

Staff Report

for the Board of Directors Meeting of April 13, 2016

TO: Board of Directors
FROM: Marvin Davis, MBA, CPA, Finance Manager/Treasurer
DATE: April 5, 2016
SUBJECT: Purchasing Policy Changes

FINANCE

RECOMMENDATION:

Adopt Resolution No. 2016-14 (Establishing Policy for Administration – Procurement), as recommended by the Administrative Practices Committee.

BACKGROUND:

The following District's current procurement policies and signing authority limits are not integrated and therefore difficult to implement resulting in confusion among staff:

- Policy 3080 Purchasing
- Policy 3105 Construction Contract Change Order Authority Levels
- Policy 3110 Non-Construction Change Order Authority Levels
- Policy 3115 Minor Contracts and Agreements and Associated COA Levels
- Policy 3-40 Invoice and Purchase Requisition Authorization

Staff has collaborated to produce a comprehensive procurement policy that integrates the above documents as well as clarifies other procurement procedures such as the understanding of "sole source". The proposed Procurement Policy 3080 will replace the above policies.

BUDGETARY IMPACT:

No budgetary impact.

Attachments:

- Proposed Procurement Policy 3080
- Table summarizing Procurement Policy

**ESTABLISHING POLICY FOR ADMINISTRATION –
PROCUREMENT**

WHEREAS, the Nevada Irrigation District (the “District”) intends to establish, and revise from time to time, administrative policies to guide the operations and management of the District; and

WHEREAS, the District’s insurance carrier provided sample guidelines for personnel and administrative policies for consideration by the District; and

WHEREAS, over the past few years, the District has adopted several administrative policies using the sample guidelines, in an effort to assemble a comprehensive policy manual; and

WHEREAS, certain District policies are outdated, and should be revised and formatted in the same manner as the sample guidelines; and

WHEREAS, such draft policies have been reviewed by the District’s Legal Counsel and found to be in accordance with law.

NOW, THEREFORE, BE IT RESOLVED, the Board of Directors of the Nevada Irrigation District hereby adopts the following policy as attached, and such policy shall replace and supersede pages 3-40 of the District Board and Management Policy Manual, and Policy Nos. 3105, 3110 and 3115 of the District’s Policy Manual Board and Management Policy Manual, and shall be incorporated herein:

#3180 Procurement

BE IT FURTHER RESOLVED, that the attached policy shall be incorporated into the District Policy Manual, and the Board Secretary is hereby authorized to assign and revise policy numbers, and format and reformat the attached, as needed for an organized, comprehensive policy manual.

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PASSED AND ADOPTED by the Board of Directors of the Nevada Irrigation District at a regular meeting held on the 13th day of April, 2016, by the following vote:

AYES:	Directors:
NOES:	Directors:
ABSENT:	Directors:
ABSTAINS:	Directors:

President of the Board of Directors

Attest:

Secretary to the Board of Directors

Nevada Irrigation District

POLICY MANUAL

POLICY TITLE: Procurement
POLICY NUMBER: 3080

- 3080.1 Purpose:** In accordance with California Water Code, the District has authority to procure the necessary goods and services to operate. The purpose of Policy 3080 is to define the types of goods and services purchased by the District, to set forth guidelines for the various types of purchases, and to set forth the dollar levels governing purchase authority of management personnel. All purchases, including contracts for services (construction and non-construction), commodities, equipment and other real or personal property required by any department of the District shall be made in accordance with this policy. A purchase, via any means, may be initiated only if sufficient funds are appropriated and there is sufficient unencumbered remaining balance to pay for it.

- 3080.2 Administrator:** The Board of Directors delegates the authority to make purchases under this policy to the General Manager. The General Manager shall have the authority to delegate the purchasing duties and responsibilities within a department of the District to the responsible Department Manager. The designated Manager shall administer the Purchasing Procedure adopted by the Board, negotiate and approve term contracts and purchase products and services required, consistent with the principles of price, quality and delivery. The Manager shall work with the Purchasing Department to maintain verifiable records of the goods in inventory, and to ensure all goods are tagged or conspicuous as District property to the extent feasible. All surplus property shall be disposed of in accordance with section 3080.5.

- 3080.3 Definitions:** For the purpose of this policy, the following definitions shall apply:

 - A. "Public Entity" means the state, county, city, city and county, district, public authority, public agency, municipal corporation, or any other political subdivision or public corporation in the state of California.

 - B. "Goods" means any tangible commodities or item such as supplies, parts, materials, equipment, or building. Generally, Goods are consumable in District operations, and can become part of a component of the District equipment or facilities. On some occasions, Goods may be purchased to supply to a contractor engaged in work for the District. For the purpose of this policy, Land and interest in land are not "Goods" and are controlled in other District policies.

 - C. "Services" means all non-tangible skills that may be purchased by the District and can include the services of a licensed contractor, special counsel, architect, appraiser, engineer,

financial consultant, janitor, landscaper, painter or other work typically rendered by an independent consultant or contractor.

- D. "Contract" means any agreement to do or not to do a certain thing or to provide Goods. "Contract and agreement" are synonymous. The term "Contract" includes, among other things, a purchase order, a contract for services, a professional service agreement, and an addendum or change order. Purchases by Staff shall use standard contracts approved by the General Manager and/or Legal Counsel. Special contracts shall be used when the Goods or Services are of a unique or specialized nature that is not compatible with a standard form of Contract.
- E. "Change Order" means any change to an approved and executed contract. When determining authority levels, the original contract and subsequent change orders are evaluated as a single purchase.
- F. "Task Order" means an attachment to a consulting service agreement containing a particular scope of work under a Contract, and including a revision, deletion, or addition of scope, including costs. A Task Order is used as a Change Order for any consulting service agreement.
- G. "Cost" means the amount charged under a Contract, inclusive of sales tax, use tax, delivery charges, shipping and/or handling.
- H. "Emergency" means a sudden, unexpected occurrence that poses a clear and imminent danger requiring immediate action to prevent or mitigate the loss of impairment of life, health, property, or essential public services.
- I. "Public Works" is synonymous with "Public Project" and means a project performed under a "Public Works Contract" defined as an agreement for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.
- J. "Sole Source" means manipulating "bid" specifications for the contracting of construction, alteration or repair of public works that limit the bidding, directly or indirectly, to a specific concern, or call for a designated material, product, thing, or service by specific brand or trade name. For the purpose of this policy, sole source shall not be applied to the purchase of goods that will be used by the District's own labor force.

It is the intent of this Policy that Sole Source purchases by the District will not occur without allowance for substitution of an "or equal" part or service. Notwithstanding the foregoing prohibition, Sole Source purchases will be allowed provided the District makes a finding that a particular material, product, thing, or service is designated by specific brand or trade name for any of the following purposes:

- 1) In order that a field-test or experiment may be made to determine the product's suitability for future use.
- 2) In order to match other products in use on a particular public improvement either completed or in the course of completion

- 3) In order to obtain a necessary item that is only available from one source
 - 4) In order to respond to an emergency declared by a local agency
 - 5) In order to respond to an emergency declared by the state, a state agency, or political subdivision of the state
- K. "Surplus Property" means any personal property, owned by the District that is determined no longer useful.
- L. "Market Value" means the value established between willing buyer and willing seller, within the marketplace of the District, as estimated by the General Manager, Department Manager, Purchasing Department or appraiser and may be an average from these sources.
- M. "Design/Build" means Contract awarded under a selection process similar to the Request for Proposal, where the contractor is responsible for both design and construction of the Public Work.
- N. "Request for Proposal (RFP)" means a selection process, other than formal bidding, established by the District staff for the selection of consultants, contractors or vendors to provide costs to perform a single project or purchase. The selection process shall include cost for work as one of the evaluation criteria but shall not be constrained by the requirements of the Public Contract Code (PCC) governing bidding.
- O. "Request for Bid (RFB)" means a more formal selection process as further described under PCC, the Local Agency Public Construction Act
- P. "Informal Quote Process (IQP)" means a selection process that includes a documented attempt to procure goods or services to a minimum of three contractors, consultants or vendors to provide total costs on a single project or purchase.
- Q. "Formal Quote Process (FQP)" means the written solicitation using the District's standard quote contract, plans, and specifications distributed to a minimum of five contractors, consultants or vendors to provide costs on a single project or purchase. Formal quotes are provided in a sealed envelope and are opened at a publicly noticed time and place by District staff.
- R. "A quote or bid" as outlined in the contract documents or equivalent to a letter, email, or documented verbal solicitation to a viable contractor, consultant or vendor with or without a response from the contractor or consultant.
- S. "Responsible Bidder" means a licensed contractor who has not been barred from government contracts for prior misconduct, and has the equipment and skills necessary to perform the work. Also, the bid must be an unconditional offer to provide the goods and services and comply with all the bid procedures in the bid documents and when applicable in the Local Agency Public Construction Act.

3080.4 Emergency Purchases: In case of "Emergency", two Department Managers or General Manager may procure any items deemed necessary to preserve life or property, without the authorization of an approved purchase requisition. Approval may be obtained after the fact.

The General Manager shall notify the Board members via telephone or email of the emergency procurement and shall thereafter report the incident to the Board of Directors at the next regularly scheduled board meeting, including a comprehensive estimate of the total cost of emergency repairs; following the initial report, the General Manager or Department Manager shall submit appropriate documentation for final approval/ratification by the Board of Directors. Notwithstanding the foregoing, nothing herein shall restrict the Board of Directors from considering such Emergency Purchase in a special or emergency meeting, if authorized by law.

3080.5 Surplus Property: When disposing of moveable property, if practical, Department Managers shall forward property to the Purchasing Department who will secure items.

- A. Less than \$100,000 - Surplus property, of a single item within this estimated market value will be disposed using the most advantageous method determined by the General Manager, including transporting items to local waste and recycling center.
- B. \$100,000 and Greater - Surplus property, of a single item within this estimated market value will be disposed by Sealed Bid, Auction, On-Line Auction or Remarketing Service Provider and may require formal appraisal.

3080.6 Purchase Process & Authority Levels: The purchase of "Goods" or "Services" shall follow the below process and is driven by the aggregate amount of a single purchase requisition, contract requirements, competitive bidding process, and approval levels. It is a violation of this policy to split into smaller orders an aggregate single purchase for the purpose of evading this policy as determined by the General Manager.

- A. Less than \$5,000 – Purchase requisitions submitted to Purchasing under this dollar amount may not require creation of a purchase order and at Department Manager discretion, nor bidding, and approval levels are in accordance with the most recently authorized "Signed Authority Limits" schedule.
- B. \$5000 up to \$25,000 – Purchase requisitions submitted to Purchasing within this dollar range will require creation of a purchase order that can serve as the Contract, no bidding, and approval levels are according to the most recent "Signed Authority Limits" schedule.
- C. \$25,000.01 up to \$50,000 – Purchase requisitions submitted to Purchasing for "Goods" within this dollar range will require creation of a purchase order, a Contract for Services, compliance with the IQP, award in accordance with the IQP, and approval levels are according to the most recent "Signed Authority Limits" schedule.
- D. \$50,000.01 up to \$100,000 - Purchase requisitions submitted to Purchasing within this dollar range will require creation of a purchase order, a Contract for Services, a selection process that is one of the following: RFP, RFB, FQP, award in accordance with the standards contained in the selection process, and approval levels are according to the most recent "Signed Authority Limits" schedule.
- E. \$100,000.01 up to \$250,000 - Purchase requisitions submitted to Purchasing within this dollar range will require creation of a purchase order, a Contract for Services, a selection

process that is one of the following: RFP, RFB, FQP, award in accordance with the standards contained in the selection process, and approval at an Administrative Practice Committee (APC) meeting.

- F. \$250,000 and Greater – Purchase requisitions submitted to purchasing within this dollar range will require creation of a purchase order, a Contract for Services, a selection process that is one of the following: RFP, RFB, FQP, award in accordance with the standards contained in the selection process, and approval at a Board of Director meeting.
- G. Change or Task Orders – Each additional purchase under the original contract require the following authority approvals and upon Board approval for any given order:
 - 1) Department Managers – Cumulative change orders on a single contract up to \$10,000
 - 2) Level 1: General Manager – Cumulative change orders up to a maximum of 25% of the original contract amount or \$300,000, whichever is less. Changes in excess of \$150,000 shall be reported to the Board of Directors at the next regular Board meeting.
 - 3) Level II: Administrative Practices Committee (APC) – Cumulative change orders up to a maximum of 25% of the original contract amount or \$500,000, whichever is less. Changes in excess of \$250,000 shall be reported to the Board of Directors at the next regular Board meeting.
 - 4) Level III: Board of Directors – Change orders that do not meet the requirements of Level 1 or Level II shall be authorized by the Board of Directors. An advance recommendation by the APC is strongly suggested.
 - 5) Resetting of Authority - When the Board approves a change order, it grants the Department Manager and General Manager original approval amounts.

Adopted: April 24, 2013 via Resolution No. 2013-11
Revised: (Date) via Resolution No. 2016-__

Procurement Policy & Authority Level Table

Policy Number: 3080

Section: 3080.6 Purchase Process & Authority Levels

Goods and Service Purchases	PO Required	Contract for Services	Selection Process	Approval Level
< \$5,000	No	No	Selection using "Prudent Practices"	Signing Authority Schedule
\$5,000 to \$25,000	Yes	PO may serve as contract	Selection using "Prudent Practices"	Signing Authority Schedule
\$25,000.01 to \$50,000	Yes	Yes, if Services Required	IQP	Signing Authority Schedule
\$50,000.01 up to \$100,000	Yes	Yes, if Services Required	(RFP, RFB, FQP)	General Manager
\$100,000.01 up to \$250,000	Yes	Yes, if Services Required	(RFP, RFB, FQP)	Administrative Practices Committee
\$250,000.01 or more	Yes	Yes, if Services Required	(RFP, RFB, FQP)	Board of Directors

Change or Task Order Purchases	Type	Contract for Services	Approval Level
Up to \$ 10,000		Yes	Department Manager
Max of 25% or \$300,000	Level I	Yes	General Manager
Max of 25% or \$500,000	Level II	Yes	Administrative Practices Committee
Above all Levels	Level III	Yes	Board of Directors