation shall be publicly posted.
- (d) The notice of cancellation shall:
  - i. Identify the solicitation;
  - ii. Briefly explain the reason for cancellation; and
  - iii. Where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurements of similar materials, services, or construction.

*Sec. 3-8(3). After opening.*

- (a) After opening but prior to award, all bids, proposals or statements of qualifications may be rejected in whole or in part when the Chief Procurement Officer determines in writing that such action is in the District's best interest for reasons including but not limited to:
  - i. The District no longer requires the materials, services or construction;
  - ii. Ambiguous or otherwise inadequate specifications or scopes of work were part of the solicitation;
  - iii. The solicitation did not provide for consideration of all factors of significance to the District;
  - iv. Prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
  - v. All otherwise acceptable bids, statements of qualifications or proposals received are at clearly unreasonable prices;
  - vi. There is reason to believe that the bids, statements of qualifications or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith; or
  - vii. Competition was insufficient.
- (b) A notice of rejection shall be sent to all persons that submitted bids, statements of qualifications or proposals, and it shall conform to subsection 1-24(2) (d) of this section.
- (c) If all bids, proposals or request for qualifications are rejected, all bids, proposals or statements

received shall remain, to the extent possible, confidential.

*Sec. 3-8(4). Documentation.* The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.

**Sec. 3-9. Rejection of individual bids, proposals, quotations or statements of qualifications.**

(a) A bid may be rejected if:

- i. The bidder is determined to be non-responsible;
- ii. The bid is nonresponsive; or
- iii. It is otherwise not advantageous to the District.

(b) A proposal, statement of qualifications, or quotation may be rejected if:

- i. The person responding to the solicitation is determined to be non-responsible; or
- ii. The proposal is incomplete, nonresponsive to solicitation requirements; or
- iii. The proposed price exceeds available funds or is unreasonable; or
- iv. It is otherwise not advantageous to the District.

(c) The reasons for rejection shall be made a part of the procurement file and shall be available for public inspection.

**Sec. 3-10. Responsibility of bidders, offerors and respondents.**

*Sec. 3-10(1). Findings of non-responsibility.* If a bidder, offeror or respondent who otherwise would have been awarded a contract is found non-responsible, a written finding of non-responsibility, setting forth the basis of the finding, shall be prepared by the contract officer. The unreasonable failure of a bidder, offeror or respondent to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a finding of non-responsibility with respect to such bidder or offeror. The written finding shall be made part of the contract file and be made a public record.

*Sec. 3-10(2). Right of nondisclosure.* Except as required by law or court order, confidential information furnished by a bidder, offeror or respondent pursuant to this section shall not be disclosed by the District outside of the agency, without prior written consent by the bidder, offeror or respondent.

*Sec. 1-25(3). Factors.* Factors to be considered in determining if a prospective contractor is responsible include:

- (a) The proposed contractor's financial, physical, personnel or other resources, including subcontracts;
- (b) The proposed contractor's record of performance and integrity;
- (c) Whether the proposed contractor is qualified legally to contract with the District; and
- (d) Whether the proposed contractor supplied all necessary information concerning its responsibility.

*Sec. 3-10(4). Responsibility criteria.* The contract officer may establish specific responsibility criteria for a particular procurement. Any specific responsibility criteria shall be set forth in the solicitation.

**Sec. 3-11. Bid and contract security, material or service contracts.**

The Chief Procurement Officer may require the submission of security to guarantee faithful bid and contract performance. In determining the amount and type of security required for each contract, the Chief Procurement Officer shall consider the nature of the performance and the need for future protection to the

District. The requirement for security must be included in the invitation for bids or request for proposals. Failure to submit security in the amount and type of security required may result in the rejection of the bid or proposal.

**Sec. 3-12. Types of contracts.**

Subject to the limitations of this code, any type or form of contract which will promote the best interests of the District may be used.

**Sec. 3-13. Approval of accounting system.**

The Chief Procurement Officer may require that the proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted cost accounting principles prior to award of a contract.

**Sec. 3-14. Multi-year contracts.**

Unless otherwise provided by law, a contract for materials, services or construction may be entered into for any period of time deemed to be in the best interest of the District, if the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and monies are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of monies.

**Sec. 3-15. Right to inspect.**

The District may, at reasonable times, inspect the part of the plant or place of business of a contractor, consultant or any subcontractor or sub-consultant that is related to the performance of any contract awarded or to be awarded by the District.

**Sec. 3-16. Right to audit records.**

*Sec. 3-16(1).* The District may, at reasonable times and places, audit the books and records of any person who submits cost or pricing data as provided in Article VII of this code to the extent that the books and records relate to the cost or pricing data. Any person who is awarded a contract, change order or contract modification for which cost or pricing data is required shall maintain the books and records that relate to the cost or pricing data for three (3) years from the date of final payment under the contract, unless otherwise specified in the contract.

*Sec. 3-16(2).* The District is entitled to audit the books and records of a contractor, consultant or any subcontractor or sub-consultant under any contract or subcontract to the extent that the books and records relate to the performance of the contract or subcontract. The books and records shall be maintained by the contractor for a period of three (3) years from the date of final payment under the prime contractor or consultant, and by the subcontractor or sub-consultant for a period of three (3) years from the date of final payment under the subcontract, unless otherwise specified in the contract.

**Sec. 3-17. Prospective vendors lists.**

*Sec. 3- 17(1).* The Chief Procurement Officer shall maintain a prospective vendors list. Inclusion of the name of a person shall not indicate whether the person is responsible concerning a particular procurement or otherwise capable of successfully performing a District contract.

*Sec. 3-17(2).* Persons desiring to be included on the prospective vendors list may register with the District electronically. The District may remove a person from the prospective vendors list if it is determined that inclusion is not advantageous to the District.

*Sec. 3-17(3).* It shall be the vendor's sole responsibility to ensure that vendor registration information is current and active.

**Sec. 3-18. Contract form and execution.**

All contracts entered into under this code not exceeding the amount established by Section 1-11(6) shall be executed in the name of the District by the Chief Procurement Officer. Contracts entered into under this



code exceeding the amount established by Section 1-11(6) approved by the Board of Directors shall be executed by the Fire Chief, approved as to form by the General Counsel to the District and countersigned by the Clerk of the District.

## **ARTICLE 4. SPECIFICATIONS**

### **Sec. 4-1. Definition.**

As used in this article, "specification" is used interchangeably with "scope", "scope of services", or "scope of work" and means any description of the physical or functional characteristics, or of the nature of a material, service or construction item. Specification may include a description of any requirement for inspecting, testing, or preparing a material, service, or construction item for delivery.

### **Sec. 4-2. Maximum practicable competition.**

*Sec. 4-2(1).* All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the District's needs and shall not be unduly restrictive.

*Sec. 4-2(2).* To the extent practicable and unless otherwise permitted by this code, all specifications shall describe the District's requirements in a manner that does not unnecessarily exclude a material, service, or construction item.

*Sec. 4-2(3).* Restrictive specifications shall not be used unless such specifications are required and it is not practicable or advantageous to use a less restrictive specification. The District personnel requesting a restrictive specification shall provide written evidence to support the restrictive specification. Past success in the material's performance, traditional purchasing practices, or inconvenience of drawing specifications do not justify the use of restrictive specifications.

*Sec. 4-2(4).* To the extent practicable, the District shall use accepted commercial specifications and shall procure standard commercial materials.

### **Sec. 4-3. Specifications prepared by other than District personnel.**

The requirements of this code regarding the purposes and non-restrictiveness of specifications shall apply to all specifications prepared other than by District personnel, including, but not limited to, those prepared by architects, engineers, designers, and consultants for public contracts, or subcontractors. No person preparing specifications shall receive any direct or indirect benefit from the utilization of such specifications.

### **Sec. 4-4. Brand name or equal specification.**

A brand name or equal specification may be used to identify or describe the standards of quality, performance, and other characteristics needed to meet the requirements of a solicitation, and which invites offers for equivalent products from a manufacturer. Such brand name specification may be used to identify the sole acceptable item that meets the District's needs. The District personnel requesting a brand name specification shall provide written evidence to support a brand name determination.

## **ARTICLE 5. PROCUREMENT OF PUBLIC WORKS PROJECTS AND PROFESSIONAL DESIGN SERVICES**

### **Sec. 5-1 Procurement of public projects.**

*Sec. 5-1(1).* Procurement of public projects, in accordance with the limits listed in Section 22302 of the Public Contract Code, as those limits may be amended from time to time, may be let to contract by informal procedures as set forth in Section 22032, et seq., of the Public Contract Code. Nothing

herein contained, however, shall preclude the District from utilizing more restrictive procedures if required by applicable law, or when the Chief Procurement Officer determines it is in the best interest of the District.

*Sec. 5-1(2).* Contracts for construction shall be solicited through a competitive sealed bid process except as otherwise provided for in Sections 5-5 (procurement of construction services), 3-5 (small purchases), 3-6 (sole source procurement), and 3-7 (emergency procurements). The Chief Procurement Officer shall award contracts for public projects in accordance with the requirements of Public Contract Code Section 22000 et seq. and this code.

*Sec. 5-1(3). Force Account and informal bidding procedures.* Public works projects of the amount set forth in Public Contract Code Section 22032(a), as amended from time to time, may be performed by the employees of the District, by negotiated contract, or by purchase order.

*Sec. 5-1(4). Informal bidding procedures.* Public works projects of the amount set forth in Public Contract Code Section 22032(b), as amended from time to time, may be let to contract by informal bidding procedures as set forth in Section 5-2.

*Sec. 5-1(5). Formal bidding procedures.* Public projects exceeding the amount set forth in Public Contract Code Section 22032(c), as may be amended from time to time, shall be let to contract by formal bidding procedures as set forth in Section 5-3.

*Sec. 5-1(6) Payment bond.* In accordance with the Civil Code Section 9550 et seq. all public works bids involving an expenditure in excess of twenty-five thousand dollars (\$25,000) shall require a payment bond in an amount not less than 100 percent of the total amount payable pursuant to the public works contract.

## **Sec. 5-2. Public project informal bidding procedures.**

*Sec. 5-2(1).* Public projects which are subject to the informal bidding procedures shall be awarded to the lowest responsible bidder in accordance with the Public Contract Code Section 22000 et seq.

*Sec. 5-2(2). Contractors list.* The District shall maintain a list of qualified contractors, identified according to categories of work. The development and maintenance of the list shall be in accordance with the provisions in the Public Contract Code Section 22034 and criteria established from time to time by the California Uniform Construction Cost Accounting Commission.

*Sec. 5-2(3). Notice inviting informal bids.* All contractors on the list of qualified contractors for the category of work to be bid or all construction trade journals as specified in the Public Contract Code Section 22036, or both, shall be sent a notice inviting informal bids unless the product or service delivery is proprietary. Additional contractors and/or construction trade journals may be notified at the discretion of the Chief Procurement Officer. If there is no list of qualified contractors maintained by the District for the particular category of work to be performed, the notice shall be sent to the construction trade journals specified by the Commission.

*Sec. 5-2(4). Sending notices and descriptions of project.* All sending of notices to contractors and construction trade journals shall be completed not fewer than ten calendar days before bids are due. The notice inviting informal bids shall describe the project in general terms, how to obtain more detailed information about the project, and state the time and place for the submission of bids.

*Sec. 5-2(5). Award of informal bids.* The Chief Procurement Officer is authorized to award informal bids for public projects.

*Sec. 5-2(6). Bids in excess of the formal bid limit.* If all bids received are in excess of the amount set forth in Public Contract Code Section 22032(b), as may be amended from time to time, the Board of Directors may by passage of a resolution by a four-fifths vote, award the contract, to the lowest

responsible bidder, if it determines the cost estimate was reasonable and the contract amount will not exceed the amount set forth in Public Contract Code Section 22034(d), as may be amended from time to time.

### **Sec. 5-3. Public project formal bidding procedures.**

*Sec. 5-3(1).* Public projects which are subject to formal bidding procedures, shall be awarded to the lowest responsive and responsible bidder in accordance with the procedures set forth in this section.

*Sec. 5-3(2).* Notice inviting formal bids. The notice inviting bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project. The notice shall be published at least fourteen (14) calendar days before the date of opening the bids, in a newspaper of general circulation within the jurisdiction of the District. The notice inviting formal bids shall also be sent electronically to all construction trade journals specified for the County of Fresno in the Public Contract Code Section 22036 at least fifteen (15) calendar days before the date of bid opening. In addition to notice required by this section, the District may give other notice as it deems proper.

*Sec. 5-3(3).* *Adopt plans.* The Board of Directors shall adopt plans, specifications, and working details for all public projects as required by Public Contract Code 22039, exceeding the amount specified in the Public Contract Code Section 22032(c).

*Sec. 5-3(4).* *Bidder security.* All formal public projects shall require bidder's security as required by state law. Bid security shall be in an amount equal to at least ten percent of the amount bid, or such other amount as may be set forth in Public Contract Code Section 20171, as may be amended from time to time. Any bid bond submitted shall be executed by an admitted surety insurer which meets the rating requirements established by the risk manager or designee, made payable to the District.

*Sec. 5-3(5).* *Prequalification.* The District may require bidders to meet certain criteria in order to be placed upon a bidder's list to bid on formal public projects.

*Sec. 5-3(6).* *Award of formal bids.* The Board of Directors shall award all formal public works projects.

### **Sec. 5-4. Procurement of professional design services.**

Contracts for professional design services shall be solicited and selected in accordance with Government Code Section 4525 et seq. through a request for qualifications.

### **Sec. 5-5. Procurement of construction services.**

Contracts for construction services shall be solicited through a design-bid build or a design-build process in accordance with Public Contract Code Section 22160 et seq. except as otherwise provided in Section 5-6. The Board of Directors or delegated authority shall award all contracts for construction services in accordance with the state requirements and this code.

### **Sec. 5-6. Public project emergencies procedure.**

In cases of emergency, when repair or replacements are necessary to permit the continued conduct of the operation or services of the District or to avoid danger to life or property, the President or Vice President of the Board of Directors, after making a finding that the emergency will not permit a delay resulting from a competitive solicitation for bids and, that the action is necessary to respond to the emergency, may by a four-fifths vote, proceed at once to replace or repair any public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services and supplies for those purposes, without giving notice for bids to let contracts. The Fire Chief shall have the power to declare a public emergency when it is impractical to convene a meeting of the Board of Directors, subject to confirmation by the Board, by a four-fifths vote, at its next meeting and reviewed at least at every regularly scheduled meeting thereafter until the action is terminated. This procedure shall be subject to any other requirements of Public Contract Code Sections 22035 and 22050, as may be amended from time to

time.

## **ARTICLE 6. CONTRACT TERMS AND CONDITIONS**

### **Sec. 6-1. Contract terms and conditions.**

All District contracts shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The Chief Procurement Officer shall have the authority to establish and modify any such terms and conditions.

### **Sec. 6-2. Cost principles and pricing data**

The Chief Procurement Officer or designee shall establish cost principles for use in determining the reimbursement to a contractor for incurred costs where such reimbursement is required by applicable contract provisions

## **ARTICLE 7. BID PROTESTS**

### **Sec. 7-1. Filing of a protest.**

*Sec. 7-1 (1). "Content of protest."* Should an interested party file a bid protest regarding the issuance or award of a District contract, such protest must be in writing and contain the following information:

- (a) The name, address, telephone number and email address of the protestant;
- (b) The signature of the protestant or its representative;
- (c) Identification of the solicitation or contract number;
- (d) A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
- (e) The form of relief requested.

### **Sec. 7-2. Procedures for Processing a Bid Protest**

*Sec. 7-2(1).* Upon receipt of a bid protest, the District shall first consult with District Counsel as to the legal and factual issues at hand, and shall receive advise from District Counsel on how to proceed with processing the protest.

*Sec. 7-2(2).* Subject to the advice rendered by District Counsel, the Fire Chief shall review the contents of the protest and determine whether to sustain or deny the protest. In determining an appropriate remedy, the Fire Chief shall consider all the circumstances surrounding the procurement or proposed procurement including, but not limited to:

- (a) The seriousness of the procurement deficiency;
- (b) The degree of prejudice to other interested parties or to the integrity of the procurement process;
- (c) The good faith of the parties;
- (d) The extent of performance;
- (e) Costs to the District;

- (f) The urgency of the procurement; and
- (g) The impact of the relief on the District's mission.

*Sec. 7-2(3).* An appropriate remedy may include one or more of the following:

- (a) Reject all bids, responses or proposals;
- (b) Terminate the contract;
- (c) Reissue the solicitation;
- (d) Issue a new solicitation;
- (e) Award a contract consistent with the procurement code;
- (f) Such other relief as consistent with the applicable law and this code.

### **Sec. 7-3. Appeals to the Fire Board.**

*Sec. 7-3(1). Appeal.* Any appeal from a decision of the Fire Chief must be filed with the District Board of Directors within seven (7) days from the date the decision is issued.

*Sec. 7-3(2). Content of appeal.* The appeal shall contain the precise factual or legal error in the decision from which an appeal is taken.

*Sec. 7-3(3). Fire Board's Determination.* The Fire Board shall hear the appeal at its earliest convenient opportunity, such as its next regularly scheduled meeting or, depending on the facts, holding a special meeting. The Board shall hear the appeal, including receiving and evaluating relevant facts, evidence, and law, and shall issue a determination based on the circumstances. The Fire Board shall have the opportunity to consult with District Counsel in Closed Session or otherwise as allowed by law prior to making a determination.

## **ARTICLE 8. COOPERATIVE PURCHASING**

### **Sec. 8-1. Definitions.**

In this article, unless the context otherwise requires:

*Sec. 8-1(1). "Cooperative purchasing"* means procurement conducted by, or on behalf of, more than one public procurement unit.

*Sec. 8-1(2). "Eligible public procurement unit"* means any state, county, city, town, and any other political subdivision, public authority, educational, health or other institution, and to the extent provided by law, any other entity which expends public funds for the procurement of supplies, services and construction, and any not-for-profit entity.

### **Sec. 8-2. Cooperative purchasing authorized.**

The District may participate in, conduct or administer a cooperative purchasing agreement for the procurement of any materials, services, or construction in accordance with an agreement entered into between eligible participants. Parties under a cooperative purchasing agreement may, without limitation: (1) Sponsor, conduct or administer a cooperative agreement for the procurement or disposal of any materials, services, or construction; (2) Cooperatively use materials or services; (3) Commonly use or share warehousing facilities,

capital equipment and other facilities; (4) Provide personnel; and/or (5). make available informational, technical or other services that may assist in improving the efficiency or economy of procurement. The entity furnishing the informational or technical services has the right to request reimbursement for the reasonable and necessary costs of providing such services, which shall be established by agreement of the involved parties.

**Sec. 8-3. Cooperative purchasing source selection methods.**

All cooperative purchasing conducted under this Article shall be through contracts awarded by a public agency through full and open competition, including use of source selection methods substantially equivalent to those specified in Article III (Source Selection and Contract Formation) of this code

**FRESNO COUNTY FIRE PROTECTION DISTRICT  
Roles/Responsibilities/Authorities**

All authority rests with the Board of Directors unless it is delegated by statute or board action. When delegated, these authorities are further defined by contracts, resolutions, policies, or other board actions. The following chart defines the District’s levels of authority. The Board of Directors has the authority to change these delegations within the parameters of legal and contractual restrictions.

	<b>District Management</b>		<b>Board of Directors</b>
Commodity purchases (materials, equipment & supplies)	Approve purchase of all commodity contracts (selection process per Article [redacted] or Article 8 cooperative purchasing).		Approve commodity purchases with the annual adoption of the budget, no further approval is required.
Fixed asset purchases	Approve purchase of all fixed asset contracts (selection process per [redacted] or Article 8, cooperative purchasing) within the budgeted amount approved by the Board of Directors.		Approve purchase of fixed assets included in the annual budget with the annual adoption of the budget, no further approval is required.
Professional and Consulting Services Contracts – general <i>services and consulting including architectural, engineering, and project management services.</i>	Approve all professional and consulting service contracts (selection process per Article 5 or Article 8) for annual contract where the annual value to any one firm is less than \$100,000.  Approve multi-year contracts (maximum five years) so long as the total annual contract amount does not exceed District Management.		Approve all professional and consulting service contract value to any one firm exceeds \$100,000.

**FRESNO COUNTY FIRE PROTECTION DISTRICT  
Roles/Responsibilities/Authorities**

	<b>District Management</b>		<b>Board of Directors</b>
<p>Contract Duration</p> <p>Five years (three years plus two additional one-year periods)</p> <p><i>Applies to contracts exceeding small purchases as defined in 3-5</i></p>	<p>Approve extension of contracts within management delegated authority for contracts with a duration up to five years.</p>		<p>Approve extension of contracts exceeding five years or contracts that exceed management delegated authority.</p>
<p>Maintenance Service Contracts - includes <i>repair and maintenance for facilities &amp; equipment.</i></p>	<p>Approve all maintenance service contracts (selection process per <b>Article</b> , or Article 8) for annual contract where the annual value to any one contractor is less than \$200,000.</p> <p>Approve multi-year contracts (maximum five years) so long as the total annual contract amount does not exceed District Management.</p> <p>Approve maintenance service contract increases within limits delegated herein to District Management.</p>		<p>Approve all maintenance service contracts in which the annual value to any one contractor exceeds \$200,000.</p>
<p>Change Orders/ Modifications Professional &amp; Consulting Service Contract Amendments <i>(Non Public Projects)</i></p>	<p>For professional &amp; consulting service contracts within the limits delegated herein to District Management, approve change orders in any amount so long as the revised amount remains within the delegated limits.</p> <p>For contracts originally approved by the Board of Directors, approve change orders within the original scope of work, less than 15%.</p>		<p>Approve change order/modifications to any contracts with original or revised values that exceed those amounts delegated herein to District Management.</p>



**FRESNO COUNTY FIRE PROTECTION DISTRICT  
Roles/Responsibilities/Authorities**

	<b>District Management</b>		<b>Board of Directors</b>
Emergency Purchases (commodity and service contracts)	Approve emergency purchases, as defined in Sections 1-3(9) and 3-7, up to the amounts delegated to District Management herein for purchases following standard selection process.		Purchases in excess of the amounts delegated to District Management require prior approval of the President or Vice President and must be reported at the next Board of Directors meeting and/or for long-duration emergency incidents, reported quarterly.
Sole Source Contracts	Approve any sole source contract less than \$50,000 annually, so long as acceptable justification is established by the requesting District personnel per the requirements in 1-3(23) or 5-6.		Approve any sole source contracts when aggregate amount exceeds \$50,000, so long as acceptable justification is established by the requesting District personnel per the requirements in Section 5-6. <i>Sole source justification form is a required attachment to the staff report.</i>
Public Projects – Informal & Formal as set forth in the California Public Contract Code Section 22032.	Approve all informal public projects in amounts up to the statutory limits authorized by Public Contract Code Section 22032 (Projects under \$200,000 effective 1-1-19).		Approve all formal public works contracts in amounts at or above the statutory limits authorized by Public Contract Code Section 22032 (Projects over \$200,000 effective 1-1-19).

**FRESNO COUNTY FIRE PROTECTION DISTRICT  
Roles/Responsibilities/Authorities**

	<b>District Management</b>		<b>Board of Directors</b>
Public Projects - Change Orders/ Modifications for formal and informal Public Projects as set forth in Public Contract Code Section 22032	<p>For informal public projects within the original scope of work, approve change orders in any amount so long as the revised total remains below the statutory limits authorized by Public Contract Code Section 22032(b).</p> <p>For formal public projects originally approved by the Board of Directors, approve change orders within the original scope of work up to 15% of the original contract amount.</p>		Approve change order/modification on formal public projects over 15% of original contract amount.
Public Projects – Emergency as defined in Public Contract Code Sections 22035 and 22050 (Ord. 8, Sec. 1-53)	Fire Chief or designee has authority to declare an emergency and authorize procurement of construction services and supplies without competitive bidding requirements when it is impactable to convene a meeting of the Board of Directors prior to addressing the emergency needs.		Authorize exemption from procurement requirements by four-fifths vote (at next scheduled meeting) as required per Public Contract Code Sections 22035 and 22050.
Accept Real Property Interests	Accept interest in real property if the Board of Directors has previously approved.		Approve Purchase Agreements for the acquisition of real property.

# FRESNO COUNTY FIRE PROTECTION DISTRICT



## PROCUREMENT POLICY MANUAL

January 15, 2025

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## 1. Purpose

The purpose of this manual is to provide a policy guide for staff involved in the procurement process pursuant to the District Purchasing Ordinance No. 2025-01, adopted by the District Board of Directors on February 19, 2025. The District Purchasing Ordinance was created to simplify, clarify, centralize, and modernize the requirements governing District procurement.

The Procurement Policy Manual is structured in the same order as the Procurement Code for ease of use. The intent of the Procurement Policy Manual is to provide more in-depth details of the procurement policies as they relate to the content described in this manual.

The Procurement Policy Manual is intended to be a living document and may be updated from time to time as policies are amended.

## 2. General Provisions

The District operates with centralized procurement authority with the goal of procuring needed supplies, services, and equipment of quality within the required time and at the best value in a manner consistent with legal requirements, good business practices, and proper fiscal control. The responsibility for all procurement activities lies under a single authority within the organization, and the Administration Officer serves as the central procurement and contracting authority.

District procurement policies apply to all contracts for the procurement of supplies, services, and construction, as well as every expenditure of federal, state, and local public funds, irrespective of the source of funds. The policies also apply to contracts that do not involve an obligation of funds, including the disposal of property that the agency no longer needs.

The policies **do not apply** to grants awarded by the District, transactions involving the purchase, sale, or lease of District real property, professional witness, settlement of litigation or threatened litigation, or contracts with other governmental agencies.

## 3. Ethics and Standards of Conduct in Procurement

### 3.1 Ethics

The Administration Officer and all those involved in District procurement, shall discharge their duties in accordance with high ethical standards by practicing their profession with integrity, honesty, truthfulness, and adherence to the absolute obligation to safeguard the public trust.

- To regard public service as a sacred trust, giving primary consideration to the interests of the public agency that employs us.
- To purchase without prejudice, seeking to obtain the maximum value for each dollar expended.
- To avoid unfair practices, giving all qualified vendors equal opportunity.
- To honor our obligations and require that obligations to our public agency be honored.
- To accord vendor representatives courteous treatment, remembering that these representatives are important sources of information and assistance in solving our purchasing needs.
- To refuse to accept any form of commercial bribery, and prevent any appearance of so doing.
- To be receptive to counsel from our colleagues, and to cooperate with them to promote a spirit of teamwork and unity.
- To conduct ourselves with fairness and dignity, and to demand honesty and truth in the purchasing process.
- To strive for greater knowledge of purchasing methods and of the materials we purchase.

- To cooperate with all organizations and individuals involved in activities designed to enhance the development of the purchasing profession, remembering that our actions reflect on the entire purchasing profession.

### 3.2 Standards of Conduct for All Parties Involved in Procurement

These standards establish a framework of expectations for District employees and other individuals involved in all phases and aspects of the procurement and contracting life cycle, including acquisition planning, solicitation phase, proposal evaluation, supplier selection, and the post-award administration. These procurement standards are founded on applicable federal and California laws.

#### Conflict of Interest

No employee, officer, or agent shall participate directly or indirectly in the selection or the award or administration of any contract if a conflict, real or apparent, would be involved. Such conflict would arise when a financial or other interest in a firm selected for the award is held by:

1. An employee, officer, or agent involved in making the award;
2. Their relative (including father, mother, son, daughter, brother, sister, uncle, aunt, first cousin; nephew, niece, husband, wife, father-in-law, brother-in-law, sister-in-law, stepfather, stepmother; stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister);
3. Their partner; or
4. An organization that employs, is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

[Understand and fully comply with the standards and your responsibilities as established by the District Conflict of Interest Policy and avoid any actual or perceived conflict of interest throughout the procurement process.](#)

There are several conflict of interest laws, including Government Code § 1090 and the California Political Reform Act, which apply to procurement. These laws are grounded on the notion that government officials owe paramount loyalty to the public, and decisions must be unbiased. Employees and other individuals are prohibited from participating in the making of a contract in which they have a financial interest. The law prohibits the same party from being on both sides of a contract. Individuals and contractors may not participate in the making of a contract and then bid or propose to do the work on that contract at a later date.

[Avoid actual and perceived conflicts of interest throughout the entire procurement process](#)

Do not seek or accept any favors, gifts, or benefits that are not offered routinely to the general public from contractors, suppliers, vendors, firms, or persons representing any of these entities, or other parties that are doing business or seeking to do business, with the District. Do not use your job to obtain benefits, directly or indirectly, for yourself or anyone else.

[Conduct all District business in an honest and impartial manner](#)

Consistent with the requirements of law, policy, and common sense, maintain appropriate confidentiality in both written and oral communications. Resolve issues effectively and ethically while refraining from exercising any pressure on staff that could be perceived as trying to apply inappropriate influence.

[Act for the benefit of the District](#)

Ensure public money is spent solely for the benefit of the public and is consistent with applicable federal, State, and local laws, regulations, policies, and procedures.

Failure to adhere to applicable federal and California law, District Conflict of Interest Policy, and these Standards of Conduct is subject to disciplinary action up to and including termination, and or referral to appropriate enforcement agencies. Consultants, contractors, or other individuals are subject to applicable laws and contractual requirements.

*This written standard of conduct covering conflicts of interest and governing the actions of employees engaged in the selection, award, and administration of contracts complies with requirements in 2 CFR Part 200, § 200.318, general procurement standards applicable for federally funded and pass-through agency purchases.*

## 4. Procurement Authority

Procurement derives its authority from federal, state, and local laws. The local authority is District Purchasing Ordinance No. 2025-01, with the specific intent of creating the governance of District procurement. State laws that apply to District procurement activities are found in the Government Code, the Civil Code, the Business and Professions Code, the Labor Code, and the Public Contract Code. Federal law applies to District procurement activities any time federal funds are used, including funds received from pass-through agencies such as the state of California.

*See Section 14 of this policy manual for more details on federally funded procurement requirements.*

### Board Authorized Purchases

All local authority rests with the District Board of Directors unless it is delegated by statute or board action. When delegated, these authorities are further defined by contracts, resolutions, policies, or other board actions. The approved budget appropriation is the authorization by the Board to purchase capital equipment, services, and materials for operations during the fiscal year.

### Chief Procurement Officer Authority

The District Purchasing Ordinance authorizes centralized procurement and contracting authority to the Chief Procurement Officer. The Chief Procurement Officer for the District is the Administration Officer. Centralized procurement requires that all procurement activities are completed under a single authority within the organization with the goal of procuring needed supplies, services, and equipment of quality, within the required time and at the best value in a manner consistent with legal requirements, good business practices, and proper fiscal control. The Administration Officer has the authority to award and sign contracts that do not exceed the amount defined under management authority in the District Roles and Responsibilities Matrix (*specific to procurement*) (Exhibit 1). Contracts that exceed management authority may be executed by the Administration Officer or the Fire Chief upon approval of the Board of Directors.

### Delegated Purchasing Authority

The procurement staff, including the District Operations Assistant Chief and District Forestry Logistics Officer positions, have been delegated the authority to execute procurement contracts (i.e., purchase orders, blanket orders, and professional services contracts) on behalf of the District.

### Contract Signature Authority

Only those employees given explicit written authority by the Board, the Administration Officer, or the Fire Chief may execute procurement agreements. (Procurement agreements are written contracts that bind the District and a supplier to a purchasing obligation). Such written authority includes terms and conditions, which are typically reviewed by General Counsel, and all such terms and conditions are to be adhered to. All procurement related agreements are to be submitted to the Administration Officer for review and contract execution, regardless of the agreement's dollar value, the form of payment used, or

source of funds. The Administration Officer will coordinate agreement review with General Counsel and other appropriate stakeholders as required. The Administration Officer maintains records of all signed original contracts.

### Department Procurement Requests

All purchases expending District funds must be appropriately budgeted and duly authorized by the manager controlling the specific budget.

### Smaller Purchase Delegation

Delegation of certain lower-value purchasing has been given to District employees issued department credit cards (CAL-Card) in amounts according to their respective single purchase limit. This delegation is contingent on the clear understanding that all delegated purchasing must be made in accordance with the District Procurement Code, as well as any applicable state and federal laws.

## 5. Procurement Thresholds

All authority rests with the District's Board of Directors unless it is delegated by statute or board action. The Roles and Responsibilities Matrix (Exhibit 1) defines District's levels of authority that apply specifically to procurement, as approved by the Board of Directors.

The procurement of products and services is accomplished through a variety of procedures as defined in the District Procurement Code. The procedures are designed to address the differences in complexity, risk, and value of each purchase. The District Purchase Process and Thresholds decision matrix (Exhibit 2) has been created to assist staff in making a purchase. It is the District's policy to develop maximum competition for all purchases. The *splitting of purchases into smaller blocks to avoid or otherwise circumvent the thresholds for source selection and solicitation requirements is prohibited.*

### 5.1 Federally Funded Purchases

#### Micro-purchase (below \$50,000)

In accordance with Title 2 CFR 200 §200.320(a)(1)(iv)(A), The District self-certifies a micro-purchase threshold of \$50,000. Since the District thresholds are more restrictive, federal pass-through funded purchases within this range (*which is periodically adjusted for inflation*) must meet District standard commodity and non-construction services thresholds in addition to the federal requirements as described in Section 14 of this policy manual.

For federally funded purchases less than the adopted micro-purchase limit, a micro-purchase may be made without obtaining competitive quotations if it is determined that the price to be paid is fair and reasonable (based on recent research, experience, or previous purchases of the same items). To the extent practicable, micro-purchases will be distributed equitably among qualified vendors. The issuance of a purchase order (PO) by the District and its acceptance by the vendor constitutes a contract.

#### Simplified Acquisition (\$50,000 - \$250,000)

Since District thresholds are more restrictive, federal pass-through funded purchases within this range (*which is periodically adjusted for inflation*) must meet District standard commodity and non-construction services thresholds in addition to the federal requirements as described in Section 14 of this policy manual on federally funded purchases.

### 5.2 District Standard Commodity and Services Purchases (non-construction)

#### Small purchase less than \$10,000

For purchases that are less than \$10,000, competitive written quotes from multiple sources are not required. The purchase can be made so long as it is determined that the written quote received is



reasonable. This does not restrict the District from requesting additional written quotes when it is in the best interest of the District. When the purchase request is received by District purchasing staff, a purchase order will be issued to the supplier forming a contract for the commodity or service.

#### Small purchases over \$10,000 and less than \$50,000

For purchases of materials, equipment and services within this range, a simple competitive solicitation process, such as a Request for Quotations (Section 7.1), is required. Insofar as it is practical, no less than three (3) businesses are to be solicited to submit quotations, with the contract award made to the responsive and responsible bidder submitting the quotation which is most advantageous to the District that conforms in all material respects to the solicitation. Results of the solicitation and records on the process utilized will be maintained as public records. This does not preclude the District from utilizing more restrictive procedures if, and when required by federal or state law (i.e. Public Works), where federal or state funds are involved in the contract to be awarded, or when the Administration Officer determines it is in the best interest of the District to do so.

#### Purchases greater than \$50,000

For purchases of materials, equipment, and services greater than \$50,000, a formal competitive solicitation process is required. Procurement staff will determine the formal solicitation process. The formal procurement process can be done through a sealed Invitation for Bid (IFB) or a Request for Proposal (RFP) process (Section 8). The requestor will work with procurement staff throughout the solicitation, evaluation, award, and administration processes. The District may elect to utilize a cooperative purchasing agreement whereby substituting the competitive solicitation process of another public agency for its own, provided that the substitute process is substantially equivalent to the District solicitation process.

### 5.3 Public Works/Public Projects

On April 19, 2023, the District adopted the alternative informal bidding procedures set forth in the California Uniform Public Construction Cost Accounting Act (CUPCCAA) for public project work performed or contracted by the District. This provided the ability to utilize informal bidding procedures set forth in the California Public Contract Code (PCC) §22000-§22045. This does not preclude the District from utilizing more restrictive procedures if, and when required by federal or state law, where federal or state funds are involved in the contract to be awarded, or when the Administration Officer determines it is in the best interest of the District to do so. The District Purchase Process and Thresholds for Public Works Decision Matrix (Exhibit 3) provides dollar thresholds defining the process for public works and public projects. *Per PCC §22033, it is unlawful to split or separate into smaller work orders or projects any project for the purpose of evading competitive bidding.*

#### Public Works Projects (less than \$75,000)

Public works contracts below this amount may be performed by District employees, by negotiated contract, or by written purchase order. Multiple written quotes are requested for work below this limit as may be practicable. *Per Civil Code §9554, for projects over \$25,000, a labor and materials payment bond for 100 percent of the total amount of the public works contract is required.*

#### Public Works Projects (between \$75,000 – \$220,000)

Public works contracts within this threshold will be solicited by the informal public works procedures as defined in the PCC §22034 and District Procurement Code.

*See Section 11 of this policy manual for more details on informal public works bidding policies.*

#### Public Works Projects (over \$220,000)

Public works contracts above this threshold will be solicited by the formal public works procedures as

defined in the PCC §22037 and District Procurement Code.

*See Section 12 of this policy manual for more details on formal public works bidding policies.*

## 6. CAL-Card

CAL-Card is a unique business credit card used to simplify the purchasing and payment process for small dollar acquisitions. The function of the CAL-Card is to provide District staff with greater flexibility to complete small purchases within the delegated authority. Delegation of certain lower-value purchasing has been given to specific District employees issued a District CAL-Card in amounts according to their individual single purchase limit. Prior to receiving a CAL-Card, the cardholders receive training on acceptable purchases. The CAL-Card is not to be used in lieu of established contracts and is not intended to replace effective procurement planning that enables volume discounts. Purchases shall not be split to circumvent purchasing regulations or established thresholds.

## 7. Informal Solicitations

Use of the informal solicitations is determined by the dollar threshold of the purchase as described in Section 5.

### 7.1 Request for Quotations

A request for quotations (RFQ) is an informal bid process used primarily for commodity purchases that fall within the Small Purchase Threshold. Quotations must be submitted in a written format and may be solicited via email. Whenever practicable, no less than three (3) suppliers must be notified of the RFQ.

The RFQ must include clear concise specifications with a description of the physical or functional characteristics of the commodity or equipment desired and be written to encourage maximum and fair competition. Unless only one brand of commodity or equipment is acceptable due to compatibility or other restrictive requirements, brand names will only be used for providing descriptive information and not be used to restrict competitive bidding.

Award is based on price and is made to the lowest responsive and responsible bidder able to meet the agency's requirements. In the event of a tie, preference will be given to firms having a legitimate place of business within Fresno County.

**7.2 Request for Information** A request for information (RFI) is an informal method of obtaining information from suppliers that may have unique or critical knowledge about a product or service that the District is researching. The RFI method is not intended to result in a contract award but is designed to allow for the collection of current or state-of-the-art industry information that may then be used to develop specifications or a scope of work to be used in a future solicitation. An RFI may also be used during the planning stage of a procurement activity as the first step in the vendor selection process, and a qualification step prior to the RFP or IFB.

An RFI is typically used to:

- Compile detailed information about potential suppliers and their capabilities or category/product
- Advise potential suppliers that you intend to source this product or service competitively
- Gather information to further the future solicitation
- Qualify suppliers to a shorter list that will be invited to submit bids or proposals

Responses to requests for information notices are not offers and cannot be accepted to form a binding contract.

## 8. Formal Competitive Solicitation Process

For purchases of materials, equipment, and services which are anticipated to be greater than \$50,000, a formal competitive solicitation process is required. The formal procurement process can be done through a sealed Invitation for Bid (IFB) or a Request for Proposal (RFP) process. Procurement staff will determine the formal solicitation process. The requestor will work with the Administration Officer throughout the solicitation, evaluation, award, and administration processes. IFBs and RFPs will be issued by the Administration officer and will include all contractual terms and conditions applicable to the procurement in accordance with the District Procurement Code.

An IFB or RFP may be cancelled, or any or all bids or proposals rejected in whole or in part, as may be specified in the solicitation when it is in the best interest of the District to do so.

### 8.1 Invitation for Bids (IFB)

The sealed IFB method is used when it is determined that there is no substantive difference among the products or services that meet the specifications and the only difference among responsive bids is price. Award shall be made to the lowest responsive and responsible bidder whose bid conforms in all material respects to requirements and criteria set forth in the invitation for bids when utilizing the IFB method.

#### Specifications

Clear, concise specifications must be included in the bid documents. The specifications are a description of the physical or functional characteristics of the commodity, equipment, or service desired. Specifications shall be written to encourage maximum and fair competition. A statement of the desired purpose should be included in specifications and contain only those characteristics essential to the final performance of the product or services. Unless only one brand of commodity or equipment is acceptable due to compatibility or other restrictive requirements, any brand name used in the specifications will be used only for the purpose of establishing descriptive information and will not be used to restrict competitive bidding.

#### Request for Qualifications

A Request for Qualifications is used to qualify firms for a specific project requiring specialized skills such as consulting services. This procurement method can also be used when professional assistance is needed to provide specifications and details for a project with an undefined scope of services. It can also be used for pre-qualifying one or more firms offering professional services when anticipated future needs require the availability of the firm(s) as needed for services of the same or similar discipline. This can be the first step in a two-step solicitation process. A request for qualifications may be cancelled, or any or all statements of qualifications rejected in whole or in part, when it is in the best interest of the District to do so. *See Section 11 and 12 for additional information specific to Request for Qualifications relating to Public Works.*

#### Two-Step Process

A prequalification Process may be conducted prior to the issuance of an IFB, as the first step in a two step-solicitation process, in order to establish a list of qualified bidders. Qualification criteria may include: financial capacity/stability, company history, capacity to perform, relevant experience, and any other criteria relevant to services or items being sought by the District. Prequalification requirements will constitute the minimum requirements necessary to fulfill the contract. In the event a prequalification process is used, only bids submitted from prequalified bidders will be accepted. *See Section 12 for additional information specific to prequalification of contractors for formal public works projects.*

## Public Notice

IFBs are electronically posted on the District's web site. Notice of the IFB shall be made available for public inspection no less than fourteen (14) days prior to the date set for the opening of bids. A shorter time may be deemed necessary for a particular procurement as determined in writing by the Administration Officer.

## Pre-bid Conference

When it is in the best interest of the District, a pre-bid conference may be conducted. If a pre-bid conference is conducted, it shall be not less than seven (7) days before the bid due date and time, unless the Administration Officer makes a written determination that the specific needs of the procurement justify a shorter time. The purpose of the pre-bid conference is to clarify any questions which may exist on the part of the bidders regarding the specifications or scope of work, prior to the bid due date. Pre-bid conferences shall not be mandatory for potential bidders unless it is clearly in the District's best interest.

**Solicitation Amendment.** The solicitation amendment is issued to do any or all of the following:

- Make a correction in the solicitation;
- Correct defects or ambiguities;
- Provide additional information or instructions; or
- Extend the offer due date and time if the Administration Officer determines that an extension is in the best interest of the District.

If a solicitation is changed by a solicitation amendment, the amendment will be posted to the District's web site. It is the responsibility of the offeror to obtain any solicitation amendments and acknowledge receipt of amendment as specified in the solicitation amendment.

## Late Bids

A bid is late if it is received at the location designated in the IFB after the time and date set for bid opening. A late bid shall be rejected. Bidders submitting bids that are rejected as late shall be so notified.

## Bid Opening

Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the IFB. A secure web-based system or other appropriate media may be used in lieu of public bid opening, provided that the accuracy, confidentiality, and reliability is maintained. The name of each bidder and the amount of each bid, as well as other relevant information, as deemed appropriate by the Administration Officer, shall be recorded. Unless otherwise determined, this record shall be open to public inspection. In the event no attendees are present for bid opening, the sealed bids shall be opened by the District and a "bid" or "no bid" may be recorded on the tabulation. The bids shall not be available for public inspection until after a notice of intent to award is issued. After a notice of intent to award is issued or, in the absence of a notice of intent to award, after final execution of the contract, the bids shall be available for public inspection, except to the extent that the withholding of information is permitted or required by law. If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions in accordance with the District Procurement Code.

## Bid Acceptance and Bid Evaluation

Bids shall be unconditionally accepted without alteration or correction, except as authorized in the Procurement Code. Bids shall be evaluated based on the requirements set forth in the IFB, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. The IFB shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that is not set forth in the IFB.

A summary page including details of all bids received, the staff recommendation for award, and any other pertinent information will be maintained in the bid file available for public record. These details will be provided in the staff report should the item require Board approval.

### Correction or Withdrawal of Bids; Cancellation of Awards

Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written notice received prior to the time set for bid opening.

Mistakes discovered after bid opening may be modified or withdrawn only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in bid prices or other bid provisions prejudicial to the interest of the District or fair competition shall be permitted. In lieu of bid correction, a bidder alleging a mistake may be permitted to withdraw its bid if:

- The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
- The bidder submits evidence that clearly and convincingly demonstrates that a mistake was made.

All decisions to permit the correction or withdrawal of bids, or to cancel awards based on bid mistakes, shall be supported by a written determination.

### Contract Award

The contract shall be awarded by appropriate notice to the lowest responsible and responsive bidder whose bid conforms in all material respects to requirements and criteria set forth in the invitation for bids.

- District.* The Administration Officer has the authority to award and sign contracts that do not exceed the amount defined under management authority in the Roles and Responsibilities Matrix (Exhibit 1). Contracts that exceed management authority are to be executed by the Fire Chief upon approval of the Board of Directors.
- Public record.* After the District issues a notice of intent to award, or in the absence of a notice of intent to award upon final contract execution, the bids shall be available for public inspection, except to the extent that the withholding of information is permitted or required by law.
- Encumbrance of funds.* Except in cases of emergency, or in cases where specific authority has been first obtained from the Fire Chief, the Administration Officer shall not issue any purchase orders for supplies or equipment unless there exists an unencumbered appropriation in the fund account against which said purchase is to be charged. All purchases, regardless of encumbrances, shall be made in conformance with the policies established by the District Procurement Code and any other applicable requirements.
- Procurement of recycled material.* Recycled products shall be used whenever practicable when they are of comparable quality, of equivalent price and appropriate for the intended use. Recycled products shall be procured in accordance with Public Contract Code, § 22150, et seq.
- Low tie bids.* If there are two or more low responsive bids from responsible bidders which are identical in price, all other evaluation criteria, and that meet all the requirements set forth in the IFB, preference shall be given to the firm having a legitimate place of business within Fresno County. In the event that the low tie bids each have places of business within Fresno County, award may be made by random selection in a manner prescribed by the Administration Officer.

## 8.2 Request for Proposals (RFP)

The competitive sealed RFP method is utilized to obtain the best value for goods and/or services through a process involving several possible sources. RFPs are issued with the intent of providing a competitive process from which the respondent best meeting the needs of the District and providing the best overall value may be selected. RFPs are generally used on larger and more complicated projects where additional criteria besides price are considered in selecting the source. An important difference between the RFP and IFB process relates to the finality of initial offers. Under the RFP method, changes in the nature of a proposal, and in prices, may be negotiated after proposals are opened. In contrast, changes in the price of goods and services are not negotiable in the IFB process. The RFP process allows the District to describe a need and the key criteria which will be used in evaluating proposals while outlining the terms and conditions under which the respondent will operate or supply their goods and services. The process provides for full competition among proposals and allows for negotiation with the offeror or offerors to obtain the best services or commodities at the best price.

### Specifications

Another important difference between the RFP and IFB method is that the RFP might not contain a detailed specification but may instead convey a description of a challenge or desired outcome as a result of the solicitation. This description may be written specifically, or it may be generic. The RFP allows for the offerors to submit proposals for their solution to the requirement described by the District. This process of providing a description rather than a specification allows the District to use the capability of the offerors so that expertise does not have to be developed in house.

### Two-Step Process

A prequalification process may be conducted prior to the issuance of the RFP, as the first step in a two step-solicitation process, to establish a list of qualified offerors. Qualification criteria may include: financial capacity/stability, company history, capacity to perform, relevant experience, and any other criteria relevant to services or items being sought by the District. Prequalification requirements will constitute the minimum requirements necessary to fulfill the contract. In the event a prequalification process is used, the only proposals submitted from prequalified offerors will be considered.

### Public Notice

RFPs are electronically posted on the District's web site. Notice of the RFP shall be made available for public inspection no less than fourteen (14) days prior to the date set for the opening of proposals. A shorter time may be deemed necessary for a particular procurement as determined in writing.

### Pre-Proposal Conference

When it is in the best interest of the District, a pre-proposal conference may be conducted. If a pre-proposal conference is conducted, it shall be not less than seven (7) days before the offer due date and time, unless the Administration Officer makes a written determination that the specific needs of the procurement justify a shorter time. The purpose of the pre-proposal conference is to clarify any questions which may exist on the part of the proposers regarding the specifications or scope of work, prior to the offer due date. Pre-proposal conferences shall not be mandatory for potential offerors unless it is clearly in the District's best interest.

### Solicitation Amendment

The solicitation amendment is issued to do any or all of the following:

- Make a correction in the solicitation;
- Correct defects or ambiguities;
- Provide additional information or instructions; or

- Extend the offer due date and time if the Administration Officer determines that an extension is in the best interest of the District.

If a solicitation is changed by a solicitation amendment, the amendment will be posted to the District's web site. It is the responsibility of the offeror to obtain any solicitation amendments and acknowledge receipt of amendment as specified in the solicitation amendment.

### Receipt of Proposals

Proposals shall not be opened publicly. No proposals shall be handled as to permit disclosure of the contents of any proposal to competing offerors. Proposals shall be open for public inspection after final execution of the contract, except to the extent that the withholding of information is permitted or required by law. If the offeror designates a portion of its proposal as confidential, it shall isolate and identify in writing the confidential portions.

### Late Proposals

A proposal is late if it is received at the location designated in the request for proposals after the time and date set for receipt of proposals. Late proposals shall be rejected. Offerors submitting proposals that are rejected as late shall be so notified.

### Evaluation Criteria

The RFP shall state the criteria to be used in the evaluation of the proposals and shall include their relative importance. Pricing is one of the criteria evaluated. The point value given to pricing should be as high as possible without undermining the intent to achieve best value. The actual point value could vary between a service RFP and a commodity RFP. In no case should the point value of price be less than 25 percent of the total points available, unless otherwise approved by the Board of Directors for specific RFPs.

### Selection Committee

A selection committee shall be appointed to evaluate the proposals and make a recommendation based on the criteria set forth in the request for proposals. The evaluation committee shall be comprised of at least three (3) members who have no conflict of interest with the selection process. Members of the evaluation committee shall be selected based on their qualifications and expertise related to the subject matter. Proposals can only be evaluated on the criteria set forth in the solicitation and no other factors or criteria may be used in the evaluation.

### Evaluation Scores

Evaluators shall score proposals individually. The initial score sheets containing the evaluators notes and comments shall remain in the possession of the individual evaluators, and at no time shall this information become part of the permanent procurement file. Based upon the individual evaluator scores, a proposal summary page will be developed which specifically includes details of all proposals (along with their respective rankings), the evaluation committee's recommendation for award, and any other pertinent information (staff estimate) when appropriate. This summary page will be maintained in the procurement file and included in the staff report should the item seek Board approval.

### Interviews

The evaluation committee may conduct interviews with the responsible offerors who have submitted proposals determined to be acceptable and within a competitive range. All offerors shall be given fair and equitable treatment and all portions of the interview will be recorded either in written or digital media and kept as part of the procurement file.

### Discussions and Negotiations

Discussions and/or negotiations may be conducted with one or more offerors. Each Offeror shall be

accorded fair and equal treatment in conducting negotiations and there shall be no disclosure of any information derived from proposals submitted by competing offerors.

- (a) *Concurrent negotiations.* Negotiations may be conducted concurrently with offerors for the purpose of determining source selection and/or contract award.
- (b) *Exclusive negotiations.* Exclusive negotiations may be conducted with the offeror whose proposal is determined in the source selection process to be most advantageous to the District. Exclusive negotiations may be conducted subsequent to concurrent negotiations or may be conducted without requiring previous concurrent negotiations. Exclusive negotiations shall not constitute a contract award nor shall it confer any property rights to the successful offeror. If exclusive negotiations are conducted and an agreement is not reached, the District may enter into exclusive negotiations with the next highest ranked offeror without the need to repeat the formal solicitation process.

#### Proposal Revisions Post Interview and Negotiations

After interviews and/or negotiations, and prior to any award, the evaluation committee may request revisions to proposals in the form of a Best and Final Offer (BAFO). Late best and final offers will not be accepted. If no best and final offer is received by the stated due date and time, the offeror's initial offer will serve as their best and final offer.

#### Contract Award

Contract award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the District taking into consideration the evaluation criteria set forth in the request for proposals as concurred by the Administration Officer, and approved by the Board, as required by the Roles & Responsibilities Matrix (Exhibit 1). The contract file shall contain the basis on which the award is made.



## 9. Cooperative Purchasing

When the Administration Officer determines it to be in the best interest of the District, a purchase for goods or services, other than Public Works construction, may be made using a Cooperative Agreement. *See Section 20 for further definition of Cooperative Agreement or Purchasing.* The District may lead a competitive solicitation in collaboration with one or more other public agencies, or utilize an existing agreement or contract previously established by other public entities for similar items.

In order for a Cooperative Agreement to be eligible for use, the awarded contract must have resulted from a full and open competition, using source selection methods substantially equivalent to those specified in the District Purchasing Ordinance (Article III). Use of a Cooperative Agreement is sometimes referred to as “piggybacking” if the agency is using the bid results and contract of one specific agency, rather than a group of agencies involved in the establishment or use of a contract.

A record of cooperative procurements shall be maintained as a public record, and such procurements exceeding the amount defined in the Roles and Responsibilities Matrix (Exhibit 1) must be approved by the Board of Directors prior to award.

## 10. Sole Source Procurement

Sole source procurement shall be avoided except when no reasonable alternative exists. However, when the requesting staff provides written evidence to support their sole source request, and the Administration Officer determines, after conducting a good faith review of available sources, that there is only one viable source for a required material or service, a contract may be awarded without competition. The Administration Officer may require the submission of cost analysis or other pricing data and that negotiation as to price, delivery, and terms are conducted for such an award.

A record of sole source procurements shall be maintained as a public record, and such procurements exceeding the amount defined in the Roles and Responsibilities Matrix (Exhibit 1) must be approved by the Board of Directors prior to award.

### Sole Source with Justification

In addition to the District for sole source procurement, the Board of Directors may authorize sole source procurements above the small purchase amount for supplies, equipment or services (including maintenance), when the Board of Directors determines that, due to one or more of the unusual or special circumstances outlined below, it would be in the best interest of the District to accomplish the procurement without compliance with competitive sealed bidding, competitive sealed proposals, or procurement of professional design services:

- (a) *Continuity of Service.* It would not be feasible or advisable to change the current provider (i.e., operational inefficiency)
- (b) *Time is of the Essence.* Timing to obtain needed supplies, equipment or services would not allow for a solicitation process (non-emergency procurements)
- (c) *Significant Cost Savings Factor.* It would be financially prudent to not issue a solicitation and/or change the current provider (i.e., cost-prohibitive); or
- (d) *Organizational Need.* A specific provider will provide a significant benefit and satisfy an organizational need (i.e., added value to the organization) that cannot be secured from other providers.

This section is not applicable to the procurement of construction services. The staff requesting the sole source with justification procurement shall provide written evidence to support the procurement determination. Any sole source with justification procurement under this section shall be limited to those materials, equipment or services necessary to satisfy the District's need and shall be made with sound fiscal discretion. A written determination by the Administration Officer with review and approval from the Fire Chief, of the basis for the sole source with justification procurement and for the selection of the particular provider shall be provided to the Board of Directors prior to authorization of the procurement and shall be maintained as a public record. The determination and the award shall be made by the Board of Directors in accordance with internal departmental procedures ensuring that the procurement is fair, honest, prudent, and is in the public interest.

## 11. Public Works Informal Bidding

On April 19, 2023, the District adopted the alternative informal bidding procedures set forth in the California Uniform Public Construction Cost Accounting Act (CUPCCAA) for public project work performed or contracted by District. This provided the ability to utilize informal bidding procedures set forth in the California Public Contract Code (PCC) §22000-§22045. This does not preclude the District from utilizing more restrictive procedures if, and when required by federal or state law, where federal or state funds are involved in the contract to be awarded, or when the Administration Officer determines it is in the best interest to of the District to do so. Public Works as defined in Labor Code § 1720(a) is construction and other enumerated construction-related tasks including maintenance, (see Labor Code§ 1771) such as construction, alteration, demolition, installation, maintenance, or repair work, done under contract, and paid for in whole or in part out of public funds, and may include preconstruction and post-construction activities related to a public works project. The District Purchase Process and Thresholds for Public Works Decision Matrix (Exhibit 3) provides dollar thresholds defining the process for public works and public projects. Per the Roles and Responsibilities Matrix (Exhibit 1), all informal public projects valued up to \$220,000 can be awarded by the District Administration Officer.

### Contractors List

Per Public Contract Code §22034, the District must invite all licensed contractors to apply for inclusion on the list of qualified contractors identified according to work categories annually. A contractor may have their company added to the list at any time by providing the required information to the Administration Officer.

Contractors included on the contractors list are notified of public works projects specific to the trades they have identified in their registration. Inclusion on the contractors list only determines whether contractors meet minimum qualification requirements and is not meant as a mechanism to score contractors or rate them for use on a project.

### Request for Qualifications (RFQual)

A Request for Qualifications is used to qualify a professional or firm for a specific project requiring specialized skills such as architectural, engineering, or consulting services or when a professional or firm is needed to provide specifications and details for a project with an undefined scope of services. It can also be used for pre-qualifying one or more firms offering professional services when anticipated future needs require the availability of the firm(s) as needed for services of the same or similar discipline. This can be the first step in a two-step solicitation process.

The RFQual utilizes a qualifications-based selection method of awarding contracts under which the most appropriate professional or firm is selected based on qualifications such as knowledge, skill, experience, and other project-specific factors rather than fees as prescribed in Government Code § 4525-4529.5.

#### Payment and Performance Bond

Per Civil Code §9554, Payment and Performance Bonds are required for contracts over \$25,000 in an amount not less than 100 percent of the total amount payable pursuant to the public works contract. Bid bonds of not less than ten (10) percent of the total bid amount are required for solicitations valued over \$25,000.

#### Public Works Projects (less than \$75,000)

Projects valued at \$75,000 or less may be completed by force account (by District employees) or through a negotiated contract, per PCC § 22032(a). The District may also select a contractor from the list of prequalified contractors who are qualified, capable, and are otherwise able to meet the District's requirements for the project.

#### Public Works Projects (between \$75,000 and \$220,000)

Public Works Projects with a value exceeding \$75,000 and less than \$220,000 must be bid in accordance with the procedures as defined in PCC §22034 and 22036. The District will solicit informal bids by publishing a notice that describes the project in general terms, provides information on how to obtain more detailed information about the project, and states the time and place for the submission of bids. A clear and concise scope of work containing a description of the project will be included in the bid documents. Scope of work with desired outcome shall be written to encourage maximum and fair competition. Any brand name used in the specifications or scope of work will be used only for the purpose of establishing descriptive information and will not be used to restrict competitive bidding.

Contracts are to be awarded to the lowest responsive, responsible bidder pursuant to PCC § 22032(b). This does not preclude the District from utilizing more restrictive bidding thresholds when it is in the best interest of the District.

## 12. Public Works Formal Bidding

Public works contracts valued over \$220,000 are solicited using the formal bid procedures provided in PCC § 22032(c) and 22037, and follow the source selection methods outlined below.

#### Design-Bid-Build

The Design-Bid-Build method for construction projects generally begins with a request for qualifications to hire a professional or firm to provide specifications and/or drawings for the project (design) followed by a bid for construction. A contract must be awarded to a qualified architect and/or engineer for the development of the scope of work. The scope of work is then included in the bid document for the actual construction. The scope of work provided by the architectural/engineering firm provides detailed descriptions of the physical or functional characteristics of the project, inclusive of any related commodities, equipment, or services desired. Scope of work with desired outcome shall be written to encourage maximum and fair competition. Any brand name used in the specifications or scope of work will be used only for the purpose of establishing descriptive information and will not be used to restrict competitive bidding. The bid is then advertised as required by the formal bidding procedures in accordance with PCC § 22032(c).

Board approval of the contract award is required if the contract exceeds \$220,000. A bid to complete the project is issued utilizing the scope of work provided by the architect/engineer.

This source selection method follows the process for bidding and contract award as described in Section 8 of this policy manual with bids unconditionally accepted without alteration or correction, except as authorized in the District Procurement Code, and with evaluation based on the requirements set forth in the bid, inclusive of valid State Contractors Licensing, Department of Industrial Relations registration, and ability of the contractor to meet bonding and insurance requirements.

The lowest responsive responsible bidder shall be recommended for award in accordance with PCC § 21501. A summary page including details of all bids received, the staff recommendation for award, and any other pertinent information will be maintained in the bid file available for public record. These details will be provided in the staff report when the contract requires Board approval.

### Pre-Qualification of Contractors

Contractors will be prequalified for Design-Bid-Build projects using the process and thresholds below. For projects valued less than \$1,000,000, prequalification is submitted through the same solicitation vehicle as bid pricing. For projects valued greater than \$1,000,000, prequalification is submitted through a separate solicitation following the most recent model questionnaire published by the California Labor Commissioner.

Pre-Qualification Process for Projects Less than \$1,000,000 – One Solicitation	
Solicitation	Purpose
Invitation for Bid	<p>One Solicitation issued to prequalify contractors and then to hire the contractor who will build the project. Contractor must provide evidence in their submittal that they meet the District’s pre-qualification standards prior to the contractor’s bid being considered. <i>Per CA PCC 22034 (projects up to \$220,000) and CA PCC 22032 (projects over \$220,000).</i></p> <p>Those contractors who pass this pre-qualification review will then proceed in the process for further evaluation of the contractor’s bids.</p> <p>Plans, specifications, and contract awards are brought to the Board of Directors for adoption and approval if the value exceeds \$220,000.</p>
Pre-Qualification Process for Projects Greater than \$1,000,000 – Two Solicitations	
Solicitation	Purpose
Request For Statement of Qualifications	The first solicitation will be issued to pre-qualify construction contractors to be eligible to submit a bid to build the project. <i>Per CA PCC 20101.</i>
Invitation for Bid	<p>The second solicitation will then be issued only to those contractors who were pre-qualified in the first solicitation. The IFB will be used to hire the contractor who will build the project. <i>Per CA PCC 22032.</i></p> <p>Plans, specifications, and contract awards are brought to the Board of Directors for adoption and approval.</p>

### Design-Build (DB) Applicable to Projects in Excess of \$1,000,000

Since the District elected to follow the Public Contract Code as it applies to a general law city, the DB method may only be used when soliciting projects in excess of \$1,000,000, per PCC §22162. In the design-build process, a single design-build entity is responsible for both the design and

construction of a project. This procurement process is a two-step process. In the first step, a request for qualifications is requested. Only the top three (3) design-build entities are invited to submit proposals. In contrast to Design-Bid-Build, DB relies on a single point of responsibility for the contract. The performance specifications and any plans must be prepared by a design professional who is duly licensed and registered in California. The District must follow the design-build procurement process as described in PCC §22164.

The Design-Build Entity proposing the lowest cost or best value (whichever is most favorable to District) shall be recommended for an award in accordance with PCC § 22164. A summary page including details of all bids received, the staff recommendation for award, and any other pertinent information will be maintained in the bid file available for public record. These details will be provided in the staff report should the item require Board approval.

### Payment and Performance Bond

Per Civil Code §9554, Payment and Performance Bonds are required for contracts over \$25,000 in an amount not less than 100 percent of the total amount payable pursuant to the public works contract. Bid bonds of not less than ten (10) percent of the total bid amount are required for solicitations valued over \$25,000.

### Contract Award

For a Design-Bid-Build project, the contract shall be awarded by appropriate notice to the lowest responsible and responsive bidder whose bid conforms in all material respects to requirements and criteria set forth in the invitation for bids. Design-Build projects are awarded based on best value from firms selected to participate in the solicitation process following the prequalification process.

The recommendation for award is submitted to the Board of Directors inclusive of the project, plans, and specifications in accordance with PCC § 22039, the contract is approved by the Board. The approved contract is then executed by the Fire Chief or designee.

## 13. Emergency Procurement

In the event of an emergency (as defined in Section 20 of this document), when there is a threat to public health, welfare or safety, or other situation that makes compliance with the District competitive procurement procedures contrary to the public interest, the Fire Chief may make, or authorize others to make, emergency procurements of materials, services, or construction. Emergency procurements shall be made with as much competition as is practicable under the circumstances.

The requesting staff of an emergency procurement must provide written evidence justifying the need, and the procurements shall be limited to only those materials, services or construction necessary to satisfy the immediate, critical needs within the specified time limits of 70 hours as defined by the Federal Emergency Management Agency (“FEMA”), in order to qualify for potential reimbursement to the District. All procurements related to the emergency occurring after the specified time limit (currently 70 hours) must abide by the procedures outlined in Section 14 of this policy manual, as required in Title 2 of the Code of Federal Regulations Part 200, if federal or pass-through funds will be utilized.

Emergency procurements exceeding the amount defined in the Roles and Responsibilities Matrix (Exhibit 1) must be executed by the Fire Chief upon approval by the President or Vice President of

the Board of Directors, and a written determination of the basis for the emergency and for the selection of the supplier shall be maintained as a public record. Purchases in excess of the amounts delegated to District Management must be reported at the next Board of Directors meeting and/or for long-duration emergency incidents, reported quarterly.

### Public Works Emergencies

In cases of emergency when public works construction related repair or replacements are necessary and exceed amounts as defined in the Roles and Responsibilities Matrix (Exhibit 1), the Fire Chief or designee has authority to declare an emergency and authorize replacement or repair without adopting plans, specifications, working details, or competitive bidding requirements when it is impracticable to convene a meeting of the Board of Directors prior to addressing the emergency needs. The authorization for the exemption from procurement (requirements by four-fifths vote) will be addressed at next scheduled meeting as required per PCC § 22035 and 22050. In all cases, public works emergency procurements should follow the procedures outlined in Exhibit 3.

## 14. Federally Funded Purchases

The Office of Management and Budget (OMB) implemented the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). The Uniform Guidance provides an authoritative set of rules and requirements for all government agencies receiving federal grants directly from the federal government or from pass-through agencies such as the State of California.

The District must establish and follow the documented procurement policies and procedures which comply with Title 2 of the Code of Federal Regulations (CFR) § 200.318 through § 200.327, known as the Uniform Guidance (as applicable). The District must use its own documented procurement procedures §200.318 (a) which reflect applicable State and local laws and regulations as well as conforming to the applicable Federal law and standards identified in this policy.

All District procurements expending federal funds received directly from the federal government or from a pass-through agency, must comply with the provisions of Title 2 of the Code of Federal Regulations (CFR) § 200.318 through § 200.327. Federal regulations will apply to these purchases unless District procurement procedures are more restrictive. Additional compliance requirements may be applicable as determined by the funding agency and funding source.

The following policies were developed in accordance with the Uniform Guidance:

**Standards of Conduct for All Parties Involved in Procurement** §200.318 (c)(1) – All standards as defined in 3.2 of this policy manual apply to federally funded procurements. The District may take appropriate disciplinary actions for violations of such standards by officers, employees, or agents of the recipient.

**Full and Open competition** §200.319 – All procurement transactions must be conducted in a manner that provides, to the maximum extent practical, full and open completion using one of the methods as defined in the Uniform Guidance based on the most restrictive thresholds as defined in the Uniform Guidance or the District Purchasing Ordinance. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids, or requests for proposals must be excluded from competing for such procurements.

**Specifications** §200.319 (d)(1) - The specifications must incorporate a clear and accurate description of the technical requirements for the material, product, or services required. The descriptions in competitive

procurements must not contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to set forth minimum essential characteristics and standards for conformity for the intended use. Any specific features which must be met by the offerors must be clearly stated along with any requirements the offerors must fulfill and any other factors that will be used in evaluating the bids or proposals.

**Procurement of Recycled Materials** §200.323 – When the purchase price of items exceeds \$10,000, or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000, the District must procure only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. Documentation of the determination are to be maintained with the file.

**Minority Businesses, Women’s Business Enterprises and Labor Surplus Area Firms** §200.321 – The District must take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible. The affirmative steps include:

1. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourages participation by small and minority businesses, and women’s business enterprises;
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in the preceding paragraphs (1) through (5).

**Use of Pre-Qualified lists** §200.319(e) – Procurements may not use standing, pre-qualified lists, unless the list is open for new qualifications during the solicitation period and the list includes enough qualified sources to ensure maximum open and free competition. The use of a two-step procurement process where the first step is a qualification process specific to the procurement is allowable under the Uniform Guidance.

**Local Preference or Geographical Exclusion** §200.319 (c) – A local preference shall not be applied when evaluating bids or proposals. Geographical exclusions or qualifications must not be included in the scope of work. *The only exception is for professional architectural and engineering services where the use of a geographical selection criterion resulted in an acceptable number of qualified firms.*

**Domestic preferences for procurements** §200.322 - As appropriate and to the extent consistent with law, the District should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

### **Considerations Prior to Solicitation**

*Is the acquisition necessary?* §200.318 (d) – The District must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

*Are state and local intergovernmental agreements available?* §200.318 (e) – The District encourages entering into state and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services in an effort to foster greater economy and efficiency.

*Has Federal excess and surplus property been considered?* §200.318 (f) – The District encourages the use of Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

*Value Engineering in Construction contracts.* §200.318 (g) – The District encourages the use of value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

### Methods of Procurement Title 2 CFR§200.320

#### **Simplified Purchasing Procedures**

*Micro-purchase* §200.320(a)(1)(iv)(A) – Non-Federal entities may establish a threshold higher than the micro-purchase threshold identified in the Federal Acquisition Regulation (\$10,000) in accordance with the requirements of this section. The District self-certifies a threshold of \$50,000. The District has elected to implement a micro-purchase threshold of \$50,000 to provide for uniformity between District and Federal procurement requirements for those purchases valued between \$10,000 and \$50,000. As a low-risk auditee, the District qualifies for a micro-purchase threshold of \$50,000 and maintains the required documentation.

The District threshold for competition is more restrictive than the Federal threshold. As such, purchases between \$10,000 and \$50,000 require a request for quotes from three (3) qualified sources as practicable. Award of a purchase up to \$50,000 may be made with no solicitation required provided that District policies are followed and, the agency determines reasonableness of price and awards the contract. The Davis-Bacon Act is applicable for construction contracts in excess of \$2,000.

*Small Purchases* §200.320(a)(2) – The District threshold is more restrictive (less than \$50,000) requires request for quotes from three (3) qualified sources as practicable. Federal threshold (currently \$250,000 or less), requires that quotes must be obtained from an adequate number of qualified sources (no less than three). The District will follow the more restrictive requirements when utilizing federal funds.

**Formal Procurement Procedures** - Federal threshold (over \$250,000), Since the District threshold is more restrictive, a purchase with federal funding over \$50,000 will be processed using one of the formal procurement methods provided below. Solicitations should clearly state all the requirements the supplier must fulfill in order for the bid or proposal to be considered by the District.



**Invitation for Bid (Sealed Bid) §200.320(b)(1)**

- *Requirements* – complete technical specifications are provided, an independent estimate is required before receiving bids or proposals, solicit bids from adequate number of sources (requirement two or more responsible bidders are willing to participate), provide sufficient time for responses, publicly advertise solicitation, public opening, fixed price contract, award to lowest responsive and responsible bidder.

**Request for Proposals (Competitive Proposal) §200.320(b)(2)**

- *Requirements* – scope of work provided, solicit proposals from adequate number of qualified sources, solicitation must be publicized and include all factors for evaluation and their relative importance, the RFP must contain written method for conducting technical evaluations received and for ranking proposals, award contracts to the responsible firm whose proposal is most advantageous to the program with price and other factors considered.
- *Qualification Based Selection* may be used for architectural/engineering professional services where by qualifications are evaluated and the most qualified competitor is selected subject to negotiation of fair and reasonable compensation. Price is not considered as a selection factor, however this is only applicable to procurement of architectural/engineering professional services.

**Non-Competitive Bids or Proposals §200.320(c)** – Procurement by noncompetitive proposals may only be used when one or more of the following situations apply:

- After a solicitation of a number of sources is completed, competition is determined inadequate.  
§200.320(c)(5) When only a single bid or proposal is received in response to a solicitation, profit margin must be negotiated as a separate item. *Language must be included in applicable solicitations allowing such negotiations.*
- Item is available only from a single source.
- Public exigency or emergency for the requirement will not permit delay resulting from a competitive solicitation. *The Federal government defines an emergency as the first 70 hours after a disaster.*
- Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the District.

**Cost/Price Analysis §200.324(a)** – Procurements over the simplified acquisition threshold (including any contract amendments), must have a cost/price analysis completed and documented. For competitive procurements above the simplified acquisition threshold, the cost/price analysis must be completed prior to issuing the solicitation. The cost analysis is the review and evaluation of each element of cost to determine whether it is reasonable, allocable to the grant program and an allowable cost for the grant program. Price analysis involves a comparison of marketplace prices.

**Types of Contracts** – Acceptable types of contracts that may be awarded are: lump sum, unit price, cost plus fixed fee, time and materials with a not to exceed amount, and intergovernmental agreements.

§200.323(d) Cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

**Use of Time and Material Type Contracts §200.318 (j)(1)** – Prior to entering into a time and materials type contract, a determination must be made and documented that no other contract type is suitable. Time and materials contracts must establish a maximum price that the contract exceeds at its own risk. This type of contract defines cost as the actual cost of materials, and the direct labor

hours charged at a fixed hourly rate that reflect wage, general and administrative expenses and profit. §200.318 (j)(2) The District must assert a high degree of oversight on such contract to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

**Contract Award** §200.318 (h) The District must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. Multiple awards can only be made from an IFB or RFP when requirements are separated into lots, regions, or other established distinctions between work to be performed under the resulting contracts.

**Bonding Requirements** §200.326 – Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the District to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds the simplified acquisition threshold. For those contracts or subcontracts exceeding the simplified acquisition threshold, the Federal awarding agency may accept the bonding policy and requirements of the District, provided the Federal awarding agency has made a determination that the Federal Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

1. A bid guarantee from each bidder equivalent to five (5) percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
2. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
3. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.

**Contract Provisions** §200.327 – In addition to other provisions required by the Federal agency, state or the District, the following provisions must be included in all applicable procurements as provided in Appendix II to Part 200:

- a. Contracts in excess of the simplified acquisition threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.
- b. All contracts in excess of \$10,000 shall contain suitable provisions for termination for cause and for convenience by the District, including the manner by which termination shall be effected and the basis for settlement.
- c. Equal Employment Opportunity – Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3, in excess of \$10,000, must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity"
- d. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). – When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by the District must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144 and

- 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The District must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The District must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145) as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or sub-recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The District must report all suspected or reported violations to the Federal awarding agency.
- e. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) – Where applicable, all contracts awarded by the District in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily on the open market, or contracts for transportation or transmission of intelligence.
  - f. Rights to Inventions Made Under a Contract or Agreement – If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2(a) and the District wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under the "funding agreement," The District must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
  - g. Clean Air Act and Federal Water Pollution Control Act as amended – Contracts of amounts in excess of \$150,000 must contain a provision that requires the District to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
  - h. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (43 U.S.C. 6201).
  - i. Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award must not be made to parties listed on the government-wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180

that implement Executive Orders 12549 and 12689 “Debarment and Suspension.” The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory District other than Executive Order 12549. This applies to all federally funding contracts regardless of the threshold.

- j. Byrd Anti-Lobbying Amendment certification must be obtained from all Offerors for procurements in excess of \$100,000. The text provided below will be added as a submittal requirement or will be otherwise obtained as applicable: *“Offeror certifies that it and its subcontractors will not and have not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. List as a disclosure any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award by Offeror or Offeror’s subcontractors.”*
- k. Procurement of recovered (recycled) materials – The District and its contractors must comply with the Solid Waste Disposal Act § 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of § 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. When the purchase price of items exceeds \$10,000, or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000, the District must procure only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

Addition provision needs to be added to solicitations allowing for price and profit margin negotiation in the case that only one bid is received in compliance with §200.323.

**Documentation/Recordkeeping** §200.318 (i)– The District must maintain records explaining the rationale for the method of procurement, selection of contract type, contractor selection, basis for price, cost/price analysis, and lease versus purchase alternatives. The documentation will be maintained in the solicitation folder in the Purchasing Section in accordance with the District retention policy.

§200.325 (b) The District shall, on request, make available for the Federal awarding agency, pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply.

1. The District’s procurement procedures or operation fails to comply with the procurement standards in the Federal awarding agency's implementation of this Circular.
2. The procurement is expected to exceed the “Simplified Acquisition Threshold” (currently \$150,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation.
3. The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product.
4. The proposed award over the Simplified Acquisition Threshold is to be awarded to other than the apparent low bidder under sealed bid procurement.
5. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the Simplified Acquisition Threshold.

**Oversight** – §200.318 (b) The District must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

## 15. Sustainable Procurement

The District encourages procurement that takes into account the economic, environmental and social impacts of the District’s spending. Whenever practicable, procurements should be planned in such a way that allows the District to meet its needs for goods, services, construction works and utilities while achieving value for money on a whole-life basis in terms of generating benefits not only to the organization, but also to society and the economy, while remaining within the carrying capacity of the environment.

Consistent with the requirements of PCC §22150-22154, the District promotes the use of recycled/recyclable supplies and materials, reusable products, and products designed to be recycled. The use of such materials or products to the maximum extent practicable, financially feasible, and allowable within the specifications is encouraged provided that the performance or operational effectiveness of the product or material is not detrimentally affected, or that health and safety is not negatively impacted by the use of such products or materials.

### Sustainable Procurement Guidelines

1. Waste prevention, recycling, market development and use of recycled/recyclable materials through lease agreements, contractual relationships and purchasing practices with suppliers, contractors, businesses and other governmental agencies is encouraged.
2. Adopt waste prevention, recycling and use of recycled supplies/materials as a priority of the District.
3. Generate less waste material by reviewing how supplies, materials and equipment are manufactured, purchased, packaged, delivered, used, and disposed.
4. Procure recycled material when practicable.
5. Ensure compliance with Title 24 certification requirements for lighting projects and Energy Star ratings are present on all new appliances so as to reduce the overall energy usage of the District and increase the efficient use of available resources. When practicable utilize LEED certification standards as a model for new construction.

## 16. Protests

Throughout the solicitation and contracting process, Procurement staff and stakeholders are to follow procurement best practices to avoid or mitigate potential protests. However, any actual or prospective bidder (aka “interested party”) who is aggrieved in connection with the solicitation or award of a contract may file a protest in accordance with the process described in the District Purchasing Ordinance (Article IX).

The Administration Officer has the authority to settle and resolve protests and contract claims. All protests must be in writing and include the name, address, telephone number, email and signature of the of the interested party; the solicitation or contract number; a detailed statement of the legal and factual grounds of the protest, including copies of relevant documents; and the form of relief requested.

Protests concerning solicitations should be filed not less than five (5) working days before the solicitation due date. Protests concerning contract awards shall be filed no later than seven (7) days after issuance of the intent to award. The Administration Officer, without waiving the District’s right

to dismiss the protest for lack of timeliness, may consider a protest that is not filed timely. The Administration Officer shall give notice of the protest to the successful contractor if award has been made or, if no award has been made, to all interested parties. Material submitted by a protestor shall not be withheld from any interested party except to the extent that the withholding of information is permitted or required by law.

While a protest is in progress, the District may proceed with the solicitation or the contract unless the Administration Officer determines there is a reasonable probability that the protest will be sustained or that the stay of procurement is not contrary to the substantial interests of the District. The Administration Officer shall issue a written decision to the protestor within 14 days, including an explanation of the basis of the decision and a statement of the available appeals process. If the protest is sustained, in whole or part, the Administration Officer shall implement a remedy appropriate to the circumstances.

A protestor may appeal the decision of the Administration Officer to the Fire Chief within seven (7) days from the date the decision is issued. The appeal shall contain all the information originally set forth in the protest, a copy of the decision of the Administration Officer; and the specific factual or legal error in the decision of the Administration Officer that forms the basis of the appeal. A decision by the Fire Chief shall be final.

## 17. Staff Reports

Staff reports must be submitted for contract awards requiring approval by the Board of Directors as outlined in the Roles & Responsibilities Matrix (Exhibit 1). The staff report should contain at a minimum the following sections: Summary, Recommended Action, Background, and Attachments (if needed).

The **Summary** section briefly describes the purpose of the report. Staff reports requesting the renewal of a previously approved contract, regardless of the procurement type, should reference “amendment”, “continuation” or “previously approved” status in the title and body of the report. The **Recommended Action** specifies terms such as duration, amount, and renewal conditions that must be adhered to upon execution of the contract. The **Background** should consist of a detailed description of the items or services to be provided, the solicitation method, analysis of the evaluation, and anticipated results of the action. **Attachments** should include a summary page containing details of all bids received, the staff recommendation for award, and any other pertinent information as well as the Contract (if any) that will be awarded.

For public works contracts, staff reports must include a summary of references checked, a bid tabulation comparing the low-bid pricing to the engineer’s estimate and all other bids submitted, and a summary of past and current projects.

**Any contract resulting from the solicitation must be approved by District legal counsel in advance.**

## 18. Contract Representative Duties

The Contract Representative (District staff) is responsible for contract administration following an award. The duties of the Contract Representative outlined in the professional services contract include providing instructions, approving modifications to the work being performed or the project timeline, along with receiving project reports and retaining all documents drawings, specifications, reports, records, documents and other materials prepared by the Firm in the performance of the contract.

The Contract Representative must ensure vendor compliance with any pricing agreements in effect, approve payment of invoices, monitor the progress of the project, inspect and accept any goods or services provided by the vendor, and provide timely feedback of vendor performance.

The Contract Representative may also request that the Administration Officer direct the supplier to perform services in addition to those specified in the contract. Any additional compensation not exceeding one- hundred thousand dollars (\$100,000) annually must be approved by written contract. Any greater increase must be approved in writing by the District Board of Directors as required in the Roles and Responsibilities Matrix (Exhibit 1).

Contract administration can take many forms but typically requires the support of the Administration Officer for renewals, extensions, amendments, and cures. Compliance issues must be well documented by the Contract Representative and brought to the attention of the Administration Officer in a timely manner.

## 19. Surplus

Fixed/controlled assets and other items owned by District that are considered obsolete or no longer usable may be declared surplus. The Administration Officer is responsible for determining the most cost-effective manner of disposing of surplus property, including public auction or other public sale; vendor trade-in; or donation or sale to other government agencies or non-profit organizations.

Surplus property may not be sold to District employees unless the general public is given the same opportunity; therefore, District employees may only obtain surplus property through public sale.

Surplus items may be donated to another government agency or non-profit organization, rather than sold, upon approval from the Fire Chief (for items valued at \$5,000 or less) and/or the Board of Directors (for items valued at more than \$5,000).

Surplus equipment must have all District identification removed prior to disposal. Surplus vehicles must have all District identification and special equipment removed prior to disposal. Support vehicles will have light bars, radios and all lettering removed. Operations vehicles will have Code 3 equipment, radios and all lettering removed.

Unless otherwise provided, all proceeds from the sale of surplus property will be deposited into the District's general fund.

## 20. Definition of Key Terms

**“Aggregate Amount”** is the total amount that has been spent with a supplier. It could be on a specific contract or for a specific item. The aggregate amount determines if a procurement will require competition and or Executive Committee or Board approval.

**“Agreement”** is an understanding or arrangement between two or more parties. Also, see “Contract” and “Purchase Order.”

**“Best Interest”** means the discretionary rationale a purchasing official uses in taking action most advantageous to the agency when it is impossible to delineate a specific response by law or regulation adequately.

**“Best Value”** is a method in a competitive sealed proposal process, also known as an RFP, which permits the evaluation of criteria besides pricing to determine the best overall value to the District. The evaluation criteria must be stated in the solicitation.

**“Blanket Order (Blanket Purchase Order) (BO)”** is a price agreement between the District and a supplier that allows for authorized District employees to purchase specified goods and/or services at pre-established prices, dollar limits and/or other terms and conditions throughout the term of the agreement (unusually one year or longer). The BO may be renewable.

**“Board of Directors (Board)”** means the Fresno County Board of Directors.

**“Bonds”** are forms of insurance to protect the District on a project. Standard purchasing related bonds include bid bonds, performance, and payment bonds to guarantee the bidder will honor their bid, enter into a contract, perform and complete all work contracted for, and pay all material suppliers and subcontractors for services and materials provided. Note: PCC§ 7103 requires all public work projects \$25,000 or greater to require a payment bond not less than 100 percent of the total contract amount.

**“Brand Name or Equal”** refers to using a brand name to describe the standards of quality, performance, and other characteristics needed to meet the requirements of a solicitation, and invite offers for alternative, but equivalent products from a bidder.

**“Business”** means any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or other private legal entity.

**“California Uniform Public Construction Cost Accounting Act (CUPCAA)”** is an alternative method for public project work performed or contracted by public entities in California as defined by Public Contract Code § 22000 et seq. The District adopted the alternative informal bidding procedures on April 19, 2023, establishing informal bidding procedures for public works. Details of the bid thresholds and requirements can be found in PCC § 22000-22045.

**“Capital Improvement”** means an outlay of funds for the acquisition or improvement of real property, which extends the life or increases the productivity of the real property.

**“Change Order”** is a written document signed and issued by the Administration Officer or their designee, directing the supplier or contractor to make a change or modification to a purchase order or contract. Also called an amendment, contract amendment, or contract modification. In some instances, a change order will require Board approval (see the Roles and Responsibilities Matrix (Exhibit 1)).

**“Chief Procurement Officer (CPO)”** is the person appointed by the Fire Chief to be the central procurement and contracting authority for the District. At the District, this is the Administration Officer.

**“Competition”** refers to various solicitation and bidding processes used by District to ensure that all suppliers have an equal opportunity to obtain District business. Purchases made with federal and state grant funds (i.e., FEMA, UASI, etc.) can have additional restrictions (such as lower dollar thresholds than District’s requirements) for requiring competition.

**“Competitive Negotiation”** is a method for acquiring goods, services, and construction for public use.



**“Conflict of Interest”** is a situation where the personal interests of a contractor, public official, and or designated employee are/is, or appear to be, at odds with the interests of the agency.

**“Confirming Purchase Order”** A purchase order issued “after the fact” (goods or services have been received) restating the terms and conditions that were agreed to by the department. Per the Uniform Commercial Code, all contracts in excess of \$500 must be in writing.

**“Construction”** The process of building, reconstructing, erecting, altering, renovating, improving, demolishing, or repairing any District owned, leased, or operated facility. Construction does not generally include maintenance work, which is defined to include routine, recurring, and usual work for the preservation or protection of any District owned or operated facility for its intended purposes. However, the California Labor Code includes routine maintenance, repair, or operation (MRO) of existing real property in their definition of construction and imposes additional requirements on contractors performing such work. See Public Works information below.

**“Construction project management”** means those services provided by a licensed architect, registered engineer, or licensed general contractor.

**“Contract”** means all types of District agreements, regardless of what they may be called, (purchase order, professional services agreement, maintenance agreement, blanket order, etc.) for the procurement of materials, maintenance, services, public works, construction, or the disposal of materials

**“Contract claim”** means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, payment in a sum certain, adjustment or interpretation of contract terms, or other relief arising under or relating to the contract.

**“Contract representative”** means any person duly authorized to participate in the source selection process, including but not limited to; preparing specifications and written determinations, conducting negotiations, making award recommendations, and administering contracts.

**“Contractor”** shall mean any corporation, partnership, individual, sole proprietorship, joint venture, or other legal entity which enters into a contract to sell commodities, services, or construction services to the District.

**“Consultant”** means a person or firm who provides professional or expert advice and/or recommendations, such as architects, engineers, attorneys, etc.

**“Cooperative Agreement”** An established (competitively bid) contract that is available for government agencies to use, without the need to conduct their own solicitation

**“Cooperative Purchasing”** means procurement conducted by, or on behalf of, more than one public procurement unit to get the benefit of volume purchasing discounts and reduction of time and cost.

**“Cost”** means the aggregate cost of all materials and services, including labor performed by force account.

**“Days”** unless otherwise specified, means calendar days and shall be computed by excluding the first

day and including the last working day, unless the last day is a holiday, and then it is also excluded.

***“Delegated Purchasing Authority”*** Is the authority to obligate the District to a purchase that the Administration Officer has delegated to a specific District employee, for example, by use of a CAL-Card).

***“Design professional”*** means an architect or engineer, or both, duly licensed for professional practice, which may be employed by an owner for the purpose of designing a project.

***“Design-bid-build”*** means a project delivery method in which:

- a) There is a sequential award of two (2) separate contracts.
- b) The first contract is for design services.
- c) The second contract is for construction.
- d) Design and construction of the project are in sequential phases.
- e) Finance services, maintenance services, and operations services are not included.

***“Design-build”*** means a project delivery method in which:

- a) There is a single contract for design services and construction services.
- b) Design and construction of the project may be in sequential or concurrent phases.
- c) Finance, maintenance, operations, preconstruction, and other related services may be included.

***“Designee”*** means a duly authorized representative of the Board of Directors, Fire Chief, or Administration Officer.

***“Discussions”*** means communication with an offeror, bidder, or respondent for the purpose of:

- a) Eliminating minor irregularities, informalities, or apparent clerical mistakes in the offer or response;
- b) Clarifying any offer or response to assure full understanding of, and responsiveness to, solicitation requirements;
- c) Resolving minor variations in contract terms and conditions; or
- d) Establishing the competency or financial stability of any offeror, bidder, or respondent."

***“Disposal of material”*** means the sale of surplus property by public auction, including online electronic auction, competitive sealed bidding, trade-in, recycling, or other appropriate method authorized by this policy.

***“District”*** means the Fresno County Fire Protection District

***“Electronic”*** means electrical, digital, magnetic, optical, electromagnetic, or any other similar technology.

***“Emergency”*** means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

***“Emergency for Public Projects”*** shall have the meaning provided in Public Contract Code § 22035 and 22050.

***“Emergency Purchase”*** is a purchase made in response to a sudden, unexpected occurrence that

poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services as defined in the District Purchasing Ordinance. In an emergency situation, compliance with standard procurement practice may be impracticable; however, Purchasing must be notified. By definition, emergency purchases are those made within the first 70 hours following an event and are not the same as an “urgent” need.

**“Encumbrance”** Committed funds for a specific purchase, created when a PO is issued. The money for the purchase is committed when a PO is issued and is no longer available in the budget for other purchases. Blanket Orders are not encumbered.

**“End User/Requestor”** means the agency employee who is requesting the procurement be made.

**“Equal or Equivalent”** is a phrase used to indicate the acceptability of products or services that, although not identical to a given brand name or model, are functionally equivalent for the purpose to be used by the District, and therefore may be bid as an alternate to the specification called out in the solicitation.

**“Facility”** means any plant, building, structure, ground facility, real property, street, highway, or other public work improvement.

**“Filed”** means delivery to the contract officer or to the Administration Officer, whichever is applicable. A time and date of receipt shall be documented in a verifiable manner for purposes of filing.

**“Finance services”** means financing for a construction services project.

**“Firm”** means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, landscape architecture, engineering, environmental services, land surveying, or construction project management.

**“Force account”** means work performed on public projects by the District’s regularly employed personnel, including but not limited to labor, equipment, materials, supplies, and subcontracts of District. Per Public Contract Code PCC 22032, the use of force account is currently limited to projects of \$75,000 or less effective January 1, 2025.

**“Governing instruments”** means those legal documents that establish the existence of an organization and define its powers, including articles of incorporation or association, constitution, charter, and by-laws.

**“Grant”** means the furnishing of assistance, whether financial or otherwise, to any person to support a program authorized by law. Grant does not include an agreement whose primary purpose is to procure a specific end product, whether in the form of materials, services, or construction. A contract resulting from such an agreement is not a grant but a procurement contract.

**“Informal Bidding Procedures”** are those used for small dollar purchases of goods or services, as described in the District Purchasing Ordinance, or public projects within the limits listed in the PCC § 22302, which do not require formal, sealed competitive solicitations. The requirements of informal solicitations for public works are described in PCC § 22034. All projects greater than the informal bid thresholds require formal solicitations and may require District Board approval.

**“Interested party”** means an actual or prospective bidder, respondent, or offeror whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract, or by the failure to award a contract. Whether an economic interest exists will depend upon the circumstances of each case. An interested party does not include a supplier, sub-consultant, or subcontractor to an actual or prospective bidder, respondent, or offeror.

**“Invitation for Bids (IFB)”** A formal competitive source selection method used when specifications and price are the only evaluation and awarding factors, and the lowest, responsive and responsible bidder is awarded the contract. Typically used for the purchase of goods greater than \$50,000 (formal bids).

**“Local Bidder”** means a bidder who regularly maintains a place of business, or maintains an inventory of materials, supplies, or equipment for sales in, and is licensed by, or pays business taxes within the County of Fresno, California.

**“Maintenance work”** shall have the meaning provided in PCC § 22002(d), as that section may be amended from time to time, and shall include the following:

- (a) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.
- (b) Minor repainting.
- (c) Resurfacing of streets and highways at less than one inch.
- (d) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.

Note: Labor Code § 1771 provides specific requirements when contracting for these services.

**“Materials”** means all property, including but not limited to equipment, supplies, printing, insurance, and buildings but does not include land, a permanent interest in land, or leases of real property.

**“Minor informalities or irregularities”** means mistakes, or non-judgmental errors, that have a negligible effect on the price, quantity, quality, delivery, or other contractual terms whereby the waiver or correction of such mistakes does not prejudice other bidders, offerors, or respondents.

**“Negotiations”** means an exchange of information or any form of cooperation during which the offeror and the District may alter or otherwise change the conditions, terms, and price, unless prohibited, of the proposed contract.

**“Person”** means any corporation, consultant, business, individual, union, committee, club, other organization, or group of individuals.

**“Piggyback”** refers to a type of cooperative purchasing in which another governmental agency has completed a sealed bid procurement for the item(s) needed, and arranged as part of their resulting contract for other public purchasing agencies to be able to purchase from the selected vendor under the same terms and conditions as itself, eliminating the need for this particular item to be bid again.

**“Potential Bidder or Offeror”** means a person who, at the time the agency issues a solicitation or proposes to award a contract, is engaged in the sale or lease of goods or the services of the type to be procured under the contract, and who at such time is eligible and qualified in all respects to perform that contract.

***“Preconstruction services”*** means professional or technical services during the design phase of a project.

***“Prequalification”*** means a procedure to prequalify products or vendors and limit consideration of bids or proposals to only those products or vendors which have been prequalified through the establishment of a list of products that have been tested, or contractors whose capability to provide a service has been evaluated and approved based on written prequalification procedures.

***“Prevailing Wage”*** The base pay rate established by the State of California and Federal law to ensure that all construction workers engaged in public works projects are paid adequately for the craft they are working in. It is the combination of an hourly pay rate plus fringe benefits. All public works projects greater than \$1,000 are subject to include prevailing wages. This also applies to maintenance work. See LC § 1771

***“Procurement”*** means buying, purchasing, renting, leasing, or otherwise acquiring any materials, services, or construction. Procurement also includes all functions that pertain to the acquisition of any material, service, or construction, including but not limited to the description of requirements, selection and solicitation of sources, preparation, negotiation, and award of contract, and all phases of contract administration.

***“Professional design services”*** means architect services, engineering services, geologist services, landscape architect services, and land surveying service or any combination of those services that are legally required to be accomplished, reviewed, and approved by professionals registered to practice in the pertaining discipline in the State of California.

***“Professional engineer”*** refers to a person engaged in the professional practice of rendering service or creative work requiring education, training, and experience in engineering sciences and the application of special knowledge of the mathematical, physical, and engineering sciences in such professional or creative work as consultation, investigation, evaluation, planning or design of public or private utilities, structures, machines processes, circuits, buildings, equipment or projects, and supervision of construction for the purpose of securing compliance with specifications and design for any such work.

***“Professional service”*** means a unique, technical function performed by an independent contractor or firm qualified by education, experience, and/or technical ability to provide services and may include consulting, marketing analysis, banking services, auditing, software development/design, and editing services.

***“Property”*** means controlled fixed assets including supplies, materials, or equipment with a useful life of more than one (1) year and a value greater than \$5,000.

***“Property transfer”*** means the transfer of controlled fixed assets between using agencies or transfer of property to or from the surplus property program.

***“Proprietary Specification”*** means one that restricts the acceptable products or services to those of one manufacturer or vendor. A common example would be a specification by brand name or for a patented product, which excludes consideration of proposed “equals” or “equivalents.”

***“Public notice”*** means the distribution or dissemination of information to interested parties using

reasonably available methods. Such methods may include electronic mailing lists and a website maintained for that purpose.

**"Public project"** shall have the meaning provided in PCC § 22002(c), as that section may be amended from time to time, and shall include the following:

(a) Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased or operated facility.

(b) Painting or repainting of any publicly owned, leased or operated facility. "Public project" does not include maintenance work.

**"Public works contract"** means an agreement for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvements of any kind.

**"Public Works/Public Project"** as used in Labor Code § 1720(a) defines public works as construction and other enumerated construction-related tasks including "maintenance" (see Labor Code § 1771), such as construction, alteration, demolition, installation, maintenance, or repair work, done under contract, and paid for in whole or in part out of public funds, and may include preconstruction and post-construction activities related to a public works project.

**"Purchase Order (PO)"** A legally binding written contract, encumbering funds between the District and a supplier documenting what the supplier will provide, including cost, delivery schedule, terms of payment, and delivery charges.

**"Purchasing Authority"** refers to the authorization to obligate District money. The Administration Officer is the central procurement and contracting authority for the District and may delegate purchasing authority to designees.

**"Registered supplier"** means a supplier, vendor, or contractor that has registered as an interested party to do business with the District.

**"Request for Information (RFI)"** Informal request for information from the vendor community used to better develop specifications and to gauge interest in the providing services to the District. There is no award made from the RFI process.

**"Request for Proposals (RFP)"** A formal competitive source selection method used when other factors besides price will be used in the evaluation of the proposals. This method is typically used for services or when it is unknown what product best meets the District's needs. The factors that will be evaluated must be included in the initial solicitation. Further negotiations with the top-ranked firms are allowable in this source selection method.

**"Request for qualifications"** refers to all written or electronic documents, whether attached or incorporated by reference, used to solicit qualifications from potential vendors.

**"Request for Quotes (RFQ)"** An informal competitive source selection method for purchases of materials or services (not construction) less than \$50,000. Detailed specifications are required, and the solicitation can be posted electronically or emailed, requiring less paperwork and faster turnaround than a formal sealed bid.

**"Responsible bidder, offeror, or respondent"** means a person who has the experience, integrity, quality, perseverance, reliability, capacity, facilities, equipment, and financial resources to perform

the contract requirements fully.

**“Responsive bidder”** means a person who submits a bid that conforms in all material respects to the requirements and criteria in the solicitation.

**“Scope of Work”** The division of work to be performed under a contract or subcontract in the completion of a project or group of projects, typically broken out into groups of activities with specific tasks associated within each group.

**“Services”** means the furnishing of labor, time, or effort by a contractor, consultant, subcontractor, or sub-consultant, which does not involve the delivery of a specific end product other than required design documents or reports and performance. Services include but are not limited to; consulting, personal, professional, and legal counsel, auditing, technical, professional design, and construction management. They do not include employment agreements or collective bargaining agreements.

**“Simplified Acquisition Threshold”** means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods, as set forth in Title 2 of the Code of Federal Regulations, Part 200, as it may be amended from time to time.

**“Single Source”** refers to a procurement entered into after soliciting and negotiating with only one supplier, usually because of standardization, time constraints, the technology required, or the uniqueness of the product or service provided. A single source differs from a “sole source” in that the single source is not the **only** available product or supplier for the requested procurement but is being used based on special circumstances or perceived superiority to competing products or services.

**“Sole Source”** means a product or service that is available from **only** one supplier as a result of unique performance capabilities, manufacturing processes, compatibility requirements, or market conditions.

**“Solicitation”** A request to vendors to provide competitive offers for a commodity or service needs. This can also refer to the documents that are included in each solicitation. There are multiple types of solicitations, including RFQ, RFP, IFB, and RFI. See the definitions of each for further detail.

**“Source Selection Method”** The type of purchasing process and/or solicitation to be used for the purchase of a specific good or service.

**“Specification”** Detailed description of the physical or functional characteristics or the nature of supplies, equipment, service, or construction. Some examples include size, weight, performance parameters, safety requirements, etc.

**“Splitting of Purchase”** means splitting a purchase into smaller orders for the purpose of evading a policy rule (such as a CAL-Card limit) or bidding threshold. This practice is strictly prohibited by Procurement and Accounting standard codes of conduct.

**“Subcontractor or sub-consultant”** means a person who contracts to perform work or render service to a contractor or consultant as defined by this section or to another subcontractor or sub-consultant as a part of a contract with the District.

**“Surplus property”** means property no longer needed by the District, property in poor or non-working condition, or property that is a by-product (e.g., scrap metal, used tires and oil, etc.).

**“Urgent Purchase”** A purchase made to fill an immediate, unexpected need. Purchasing staff will make every effort to process urgent purchases within the District Purchasing Ordinance and the law governing the type of purchase.

**“Written or in writing”** means the product of any method for forming characters on paper or other material or viewable screen, which can be read, retrieved, and reproduced, including information that is electronically transmitted and stored.

## 21. Exhibits

[Exhibit 1: District Procurement Roles/Responsibilities/Authorities Matrix](#)

[Exhibit 2: District Purchase Process and Thresholds – Standard](#)

[Exhibit 3: District Purchase Process and Standards – Public Works](#)



# Fresno County Fire Protection District

## Roles/Responsibilities/Authorities

All authority rests with the Board of Directors unless it is delegated by statute or board action. When delegated, these authorities are further defined by contracts, resolutions, policies, or other board actions. The following chart defines the District’s levels of authority. The Board of Directors has the authority to change these delegations within the parameters of legal and contractual restrictions.

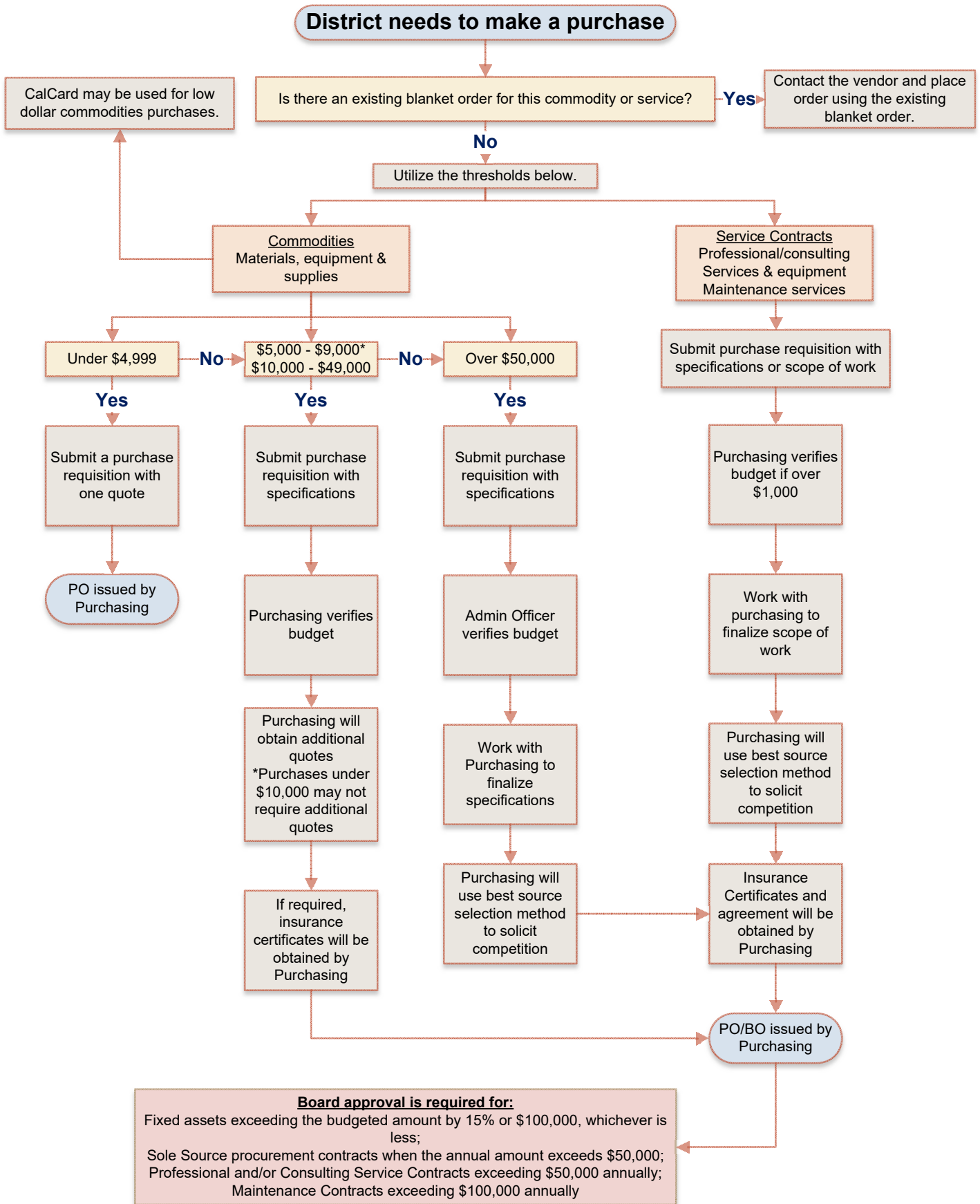
	<b>District Management</b>	<b>Board of Directors</b>
Commodity purchases (materials, equipment & supplies)	Approve purchase of all commodity contracts	Approve commodity purchases with the annual adoption of the budget, no further approval is required.
Fixed asset purchases	Approve purchase of all fixed asset contracts within the budgeted amount approved by the Board of Directors.	Approve purchase of fixed assets included in the annual budget with the annual adoption of the budget, no further approval is required.
Professional and Consulting Services Contracts – <i>general.services.and.consulting.including.architectural?engineering?and.project.management.services;</i>	Approve all professional and consulting service contracts for annual contract where the annual value to any one firm is less than \$100,000. Approve multi-year contracts (maximum five years) so long as the total annual contract amount does not exceed management delegated authority.	Approve all professional and consulting service contract value to any one firm exceeds \$100,000. Approve Contract extensions beyond the initial contract term and allowable contract extensions (exceeding five years).

<p>Contract Duration</p> <p>Five years (three years plus two additional oneyear periods)</p> <p><i>Applies.to.contracts.exceeding.small.purchases.as.defined.in.the.Purchasing.Ordinance;</i></p>	<p>Approve extension of contracts within management delegated authority for contracts with a duration up to five years.</p>	<p>Approve extension of contracts exceeding five years or contracts that exceed management delegated authority</p>
<p>Maintenance Service Contracts - <i>includes.repair.and.maintenance.for.facilities.™.equipment</i></p>	<p>Approve all maintenance service contracts for annual contract where the annual value to any one contractor is less than \$200,000. Approve multi-year contracts (maximum five years) so long as the total annual contract amount does not exceed management delegated authority. Approve maintenance service contract increases within limits delegated herein to management.</p>	<p>Approve all maintenance service contracts in which the annual value to any one contractor exceeds \$200,000.</p>
<p>Change Orders/ Modifications Professional &amp; Consulting Service Contract Amendments (<i>Non.Public. Projects</i>)</p>	<p>For professional &amp; consulting service contracts within the limits delegated herein to management, approve change orders in any amount so long as the revised amount remains within the delegated limits. For contracts originally approved by the Board of Directors, approve change orders within the original scope of work.</p>	<p>Approve change order/modifications to any contracts with original or revised values that exceed those amounts delegated herein to Authority Management.</p>
<p>Emergency Purchases (commodity and service contracts)</p>	<p>Approve emergency purchases, as defined in the Purchasing Ordinance, up to the amounts delegated to</p>	<p>Purchases in excess of the amounts delegated to management require prior approval of Board President or Board</p>

	Management herein for purchases following standard selection process.	Vice President and must be reported at the next Board meeting and/or for long-duration emergency incidents, reported quarterly.
Sole Source Contracts	Approve any sole source contract less than \$50,000 annually, so long as acceptable justification is established by management per the requirements in the Purchasing Ordinance.	Approve any sole source contracts when aggregate amount exceeds \$50,000, so long as acceptable justification is established by management per the requirements in the Purchasing Ordinance. Sole source justification form is a required attachment to the staff report.
Public Projects – Informal & Formal as set forth in the California Public Contract Code Section 22032.	Approve all informal public projects in amounts up to the statutory limits authorized by Public Contract Code Section 22032	Approve all formal public works contracts in amounts at or above the statutory limits authorized by Public Contract Code Section 22032
Public Projects - Change Orders/ Modifications for formal and informal Public Projects as set forth in Public Contract Code Section 22032	For informal public projects within the original scope of work, approve change orders in any amount so long as the revised total remains below the statutory limits authorized by Public Contract Code Section 22032(b). For formal public projects originally approved by the Board of Directors, approve change orders within the original scope of work up to 15% of the original contract amount.	Approve change order/modification on formal public projects over 15% of original contract amount.
Public Projects – Emergency as defined in Public Contract Code Sections 22035 and 22050	Fire Chief or designee has authority to declare an emergency and authorize procurement of construction services	Authorize exemption from procurement requirements by fourfifths vote (at next scheduled meeting) as required per

	and supplies without competitive bidding requirements when it is impactable to convene a meeting of the Board of Directors prior to addressing the emergency needs.	Public Contract Code Sections 22035 and 22050.
Accept Real Property Interests	Accept interest in real property if the Board of Directors or Executive Committee has previously approved.	Approve Purchase Agreements for the acquisition of real property.

# Fresno County Fire Protection District Standard Procurement Process



# Fresno County Fire Protection District Public Works Procurement Process

