

Staff Report

TO: Board of Directors
FROM: Jennifer Hanson, General Manager
DATE: February 28, 2024
SUBJECT: Policy Update 3080 - Procurement

ADMINISTRATION

RECOMMENDATION:

Discuss and provide direction on revised Policy 3080 – Procurement.

BACKGROUND:

The purpose of this staff report is to present the most recent revisions to Policy 3080 - Procurement.

Based on input received from the Board of Directors, revisions will be made and the policy will be submitted to the Board for consideration of approval at a later date.

BUDGETARY IMPACT: N/A

Attachments: (1)

- Procurement Policy Draft

Nevada Irrigation District

POLICY MANUAL

POLICY TITLE: Procurement

POLICY NUMBER: 3080

3080.1 Purpose

In accordance with California Water Code, the District has authority to procure the necessary goods and services to operate. The purpose of Policy 3080 is to establish a set of guidelines and to standardize the procedures for purchasing goods and services for the District.

3080.2 Administrator

General Manager or identified designee shall administer the Procurement Policy, negotiate and approve term contracts, and purchase products and services required. The provisions of this policy, as well as any applicable state or federal laws, shall apply to (1) the purchase of equipment, supplies, products, or materials, (2) the procurement of services, (3) the procurement of professional services, and (4) construction projects undertaken by the District. The principles below shall also apply:

- A. Fair Competition. District employees must discharge their duties impartially to assure fair and open competition for District business by responsible vendors. District employees shall treat all vendors equally and fairly, with equal information given to each entity that participates in the procurement process.
- B. Conflicts of Interest. No Board of Directors, employee, officer, or agent of the District may participate in the selection, award, or administration of a contract if they have a real or apparent conflict of interest. A conflict of interest includes any circumstances under which the Board of Director, employee, officer, or agent, or any member of their immediate family, their partner, or an organization that employs or is about to employ any of those parties, has a financial interest in or a tangible personal benefit from a vendor considered for a contract or purchase.
- C. Economical Approach. All procurements must be undertaken in a manner that will avoid the acquisition of unnecessary or duplicative items, which may include consideration of consolidating or breaking out procurements, lease alternatives, and other appropriate analysis to determine the most economical approach, subject to the limits of applicable law, including prohibitions against bid-splitting.
- D. Oversight. Each department must maintain oversight over its procurements to ensure that vendors perform in accordance with the terms, conditions, and specifications of the contracts or purchase orders.

- E. Specifications. All procurement solicitations should incorporate a clear and accurate description of the technical requirements or functions of the goods or services to be procured. However, such descriptions should not be drafted to unduly restrict competition among qualified vendors.

3080.3 Definitions For the purpose of this policy, the following definitions shall apply:

- A. "Change Order" means any change to an approved and executed contract or task order. A change order can modify the scope of work, the time for completion, or the total contract budget authorization. When determining approval authority, the original contract and subsequent change orders are evaluated as a single purchase or procurement.
- B. "Contract" means any agreement to do or not to do a certain thing or to provide goods or services. "Contract and agreement" are synonymous. The term "Contract" includes, among other things, a purchase order, a contract for services, a professional service agreement, and an addendum or change order. Purchases and the procurement of services shall use standard contracts approved by the General Manager and/or Legal Counsel. Special contracts shall be used when the goods or services are of a unique or specialized nature that is not compatible with a standard form of Contract.
- C. "Cost" means the amount charged under a Contract and does not include sales tax, use tax, delivery charges, shipping, and/or handling.
- D. "General Services" means any work performed or services rendered by an independent contractor, not otherwise qualifying as a consultant or professional service, with or without furnishing materials or supplies. This may include the services of a licensed contractor, janitor, landscaper, arborist, machinist, painter, or other work typically rendered by an independent consultant or contractor. General Services typically covers maintenance or repair work that does not require engineering plans and specifications. The emphasis is also on physical, rather than professional/intellectual capabilities. General Services do not include public works or large construction projects, utility services, insurance services, professional services, services rendered by District employees, or another governmental agency, or contractual services which are in their nature unique or not subject to competition.
- E. "Goods" means any tangible commodities or items such as supplies, parts, materials, equipment, or building. On some occasions, goods may be purchased to supply a contractor engaged in work for the District.
- F. "Professional Services" mean work performed by architectural, landscape architectural, information technology, engineering, environmental, land surveying, construction project management, and specialized professional services such as financial, economic, accounting, legal, (or administrative matters) lobbying firms, and by other specially trained persons. The selection of persons or firms to provide such professional services shall be based on demonstrated competence and the professional qualifications necessary for the satisfactory performance of the services

required.

- G. "Public Entity" means the state, county, city, district, public authority, public agency, municipal corporation, or any other political subdivision or public corporation in the state of California.
- H. "Real Property" means fixed property, principally land and buildings.
- I. "Responsible Bidder" means a bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform a public works contract.
- J. "Surplus Property" means any personal property owned by the District that is determined no longer useful.

3080.4 Exempt Contracts

Notwithstanding any other provision of law, the following contracts shall not be subject to this chapter:

- A. Annual Membership Dues. Membership dues for professional and civic organizations to which the District is a member may charge an annual or other term membership fee. Such contracts may be entered into and/or membership fees paid at the direction of the General Manager, provided there is adequate funding allocated in the District's Annual Budget.
- B. Utility payments. Payment of utilities including electrical, gas, sewage, solid waste, phone, cable, etc.
- C. Other Contracts. Such other contracts as the Board of Directors or the General Manager, in their discretion, finds by resolution or documented by memorandum are not susceptible to the contracting procedures set forth in this Policy, provided that nothing herein shall relieve the District from any contracting procedures required by state or federal law. The General Manager may only waive the requirements for a contract or purchase to comply with these contracting procedures for purchases or contracts that are equal to or less than \$100,000.
- D. Non-Discretionary Purchases. Purchase/payments that are not readily adaptable to the open market and competitive selection process. Non-discretionary purchases do not require the issuance of a purchase order, and payments more than the General Manager's authorization limit do not require Board approval if the Annual Budget provides for an appropriation for the item. Examples of non-discretionary purchases include but are not limited to:
 - a. Bank charges and fees
 - b. Debt Service payments
 - c. Employee reimbursements
 - d. Insurance claims and premiums

- e. Medical reimbursement payments
- f. Payroll related taxes
- g. Pension and OPEB Payments
- h. Travel expenses
- i. Water purchase
- j. One-time fees and permits

3080.5 Emergency Purchases

In case of “Emergency”, the General Manager may procure any items or services deemed necessary to preserve life or property without the Board’s prior authorization and with waiver of bidding requirements. In the event an emergency procurement is deemed necessary, and the amount of the purchase exceeds the General Manager’s authority, the General Manager shall notify the Board members via telephone or email of the emergency procurement and shall thereafter report the incident to the Board of Directors in a regular Board of Director’s meeting.

3080.6 Inventory Purchases

Inventory is the District’s goods and products that are kept in stock so they are available when needed for use. Examples of items commonly kept on inventory are water meters, treated and raw water system components, lumber, hardware paint, tools, treatment chemicals, and facility materials. When inventory is purchased, the items shall be posted as an asset to the appropriate fund’s balance sheet and then expensed to the appropriate operational budget when the item is issued for use. All inventory shall be counted one time per year. Inventory purchases that exceed \$15,000 for one transaction will be direct expenses at the time of purchase.

3080.7 Piggyback and Cooperative Procurements

The District may enter purchase contracts based on a piggyback contract or a cooperative agreement contract without bidding if the conditions of this subsection are met. A piggyback contract is an agreement that has been competitively awarded by a separate public entity that contains language or legal authority, allowing other public entities to utilize the agreement without the need to secure separate quotes or formally bid. A cooperative agreement is a contract between a vendor and several entities (private and/or public) that requires membership in the association.

To participate in either one of these types of procurements, the following requirements need to be met: the contract is the result of competitive bidding, the contract is not expired, the purchase meets the District’s specifications for the good or service, and the purchase is of equal or better value.

Purchase authorization levels still apply per this policy.

3080.8 Bidding and Quote Requirements

Quote, proposal, and bidding requirements are indicated in authorization tables included in this policy based on the type of purchase or procurement. Below are the specific requirements that shall be followed for each type of procedure:

- A. Informal Quotes or Bids. Verbal or written solicitation of quotes or bids. Documentation of all quotes shall be maintained; verbal quotes shall be documented in writing by staff. A minimum of three quotes is preferred. If three quotes are not obtained due to a lack of vendors, service providers, or contractors not providing the goods or service, less than three quotes may be accepted. The lowest quote or bid should be selected for the procurement of goods, general services, or construction unless there is an overriding reason to select a higher-cost bid or quote. Examples of overriding consideration include schedule for completion, or better-quality product or service. The General Manager shall make the determination to select a higher-cost bid or quote and the justification shall be documented.
- B. Formal Quotes or Bids. A written scope of work, products, or services should be submitted to prospective vendors, service providers, or contractors. Quotes or bids shall be submitted to the District in writing. The lowest quote or bid should be selected for procurement unless there is an overriding reason to select a higher-cost bid. Examples of overriding consideration include schedule for completion, or better-quality product or service. The General Manager shall make the determination to select a higher-cost bid or quote and the justification shall be documented. A minimum of three vendors, service providers, or consultants shall be solicited for bids.
- C. Request for Proposal (RFP). This is a selection process established for the selection of consultants, contractors, or vendors to provide an identified service. The selection process includes an evaluation of the proposed project team's qualifications, understanding of services required, demonstrated ability to complete the required scope of work, experience completing similar work, and any other criterion deemed helpful for the selection of the most qualified consultant, vendor, or contractor. Cost is typically a secondary criterion to the qualification-based criteria. A minimum of three service providers or consultants shall be solicited for proposals.
- D. Request for Qualification (RFQ). This is a selection process utilized to qualify vendors, consultants, or contractors for On-Call Contracts, complex professional services, construction projects, or Design Build projects. The primary difference between the RFP and RFQ process is that the RFQ is usually the pre-qualification stage of the procurement process. The selection process shall include an evaluation of the proposed project team's qualifications, demonstrated ability to provide similar services, and any other criteria that is determined to be helpful for the selection of the most qualified consultant, vendor, or contractor.
- E. Sole Source. Sole Source purchasing of goods or execution of a contract for services with one vendor or service provider without requesting and/or obtaining informal or formal bids from multiple vendors or service providers is allowed when the procurement is in the best interest of the District. Typically, Sole Source procurement applies to those items or services that are only provided by one consultant, contractor, or vendor or when the item to be purchased needs to match existing equipment or parts that the District owns. All Sole Source purchases must have documentation that substantiates that it is in the District's best interest to not obtain multiple bids, proposals, or quotes.

3080.9 Contract Requirements

Contracts are legally binding agreements that the District utilizes for the procurement of goods and services. The authorization tables for the purchases of goods, general services, professional services, and construction identify the type of contract required (if any) for each authorization level. Allowable contract types are summarized below:

- A. **Purchase Order.** A purchase order is a legal document used by the District and sent to a supplier for an order. The purchase order specifies the items, quantities, prices, and terms for a purchase from the vendor.
- B. **Standard Contract.** This contract type is typically used for General Services or Professional Services. The contract cannot be modified without approval from the General Manager.
- C. **Abbreviated Contract.** This contract is utilized for lower-cost purchases or services. The contract cannot be modified without approval from the General Manager.
- D. **Construction Contract.** This contract is used for all construction projects.
- E. **On-Call Contract.** A contract with a defined term and total contract authorization that only commits to pay for services if they are used and authorized by the issuance of a Task Order. On-Call Contracts shall have an initial contract term of three years or less and may include the option to extend the contract term by up to three additional years. On-Call Contracts may be utilized for Professional Services, General Services, and contractor-provided emergency services, such as unforeseen emergency repairs.
- F. **Vendor Contract.** From time-to-time vendors or service providers may require the use of their contract. Use of such contracts shall be approved by the General Manager. Modifications to any standard contract shall be approved by the General Manager.

3080.10 Purchase of Goods, General Services, or Professional Services

Purchases and/or procurement of Goods, General Services, or Professional Services shall comply with the requirements set forth in the authorization table below and other requirements contained in this policy.

Contract Amount	Approval Authority	Bid or Quote Type	Contract Type*	Change Order Authorization
Less than \$2,500	Supervisor, Buyer, Senior Storekeeper, Assistant Superintendent	None	None	10% of total contract amount
\$2,501 to \$5,000 or	Supervisor, Buyer, Senior Storekeeper, Assistant Superintendent	None	Purchase Order	10% of total contract amount
\$5,001 to	Superintendent,	Informal	Purchase	10% of total

\$25,000	IT Administrator, Controller, Purchasing Supervisor, Senior Engineer	Quote or Bid	Order or Abbreviated Contract	contract amount
\$25,001 to \$50,000	Department Head, Assistant General Manager	Formal Quote, Bid, RFP, RFQ	Standard Contract or On-Call Contract	10% of total contract amount
\$50,001 to \$100,000	General Manager	Formal Quote, Bid, RFP, RFQ	Standard Contract or On-Call Contract	10% of total contract amount
\$100,001 and greater	Board of Directors	Formal Quote, Bid, RFP, RFQ	Standard Contract or On-Call Contract	As approved by Board action.

*The purchase of manufactured goods may be completed with a purchase order under any authorization level if approved by the General Manager.

3080.11 Procurement of Construction Services

Construction projects are related to the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvements of any kind. Notwithstanding anything to the contrary in this Policy, the District is a California Irrigation District. It therefore is not mandated by State law to competitively bid any purchases, including those for public works projects and/or capital expenditures. The District is free to enter into non-bid contracts for public works, to purchase materials, services, and supplies, to contract for design-build work, to utilize job-order contracting, and to enter into cooperative purchasing arrangements for the design, construction, and maintenance of public works, or undertake any other form of contracting determined to be in the District's best interest, except as otherwise expressly restricted by law. Procurement of construction services shall be in compliance with the requirements set forth in the authorization table below and other requirements contained in this policy.

Contract Amount	Approval Authority	Bid or Quote Type	Contract Type	Change Order Authorization
Less than \$50,000	Department Head, Assistant General Manager	Informal Bid	Standard Construction Contract	10% of total contract amount.
\$50,001 to \$100,000	General Manager	Informal Bid	Standard Construction Contract	10% of total contract amount.
\$100,001 to \$4,000,000	Board of Directors	Formal Bid through Approved	Standard Construction Contract	As approved by Board action.

		Qualified Contractor Process		
\$4,000,001 and greater	Board of Directors	Competitive Sealed Bid Process	Standard Construction Contract	As approved by Board action.

3080.12 Approved Qualified Contractors

By November 1st of each odd year, staff shall solicit a statement of qualifications from interested contractors, which will be evaluated to develop the Approved Qualified Contractor List. The contractors that are included on the Approved Qualified Contractors List will receive an invitation to bid on construction projects that are estimated to cost between \$100,001 and \$4,000,000.

To be eligible for consideration for placement on the Approved Qualified Contractors List, contractors shall submit a statement of qualifications and a pre-qualification questionnaire that will be evaluated by the District. Information that will generally be required is summarized below:

- A. Contractor information and professional licenses.
- B. Insurance information and certificates.
- C. Description of organizational structure.
- D. Summary of company and staff experience.
- E. Evaluation of financial standing and bonding capacity.
- F. Bonding capacity and history.
- G. Project references.
- H. Any other information the District deems necessary to evaluate contractor qualifications.

Once the statement of qualifications and evaluation questionnaire are complete and an evaluation of each submittal is completed by staff, those contractors deemed to be qualified by staff will be placed on the Approved Qualified Contractor List. The District reserves the right to disqualify Contractors from the Approved Qualified Contractor List. Any Contractor that is disqualified will be able to appeal the disqualification by submitting a notice of appeal to the General Manager within 14 days of receiving the notice of disqualification. The General Manager will evaluate the appeal and determine whether the disqualification will be overruled within 14 days of receiving the appeal. Contractor's that are disqualified may participate in the Approved Qualified Contractor process during the next solicitation of a statement of qualifications from interested contractors. The Approved Qualified Contractor List will be valid for two years, starting on January 1st of each even year and expiring on December 31st of each odd year.

To procure construction services, staff will provide a bid package (plans, specifications, and estimate) to each of the contractors on the list Approved Qualified Contractor List with an invitation to provide a sealed bid on the project. The District will award the contract to the lowest responsive bidder. In circumstances in which the District formally

solicits bids or proposals and receives only one responsive bid or proposal, the District may negotiate with and award the contract to the sole bidder/proposer. The District may use a competitive sealed bid process for any project deemed necessary if the prequalified contractor pool is inadequate.

3080.13 Construction Services Greater than \$4,000,001

For the procurement of construction services greater than \$4,000,001 – A competitive sealed bid (formal bid) process shall proceed as described below:

- A. The District shall solicit bids through the issuance of an Invitation and Public Notice to bid. The Invitation to Bid and the Public Notice shall be issued for a minimum of 15 calendar days prior to the bid opening.
- B. Bids shall be submitted to the District and be identified as bids on the sealed envelope. Bids shall be opened publicly in the presence of one or more witnesses and no earlier than the time designated for the bid opening.
- C. Bids received at or prior to the time set for bid opening shall be unconditionally accepted without alteration or correction.
- D. The project will be awarded to the lowest responsible bidder who submits a responsive bid. The District may waive any informality, irregularity, immaterial defects, or technicalities in any response.
- E. Subject to any provisions of federal or state granting authorities to the contrary, correction or withdrawal of inadvertently erroneous bids before or after bid opening or cancellation of awards or contracts based on such bid mistakes shall be in accordance with this section. Mistakes discovered before bid opening may be modified or withdrawn by written notice received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, no corrections to the bid or provisions shall be permitted, but in lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if: (a) the mistake is clearly evident on the face of the bid document, 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 shall be supported by a written determination made by the District.
- F. The District may reject all bids and re-advertise for bids when the bids exceed the budgeted amount for the work or to avoid a bid protest. The District can reject the lowest bidder if the bid is not responsive, the lowest bidder refuses to sign a contract, or the bidder is not a responsible bidder.

3080.14 Construction Services Design Build for Projects over \$100,000

Design-build is a project delivery method in which the District contracts with a single entity for both design and construction. The design-build contract is based on the District's "program," which will be developed to provide a statement of project requirements. The District will solicit proposals from qualified design-build teams (including contractor and architect/engineer) based on the program and may select the successful design-build team based on low bid, "best value," or other criteria. The

selected design-build entity will complete the project design and prepare construction documents. Once the District has approved the design, the design-build contractor will build the project. The design-build contractor is responsible for its design documents and cannot seek additional time and/or money for defects in its own design documents. The Board shall approve design-build contracts and approve an authorized contract contingency amount for change orders.

3080.15 Federal, state, or grant-funded projects.

Any procurement made pursuant to a federal, state, or grant award or subject to reimbursement, in whole or in part, must comply with the requirement stated in the funded award and the applicable federal procurement requirements, including 2 CFR § 200 and or 48 CFR § 31. In the event of any conflict between federal, state, or grant requirements, the most stringent requirement must be used.

3080.16 Surplus Property

When disposing of moveable or real property, if practical, Department Directors shall forward the moveable property to the Purchasing Department who will secure items.

- A. Less than \$100,000. Surplus property of a single item within this estimated market value will be disposed of using the most advantageous method determined by the General Manager, including transporting items to the local waste and recycling center or donation.
- B. \$100,001 and Greater. Surplus property of a single item within this estimated market value will be submitted to the Board of Directors for approval for disposal. Disposal may be by sealed bid, auction, online auction, remarketing service provider, or direct sale may require a formal appraisal, and must comply with all federal and state requirements.

Disposal of real property must comply with Board Policy and the Government Code § 54220.

Adopted: April 24, 2013, via Resolution No. 2013-11
Revised: April 13, 2016, via Resolution No. 2016-14
Revised: June 27, 2018, via Resolution No. 2018-15
Draft Revision: February 28, 2024