

RESOLUTION NO. 2354

**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 August 19, 2020 to establish a prudent set of controls in the procurement process; and

WHEREAS, it is prudent for LWD to periodically review 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 and rescinds Resolution No. 2338.

PASSED AND ADOPTED by the Board of Directors of Leucadia Wastewater District this 18th day of August, 2021, by the following vote:

AYES: Omsted, Hanson, Sullivan, Brown, and Roesink

NOES: None

ABSENT: None

ABSTAIN: None



Donald F. Omsted, President

ATTEST:



Paul J. Bushee, Secretary/Manager

(SEAL)



PROCUREMENT POLICY

Ref: 22-7709

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. Related LWD Board of Directors' Policies

2.1. Resolution 2289 authorizing the General Manager to purchase up to \$35,000 of goods, materials, supplies, and services at any one time without specific prior Board approval dated September 13, 2017.

2.2. LWD's current Conflict of Interest Code.

3. Policy

It is the Policy of the Board of Directors that:

3.1. LWD shall procure required goods and services commensurate with acceptable quality at the lowest possible cost.

3.2. Appropriate internal financial controls shall be exercised over all procurements.

3.3. No procurement shall be authorized unless sufficient funds have been appropriated pursuant to LWD's budgetary processes.

3.4. Cooperative purchasing with other public agencies shall be performed whenever such purchases are feasible and in the best interests of LWD.

3.5. 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, a Certificate of Insurance conforming to such requirements, and any applicable insurance industry standards, must be on file before goods are delivered or services are provided.

3.6. 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 and that they conform to: this Policy, related internal financial controls, and all applicable administrative procedures.

- 3.7. The General Manager shall maintain all documentation required by this Policy in accordance with LWD's Records Retention Policy.
- 3.8. The General Manager may, at his/her discretion, delegate duties under this Policy.
- 3.9. The Board of Directors may, at its sole discretion, waive all or any part of this Policy.

4. Policy Coverage

This Policy is intended to cover the procurement of the following types of items:

- 4.1. Goods: An item moveable at the time LWD executes the Purchase Order for its procurement; equipment or supplies specially manufactured for LWD; installation of equipment or supplies specifically for LWD; and utilities such as electricity, natural gas, telecommunications, internet, and water.
- 4.2. Professional Services: Services that are professional in nature and do not include the physical construction or installation of equipment for the District's infrastructure. Services in this category include, but may not be limited to, engineering design, architectural services, public information services, financial services, strategic planning services and legal services.
- 4.3. Construction Services: Services typically associated with the physical construction and/or installation of equipment necessary to improve or replace the District's infrastructure. For the purposes of this policy, landscape services shall follow the procedures associated with this category.
- 4.4. Other Services: Other Services include all purchases for services not classified as goods, construction services, or professional services, and include janitorial and uniform rental services, but may not be limited to these services.

5. Open Market Procurements for Goods and Other Services (\$10,000 or less) and Professional Services and Construction Services (\$35,000 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.

6. Informal Procurements for Goods and Other Services (\$10,000.01 to \$60,000) and Construction Services (\$35,000.01 to \$60,000)

The following defines an informal procurement for goods:

- 6.1. Minimum Requirements: The procurement of goods or services require that Staff develop a Request for Quote to clarify and standardize the requirements of the procurement. The Request for 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 by which LWD must receive the quote.

- 6.2. Request for Quote Distribution and Evaluation: LWD shall distribute the Request for Quote to at least three (3) suppliers. Staff will evaluate the responses received to determine the best responsive and responsible quote that meets or exceeds the Request for Quote specifications. Although cost is important, it is not the sole basis of the award.
- 6.3. 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.
- 6.4. Award: The General Manager shall award the procurement to the best determined responsive and responsible quote, if the total dollar cost of the procurement is \$35,000 or less. If the total dollar cost of the procurement is \$35,000.01 or more, the purchase must be approved by the Board of Directors.
- 6.5. Delegation of Authority to Award: For the purchase of goods or construction services, 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.

Nothing in this policy shall prohibit staff from utilizing a formal bid process if deemed to be in the best interest of the District. If a formal bid process is elected, the procedures in Section 8 below shall be followed.

7. Informal Procurements for Professional Services (Contract from \$35,000.01 to \$60,000):

The following defines an informal procurement for professional services:

- 7.1. Minimum Requirements. Staff will develop a Proposal letter 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 by which LWD must receive the proposal,
 - If the proposed project is not identified in the budget, the Board of Directors shall review and authorize the procurement.
- 7.2. Evaluation of Proposals. 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.
- 7.3. 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.
- 7.4. 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 professional services will require a written contract.
- 7.5. 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 \$35,000.01 to \$60,000.

7.6. Documentation of Award. The responsible staff member shall establish a Contract File that contains the Proposal documentation per Sections 7.1 through 7.5 of this Policy, signed contract and any additional documents prescribed by administrative procedure.

8. Formal Procurements for Goods, Construction Services, and Other Services (\$60,000.01 and over):

8.1. 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.

8.2. 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 for publication and
- A suggested list of at least three (3) prospective vendors, if practicable.

8.3. Public Notice. Public Notice Inviting Bids for an RFB must be published in a newspaper of general circulation at least ten (10) days prior to the bid opening date. For only the formal procurement of goods and other services, if the General Manager determines that publication of an RFB will not enhance the competitiveness of the bid, the General Manager, at his sole discretion, may waive the public notice of the RFB. For example, there is a limited number of vendors and all vendors will be provided with the RFB, then the publication of the RFB can be waived

8.4. Bid Opening. All sealed bids are opened in public and apparent low bidder is identified at the bid opening.

8.5. 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.

8.6. Award. All sealed bid procurements shall be awarded to the lowest responsive and responsible bidder who meets or exceeds the specifications of the RFB. All formal procurements must be approved by the Board of Directors.

9. Formal Procurements for Professional Services (\$60,000.01 and over)

9.1. 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,
 - A draft public notice, and,
 - A suggested list of prospective consultants to receive the RFP/RFQ.
- 9.2. 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 authorize the procurement.
- 9.3. 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.
- 9.4. 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 SOQs 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. Once the qualified firms have been determined, only those firms will be invited by the General Manager to submit proposals (RFP) for evaluation.
- 9.5. 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.
- 9.6. Negotiation. The General Manager or his/her designee 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.
- 9.7. Award. All formal procurements for services must be approved by the Board of Directors.

10. Competitive Negotiations

- 10.1. Competitive negotiations may be used for the procurement of highly technical goods or services. Under competitive negotiations cost will be a significant factor, but not the only deciding factor. The General Manager may authorize competitive negotiations when:
- The goods or services are such that suitable technical or performance specifications are not readily available.
 - District does not possess the professional expertise necessary to develop suitable technical or performance specifications.

- Proposals for the purchase goods or services would be more advantageous to District.

10.2. In the case of competitive negotiations, the initiating department head shall obtain the General Manager's authorization to proceed under this section using such open market, informal or formal, procedures as the General Manager shall, at his sole discretion deem necessary.

10.3. The use of competitive negotiations is not intended to be used for the purpose of avoiding the Formal RFB or Formal RFP requirements as set forth in this policy

11. 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 Manager, 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;
- The good or service must match or be compatible with other goods or services, 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, or
- When a vendor or firm possesses unique knowledge of LWD; or
- 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

B. All sole source purchases for goods over \$10,000 require a justification to the General Manager; and all sole source procurements over \$35,000 require a justification to the Board of Directors.

C. Sole source procurements shall comply with all award threshold requirements set forth in this Policy.

D. Complex or Unique Items

- 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.
- 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.

- An explanation to the Board of Directors is required justifying the procurement of critical or unique items.

11.2. Emergency

If an emergency arises and there is insufficient time to comply with the above applicable procurement procedures, an exception shall apply. An emergency situation may be determined by the General Manager if there is no time to convene a Board meeting. In the case of an emergency, the General Manager can authorize procurement(s) that exceeds his designated threshold in order to resolve the situation. The General Manager will inform the Board members of the emergency procurement as soon as possible. If the General Manager determines an emergency existed and authorizes a procurement(s) exceeding his/her approval authority, then a staff report shall be provided to the Board of Directors at its next regular meeting.

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. Governing Law. Nothing in this policy is intended nor shall be deemed to supersede any applicable State or Federal laws.

13. **Definitions:**

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

Bid Security: The deposit of cash, certified check, cashier's check, bank draft, money order, or bid bond submitted with a bid and serving to guarantee to the owner that the bidder, if awarded the contract, will execute such contract in accordance with the bidding requirements and the contract documents.

Continuing Services: When a vendor or firm has satisfactorily completed one phase in the development of a project, that vendor or firm may be retained for a subsequent phase of work if their continued service is determined to be in the best interest of the District.

Construction Services: Services typically associated with the physical construction and/or installation of equipment necessary to improve or replace the District's infrastructure. For the purposes of this policy, landscape services shall follow the procedures associated with this category.

Formal Procurement of Goods and Services: Procurement of goods or services resulting in total payments greater than \$60,000.

Goods: An item moveable at the time LWD executes the Purchase Order for its procurement; equipment or supplies specially manufactured for LWD; installation of equipment or supplies specifically for LWD; and utilities such as electricity, natural gas, telecommunications, internet, and water.

Informal Procurement of Goods: Purchase of goods resulting in total payments of \$10,000.01 to \$60,000.

Informal Procurement of Services: Procurement of services resulting in contract Not-to-Exceed (NTE) amounts between \$35,000.01 and \$60,000.

Open Market Procurement of Goods: Purchase of goods resulting in total payments by the LWD of \$10,000 or less.

Open Market Procurement of Professional and Construction Services: Procurement of services resulting in contract Not-to-Exceed (NTE) amount of up to \$35,000.

Other Services: Other Services include all purchases for services not classified as goods, construction services, or professional services, and include janitorial and uniform rental services.

Performance Bond: A written guaranty from a third party guarantor (usually a bank or an insurance company) submitted to the District by a contractor on winning the bid. A performance bond ensures payment of a sum (not exceeding a stated maximum) of money in case the contractor fails in the full performance of the contract.

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.

Professional Services: Services that are professional in nature and do not include the physical construction or/ or installation of equipment for the District's infrastructure. Services in this category include, but not limited to, engineering design, architectural services, public information services, financial services, strategic planning services and legal services. Other similar services would also be part of this category.

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

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 agreement by LWD.