

Sedalia Water & Sanitation District Procurement Policy

Statement of Purpose.

This policy establishes standards and guidelines for the purchasing of goods and procurement of services to ensure that they are obtained as economically as possible through an open and competitive process, and that contracts are managed with good administrative practices and sound business judgment and in the best interests of the Sedalia Water & Sanitation District (the District).

I. Scope.

1. Application

- a. Except as otherwise provided, this policy applies to the procurement of supplies, equipment, construction, and services by the District. The policy shall apply to every expenditure of funds by the District irrespective of the source of the funds. When the procurement involves federal, state or grant funding the procurement shall comply with applicable federal or state laws, regulations, or grant requirements. Nothing in this document shall prevent compliance with the terms and conditions of any grant, gift, or agreement that is otherwise lawful.

2. Exceptions

- a. This policy does not apply to the acquisition or disposal of real property including land and/or buildings.
- b. Where appropriated funds are available, such restrictions set forth in this policy shall be subject to waiver by the Board when delay or project closure would create an emergency and may be detrimental. The Board shall be notified of the action taken at the next Board meetings.

II. Delegation of Contracting Authority.

The Board may authorize the District Engineer or a designated Project Manager to serve as the Procurement Officer authorized to supervise procurement of supplies, equipment, construction, or services needed pursuant to a Budget approved by the Board.

On an annual basis, the Board will review and approve purchasing thresholds defined within this policy. The following purchasing thresholds have been approved by the Board as of the date of this document:

- a. Discretionary Threshold - \$0 to \$4,999.99
- b. Board Budgeted Cost Threshold - \$5,000 to \$99,999.99
- c. Board Review/Action Threshold - \$100,000 and above.

III. Delegated Contract Signature Authority. The Board may delegate contract signature authority to a designated Procurement Officer or Project Manager. The Board shall approve an annual list of such delegations and any terms or limitations. Contracts or services agreements that have been approved in a District's approved budget, are less than the maximum Board Budgeted Cost Threshold, may be approved, and executed by a designated Procurement Officer upon notification in writing to the President of the

Board. Contracts at, or in excess, of the Board Review/Action Threshold shall be approved by the Board and signed by the officer of the Board. Contracts, purchase orders, or purchase agreements below the Discretionary Threshold may be signed by a designated Procurement Officer.

IV. **Approval.**

Board approval is a condition prior to any award of procurement contracts or approval of change orders or contract modifications under the following circumstances:

- a. Any contract, change order, or contract modification for which designated and sufficient funding is not available and appropriated in the applicable fund.
- b. Upon request by a Procurement Officer the Board may be asked to approve a contract if necessary to protect the integrity of the purchasing system or to serve the public interest.
- c. Any procurement contract that requires specific Board action.
- d. Any contract in excess of the Board Budgeted Cost Threshold that is not specifically budgeted or does not have a designated funding source.
- e. Contract amendments in which the aggregate contract amount exceeds a 5-percent contingency of the contract award, or alternatively, a specific contingency amount approved by the Board for a specific contract.

V. **Methods of source selections.** It is the policy of the District to act in a manner that affords vendors a fair opportunity to compete consistent with state and federal law. The Board shall determine which of the following methods of source selection shall be used to procure goods and services. All purchases by the District, including the Procurement Officer, shall be necessary, have reasonable allowable costs, and be allocable to a source of funding.

1. **Small purchases.** Purchases of an amount less than the Discretionary Threshold are small purchases under this policy. For purchases above the Discretionary Threshold, a minimum of three qualified businesses will be solicited. For purchases less than or equal to the Discretionary Threshold, the solicitation of three quotations is encouraged but not required. The Procurement Officer will administer guidelines to prevent multiple non-competitive small purchases from a single vendor that exceed in aggregate the Discretionary Threshold. The Procurement Officer shall maintain written records of the businesses solicited, the cost provided, and information regarding their qualifications for the work, and/or references, if applicable. A copy of the current guidelines are attached as Exhibit B.
2. **Competitive sealed bidding.** The Procurement Officer will develop and administer guidelines for administering competitive sealed bidding and will make such guidelines public. A copy of the current guidelines are attached as Exhibit C.
3. **Competitive sealed proposals.** The Procurement Officer will develop and administer guidelines for competitive sealed proposals and will make such guidelines public. A copy of the current guidelines are attached as Exhibit D.
4. **Professional services.** The Board will develop and administer guidelines for procuring the services of licensed professionals or consultants and will make such guidelines public. Professional services may be directly procured if the services do not exceed \$5,000.00.
5. **Stand-by procurement.** The Board may develop and administer guidelines for designating pre-qualified consultants, contractors, and service providers through one of the competitive selection processes and may select pre-qualified consultants, contractors and service providers using these guidelines for a period not to exceed five consecutive years.

6. Negotiated or sole source purchases. Negotiated purchases are not competitive and may only be employed in the circumstances described in this section. Except for purchases on the Exhibit A Exempt List, the Procurement Officer shall prepare a justification to be submitted to the Board for every negotiated or sole source purchase. Allowable negotiated or sole source purchases may include:

- a. Extension of an existing contract under the same conditions; or
- b. Professional services required for expert witness, confidential matters, or permitting, litigation and/or negotiation; or
- c. Competitive solicitation procedures that fail to provide sufficient qualified bidders.
- d. If after a good-faith review of available sources, only one specific and qualified source is known to exist for the required supplies or services and the Procurement Officer concurs. The Procurement Officer shall maintain a list of sole source exceptions for where bidding is impractical. Sole Source exceptions shall be reviewed by the Board annually.
- e. Purchases on the Exempt List are included as Appendix A. Appendix A may be amended from time to time by the Board.

7. Emergency procurement. Notwithstanding any provisions of this policy, the District Engineer or Procurement Officer may make or authorize others to make emergency procurement of supplies, equipment, construction, and services where a threat to public health, welfare or safety exists; provided, that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular consultant, contractor, or service provider shall be included in the contract file.

8. Cooperative purchasing agreements. The District shall have the authority to join with other units of government in cooperative purchasing plans when the best interests of the District are served thereby. Cooperative purchasing is sometimes called collaborative purchasing. There are many cooperative purchasing groups that establish contracts at the national or regional level for use by public agencies. A cooperative contract must be competitively solicited or negotiated by the host agency or cooperative purchasing group. The requirements or specifications of the product or service must be substantially similar to the District's requirements in order to use another agencies' award. The Procurement Officer shall be consulted prior to any cooperative purchase over the \$5,000.00.

9. Requirements of an Outside Agency. Goods and services may be procured according to the requirements of federal, state, or other grant assistance.

VI. Legal review. The District's legal counsel shall review all contracts or agreements requiring Board approval. Contracting templates and standard terms and conditions will be reviewed by legal counsel at least annually.

VII. Procurement records. The designated Procurement Officer shall maintain records pertaining to the solicitation, award, or performance of a contract and shall retain such records in accordance with applicable provisions of the District's or a funding partners retention schedule. All Procurement records shall be submitted to the District Clerk and maintained pursuant to the Board's document retention requirements.

- VIII. Reporting.** On a monthly basis, The District staff shall present summary reports to the Board describing matters subject to this Procurement Policy, including pending financial obligations in a form acceptable to the Board. The form of the report may change from time to time as directed by the Board. The Procurement Official shall ensure that all required external contract reports are filed in a timely manner with the appropriate agency.
- IX. Requisition system.** The District shall make use of the BidNet Direct e-procurement system to administer all purchases when required that are above the Discretionary Threshold. The inability to use the BidNet Direct e-procurement system shall not curtail procurement or purchases under this Policy document.
- X. Appeals and remedies Protesting of a solicitation or award.**
- 1. Right to Protest.** Any actual or prospective bidder or proposer aggrieved in connection with the solicitation or award of a contract may submit a written protest to the Procurement Officer. Actual or prospective bidders shall submit protests within three (3) calendar days of the date they learned of or reasonably should have learned of facts giving rise to the protest. A protest based upon restrictive specifications or alleged improprieties in any type of solicitation must be filed no later than three (3) calendar days prior to bid opening or after the closing date for proposals, unless the aggrieved party did not know and should not have known of the facts giving rise to such protest prior to three (3) days before bid opening or three (3) days after the closing date for proposals.
 - 2. Form of protest.** Protest must be in writing and include the following:
 - a. The name and address of the protestor,
 - b. Bid number of the procurement,
 - c. Reason(s) for the protest,
 - d. Any available exhibits, evidence or documents supporting the protest.

3. **Appeal to Board.** If in the event that a written response by the Procurement Officer sustains the prior position of the District, the protestor may resubmit to the Board within three (3) days after date noted on ruling by the Procurement Officer.
4. **Stay of procurements during protest.** In the event of a timely protest or appeal under this section, the Procurement Officer shall not proceed further with the solicitation or award of the contract until the protest is resolved, unless the President of the Board determines that:
 - a. The items to be procured are urgently required,
 - b. Delivery or performance will be unduly delayed by failure to make the award promptly, or
 - c. Failure to make the award promptly will otherwise cause undue harm to the customers of the District.

XI. Bonds.

1. Bid Security

- a. **Requirement for bid security.** The District shall require bid security for all competitive solicitations for construction contracts when the Procurement Officer manager estimates the price will exceed \$50,000.00. Bid security shall be a bond provided by a surety company authorized to do business in Colorado, or the equivalent in cash, or otherwise supplied in a form satisfactory to the District. Nothing herein shall prevent the requirement of such bonds on construction contracts under \$50,000.00. When the circumstances warrant, the District may waive this bonding for all parties bidding.
- b. **Rejection of bids for noncompliance with bid security requirements.** When the solicitation requires security, noncompliance requires the District to reject the bid unless the District determines that the bid fails to comply only in a non-substantial manner with the security requirements.
- c. **Withdrawal of bids.** After bids are opened, they shall be irrevocable for the period specified in the solicitation. If the District permits a bidder to withdraw its bid before award or excludes the bidder from the competition before award, The District shall take no action against the bidder or the bid security.

2. Contract Performance and Payment Bonds

- a. **When amount so requires.** Construction contracts in excess of \$50,000.00 require that the following bonds or security be delivered to the District and be binding on the parties upon the execution of the contract:

1. A performance bond satisfactory to the District, executed by a surety company authorized to do business in Colorado or otherwise secured in a manner satisfactory to the District in an amount equal to 100 percent of the price specified in the contract.
2. A payment bond satisfactory to the District, executed by a surety company authorized to do business in Colorado or otherwise executed in a manner satisfactory to the District, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in the amount equal to 100 percent of the price specified in the contract.
3. The Procurement Officer may require a performance bond for any contract less than \$50,000.00.
4. When circumstances warrant , the Procurement Officer with the approval of legal counsel, may approve other forms of acceptable securities.

Exhibit A – Exempt Purchases

1. Utilities
2. Casualty and Property Insurance
3. Life, Health and Dental Insurance
4. Employee Benefits/Contracts with Third Parties for Payroll Deduction
5. Services that are a pass-through (Grants, Participant Deposits, etc.)
6. Debt Service Payments
7. Pension Payments
8. Unemployment Compensation
9. Tax Withholding Payments
10. Section 457 (Deferred Compensation) Contributions
11. Memberships, Dues, Subscriptions, Publications
12. Seminars and Travel Expenses
13. Retirement Plan Contributions
14. Investments
15. Postage
16. Recording, Inspection or Licensing Fees
17. Automobile License Plates
18. Gasoline and Fuel
19. Advertisements
20. Refunds, Credits, or Reimbursements
21. Legal Services
22. Leases or Rights of Way
23. Training (where a provider is contracted by The District to provide the training)
24. Art and Talent/Artistic Services
25. Medical Services
26. Intergovernmental Agreements and Payments to Governmental Entities
27. Travel Services
28. Films or Videotapes, Books, Electronic Collections, Exhibits, and/or Slides
29. Placement Services
30. Facilities Rental
31. Auditor
32. Clerk to the Board
33. Records Custodian

Exhibit B

Sedalia Water & Sanitation District Small Purchase Policy Guidelines

- 1. *Small Purchases.*** Any procurement not exceeding five thousand dollars (\$5,000.00) may be made by the designated official by negotiation without formal competition for the purchase of supplies, services, or construction, subject to the approval process required by the Procurement Policy.
- 2. *Negotiated Procurement.*** Negotiated procurement pursuant to this Section shall be made on the open market, but whenever practical or advantageous, the Procurement Officer or Project Manager shall obtain quotes from at least three (3) suppliers or vendors. Negotiated procurement shall be awarded to the person supplying the lowest responsible bid or offer.
- 3. *Division of Procurement.*** No contract shall be divided so as to constitute a small purchase under this the District's Procurement Policy.
- 4.** In instances of multiple year contracts, the cumulative cost of procurement over the initial contract period, not including renewal periods, shall not exceed five thousand dollars (\$4, 999.99)

Exhibit C

Sedalia Water & Sanitation District Competitive Sealed Proposal Guidelines

1. **Intent.** Procurement for the following is eligible for award by competitive sealed proposals:
 - a. When a procurement determines that the use of competitive sealed bidding is either not practicable or not advantageous to the District, a contract may be entered into by competitive sealed proposals. The Sedalia Water and Sanitation District may provide by regulation or policy that it is either not practicable or not advantageous to the District to procure specified types of supplies, services or construction by competitive sealed bidding; or
 - b. For professional services in excess of the Discretionary Threshold.
2. **Request for Proposals.** Proposals shall be solicited through a request for proposals. The request for proposals shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the District's needs, and it shall not be unduly restrictive.
3. **Evaluation Factors.** The request for proposals shall state the relative importance of price and other evaluation factors. Proposals that propose a time and expense type pricing approach must include a not-to-exceed cost. Cost plus a percentage type cost proposals will not be accepted.
4. **Discussion with responsible offerors and revisions to proposals.** As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submission and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.
5. **Award.** Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the District, taking into consideration price and the evaluation factors set forth within the proposal requirements. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.
6. The District reserves the right to reject any and all proposals.

Exhibit D

Sedalia Water & Sanitation District Competitive Sealed Bidding Guidelines

1. **Intent.** Contracts shall be awarded by competitive sealed bidding except as otherwise permitted by other Methods of Source Selection or if the Sedalia Water & Sanitation District Board provides by regulation or policy that it is either not practicable or not advantageous to the District to procure specified types of supplies, services or construction by competitive sealed bidding.
2. **Invitation for Bids.** An invitation for bids shall be issued and shall include a purchase description and all contractual terms and conditions applicable to the procurement. The purchase description shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the District's needs, and it shall not be unduly restrictive.
3. **Public Notice.** Adequate public notice of the invitation for bids shall be given with reasonable time prior to the date set forth therein for the opening of bids. If a state or federal law or regulation controls the procurement process for any purchase, adequate public notice may be mandated by applicable state or federal laws or regulations. In the absence of exigent or emergency circumstances described in the District Procurement Policy, adequate notice shall mean publication of a public notice which summarizes the invitation for bids to the Bidnet/Rocky Mountain E-Purchasing System with at least one (1) publication (1) one week prior to the date set forth therein for the opening of bids.
4. **Bid Opening.** Bids shall be opened publicly in the presence of two (2) or more representatives of the District serving as witnesses at the time and place designated in the invitation for bids. The amount of each bid and such other relevant information as may be specified by regulation, together with the name of each bidder, shall be recorded; the record and each bid shall be open to public inspection. The District reserves the right to accept any or all sealed bids prior to bid opening.
5. **Facsimile or email transmission.** Facsimile or email transmissions may be accepted for either bids or corrections to previously submitted bids. The Town, by receiving facsimile or email transmissions, makes no representation with respect to its ability to maintain the confidentiality of the contents of such transmissions nor can it be responsible for receipt of the same in the event of technological errors.
6. **Bid acceptance and bid evaluation.** Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Article. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. In addition to the evaluation criteria set forth in the invitation to bid, the following criteria shall also be considered. In all instances, the criteria set forth in the invitation to bid, if applicable, and the below criteria shall be considered in addition to price:
 - a. The ability, capacity and skill of the bidder to perform the contract or provide the service or construction required;

- b. Whether the bidder can perform the contract or provide the service or construction promptly, or within the time specified, without delay or interference;
 - c. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
 - d. The quality of performance of previous contracts with the Town or services provided to the Town or the quality of previous contracts or services provided to other parties and verified to the Procurement Officer during a check of references;
 - e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
 - f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service or construction;
 - g. The quality, availability and adaptability of the supplies, services or construction to the particular use required;
 - h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.
7. **Correction or withdrawal of bids; cancellation of award.** Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted. Except as otherwise provided by regulation, all decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the designated official and approved by the District's Attorney.
8. **Award.** The contract shall be awarded with reasonable promptness by written notice to the lowest cost, responsible, and responsive bidder whose bid best meets the requirements and criteria set forth at Subsection 6 above and in the invitation for bids if applicable in addition to price. In the event all bids for a construction project exceed available funds as certified by the appropriate official of the District, and the low responsible and responsive bid does not exceed such funds by more than ten percent (10%), the designated official is authorized, in situations where time or economic considerations preclude resolicitation of work of a reduced scope, to negotiate an adjustment of the bid price, including changes in the bid requirements with the low responsible and responsive, in order to bring the bid within the amount of available funds. If the low responsible and responsive bid exceeds available funds by ten percent (10%) or more, the District Board may authorize the designated official to negotiate an adjustment of the bid price after determining in writing that such action is in the best interests of the District. Even if the lowest bid does not exceed available funds the designated official, with the District Board's prior approval, shall have the authority, consistent with the general underlying purposes and policies of the District Procurement Policy and in the best interests of the District, to negotiate with the lowest responsible and responsive bidder to adjust the bid price, alter the quantity or quality of supplies to be procured, or alter the scope of services or construction to be provided.
9. **Multi-step sealed bidding.** When considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.
10. The District reserves the right to reject any and all bids.