

# VALLEY OF THE MOON WATER DISTRICT

January 2022

## PURCHASING POLICY

### Section 1

**PURCHASING POLICY ESTABLISHED:** In accordance with provisions of the District Code and the Board of Directors Policies and Procedures Manual of the Valley of the Moon Water District (District), the General Manager, with the approval of the Board of Directors, hereby establishes this Purchasing Policy to set forth the duties and responsibilities of the General Manager or their designee.

### Section 2

**DEFINITIONS:** For the purpose of this policy the following terms, phrases, words and derivations shall have the meaning given herein unless the context in which they are used clearly requires a different meaning.

- 2.1 **PURCHASING:** Purchasing includes purchasing, renting, leasing or otherwise obtaining equipment, supplies or services.
- 2.2 **SUPPLIES:** Supplies shall mean and include all supplies, materials, and equipment except those supplied as part of an all-inclusive service.
- 2.3 **SERVICES:** Services shall mean the furnishing of labor, time or effort (sometimes parts are included) incidental to the performance of a designated task. Services do not include services performed in connection with a Construction Contract. Precise specifications shall be delineated in the contract.
- 2.4 **RESPONSIBLE BIDDER:** Responsible bidder shall mean a bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the services or construction contract.
- 2.5 **RESPONSIVE BID/PROPOSAL:** Responsive bid or proposal shall mean a submitted bid that fully conforms in all material respects to the requirements set forth in the invitation for bids.
- 2.6 **PUBLIC PROJECT:** A Public Project - is defined in the Public Contract Code Section 22002 (c).
- 2.7 **NEGOTIATION:** "Negotiation" means contracting through the use of either competitive or other than competitive proposals and discussions. Any contract/purchase order awarded without using sealed bidding procedures is a negotiated contract/purchase order. Further, negotiation is a procedure that includes the receipt of proposals from offerors, permits bargaining, and usually affords an

opportunity to revise offers before award of a contract/purchase order. Bargaining in the sense of discussion, persuasion, alteration of initial assumptions of positions, and give-and-take may apply to price, schedule, technical requirements, type of contract/purchase order, or other terms of a proposed contract/purchase order.

**2.8 EMERGENCY:** The definition of an “emergency” as defined in the Public Contracts Code Section 1102.

### **Section 3**

**PURCHASING PROCEDURES:** The General Manager or their designee shall be responsible for supervising the purchase or contracting of all supplies and contractual services requisitioned by the District in accordance with the purchasing procedures prescribed herein and applicable provisions of the Board Policy and Procedures Manual. Purchases under \$5,000 which are within the approved budget may be approved by a department head (Finance Manager, Administrative Manager, Water System Manager). All purchases over \$5,000 or purchases that exceed the current approved budget, must be authorized by a Purchase Order approved by the General Manager or their designee.

**3.1 SUPPLIES AND SERVICES NOT COSTING OVER \$20,000:** When the General Manager or their designee considers prices to be fair and reasonable and the total amount of a purchase is not more than \$20,000, such purchases may be awarded without competitive bidding by the General Manager.

**3.2 SUPPLIES AND SERVICES COSTING \$20,000 to \$150,000:** Negotiated purchases exceeding \$20,000 but not exceeding \$150,000 in total cost will be supported by a record of price quotation from at least three (3) competitive sources or adequate explanations justifying the absence of such competition. Such quotation may be obtained in writing, verbally, or by such other means as may be prescribed by the General Manager or their designee as appropriate to the circumstances. These purchases are to be authorized by the General Manager. Furthermore, the following procedure shall be used to specify all new District vehicles:

**3.2.1** Use resources such as Motor Trend, J.D. Power, and/or Consumer Reports to determine and weigh the following criteria for a given application:

- 1) Towing capacity, payload, reliability ratings (particularly for the engine, drivetrain, breaking and suspension systems), estimated future repair costs, and availability of safety features such as power windows and mirrors in the base/work trim level.
- 2) While reliability and capability shall be given greater weight in the decision-making process than vehicle cost, the cost shall also be considered.
- 3) Once a vehicle is specified for the particular need of the District, a request for quotes will be generated and sent to at least (3) three different dealers, where possible, as outlined above.

**3.3 SUPPLIES AND SERVICES COSTING MORE THAN \$150,000 AND ALL CONSTRUCTION CONTRACTS:** All supplies and services costing more than \$150,000 and all construction contracts shall be purchased/awarded by formal competitive bids from the lowest responsive responsible bidder, after due notice inviting proposals and subject to the conditions under 3.3.1 to 3.3.15. Upon recommendation of the General Manager, all formal bids shall be awarded by the Board of Directors.

In some cases, bids may not be available, such as in the case of large equipment or vehicle purchases. In these cases, the General Manager or their designee shall follow the provisions of section 3.2 above with the exception that all purchases over \$150,000 shall be awarded by the Board of Directors.

**3.3.1 REQUEST FOR PROPOSAL:** A Request for Proposal (RFP) solicitation is normally used for professional services or where detailed specifications are not available and the District seeks solutions in the form of proposals from experienced firms. RFP solicitations are very specific to the situation. See Section 3.3.1, Request for Proposal (RFP), of the Procedures for Carrying Out the Purchasing Policy for further details.

- 1) The RFP will contain detailed instructions and the District's terms and conditions.
- 2) Scoring criteria (matrix) will be developed by the General Manager or their designee and included in the RFP.
- 3) Notices of the RFP should be sent to all businesses that have provided information to the District as well as any known by staff to be interested in the opportunity.
- 4) The RFP must contain a sample of the contract document.

**EVALUATION.** The evaluation of RFP responses and selection of successful contractor will be a qualifications-based selection process as described in Government Code 4525, et seq. and will be conducted in accordance with the procedures identified in the RFP. It is very important this process be clear and unbiased and focus on the professional consultants' qualifications and not solely on price. The process should be carefully thought through and incorporated into the RFP. When possible, a minimum of three individuals (the most qualified District employees) should evaluate the proposals. To facilitate the process, the following general principles should be followed:

- 1) Should District staff be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the District determines to be fair and reasonable, negotiations with that firm shall be formally terminated. District staff shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, District staff shall terminate negotiations. The District shall then undertake negotiations with the third most qualified firm.

- 2) Should District staff be unable to negotiate a satisfactory contract with any of the selected firms, the District shall select additional firms in order of their competence and qualification and continue negotiations until an agreement is reached or until the District decides not to award a contract.

**3.3.2 INVITATION FOR BIDS:** See Section 3.3.2 of the Procedures for Carrying Out the Purchasing Policy for further details.

**3.3.3 PUBLIC NOTICE:** See Section 3.3.3 of the Procedures for Carrying Out the Purchasing Policy for further details.

**3.3.4 PERFORMANCE AND PAYMENT BONDS:** A performance and payment bond in an amount equal to 100% of the contract value will be required and shall be prescribed in the public notice inviting bids for all construction contracts

**3.3.5 LATE SEALED BIDS:** Late sealed bids may not be accepted and shall be returned unopened in accordance with Government Code Section 53068.

**3.3.6 BID DEPOSITS:** Bid deposits will be required on all construction projects when the estimated value of work to be done exceeds \$50,000 or when deemed necessary by the General Manager or their designee or required by federal regulations, and that said bid deposits shall be prescribed in the public notice inviting bids. Bid deposits shall be a minimum of ten (10%) percent. The Bid Bonds of the unsuccessful bidders shall be returned by the General Manager within a reasonable period of time. A successful bidder shall forfeit any Bid Bond required by the General Manager upon failure on their part to enter into a contract within ten (10) days after the award.

**3.3.7 BID OPENING PROCEDURE:** Bids shall be submitted sealed to the General Manager and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notice. A record of all bids submitted shall be kept by the General Manager or their designee and such record shall be open to public inspection during regular business hours.

**3.3.8 LOWEST RESPONSIBLE BIDDER:** Contracts shall be awarded to the lowest responsive responsible bidder. In determining the lowest responsive responsible bidder in addition to price, the following shall be considered, either pursuant to a Request for Qualifications included with the Invitation to Bid or by independent research conducted by staff upon receipt of the bids:

- 1) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;
- 2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
- 3) The character, integrity, reputation, judgment, experience and efficiency of the bidder;

- 4) The quality of performance of previous contracts or services;
- 5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services and supplies;
- 6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the services and supplies;
- 7) The quality, availability and adaptability of the supplies or contractual services to the particular use required;
- 8) The number and the scope of conditions attached to the bid;
- 9) Submission of all required documents, addendums, etc. at the time of the bid

**3.3.9 AWARD TO OTHER THAN LOW BIDDER:** When the award is not given to the apparent lowest responsive bidder, a statement of the reasons for placing the order elsewhere shall be prepared and filed with the papers relating to the transaction.

**3.3.10 CORRECTION OR WITHDRAWAL OF BIDS – CANCELLATION OF AWARDS:** Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such mistakes, may be permitted where appropriate. Please refer to Public Contract Code Section 5103.

**3.3.11 TIE BIDS:** If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded first to a local bidder and second to an in-state bidder. If neither of the above applies, the contract shall be awarded to one of the tie bidders by drawing lots in public.

**3.3.12 REJECTION OF BIDS:** The Board of Directors, upon recommendation of the General Manager, shall have the authority to reject any and all bids for any reason when such action is deemed to be in the best interest of the District.

**3.3.13 EMERGENCIES:** When the public exigency will not permit a delay incident to advertising, the General Manager may authorize immediate negotiated purchases of supplies or services necessary to protect the best interest of the District. Awards done as emergencies shall be documented and forwarded to the Board of Directors for ratification.

**3.3.14 FORMAL COMPETITIVE BIDS IMPRACTICAL:** The purchase of services and materials for which it is impractical or impossible to obtain competitive bids because of the specialized and professional nature of these services, shall be effected in a manner which is in the best interest of the District.

**3.3.15 NOTICE OF COMPLETION:** For each public works contract issued, a notice of completion shall be issued to the Contractor by the General Manager or their

designee upon acceptance of the facilities by the Board of Directors. See Section 3.3.15, Notice of Completion, of the Procedures for Carrying Out the Purchasing Policy for further details.

- 3.4 ENGINEERING AND CONSULTANT SERVICES:** It is the policy of the District to award contracts for such services on the basis of demonstrated competence and qualifications for the type of professional services required, the technical merits of offers and the price for which services are to be rendered.
- 3.4.1 ENGINEERING AND CONSULTANT SERVICES COSTING NOT OVER \$20,000:** When the General Manager or their designee considers prices to be fair and reasonable and the total amount of a purchase is not more than \$20,000, such purchases may be awarded without competitive proposals by the General Manager.
- 3.4.2 ENGINEERING AND CONSULTANT SERVICES COSTING \$20,000 to \$150,000:** Negotiated purchases exceeding \$20,000 but not exceeding \$150,000 in total cost will be supported by a record of price quotation from at least three (3) competitive sources or adequate explanations justifying the absence of such competition. Such quotation may be obtained in writing, These purchases are to be authorized by the General Manager.
- 3.4.3 ENGINEERING AND CONSULTANT SERVICES COSTING MORE THAN \$150,000:** Engineering and consultant services costing more than \$150,000 shall be awarded by formal request for proposal. Upon recommendation of the General Manager, all proposals shall be awarded by the Board of Directors.
- 3.4.4 FEES:** Sealed fee statements shall be submitted at the same time as the proposal. No District contracts shall be awarded wherein the fee is stated as a percentage of the project cost. The preferred method of establishing a fee shall be that of a not-to-exceed amount. Other methods may, at the discretion of the General Manager, be employed if it is impossible to arrive at a not to exceed amount.
- 3.4.5 INSURANCE AND BONDS:** All firms selected as being adequately qualified must provide evidence of insurance covering their entire scope of operation for any “error or omissions” resulting from their endeavors. The amounts of such insurance coverage shall be commensurate with the magnitude of the project under consideration and shall be established by the General Manager or their designee. Should timely performance be a matter of importance to the District, the firm selected may be requested to furnish an acceptable performance bond and/or such other form of surety as may be mutually agreed upon to insure adherence to a mutually agreed upon time schedule.
- 3.4.6 NEGOTIATION OF FEES:** Once the General Manager has selected and rated those firms adequately qualified for a specific project and has reviewed the fee statements, the General Manager shall negotiate a contract with the highest rated firm at compensation which they determine to be fair and reasonable to the District. In making this decision, they shall take into account the estimated value of the services to be rendered, the scope, complexity and professional nature thereof.

Should an agreement not be reached, negotiations should be terminated with that firm and begin with the second ranked firm. The process should continue until an agreement is reached with a satisfactory firm.

**3.4.7 FORMAL COMPETITIVE RFP'S IMPRACTICAL:** Engineering and Consultancy Services for which it is impractical to obtain competitive bids because of the specific expertise, specialized knowledge and professional nature of these services, their services shall be contracted in a manner which is in the best interest of the District.

**3.5 REQUISITION:** Excepting ongoing services such as the electric bill, and routine patch paving etc., purchases involving the immediate encumbrance of District funds over \$5,000 shall be made only on the basis of a Purchase Order signed by the General Manager or their designee.

**3.6 UNAUTHORIZED PURCHASES:** Except as herein provided, or as may be specifically authorized by the Board of Directors or the General Manager or their designee, it shall be unlawful for any District employee or official to purchase any supplies or services other than in accordance with these policies.

In the event that an unauthorized purchase is made the following may apply:

- 1) Such purchases are void and not considered an obligation of the District.
- 2) Invoices without an authorization may be returned to the vendor unpaid.
- 3) The person ordering the unauthorized purchase may be held personally liable for the costs of the purchase or contract.

## **Section 4**

### **MISCELLANEOUS PROVISIONS**

**4.1 GIFTS AND GRATUITIES:** Officers and employees of the District are expressly prohibited from accepting from any person, firm, corporation or organization, any rebate or gift that would directly affect the purchase of goods or services for the District, except where given for the use or benefit of the District.

**4.2 COOPERATIVE PURCHASING (Government Agency "Piggybacking"):** The General Manager or their designee shall have the authority to participate in, use, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of any supplies, equipment, or service with one or more public agencies in accordance with an agreement entered into between the participants and applicable provisions of Public Contract Code sections 10298, 20118 and 20652. Such cooperative purchasing may include, but is not limited to, joint or multiparty contracts between public agencies and open-ended state and/or federal public agency contracts which are made available to the District.

**4.3 USE OF PETTY CASH:** From time-to-time staff needs to obtain small items to facilitate the District's operations. Petty cash can be used to reimburse staff for

these items if the items reimbursed are less than \$100. If the amount is greater than \$100, the amount will be reimbursed through accounts payable.

**4.4 LARGE CHECKS:** Checks written for \$5,000 or more shall require two (2) signatures: one (1) member of the Board of Directors and the General Manager or their designee.

**4.5 PUBLIC WORKS/PREVAILING WAGE:** When improvements which are considered to be Public Works for purposes of prevailing wages under State law are constructed pursuant to Labor Code Sections 1720 *et seq.*, the Contractor and its Subcontractors stipulates that it shall comply with all applicable wage and hour laws, including without limitation, California Labor Code §§ 1770-1785 and 1810-1815. Failure to comply shall constitute a default of contract with the District.

Further, all public works projects valued at \$30,000 or more must include an obligation to hire apprentices, unless the craft or trade does not require the use of apprentices, as indicated in the corresponding prevailing wage determination. This duty applies to all contractors on a public works project, even if their part of the project is less than \$30,000.

**4.6 INSPECTION AND TESTING:** The General Manager or their designee shall have the authority to inspect supplies, material and equipment delivered to determine their conformance with the specifications set forth in the order. The General Manager or their designee shall have authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with specifications.