

AGENDA

**INVESTMENT AND FINANCE COMMITTEE MEETING
LEUCADIA WASTEWATER DISTRICT**

June 27, 2011 – 9:00 a.m.
1960 La Costa Avenue, Carlsbad, CA 92009

1. **Call to Order**
2. **Roll Call**
3. **Public Comment**
4. **Old Business**
None.
5. **New Business**
 - A. Audit entrance meeting with Diehl, Evans, & Co. (Page 1)
 - B. Recommend that the Board of Directors Adopt Resolution No. 2218 – Approving LWD’s revised Procurement Policy. (Pages 2 – 11)
6. **Information Items**
None.
7. **Director’s Comments**
8. **General Manager’s Comments**
9. **Adjournment**

MEMORANDUM

Ref: 11-2926

DATE: June 23, 2011
TO: Investment & Finance Committee (IFC)
FROM: Paul J. Bushee, General Manager
SUBJECT: **Audit Entrance Meeting**



RECOMMENDATION:

1. Discuss and provide direction as appropriate.

DISCUSSION:

During February 2010, LWD entered into an agreement with Diehl, Evans & Company, LLP (Diehl-Evans) for the purpose of performing financial auditing services for Fiscal Years 2010 through 2012. As part of the auditing process for FY 2011, Diehl-Evans has requested an opportunity to meet with IFC Directors to discuss the auditing process.

A member of Diehl-Evans' auditing team will be at the IFC meeting to present information about the audit and discuss items that may be of interest to the IFC. Staff has no recommendations regarding this agenda item.

cal:PJB

MEMORANDUM

Ref: 11-2925

DATE: June 23, 2011
TO: Investment & Finance Committee
FROM: Paul J. Bushee, General Manager
SUBJECT: Revised Procurement Policy



RECOMMENDATION:

Staff requests that the Investment & Finance Committee (IFC) recommend that the Board of Directors:

1. Adopt Resolution No. 2218 approving LWD's revised Procurement Policy.
2. Discuss and take other action, as appropriate.

DISCUSSION:

The Leucadia Wastewater District (LWD) Procurement Policy was adopted by the Board of Directors on March 9, 2005. It was last revised on October 10, 2007. The policy consolidates purchasing requirements under one program and provides a prudent set of controls while maintaining efficiency and flexibility in the procurement process.

Staff recently conducted a thorough review of the existing policy. Overall, it continues to provide prudent purchasing controls and guidelines for the Board of Directors, the General Manager and staff. In addition, it establishes spending limits that reflect today's costs and provides staff the flexibility to purchase goods and services in the most efficient manner possible.

For these reasons, staff is recommending that the Board of Directors adopt the revised Procurement Policy by approving Resolution No. 2218.

The proposed resolution (Attachment 1) and a strike-out version of the revised Procurement Policy (Attachment 2) are attached for the committee's review.

cal:PJB

Attachments

RESOLUTION NO. 2218

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
LEUCADIA WASTEWATER DISTRICT
ADOPTING A REVISED PROCUREMENT POLICY**

WHEREAS, the Leucadia Wastewater District's (LWD) existing Procurement Policy was adopted on March 9, 2005 to establish a prudent set of controls in the procurement process; and

WHEREAS, it is prudent for LWD to periodically revise its Procurement Policy to reflect changes in laws and regulation as well as the escalation of prices due to inflation.

NOW, THEREFORE, it is hereby resolved as follows:

1. The LWD Board of Directors adopts the LWD Procurement Policy attached hereto as Exhibit "A" and directs that it be implemented consistent with all applicable laws and related District policies.
2. This Resolution supersedes Resolution No. 2185.

PASSED AND ADOPTED by the Board of Directors of Leucadia Wastewater District this 13th day of July, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Donald Omsted, President

ATTEST:

Paul J. Bushee, Secretary/Manager

(SEAL)

Attachment 1



LEADERS IN
ENVIRONMENTAL
PROTECTION

LEUCADIA WASTEWATER DISTRICT

PROCUREMENT POLICY

Ref: 11-292408-1300

1. Purpose

The purpose of this Policy is to establish the requirements and implement the rules and regulations governing the procurement of all goods and services required by the Leucadia Wastewater District (LWD).

2. Authority

- 2.1. Resolution 2218 Aa adopted by the LWD Board of Directors: ~~October 10, 2007~~ July 13, 2011.

3. Related LWD Board of Directors Policy

- 3.1 Resolution 2095 authorizing the General Manager to purchase up to \$25,000 of goods, materials, and supplies at any one time without specific prior Board approval dated September 8, 2000.
- 3.2 Resolution 2142 adopting the LWD Conflict of Interest Policy.

4. Policy

It is the Policy of the Board of Directors that:

- 4.1. LWD shall procure required goods and services commensurate with acceptable quality at the lowest possible cost.
- 4.2. Appropriate internal financial controls shall be exercised over all procurements.
- 4.3. No procurement shall be authorized unless sufficient funds have been appropriated pursuant to LWD's budgetary processes.
- 4.4. Cooperative purchasing with other public agencies shall be performed whenever such purchases are feasible and in the best interests of LWD.
- 4.5. The General Manager shall determine the necessity of insurance and/or appropriate insurance requirements in consultation with the originating department head and risk management advisors, and, with the advice and concurrence of the LWD General Counsel. If insurance is required, Aa Certificate of Insurance conforming to such

Attachment 2

requirements, and any applicable insurance industry standards, must be on file before goods are delivered or services are provided.

- 4.6. The General Manager shall execute and maintain administrative procedures to implement this Policy and to ensure that the procurement of all goods and services are properly documented as conforming to this Policy, related internal financial controls and all applicable administrative procedures.
- 4.7. The General Manager shall maintain all documentation required by this Policy in conformance with applicable LWD Policy.
- 4.8. The LWD shall not discriminate against any person or entity because of race, color, religion, national origin, gender or disability status and shall place, in all procurement related solicitations or advertisements for formal procurement of goods or services, a statement that all qualified bidders will receive consideration without regard to race, color, religion, national origin, gender or disability status.
- 4.9. The General Manager may, at his/her discretion, delegate duties under this Policy.
- 4.10. The Board of Directors may, at its sole discretion, waive all or any part of this Policy.

5. Definitions

Bidder: A person or firm submitting an offer to LWD in response to a Request for Bids.

Formal Procurement of Goods and Services: Procurement of goods or services resulting in total cash payments greater than \$50,000 exceeding the limits of Informal Procurements.

Goods: An item moveable at the time LWD executes the Purchase Order for its procurement; equipment or supplies specially manufactured for LWD; construction work of a non-professional nature to install equipment or supplies specifically for LWD; electricity; natural gas; and, water.

Informal Procurement of Goods: Purchase of goods resulting in total payments of \$5,000.01 to \$50,000. Sufficient funds shall be available in the Board approved LWD Budget.

Informal Procurement of Services: Procurement of services resulting in contract Not-to-Exceed (NTE) amounts between \$25,000.01 and \$50,000. Funds shall be available in the Board approved LWD Budget.

Open Market Procurement of Goods: Purchase of goods resulting in total payments by the LWD of \$5,000 or less. Sufficient funds shall be available in the Board approved LWD Budget.

Open Market Procurement of Services: Procurement of services resulting in contract Not-to-Exceed (NTE) amount of up to \$25,000. Sufficient funds shall be available in the Board approved LWD Budget.

Proposer: A person or firm submitting an offer to LWD in response to a Request for Proposals.

Scope of Work: A description of services required by LWD that a proposer must demonstrate the capability to provide as a prerequisite to LWD's consideration of their proposal.

Sealed Bids: A bid submitted in a sealed envelope to prevent disclosure of its content prior to the established public opening.

Services: Services include all purchases not classified as goods or materiel and can be professional in nature.

Sole Source Procurement: Procurement instances when the goods and/or services are obtainable from only one vendor due to unique circumstances, specifications or qualifications.

Specification: A description of the goods required by LWD that a bidder must satisfy precisely or through functional equivalency as a prerequisite to LWD's consideration of their bid.

Vendor / Firm / Consultant: An entity which is capable of or is interested in providing goods or services to LWD, or has been awarded a procurement ~~document~~agreement by LWD.

6. Open Market Procurements for Goods (\$5,000 or less) and Services (\$25,000 or less)

The LWD Staff shall make reasonable efforts to secure goods of suitable quality or, in the case of services, the best qualified consultant or service provider at the lowest possible cost and shall document such procurements as appropriate.

7. Informal Procurements for Goods (\$5,000.01 to \$50,000)

The following defines an informal procurement for goods:

7.1 Minimum Requirements: The procurement of goods or materiel requires that Staff develop a Request for Quote (Quote) to clarify and standardize the requirements of the procurement. The Quote shall include, as a minimum:

- An appropriately detailed Specification considering the value, availability and technical complexity of the items to be procured,
- A list of at least three (3) possible suppliers, if practicable,
- The date and time by which LWD must receive the Quote.

7.2 Quote Distribution and Evaluation: Unless impracticable, LWD shall distribute the Quote to at least three (3) suppliers. Staff will evaluate the responses received to determine the lowest responsive and responsible quote that meets or exceeds the Quote specifications.

7.3 Quote Documentation: Staff will document the Quotes received and the results of the evaluation. If less than three (3) Quotes were received and evaluated, a brief explanatory statement will be provided.

7.4 Award: The General Manager shall award the procurement to the lowest responsive and responsible bidder if the total dollar cost of the procurement is \$25,000 or less. If the total dollar cost of the procurement is \$25,000.01 or more, the purchase must be approved by the Board of Directors.

7.5 Delegation of Authority to Award: For the purchase of goods or materiel, the General Manager may delegate the authority to award procurements by administrative procedure specifically identifying such delegates and the dollar limit of each delegate's authority.

8. Informal Procurements – Services (Contract from \$25,000.01 to \$50,000):

The following defines an informal procurement for services:

- 8.1 Minimum Requirements. Staff will develop a Request for Proposals (RFP) to include, as a minimum:
- An appropriately detailed Scope of Work considering the value availability and technical complexity of the services to be procured,
 - A list of at least three (3) possible firms, if practicable,
 - The date and time by which LWD must receive the proposal.
 - If the proposed project is not identified in the budget, the Board of Directors shall review and approve the RFP and Supplemental Documentation prior to soliciting for proposals.
- 8.2 RFP Evaluation. Staff or a panel of evaluators designated by the General Manager will determine the best qualified proposer based on professional competency and their ability to satisfy the Scope of Work. Whenever possible, dependent on the services required, LWD shall evaluate and document at least three (3) proposals. If less than three (3) proposals were evaluated, a brief explanatory statement will be submitted to the General Manager.
- 8.3 Negotiations. Staff shall negotiate with the best qualified proposer. If unable to successfully complete such negotiations, negotiate with the remaining proposers, in the order that their proposals are most beneficial to LWD, until negotiations are successfully completed.
- 8.4 Coordination, Review and Approval. The General Manager will assign staff and, if necessary, LWD Counsel to generate a contract or related documents. All informal procurements for services will require a written contract.
- 8.5 Award. The General Manager shall recommend that the Board of Directors award the contract to the best qualified firm with whom LWD successfully completed negotiations. The Board shall award procurements of services with a total dollar cost from \$25,000.01 to \$50,000.
- 8.6 Documentation of Award. The responsible staff member shall establish a Contract File that contains the RFP documentation per Sections 8.1 through 8.5 of this Policy, signed contract and any additional documents prescribed by administrative procedure.

9. Formal Procurements: Goods (\$50,000.01 and over)

- 9.1. Additional Requirements: Formal Request for Sealed Bids (RFB). In addition to this Policy's requirements for awarding Informal Procurements, the initiating department head shall submit for the General Manager's review and approval a RFB that includes:
- An appropriately detailed Specification considering the value, availability and technical complexity of the items to be procured,
 - Proposed procurement schedule.

- 9.2. Supplemental Documents: Formal RFB. Along with the RFB, the initiating department head shall submit for the General Manager's review and approval the following Supplemental Documents:
- A draft Notice Inviting Bids, suitable for publication, containing all information required by this Policy, applicable administrative procedures or the General Manager; and,
 - A suggested list of prospective vendors, at least three (3) vendors, if practicable, to receive the RFB.
- 9.3. Public Notice. Public Notice Inviting Bids for a RFB must be published in a newspaper of general circulation at least ten (10) days prior to the bid opening date.
- 9.4. Bid Opening. All sealed bids are opened in public and apparent low bidder is identified at the bid opening.
- 9.5. Bid Evaluation. After the bid opening, all bids will be evaluated to ensure compliance with the bid specifications and for acceptable quality to determine the lowest responsive and responsible bidder. All bids and bid information shall be public unless otherwise specified in the bid specifications.
- 9.6. Award. All sealed bid procurements shall be awarded to the lowest responsive and responsible bidder who meets or exceeds the specifications of the RFB. ~~If as a result of the RFB process, the total dollar cost to LWD is \$25,000 or less the General Manager shall approve the purchase. If the total dollar cost of the procurement is \$25,000.01 or more, All formal procurements the purchase~~ must be approved by the Board of Directors.

10. Formal Procurements: Services (\$50,000.01 and over)

- 10.1. Additional Requirements: Formal ~~Request for Proposals (RFP)~~ or Request for Qualifications (RFQ). In addition to this Policy's requirements for awarding Informal Procurements for services, the initiating department head shall submit for the General Manager's review and approval a RFP or RFQ that includes:
- A detailed Scope of Work itemizing the services required,
 - Proposed schedule,
 - Preliminary criteria upon which proposals / qualifications shall be evaluated.
- 10.2. Supplemental Documents: Formal RFP / RFQ. Along with the RFP / RFQ, the initiating department head shall submit for the General Manager's review and approval the following items:
- A draft public notice, suitable for publication, containing all information required by this Policy, applicable administrative procedures or the General Manager and,
 - A suggested list of prospective consultants to receive the RFP / RFQ .
- 10.3. General Manager Approval of Proposal Publication. No publication of public notice inviting proposals shall be made unless the General Manager has approved the Formal RFP and Supplemental Documents. If the project is not identified in the

budget, the Board of Directors shall review and approve the RFP and Supplemental Documentation prior to publication.

- 10.4. Public Notice. Public notice of a RFP / RFQ must be published in a newspaper of general circulation at least ten (10) days prior to the proposal / Statement of Qualification (SOQ) due date.
- 10.5. RFQ Evaluation. If the implementation of the RFQ process is selected to procure services, additional steps are added to the RFP process. The RFQ calls for submission of a Statement of Qualification (SOQ) instead of a proposal. The SOQs are used to establish the professional competency and capability of each firm to perform and satisfy the project's Scope of Work. Once Statements of Qualifications (SOQ) are received from interested firms, the General Manager will convene a panel consisting of at least three (3) individuals. The panel will evaluate the SOQs received in response to the RFQ to determine those firms that, in the panel's opinion, are best qualified to meet the Scope of Work identified in the RFQ. The panel will identify at least three (3) ~~qualified firms, if appropriate, but no more than six (6),~~ qualified firms. Once the qualified firms have been determined, only those firms will be invited by the General Manager to submit proposals (RFP) for evaluation.
- 10.6. Proposal Evaluation. Pursuant to the criteria established for that RFP and any additional criteria necessary and appropriate to advance the best interests of the LWD, the General Manager or a panel of evaluators selected by the General Manager shall review each proposal and may interview each firm to determine an ordinal ranking of the proposing firms. The ordinal ranking will be primarily based on the professional competency of the firms.
- 10.7. Negotiation. The General Manager shall enter into negotiations with the top ranked firm to establish the contract price and fees. If a fair price cannot be reached with the top ranked firm, then that firm shall be eliminated from consideration and negotiations shall be initiated with the next highest ranked firm.
- 10.8. Award. All formal procurements for services must be approved by the Board of Directors.

11. Emergencies and Exceptions

The following exceptions shall apply to the foregoing bidding procedures. When an exception applies, supplies, equipment and/or services may be purchased following whatever procedures are determined necessary under the circumstances as determined by the General Manger, at his or her discretion.

11.1 Sole Source Procurement

- A. In certain instances, goods and services are obtainable from only one vendor due to unique circumstances. These circumstances include:
 - The good or service is of such a unique, proprietary or technical nature that it is only manufactured or provided by a single vendor; or,

- The good or service must match or be compatible with other goods or service, currently in use by LWD, obtained from a certain vendor. In this instance, it must be demonstrated that the matching or compatible good or service can only be supplied by this same vendor.
- B. All sole source purchases for goods over \$5,000 and sole source procurements for services over \$25,000 require an explanation justifying the sole source procurement under this Policy to the General Manager.
- C. Sole source procurements shall comply with all requirements, as set forth in this Policy, that are compatible with a procurement authorized under this section.

11.2 Emergency

If an emergency arises and there is insufficient time to comply with the otherwise applicable bidding procedures, an exception shall apply. An emergency may be determined by the General Manager if there is no time for a Board meeting; otherwise a finding of emergency shall be made by the Board. If the General Manager determines an emergency existed and the procurement exceeded his or her approval authority as established in this policy, the actions taken shall be reported to the Board of Directors at its next regular meeting.

11.3 Complex or Unique Items

- A. In the event that the supplies and/or equipment sought to be purchased are unique and/or complex such that it is unlikely that there would be more than one bidder.
- B. It is unlikely that there would be any economic benefit to the public to be gained from bidding, the General Manager, at his or her discretion, may authorize direct negotiations in lieu of bidding.
- C. An explanation to the Board of Directors is required justifying the procurement of critical or unique items.

12. Alternative or Conditional Requirements

- 12.1 Bid Security. Bidder's security may be prescribed in the public notice inviting bids at LWD's sole discretion. Bidders shall be entitled to return of bid security except that a successful bidder shall forfeit his bid security upon the bidder's refusal or failure to execute a contract within ten (10) days after the Notice of Award has been mailed.
- 12.2 Rejection of Bids/Proposals. The General Manager or Board of Directors, at their discretion, may reject any and all bids or proposals / SOQs and proceed pursuant to this Policy.
- 12.3 Performance Bond. LWD shall retain unilateral authority to require a performance bond before entering a contract. The amount of such a bond shall be set as determined reasonably necessary to protect the best interests of LWD. If LWD requires a performance bond, the form and amount of the bond shall be described in the public notice inviting bids or proposals.

- 12.4 Continuing Services. Where a vendor or firm has satisfactorily completed one phase in the development of a project and the General Manager, or as may be required by this Policy, the Board of Directors, determines that it is in the best interest to retain this vendor or firm for a subsequent phase of work, the General Manager, or his designee, shall be authorized to proceed directly with the negotiations for compensation with this entity. If required by this Policy, the Board of Directors shall approve the resulting contract or amendment. In the event that a fair price cannot be reached, then the appropriate procurement requirements set forth in this Policy shall apply.
- 12.5 Governing Law. Nothing in this policy is intended nor shall be deemed to supersede any applicable State or Federal laws.