

PURCHASING POLICIES AND PROCUREMENT MANUAL



JEFFERSON COUNTY DRAINAGE DISTRICT NO. 6

6550 Walden Rd
Beaumont, Texas 77707
409-842-1818
www.dd6.org

District Board of Directors

Joshua W. Allen, Sr.- President
Bernie Daleo- Vice President
Charles “Chuck” Guillory- Secretary
Anthony Malley, III- Director
Charles “Chuck” Kiker- Director

General Manager

Dr. Joseph G. Majdalani, P.E., C.F.M.

Chief Business Officer

Karen J. Stewart, MBA

Effective October 1, 2021, (Based Off Software Implementation)

1. INTRODUCTION

I. PURPOSE

The Jefferson County Drainage District No. 6 (“District”) Purchasing Department is responsible for the procurement of the materials, equipment, supplies, and services necessary for the District’s departments to perform their respective functions. The District strives to obtain quality goods and services at competitive prices while maintaining a fair and open environment for participating vendors. The District is committed to maximizing the taxpayers’ dollar while maintaining the highest standards of ethics, integrity, public trust, and transparency.

This Purchasing Policies and Procurement Manual is intended to provide employees with a basic understanding of purchasing activities, the applicable federal and state laws, rules and regulations, as well as the role of the District Purchaser, and other district employees who have involvement in the purchasing process. The adoption of this Purchasing Policies and Procurement Manual and the approval of any subsequent revisions by the District’s Board of Directors (Board of Directors) shall authorize the policies and procedures set forth herein for official use in all District business.

II. MISSION AND GOALS

A. Mission

The mission of the District, with respect to procurement of goods and services, is to obtain quality goods and services needed by the District while:

1. Ensuring compliance with all applicable state and federal laws;
2. Protecting the interests of the District taxpayers without regard to any undue influence or political pressures; and
3. Providing all vendors, including, but not limited to, Historically Underutilized Businesses, equal access to the competitive process for the acquisition of goods and services by the District.

B. Goals

When making purchasing decisions, the District shall ensure that it is:

1. Purchasing the proper goods and services;
2. Obtaining the best possible price for the goods or services in a timely manner without sacrificing the minimum standard of acceptable quality;
3. Ensuring a continuing supply of goods and services are available where and when needed; and

4. Guarding against the misappropriation of District assets that have been acquired through the procurement process.

C. Implementation

The District General Manager shall designate the District Purchaser. The District Purchaser shall delegate tasks to execute the policies and procedures as outlined in this manual.

The District Purchaser shall be responsible for implementing and enforcing the policies and procedures set forth in this manual. District employees who have involvement in the purchasing process will be expressly assigned roles as users, approvers, and administrators, for use in the District's Purchasing Software System.

The Board of Directors shall have the authority, in specific cases determined to be exceptional, to waive or override the policies and procedures in this manual and to direct a different handling of each such case.

The District adopts this Purchasing Policies and Procurement Manual in order to implement the following objectives:

1. Fair Opportunity to Compete- The District desires to offer responsible vendors a fair opportunity to compete for the District's business by adhering to the statutory requirements regarding competitive bids and proposals, and by complying with the Purchasing Policies and Procurement Manual;
2. Safeguard Public Funds- The District shall endeavor to receive the best value when expending public funds;
3. Uphold Fiduciary Duty- The District prohibits the expenditure of public funds where the same might intentionally or knowingly enrich elected officials or employees, or to confer favors. The District believes that the adoption and implementation of the code of ethics set forth herein will accomplish this purpose;
4. Historically Underutilized Businesses- The District will take affirmative steps to provide an equal opportunity for Historically Underutilized Businesses (HUB), as that term is defined by federal law, to compete in the contract award process. In this regard, the District shall require that contractors and subcontractors use their best efforts to utilize HUBs whenever feasible; and
5. Local Vendors- When legally feasible and consistent with this Purchasing Policies and Procurement Manual, the District shall endeavor to utilize local suppliers of goods and services.

2. POLICY LANGUAGE

I. DEFINITIONS

A. For the purposes of this Purchasing Policies and Procurement Manual, the following words have these meanings:

1. **Advertisement-** A public notice in a newspaper of countywide general circulation containing information about a solicitation in compliance with legal requirements. The term can also refer to advertisements placed with online vendors provided the online advertisement is authorized by law.
2. **Addendum-** A written addition, change, or supplement to a solicitation issued prior to the opening date.
3. **Amendment-** Written addition or change to a contract.
4. **Award-** The act of accepting an offer, thereby creating the intention to form a contract between the District and a vendor.
5. **Best Value-** A procurement cost analysis technique which considers operating, maintenance, acquisition price, and other factors of procurement not relating to cost in the award of contracts, to ensure that the item acquired will result in the lowest total ownership cost during the time the item's function is required.
6. **Bid-** An offer to contract with the District submitted in response to an Invitation for Bid (IFB).
7. **Bid Bond-** A deposit required of bidders to protect the State in the event a low bidder attempts to withdraw its bid or otherwise fails to enter into a contract with the State.
8. **Bidder-** An individual or vendor who submits a bid. The term includes anyone acting on behalf of the individual or entity submitting a bid, such as an agent, employee, and representative.
9. **Bidders List-** A list of vendors who have stated, in writing, an interest in submitting bids for specified categories of goods and services.
10. **Bid Tabulation-** The recording of bids and bid data submitted in response to an IFB. The bid tabulation is used for comparison, analysis, and record keeping.
11. **Blanket Purchase Order-** A purchase order issued without unit pricing, limited to a specific amount. A blanket purchase order is normally used when there is a recurring need for expendable goods and contains multiple delivery dates over a period of time. (Example- office supplies for a Department for a fiscal year.)

- 12. Board of Directors-** The Board of Directors of Jefferson County Drainage District No. 6.
- 13. Change Order-** An amendment, clarification, change, or deletion to the original scope of work to a contract.
- 14. Closing Date-** The date and time that offers or proposals are due in response to a solicitation. Used interchangeably with the term “Opening Date and Due Date.”
- 15. Competitive Sealed Bidding-** Process of advertising an IFB for goods or services, the evaluation of the submitted bids, and awarding of the contract in accordance with state law.
- 16. Competitive Sealed Proposal-** Process of advertising a Request for Proposal (RFP), the evaluation of submitted proposals, and awarding of the contract in accordance with state law.
- 17. Competitive Solicitation-** The process of inviting and obtaining responses from competing vendors in response to advertised competitive specifications, by which an award is made based on best value to the District. The process contemplates giving potential vendors a reasonable opportunity to compete and requires that all vendors be placed on a level playing field. Each respondent must respond to the same advertised specifications, terms, and conditions.
- 18. Component Purchases-** A series of purchases of component parts of goods that are normally purchased as a whole.
- 19. Consultant.** A person who provides or proposes to provide advice and counsel in a specialized area.
- 20. Contract-** A legally enforceable agreement between two or more parties.
- 21. Contractor-** A vendor who has been awarded a contract by the District.
- 22. Cooperative Purchasing Program-** Any purchasing cooperative, as authorized by Chapter 791 of the Texas Government Code, of which the District is a member, by which to procure goods or services, and which satisfies any state law requiring the District to seek competitive solicitations.
- 23. Debarment-** An exclusion from contracting or subcontracting with the District on the basis of any cause set forth in statute, commensurate with the seriousness of the offense, performance failure, or inadequacy to perform.
- 24. Department-** All District departments of any kind whether the same are required by statute or are created by the Board of Directors or the General Manager of the District.
- 25. Disaster-** The occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water

contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, extreme heat, other public calamity requiring emergency action.

- 26. District Purchaser-** The individual, designated by the General Manager, who is primarily responsible for the Purchasing Department which procures goods and services on behalf of the District.
- 27. Emergency Purchase-** An item or service exceeding \$25,000 that must be purchased in a case of public calamity, or which must be made in other emergency situations authorized by law.
- 28. Employee-** An employee of the District.
- 29. Equivalent Product-** A product that is comparable in performance and quality to the specified product. It is the District's decision to determine if a product is in fact equivalent to meet specifications requested.
- 30. Formal Quotation-** An unsealed, competitive solicitation used to obtain formal offers in writing for purchases with a value greater than \$25,000 but less than \$75,000 based upon uniform written specifications including other terms and conditions, in accordance with the procedures included in this Purchasing Policies and Procurement Manual.
- 31. General Manager-** The District's General Manager appointed by the Board of Directors to manage and operate the affairs of the District.
- 32. Goods-** The term means supplies, materials, or equipment.
- 33. Grant-** An award of financial assistance, including cooperative agreements, in the form of money, property in lieu of money, or other financial assistance paid or furnished by the state or federal government to carry out a program in accordance with rules, regulations and guidance provided by the grantor agency.
- 34. High Technology Item-** A service, equipment, or good of highly technical nature, including data processing equipment and software; telecommunications, radio, and microwave systems; electronic distributed control systems; and technical services related to those items.
- 35. Historically Underutilized Business (HUB)-** A Historically Underutilized Business (HUB) is a business that is formed for the purpose of making a profit and that is otherwise a legally recognized business organization under the laws of Texas. A HUB must be at least 51 percent owned by one or more persons who are economically disadvantaged due to their identification as members of certain groups. The groups include Black Americans, Hispanic Americans, Asian Pacific Americans, Native Americans, Service-Disabled Veterans, Women, and any other group recognized by the State of Texas or applicable federal agency as a HUB. These individuals must demonstrate active participation in the control, operation,

and management of the business' affairs. A HUB must also have its principal place of business in the State of Texas.

- 36. Informal Quotation-** An unsealed, competitive solicitation used to obtain offers submitted verbally or in writing for purchases with a value of \$25,000 or less in accordance with the procedures included in this Purchasing Policies and Procurement Manual.
- 37. Interlocal Agreement-** Written understanding between local government entities, or a local government entity and a state agency or special purpose district of Texas or another state as authorized by Chapter 791 of the Texas Government Code.
- 38. Invitation for Bid (IFB)-** The specifications and formal bidding documents requesting pricing for a specified good or service, which has been advertised in accordance with Chapter 49 of the Texas Water Code, or any other applicable federal or state statute, rule, or regulation.
- 39. Invoice-** Document from a contractor requesting payment for goods delivered and/or services rendered.
- 40. IT Commodity Item-** Commercial software, hardware, or technology services, other than telecommunications services, that are generally available to businesses or the public. The term includes seat management, through which an agency transfers its personal computer equipment and service responsibilities to a private vendor to manage the personal computing needs for each desktop in the agency, including all necessary hardware, software, and support services.
- 41. Item-** Any service, equipment, good, or other tangible or intangible personal property, including insurance and high technology items. This does not include professional services as defined by Texas Government Code, Section 2254.002.
- 42. Late Response-** A response that is received after the date and time established for receipt of responses to a solicitation.
- 43. Lease-** A contract for the use of real or personal property for a period of time in return for a specified compensation.
- 44. Life-Cycle Costing-** A procurement cost analysis technique which considers operating, maintenance, acquisition price, and other costs of ownership in the award of contracts to ensure that the item acquired will result in the lowest total ownership cost during the time the item's function is required.
- 45. Lowest Responsible Bid-** The offer from a bidder who submits the lowest and best price meeting all requirements of the specifications, terms, and conditions of the Invitation for Bid and includes any related costs to the District in a total cost concept and who has the financial and practical ability to perform the contract and whose past performance indicates the ability to comply with the contract.

- 46. Minor Technicality-** A requirement in a solicitation which, if waived or modified by the District Purchaser when evaluating responses, would not give a respondent an unfair advantage over other respondents or result in a material change in the contract.
- 47. Negotiations-** A consensual bargaining process in which the parties attempt to reach agreement on a disputed or potentially disputed matter. In a contractual sense, negotiation means the dealings conducted between two or more parties for the purpose of reaching an understanding.
- 48. Notice of Award-** An official announcement of the District's intention to enter into a negotiation or contract with a selected vendor following competitive solicitations.
- 49. Offers-** Bids, proposals, and quotes made by vendors to supply goods or services in response to various types of solicitations.
- 50. Other Professional Services-** Those services usually referred to as a professional service, but not specifically listed in the Professional Services Procurement Act, which requires specialized technical skill and expertise; labor and skill which is predominantly mental or intellectual, including computer programmers, lawyers, and facilitators.
- 51. Payment Bond-** A surety bond executed in connection with a contract that secures the payment obligations of a Contractor as required by Texas Water Code §49.275 or any other applicable law.
- 52. Performance Bond-** A surety bond that provides assurance of a Contractor's performance of a certain contract as required by Texas Water Code §49.275 or any other applicable law.
- 53. Personal Property-**The District's tangible or movable property which could be subject to disposal in accordance with Section 49.226 of the Texas Water Code, or other applicable state law.
- 54. Professional Services-** Services related to the professional practices specified by the Professional Services Procurement Act, Chapter 2254, Subchapter A, of the Texas Government-Code.
- 55. Proprietary Information-** Information provided in responses to solicitations to which a vendor claims ownership or exclusive rights, and which may be protected from disclosure under Chapter 552 of the Texas Government Code (Texas Public Information Act).
- 56. Purchase Order-** An official document issued by the District committing to order goods and services from a vendor in accordance with the indicated types, quantities, and agreed prices.

- 57. Respondent-** An individual or entity that submits an offer or proposal. The term includes anyone acting on behalf of the individual or entity that submits an offer or proposal, such as an agent, employee, and representative.
- 58. Request for Proposals (RFP)-** A document that is a written request for proposals for goods or services, including professional services not identified in the Professional Services Procurement Act, Chapter 2254, Subchapter A of the Texas Government Code, which the District intends to acquire by means of the competitive sealed proposal procedure, similar to the Invitation for Bid procurement process; however, instead of competitive sealed bids, a negotiation phase is included, and a best and final offer is permitted.
- 59. Request for Qualifications (RFQ)-** A document that requests details about the qualifications of professionals whose services must be obtained in compliance with the Professional Services Procurement Act, and Chapter 2269 of the Texas Government Code.
- 60. Requisition-** An official request, made by a district employee in the District Purchasing Software, to purchase goods and services from a vendor in accordance with the indicated types, quantities, and agreed prices.
- 61. Responsive-** The bid, offer, or proposal which complies with all material aspects of the solicitation document, including submission of all required documents.
- 62. Respondent-** An individual or entity that submits an offer or proposal. The term includes anyone acting on behalf of the individual or entity that submits an offer or proposal, such as an agent, employee, and representative.
- 63. Sealed Bids or Proposals-** A response which is kept secure and unopened until after the due date and time specified in the solicitation and submitted to the District Administration Building in a manner that conceals the price.
- 64. Separate Purchases-** Acquisitions made in a series of different orders for goods and services that in normal purchasing practices would be purchased in a single order.
- 65. Sequential Purchases-** Acquisitions made over a period of time that in normal purchasing practices would be made at one time.
- 66. Services-** The furnishing of skilled or unskilled labor or professional work.
- 67. Sole Source Good or Service-** A good or service that can be obtained from only one source or for which it is otherwise impracticable to obtain competition. In accordance with Texas Water Code §49.278(a)(4).
- 68. Solicitation-** A document such as an IFB, RFP or RFQ used in the process of Competitive Solicitation requesting and obtaining responses from vendors to provide specified goods and services.

- 69. Specification-** A total description of a good or service to be purchased by the District along with other requirements necessary to provide satisfactory performance of the contract and which may include requirements for testing, inspection, acceptance, and preparing any good or service for delivery, or preparing or installing it for use. (Scope of Work including technical specifications may be provided to the purchasing department by end user departments for inclusion in the final specifications package.)
- 70. Term Contract-** A recurring contract for goods or services, usually effective with an initial term of twelve (12) months, and a set number of options to renew.
- 71. Vendor-** A business entity or individual that seeks to have or has a contract to provide goods or services to the District.

3. POLICY EXECUTION

I. IMPLEMENTATION AND ENFORCEMENT

A. Distribution

This Purchasing Policies and Procurement Manual will be distributed to all district employees who are involved in the purchasing or procurement process and shall be made available to the public on the District's website. The District Purchaser shall be responsible for ensuring that this manual, and any revisions thereto, is available to any person requesting the same.

B. Enforcement

The District Purchaser shall be responsible for implementing and enforcing the policies and procedures set forth in this manual as follows:

- 1. Duties of the District Purchaser-** The District Purchaser, by direction of the General Manager, shall be charged with implementing and enforcing the policies and procedures set forth in this Purchasing Policies and Procurement Manual.
- 2. Refusal to Pay-** Where the District, or its agents, determine that a violation of any of the policies and procedures in this manual has occurred, the General Manager and/or the District Purchaser may refuse to pay for any good or service procured in violation of these policies and procedures.
- 3. Authority of Board-** The Board of Directors shall have the authority, or in specific situations determined to be exceptional as authorized by law, to waive or override the policies and procedures in this Purchasing Policies and Procurement Manual, providing that the District's action is in compliance with all applicable laws.

C. Revisions

The District will make such changes as necessary to address any change in circumstances as determined by the Board of Directors or as required by law.

D. Recommendations

District employees are encouraged to make recommendations for revisions that may need to be made from time to time.

E. Maintenance of Purchasing Records

It is the policy of the District to maintain its purchasing records to demonstrate compliance with this Policies and Procurement Manual as well as applicable state or federal laws, rules, and regulations. Accordingly, the District shall maintain original or electronic copies of its purchasing records for the time period prescribed by law.

II. CODE OF ETHICS

A. Statement of Policy

It is the policy of the District to impose a special responsibility upon all employees who are entrusted with the expenditure of the District's funds. The fiduciary nature of purchasing requires that all employees remain independent, free of obligation or suspicion, and completely fair and impartial.

B. Written Code of Ethics

The District maintains the integrity and credibility of the purchasing process through a clear set of policies, procedures, and guidelines which govern the behavior of all employees involved in the procurement of goods and services.

C. Prohibitions Applicable To District Employees

District employees shall be prohibited from:

1. Participating in work on a contract by taking action as an employee or agent of a vendor, or prospective vendor, in rendering a benefit through decision, approval, disapproval, recommendation, giving advice, investigation or similar action knowing that the employee, or member of their immediate family has an actual or potential financial interest in the contract, including prospective employment; and
2. Soliciting or accepting anything of value from an actual or potential vendor; being employed by, or agreeing to work for, a vendor or potential vendor; or knowingly disclosing confidential information for personal gain.
 - a. Where any district employee comes into possession of anything of value (other than an item of *de minimis* value) from a vendor, or prospective vendor, he or she must immediately surrender the same to the District unless it is practical to return the item of value to the vendor, or prospective vendor.

D. Non-Disclosure and Conflict of Interest Certification for District Employees Participating in Procurement

Each district employee who is involved in procurement process or in contract management will sign a Non-Disclosure and Conflict of Interest Certification once per calendar year.

E. Prohibitions Applicable to Vendors (or Potential Vendors)

Vendors (or potential vendors) are prohibited from offering to give, promising to give, or giving anything of value to any employee of the District. Vendors must file a Conflict-of-Interest Questionnaire (Form 1295) online and show proof of the filling to the District, if required by Chapter 176 of the Texas Local Government Code. <https://www.ethics.state.tx.us/filinginfo/1295/>

F. Remedial Action for Violation of Code of Ethics

The District imposes the following affirmative duties upon each district employee in order to enforce this Code of Ethics:

- 1. Duty to Report-** The District requires that all employees and/or vendors shall immediately report, in writing, any actual or suspected violation of these policies and procedures to the District Purchaser. The District Purchaser, by direction of the General Manager, shall provide the reporting party with written instructions as to the response and/or disposition of the matter; and
- 2. Remedial Action for Violation-** If an actual violation occurs, or if a district employee knowingly failed to disclose a violation, the employee shall be disciplined up to, and including, termination and prosecution as the case may be. Furthermore, where the breach of this policy involves acts or omissions of a vendor, the vendor may be barred from receiving future contracts and/or the District reserves the right to terminate any, or all, existing contracts with the offending vendor.

III. PURCHASING AUTHORITY AND PROCEDURES

A. General Statement of Policy. It is the policy of the District to:

- 1.** Seek the best quality, lowest priced goods and services that meet the needs of the District and its employees;
- 2.** Provide all responsible vendors with equitable access to servicing the needs of the District and its employees through competitive acquisition of goods and services;
- 3.** Comply with all Federal and State Laws that apply to District purchasing, and comply with the policies and procedures outlined in this Purchasing Policies and Procurement Manual;
- 4.** Manage District assets and inventory so that replacement costs are minimized, and the District can account for all assets;
- 5.** Dispose of all surpluses, salvage, seized and abandoned property in a manner that both provides the most benefit to the taxpayers of the District and complies with all applicable statutes, rules and regulations; and

6. Ensure that goods and services are ordered and received in such a timely manner so as to minimize repair time for District vehicles and equipment.

B. Texas Water Code

The provisions of Chapter 49 of the Texas Water Code including, but not limited to, Sections 49.271 and 49.273 as are applicable to the purchasing and procurement of goods and services by this District, are incorporated into this Purchasing Policies and Procurement Manual by reference as if set forth fully herein.

C. Purchasing Authority

The District Purchaser, by direction of the General Manager, and with the assistance of other authorized district employees as set forth below, shall purchase all equipment, materials, parts, supplies, services, and all other goods needed by the District, subject to, and in accordance with this Purchasing Policies and Procurement Manual.

1. **Purchase Orders-** Goods or services will not be obtained until a purchase order is prepared and issued by the District. The District shall not issue a purchase order until a requisition for good(s) or service(s) is entered into the District's purchasing software. Purchasing authority within the purchasing software system will be delegated to individual employees with specific roles including, user, approvers, and administrators. The General Manager and the District Purchaser shall have authority to approve a purchase order involving an expenditure of any amount, provided that such purchase order has been issued in compliance with this Purchasing Policies and Procurement Manual and state law.
2. **Purchases in any Amount-** In addition to the policies and procedures set forth herein, for all purchases, regardless of the amount of the expenditure, the District shall endeavor to obtain best value.
3. **Purchases in an Amount Less Than \$750.00-** For all purchases involving an expenditure of an amount less than seven hundred fifty dollars (\$750.00), at least one verbal or on-line quote shall be obtained from the selected vendor. Nothing shall prohibit the District Purchaser from obtaining additional online, verbal, or written quotes, time and circumstances permitting. The verbal or online quote will be noted in the requisition.
4. **Purchases Greater Than \$750.00-** In addition to the policies and procedures set forth below, for all purchases involving an expenditure of an amount greater than seven hundred fifty dollars (\$750.00), the District Purchaser shall, if practical, determine whether competitive pricing through any Cooperative Purchasing Programs of which the District is a member, or whether an Interlocal Government Agreement with another qualified governmental entity, provides the best value to the District. In the event that such competitive pricing provides best value, the purchase shall be made through a Cooperative Purchasing Program or Interlocal Government Agreement in accordance with Chapter 791 of the Texas Government Code.

- 5. Purchases Greater Than \$750.00 But Less Than \$2,500.00-** For all purchases involving an expenditure of an amount greater than seven hundred fifty dollars (\$750.00) but less than two thousand five hundred dollars (\$2,500.00), at least two (2) verbal or online quotes shall be solicited, one of which is the lowest and best. The verbal or online quotes will be noted in the requisition.
- 6. Purchases Greater Than \$2,500.00 But Less Than \$25,000.00-** For all purchases involving an expenditure of an amount greater than two thousand five hundred dollars (\$2,500.00), but less than twenty-five thousand dollars (\$25,000.00), at least three (3) informal written quotes shall be solicited, one of which is the lowest and best. The three written quotes will be uploaded and attached to the requisition.
- 7. Purchases Greater Than \$25,000.00 But Less Than \$75,000.00-** For all purchases involving an expenditure of an amount greater than twenty-five thousand dollars (\$25,000.00), but less than seventy-five thousand dollars (\$75,000.00), formal written quotes (on the District's Formal Quotation Request Form) based upon uniform written specifications, including other required terms and conditions shall be obtained from at least three (3) vendors. The formal quotation request form, the distribution method, and the resulting vendor responses will be uploaded and attached to the requisition.
- 8. Purchases Greater Than \$75,000.00-** For all purchases involving an expenditure of an amount greater than seventy-five thousand dollars (\$75,000.00), except where expressly exempted, the purchases must be accomplished through the formal competitive bid process or the request for proposal process (collectively referred to as "Competitive Solicitation"), with detailed written specifications as required by State law. However, notwithstanding any other provision herein, the District Purchaser, by direction of the General Manager, may authorize in writing a purchase that involves the expenditure of an amount greater than seventy-five thousand dollars (\$75,000.00) through an available Cooperative Purchasing Program of which the District is a member, and/or Interlocal Government Agreement with another qualified governmental entity, which authorizes the purchase in accordance with Chapter 791 of the Texas Government Code. References to the Competitive Solicitation number issued through the Purchasing Department will be noted on the requisition, as well as the date of the award by the Board of Directors.
- 9. Discretionary Authority-** Nothing in this section shall prohibit the District Purchaser, acting with the consent of the General Manager, from requiring a bid, or proposal for a purchase of goods or services for less than seventy-five thousand dollars (\$75,000.00) where in the exercise of their professional judgement, it is deemed to be in the best interest of the District.

D. Miscellaneous Duties/Authority of the District Purchaser

Subject to the provisions set forth above, the District Purchaser shall perform the following additional duties as may be assigned and modified by the General Manager.

- 1. General Purchasing Obligation-** The District Purchaser shall, in accordance with the standards set forth in this Purchasing Policies and Procurement Manual, supervise the purchase of all supplies, materials, services and equipment, and shall contract for all repairs to property used by the District or a department or employee.
- 2. Supervise Competitive Bidding-** The District Purchaser shall supervise all purchases made on competitive bids. Departments should notify the District Purchaser of any shortages, late deliveries, damaged merchandise, or any other problems relating to the vendor's performance.
- 3. Preparation of Bid Specifications-** The District Purchaser, shall prepare the final bid or proposal specifications for materials, services, supplies, and equipment to be purchased, and shall be responsible for subsequent solicitation and evaluation of formal bids and proposals for any item or items that would require an expenditure in excess of seventy-five thousand dollars (\$75,000.00). Technical specifications, detailed scopes of work, engineering drawings, and any additional clauses required for administration and management of the contracts shall be provided, in their entirety, by the requesting department, and will be incorporated into the final specifications by the District Purchaser to ensure all current legal requirements are met.
- 4. Competitive Bidding-** Specifications, which shall be the basis of sealed bids or sealed proposals, shall be reviewed and advertised by the District Purchaser to allow for competitive bidding. The District Purchaser shall not allow bid specifications which are intended to circumvent the legal procurement process or otherwise exclude a legitimate competitor.
- 5. Evaluation of Vendors-** In the case of formal or informal competitive bids or proposals, the evaluation of the bids and proposals, as well as the selection of vendors shall be made with the intention to obtain the best value for the money spent. Requesting departments will have a critical part in the evaluation and recommendation of vendor submissions. Preliminary bid tabulations will be prepared by the District Purchaser and distributed to the requesting department, along with copies of the responses to competitive solicitations. Original documents will remain in the Purchasing Department.
- 6. Disposition of Surplus Property-** Where the District determines that it possesses personal property that is no longer needed by the District, or has been deemed to be surplus, the District Purchaser shall dispose of the property in accordance with Section 49.226 of the Texas Water Code, or other applicable state law.

E. Requisition Process

All purchases for the District will begin with a requisition entered into the purchasing software system. (as soon as it is online)

The District Purchaser classifies purchase requisitions according to the type of action and the time required for the purchase. Routine purchases will be processed within one day, and requisitions with higher dollar amounts or increased Statutory requirements for procurement will require additional time depending on complexity.

F. Purchase Orders and Approval Authority

The following positions shall have the authority provided and specified below with respect to the purchase of goods and services:

- 1.** The Accounting Technician shall have the authority to approve requisitions and issue a purchase order involving the expenditure of an amount not greater than twenty-five thousand dollars (\$25,000.00), for office supplies and for the payment of recurring monthly bills, provided that either the General Manager or the District Purchaser also approve the purchase.
- 2.** The Fleet Maintenance Supervisors shall have authority to approve requisitions and issue a purchase order involving the expenditure of an amount not greater than twenty-five thousand dollars (\$25,000.00), for all purchases made by district employees classified to the Fleet Maintenance Department, provided that the purchase order and related expenditure is in compliance with all provisions set forth in this Purchasing Policies and Procurement Manual. The General Manager or the District Purchaser will have secondary approval on all purchases.
- 3.** The District Engineer or Senior Engineer shall have authority to approve requisitions and issue a purchase order involving the expenditure of an amount not greater than twenty-five thousand dollars (\$25,000.00), for all purchases made for or requested by district employees classified to the Engineering Department, provided that the purchase order and related expenditure is in compliance with all provisions set forth in this Purchasing Policies and Procurement Manual. The General Manager or the District Purchaser will have secondary approval on all purchases.
- 4.** The Senior Project Manager or Project Manager-Construction shall have authority to approve requisitions and issue a purchase order involving the expenditure of an amount not greater than twenty-five thousand dollars (\$25,000.00), for all purchases made for or requested by district employees classified to the Operations-Construction Department, provided that the purchase order and related expenditure is in compliance with all provisions set forth in this Purchasing Policies and Procurement Manual. The General Manager or the District Purchaser will have secondary approval on all purchases.

5. The Superintendent or the Project Manager-Maintenance shall have authority to approve requisitions and issue a purchase order involving the expenditure of an amount not greater than twenty-five thousand dollars (\$25,000.00), for all purchases made for or requested by district employees classified to the Operations Maintenance Department, provided that the purchase order and related expenditure is in compliance with all provisions set forth in this Purchasing Policies and Procurement Manual. The General Manager or the District Purchaser will have secondary approval on all purchases.
6. The General Manager and the District Purchaser shall have the authority to approve requisitions and issue a purchase order involving the expenditure of any amount provided that the purchase order and related expenditure is in compliance with all provisions set forth in this Purchasing Policies and Procurement Manual.
7. The following individuals have authority to make purchases for goods and services by use of the District's credit cards:
 - a. The General Manager, the District Purchaser, the Senior Project Manager, Fleet Maintenance Supervisors, providing that purchase orders are created, issued and executed in advance of, or contemporaneously with, the purchase, or as soon thereafter as is practicable, and further providing that such purchases are made in full compliance with the provisions of this Purchasing Policies and Procurement Manual .
 - b. The General Manager, or any other employee of the District who is specifically authorized by the General Manager, provided that such purchase is a travel-related expense associated with the business of the District, including, but not limited to lodging, meals, and fuel.
 - c. Any other employee of the District who is specifically authorized by the General Manager to make a specific purchase in any amount, provided that such purchase is made in full compliance with this Purchasing Policies and Procurement Manual.

IV. GENERAL PURCHASING PROCEDURES

A. General Provisions

The following provisions are applicable to all purchases and procurement of goods and services on behalf of the District.

1. The District will not be obligated to purchase goods that are delivered for use on a trial basis.
2. The District will not engage in any purchasing or procurement practice that has the effect of avoiding or circumventing any applicable statute, rule or regulation including, but not limited to:

- a. component purchases;
 - b. separate purchases; and
 - c. sequential purchases.
3. If cumulative purchases to one vendor, are anticipated to reach or exceed seventy-five thousand dollars (\$75,000.00) in a fiscal year, then competitive solicitation procedures are required, and an annual contract will be considered.
 4. The District shall issue a purchase order before or contemporaneously with, the acquisition of all goods and services. Any district employee obligating the District for an expenditure of funds for goods or services, other than those items necessary to effectuate field repairs of machinery or equipment, prior to securing a purchase order may be held personally responsible for the payment.
 5. District employees shall not purchase goods or services for their own personal benefit regardless of circumstances.

B. Bidders' Lists

The District Purchaser shall create and maintain a list of vendors who have requested that they be sent invitations for solicitations. This bidder list shall be categorized by the description of goods or services procured by the District. As a courtesy to vendors and as a means of encouraging competition, the District Purchaser will attempt to send a notice of each solicitation to vendors in addition to complying with the notice requirements required by statute. A prospective vendor wishing to receive notification may do so by communicating the same to the District in writing. In an effort to attract HUBs, the District shall create and maintain a page on its website whereby qualifying vendors can register with the District to be included on solicitation lists for future District procurement opportunities. However, nothing in this section shall create an affirmative obligation upon the District to solicit a bid from a particular vendor unless the District is otherwise obligated by law to do so.

C. After Hours/Emergency Purchases

An emergency purchase requires a letter of justification, which will become a part of the file. The letter shall be signed by the General Manager, and must:

1. State the reason for the emergency purchase by explaining what the emergency is and/or what caused the emergency situation;
2. State the financial or operational damage that will occur if needs are not satisfied immediately. The person submitting the letter of justification must be specific. General statements that an unnamed or speculative loss will occur will not be sufficient to authorize an emergency expenditure under this section; and
3. State the reasons why the purchase was unforeseen or could not be anticipated so that items could have been procured by the District in the ordinary course of business.

D. Interlocal Agreements

All Interlocal agreements involving District budgeted funds for the purchase of goods, services, repairs, or maintenance agreements must be approved in writing by the General Manager before being submitted to the District's Board of Directors for execution. Interlocal agreements may not be used where the procurement of goods or services is made with funds supplied by the federal government unless otherwise approved by the Board of Directors in accordance with all applicable federal and state statutes, rules, and regulations.

E. Bonding Requirements

The District Purchaser shall require prospective vendors to submit Bid Bonds, Performance Bonds and Payment Bonds subject to the following conditions:

- 1. Bid Bonds.** Unless otherwise required by state or federal law, bid bonds will not be required for contracts that are valued at less than seventy-five thousand dollars (\$75,000.00). Bid bonds will not be required from any bidder or proponent whose rates are subject to regulation by a state agency. If the District Purchaser determines that a bid bond is required for a particular contract, the Invitation for Bids or Request for Proposals will state that a bid bond in the amount of five percent (5%) of the total contract price is required. All such bonds must be executed by a surety company authorized to do business in the State of Texas.
- 2. Performance and Payment Bonds.** The District shall require a performance and/or payment bond on all public works as required by the laws of the State of Texas.
 - a.** Within ten (10) days after the date of the award, the awarded bidder shall furnish a performance bond to the District for the full amount of the contract, if the contract exceeds one hundred thousand dollars (\$100,000.00). If the contract is for one hundred thousand dollars (\$100,000.00) or less, the District may provide that no money be paid to the contractor until completion and acceptance of the work or the fulfillment of the purchase obligation of the District. If the awarded bidder can not provide the required bonds within the allotted ten (10) day period, the award may be subject to withdrawal by the District.

F. Savings Clause

It is the clear policy of the District to comply with all applicable state and federal laws, rules and regulations that are applicable to procurement of goods and services by the District. To the extent that any provision of this Purchasing Policies and Procurement Manual conflicts with any federal or state statute, rule or regulation, the District Purchaser is directed to follow the applicable law and disregard any part that conflicts with clearly established law, a rule, or regulation, whether existing now or as amended in the future.

V. VENDOR QUALIFICATION AND REGISTRATION

A. Statement of Policy

It is the policy of the District to select vendors without regard to race, gender, or ethnicity.

B. The System for Award Management- SAM Registration

Vendors doing business with the District are required to be registered with The System for Award Management (SAM), with an "active" status. Vendors must provide proof of their SAM Unique Identification Number (UIN) and active status. This can be printed from the SAM website onto one page. There is NO fee to register for this site. Entities may register at no cost directly from the SAM website at: <https://www.sam.gov>. All awarded vendors are required to maintain an Active status with SAM for the duration of the vendor's contracted term with the District.

C. Historically Underutilized Businesses- HUB Registration

Vendors that have been designated as HUBs are encouraged to register with the District, so that such businesses may be included on its solicitation lists. All registrants must include a certificate, issued by the State of Texas, evidencing the business' HUB status. However, nothing in this section shall create an affirmative obligation upon the District to solicit a bid from a particular vendor unless otherwise obligated by law to do so.

D. Ineligibility

With respect to projects, other than a "design build contract", a vendor shall be ineligible to submit bids, proposals, or qualifications where the vendor materially assisted the District, whether for compensation or not, in formulating the specifications set forth in any competitive bid, request for proposal or request for qualification. However, the District may enter into a separate contract or agreement with the vendor to compensate the vendor for consultation services rendered, so long as the contract or agreement is completed in accordance with this Purchasing Policies and Procurement Manual.

VI. SPECIFICATIONS

A. Purpose

The purpose of any specification is to provide the District Purchaser with clear guidelines from which to purchase, and to provide vendors with firm criteria of a minimum acceptable standard for goods or services including:

1. Establishing the minimum acceptability of the goods or services;
2. Promoting competitive bidding;
3. Providing for reasonable testing and inspection for acceptability of the goods or services; and
4. Ensuring a fair award to the responsible bidder that submits the lowest and best bid.

B. Specifications

When developing specifications for the prospective purchase of goods and services, the District shall:

1. Ensure that the specifications include a concise description of goods or services that the District intends to procure; and
2. If applicable, include requirements for testing, inspection, or preparing any goods or services for delivery, or preparing or installing them for use.

C. Preparation of Specifications

1. The District shall use reasonable efforts to develop specifications that maximize the opportunity for vendors to engage in meaningful competitive bidding. The District shall not write or accept specifications which, by design, exclude legitimate competitors. The District shall not use brand names unless the item to be purchased is a captive replacement part or unless a disclaimer is included which opens the specification to competing brands of equal quality.
2. Specifications may be proposed by the user department, or an outside agency. Acceptance of these specifications, other than those for construction projects, will rest with the District Purchaser for compliance with legal purchasing requirements. Construction projects with technical specifications requested by a Project Manager or a District Engineer will be incorporated into a complete document called "final specifications" by the District Purchaser to ensure compliance with statutory purchasing requirements and final approval and review will be provided by the District's Licensed Engineers, or Project Managers. The District Purchaser at the direction of the General Manager is the final authority for approval of specifications prior to advertisement.

VII. Purchasing Documents

- A.** It is important to have a basic understanding of what is meant by “purchasing documents.” These documents describe the full contractual relationship between the District and a vendor of goods or services.
- B.** Purchasing documents are:
 - 1.** Solicitations – these are Invitations for Bid, Formal Requests for Quote, Requests for Qualifications, and Requests for Proposal. These documents may result in a binding contract;
 - 2.** Bonds- these can be Bid Bonds, Performance Bonds, and/or Payment Bonds;
 - 3.** Offers – these are bids, proposals and quotes made by vendors to supply goods or services;
 - 4.** Contracts – these are the final signed agreements between the District and the vendor to buy/sell;
 - 5.** Purchase Order - is a type of contract, and
 - 6.** Amendments/Change Orders – these are changes offers, and contracts.
- C.** Many other documents are created during the process of making a purchase and are kept in the District Purchaser’s files, but they are not technically “purchasing documents.” These other documents include requests (requisitions) by user departments for purchases of items; notes to the file to explain why a particular course of action was chosen; original specifications from the requesting department; final specifications produced by the District’s Purchaser; bidders notified of solicitations; and copies of advertisements.

VIII. COMPETITIVE BIDDING PROCESS

A. Competitive Bidding

Unless an exemption applies, or as otherwise allowed in this Purchasing Policies and Procurement Manual, all purchases and procurement of goods and services exceeding seventy-five thousand dollars \$75,000 shall be made according to the statutory competitive bidding provisions set forth or referenced herein.

B. Invitation for Bid (IFB) must include:

- 1.** The specifications describing the item to be purchased or a statement, also referred to as a Legal Notice, of where these specifications may be obtained;
- 2.** The date, time and place by for receiving and opening the sealed bids, and the name and position of the district employee to whom the bids are to be sent;

3. The type of bond, if any, required by the bidder. If unit pricing is required, the District will specify approximate quantities estimated on the best available information. The District Purchaser shall explain how the lowest price will be calculated in the bid specification; and
4. After the development of specifications and preparation of the Legal Notice to Bidders, the District Purchaser will advertise the bid.

C. Publication and Distribution of Notice

1. The legal notice must be published in one or more newspapers circulated in each county in which the District is located. The notice must be published once a week for two consecutive weeks before the date that the bids are opened, and the first publication must be not later than the 14th day before the date of the opening of the sealed bids.
2. The notice must be uploaded to the Electronic State Business Daily (ESBD) website for the Texas Comptroller of Public Accounts to be included on the list of procurement opportunities for HUBs registered through the State of Texas.
3. The notice shall be published on the District's website.
4. Every effort should be made to notify those vendors (including HUB vendors) who have filed a request with the District to be notified of procurement opportunities that involve goods and services provided by that vendor.

D. Addendum

The bid opening date on the notice may be extended if an error is discovered, or the nature of the goods and services requires an extension. All addenda will be posted to the District's website in accordance with the policies in this Purchasing Policies and Procurement Manual. The District Purchaser may amend specifications to clarify the original intent or to correct clerical errors if:

1. Inquiries about the meaning of the specifications indicate the need for such an addendum;
2. The changes are so immaterial so as to not likely matter to the vendor in determining price or ability to respond;
3. There is no material change to the quantity, or delivery requirements;
4. The changes do not materially change the scope of the specifications; and
5. There are at least two (2) business days between the date of the addendum and the opening date specified in the notice.

E. Receipt of Sealed Bids

The District adopts the following procedures when receiving sealed bids:

1. All bids shall be received by the district employees in the front office of the District Administration Building, and immediately made available to the District Purchaser.
2. The outer envelope containing the sealed bids will be immediately stamped with the time and date received and initialed by the district employee who receives it.
3. No bids will be received after the deadline established by the District and communicated in the notice, advertisement, or addendum concerning the procurement. All bids received after the deadline will remain unopened. A letter to the bidder from the District Purchaser will notify the bidder that the submitted bid was received after the due date and time. The bidder will be given the opportunity to pay for the bid to be returned or pick up the unopened bid in person.
4. After the sealed bids are received, the sealed bids will be secured in the District Purchaser's office for safekeeping until the bid opening date. The bids are to be received sealed and shall remain sealed until publicly opened.
5. In the event a sealed bid is opened inadvertently, the District Purchaser will witness that the details of the bid, especially the price, were not reviewed and that the bid was sealed again immediately, and the incident documented.

F. Public Opening of Bids

Sealed bids will be opened publicly by the District Purchaser and will be documented. The sealed bids shall be opened on the date, time, and place specified in the notice or the date provided in a posted addendum. The opening process shall be undertaken in a manner that avoids the appearance of impropriety or reveals confidential information. Therefore, the District believes that having sealed bids publicly received and read should be reasonably sufficient to avoid the appearance of impropriety.

G. Evaluation of Bids

The District Purchaser will evaluate all bids, with the assistance of requesting departments as he or she may deem reasonably necessary in the exercise professional judgement. Upon doing so, the District Purchaser shall make recommendation as to which bid represents the best and lowest responsible bid and communicate the same to the General Manager. In this regard, the District Purchaser shall consider:

1. The relative price of the bids, including the cost of repair and maintenance if heavy equipment is the subject of the bid.
2. The suitability of the goods and services for the purpose set forth in the specifications.

3. The responsibility of the vendor, including their financial and practical ability to perform the contract.
4. The vendor's safety record if applicable.

H. Board Consideration

The District Purchaser will submit tabulation, evaluation, and recommendations for award as directed by the General Manager and request an item on the Board of Directors' Agenda for consideration and award of the contract. When the lowest priced bid is not the best bid, the District Purchaser will state and document a clear justification for not selecting the lowest bid.

I. Board Approval or Rejection of Bids

The District's Board of Directors reserves the right to either approve the recommendation or reject all bids and authorize the District Purchaser to re-solicit the goods and/or services, or alternatively, to procure the goods or services through a Cooperative Purchasing Program of which the District is a member, or through an interlocal government agreement if such an option is available to the District.

J. Contract Administration

Where the contract has been awarded for the benefit of a specific department of the District, the department head shall be responsible for monitoring and documenting the performance/compliance with the specifications of the goods or services procured under the contract.

1. All district employees are charged with the affirmative duty to report any instances of material non-compliance to the District Purchaser. Upon receipt of information indicating that a vendor has failed to perform as agreed, the District Purchaser shall notify the vendor of the issues regarding the failure to comply.
2. If, after clarification, the vendor complies with expected performance standards, no further documentation will be required by the District Purchaser. If continued poor performance or non-compliance of the goods or services is evidenced, the District Purchaser shall initiate corrective action with the vendor, following consultation with the General Manager.

K. Bidding of Term Contracts

The District Purchaser shall monitor the expiration dates of all contracts and contact user departments to determine if annual contracts need to be re-solicited. The department will advise the District Purchaser of any additions, deletions, or corrections needed or desired with respect to the re-solicitation of any contracts.

IX. COMPETITIVE PROPOSAL PROCESS

A. General

- 1. Notice-** Competitive proposals may be solicited through a Request for Proposal (RFP). Formal, sealed RFPs may be used to procure insurance, high technology goods and services, consulting services and other professional services, not identified by the Professional Services Procurement Act, Chapter 2254 Subchapter A of the Texas Government Code, exceeding seventy-five thousand dollars (\$75,000.00). Notwithstanding the foregoing, the General Manager or the District Purchaser may authorize the use of this RFP procedure for contracts that are less than seventy-five thousand dollars (\$75,000.00) where he or she deems the procedure to be in the best interest of the District considering its fiscal responsibility to the taxpayers.
- 2. Solicitations-** The RFP will solicit proposals from vendors in response to the District's requirements and contractual terms and conditions. A formal contract must be approved by the Board of Directors.
- 3. High Technology Defined-** For purposes of this section, the definition of "high technology" goods or services shall be those goods or services of a highly technical nature, including, but not limited to:
 - a.** Data processing equipment and software and firmware used in conjunction with data processing equipment;
 - b.** Telecommunications, radio, and microwave systems;
 - c.** Electronic distributed control systems, including building energy management systems, and
 - d.** Technical services related to those goods and services.

B. Procedures for Procurement by Competitive Proposals

Competitive proposals for insurance, high technology goods and services and special services will be accomplished as follows:

1. Notice

After the development of the RFP, the District Purchaser will publish a notice of the RFP. The notice must include:

- a.** The specifications describing the goods and services to be purchased, or a statement of where the specifications may be obtained;
- b.** The time and place for receiving and opening RFPs and to whom the RFPs are to be sent, and

- c. The type of bond required (if necessary) of the vendor.

2. Evaluation Criteria

The RFP must specify the relative importance of price and other evaluation criteria.

C. Publication and Distribution of Notice- See Section XI subsection C

D. Receipt of Proposals -See Section XI subsection D

E. Opening of Proposals

1. Sealed proposals will be opened publicly by the District Purchaser and will be documented. The sealed proposals shall be opened on the date, time and place specified in the notice or amended by addendum, and only the name of the Proposer will be read aloud. Proposals shall be opened in a manner that avoids disclosure of the contents to competing Proposers and maintains the confidentiality of the proposals during negotiations.
2. All proposals that have been submitted will be available and open for public inspection after the contract is awarded, except for trade secrets and confidential proprietary information contained in the proposals and identified as such by the proposer if the solicitation provides for this information to be kept confidential.

F. Evaluation of Proposals

1. The District Purchaser will oversee the evaluation process as performed by a pre-determined evaluation committee. Any such committee shall serve as an advisory body only and shall have no power to bind the District, or Board of Directors, to adopt the recommendation of the committee; and
2. The General Manager will make the recommendation of selection to the District Board of Directors based upon his/her evaluation of the proposals or the recommendation of an appointed evaluation committee.

G. Negotiations

1. All negotiations will be conducted by the District Purchaser by direction of the General Manager. Any conversations with vendors must be made in coordination with the District Purchaser. Board members, district employees or individual members of a duly appointed evaluation committee shall not contact vendors without the express consent of the District Purchaser to avoid the appearance of impropriety.

H. Contract Award

1. The award of the contract shall be made by the District's Board of Directors to the responsible vendor whose proposal is determined to provide the best value to the

District resulting from negotiation and taking into consideration the relative importance of price and other evaluation factors set forth in the RFP.

I. Contract Administration

1. Where the contract has been awarded for the benefit of a specific department of the District, the department head will be responsible for monitoring and documenting contractor performance and compliance. All instances of material non-compliance shall be reported to the District Purchaser.
2. If the District Purchaser determines that the goods or services comply with expected performance standards, no further documentation will be required by the District Purchaser. If poor performance or non-compliance with the contract is evidenced, the District Purchaser will be responsible to initiate corrective action with the vendor.
3. The District Purchaser will take all steps necessary to obtain compliance with the contract and will consult with the District's Attorney before taking any steps toward suspension or termination of the contract.

X. PROCUREMENT OF PROFESSIONAL SERVICES

A. Professional Services over \$75,000.00

Unless otherwise allowed by the applicable laws of the State of Texas, all professional services anticipated to cost over seventy-five thousand dollars (\$75,000.00) will be procured using the formal RFQ process.

B. Overview

The District shall procure all professional services in accordance with The Professional Services Procurement Act, Chapter 2254 of the Texas Government Code. The term "professional services" has the meaning that is set forth in Section 2254.02 of the Texas Government Code. In accordance with the Act, the District may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services but shall make the selection and award:

1. On the basis of demonstrated competence and qualifications to perform the services; and
2. For a fair and reasonable price.

C. Publication and Distribution of Notice- See Section XI subsection C

D. Receipt of Qualifications -See Section XI subsection D

E. Evaluation Process

The District Purchaser will oversee the evaluation of sealed submittals performed by an evaluation committee. Any such committee shall serve as an advisory body only and shall have no power to bind the District or its Board of Directors, to adopt the recommendation of the committee. The General Manager shall communicate the results of the evaluation by the evaluation committee to the Board of Directors.

F. Selection Process

In accordance with Section 2254.004 of the Professional Services Procurement Act, in procuring architectural, engineering, or land surveying services, the District shall:

1. First select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
2. Then attempt to negotiate with that provider a contract at a fair and reasonable price.

G. Next Most Highly Qualified Provider

If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the District shall:

1. Formally end negotiations with that provider;
2. Select the next most highly qualified provider;
3. Attempt to negotiate a contract with that provider at a fair and reasonable price;
4. The District shall continue the process described above to select and negotiate with providers until a contract is entered into.

XI. EXEMPTIONS TO THE COMPETITIVE PURCHASING PROCESS

A. Section 49.278 of the Texas Water Code. Unless otherwise directed by the District's Board of Directors, the following goods and services are exempt from the competitive purchasing process:

1. Equipment, materials, or machinery purchased by the District at an auction that is open to the public;
2. Contracts for personal or professional services;
3. Contracts for services or property for which there is only one source or for which it is otherwise impracticable to obtain competition;
4. High technology procurements;

5. Contracts for the purchase of electricity for use by the District;
6. Contracts for services related to compliance with a state or federal construction storm water requirement, including acquisition of permits, construction, repair, and removal of temporary erosion control devices, cleaning of silt and debris from streets and storm sewers, monitoring of construction sites, and preparation and filing of all required reports, and
7. Captive Replacement Parts. The District recognizes that some manufacturers of heavy equipment require the use of original equipment manufactured (OEM) replacement parts in order to maintain a manufacturer's warranty applicable to such equipment. The District also recognizes that some manufacturers have not released patents on some parts that are required for repair of district equipment. In the event that the District Purchaser makes a good faith determination that a part is a captive replacement part, the Purchaser shall certify this determination on the Purchaser Order noted as a discretionary exemption. Thereafter, the User Department shall, from time to time, make additional inquiries to determine if suitable non-OEM parts are available for purchase that would provide a better value to the District.

XII. PROCUREMENT OF GOODS/SERVICES UNDER FEDERAL LAW

A. Compliance with Federal Law.

Notwithstanding any other provisions in this Purchasing Policies and Procurement Manual, in any and all instances in which the District is purchasing goods or services under a federal award or by using federal funds, the District shall comply with all federal law, rules and regulations, including, but not limited to all applicable portions of 2 CFR Part 200. Specifically, in the procurements of all goods or services under a federal award or involving the use of federal funds, the District shall comply with 2 CFR, Sections 200.318 thru Section 200.326, which sections are incorporated into this Purchasing Policies and Procurement Manual by reference as if set forth in full, and with all other applicable federal laws, rules, and regulations.

B. Deviation from Standards

To the extent that any provision of this Purchasing Policies and Procurement Manual conflicts with any provision of 2 CFR 200.318 through 2 CFR 200.326, or any other applicable federal law, rule or regulation, those sections of federal law, rule or regulation shall prevail, and the District Purchaser shall procure goods and services for the District pursuant to the aforementioned applicable federal law, rule or regulations.