

# PURCHASING MANUAL /GRANT PROCUREMENT POLICY

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## JEFFERSON COUNTY DRAINAGE DISTRICT NO. 6

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### **District Board of Directors**

Bernie Daleo  
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### **Board President**

Joshua W. Allen, Sr.

### **General Manager**

Dr. Joseph G. Majdalani, PE, CFM

### **Chief Business Officer**

Karen J. Stewart, MBA, CTP

Effective August 1, 2017

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# 1. INTRODUCTION

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## **A. Purpose**

The purpose of this Purchasing Manual /Grant Procurement Policy is to serve as a source of instruction to all District Departments and Employees regarding the Purchasing Policies and Procedures for goods and services with Grant funding at Drainage District No. 6. The adoption of this Purchasing Manual /Grant Procurement Policy and the approval of any subsequent revisions by the District Board of Directors shall authorize the policies and procedures contained herein for official use in District Business.

## **B. Distribution**

This manual will be distributed to all District Departments Employees involved in the purchasing process. The Purchasing Department shall be responsible for distributing copies of this manual to all appropriate parties.

## **C. Implementation**

The Business Manager/ Purchasing Agent with the General Manager shall be responsible for implementing and enforcing the policies and procedures set forth in this manual.

- The Board of Directors shall have the authority, in specific cases determined to be exceptional, to waive or override the policies and procedures in this manual and to direct a different handling of each such case.

## **D. Revisions**

This manual is to serve as a permanent and up-to-date guide to District Purchasing Policies and Procedures for Grant Procurement. As necessary changes are made in policies and procedures, appropriate revisions will be made. The Purchasing Department shall be responsible for accurately maintaining this manual and for distributing revisions to all appropriate parties.

## 2. PURCHASING POLICY

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### A. Responsibilities of the Business Manager/ Purchasing Agent

The Business Manager/ Purchasing Agent, by direction of the General Manager, is responsible for the following:

- The Business Manager/ Purchasing Agent shall prepare bid or proposal specifications for all materials, supplies, and equipment for District's Board of Directors approval, and shall be responsible for subsequent solicitation and evaluation of formal bids and proposals for any item or items under a contract that would require expenditure in excess of \$75,000.

### B. Drainage District No. 6 Purchasing Policy for Grant Procurements

The District Purchasing Policy for Grant Procurements is to:

- Seek the BEST quality, lowest priced goods and services that meet the needs of the District and its personnel;
- Provide all responsible Vendors and Contractors with equitable access to servicing the needs of the District and its personnel through competitive acquisition of goods and services;
- Comply with all Federal and State Laws including Water Code that apply to District grant purchases and comply with the policies and procedures outlined in this manual;
- Manage District assets and inventory so that replacement costs are minimized, and the District can account for all assets; and
- Dispose of all surpluses, salvage, seized and abandoned property in a manner that both provides the most benefit to the taxpayers of Drainage District No. 6 and complies with the law.

### C. Purchasing Department Policies

#### *Specifications*

Specifications, which shall be the basis of sealed bids or sealed proposals submitted to the Business Manager/ Purchasing Agent, shall be written to allow for competitive bidding. The Business Manager/ Purchasing Agent shall not write bid specifications which, by design, exclude legitimate competitors.

#### *Selection of Vendors*

In the case of formal competitive bids or proposals, informal bids and informal proposals, the evaluation of bids and proposals and the selection of Vendors shall be done with a view to obtain the BEST value for the money spent. Therefore, the Vendor selected will be the bidder who submits the lowest and BEST bid.

“Lowest” will be understood to include:

- The relative price of the bids, including the cost of repair and maintenance, the cost of delivery and hauling, as well as the cost associated with time of delivery and availability of parts and service.

“BEST” in this context includes:

- That which most completely conforms to specifications; and is submitted by a responsible vendor;
- The responsibility of the Vendor, including the Vendor’s financial and practical ability to perform the contract; and time required to perform and service the contract;
- The Vendor’s past performance record with the District;
- References from other purchasers;
- Results of product Demonstrations and employee recommendations.

### 3. CODE OF ETHICS

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A special responsibility is imposed on all people who are entrusted with the disposition of the District's funds. As purchasing personnel, we are required to perform with the highest integrity while we are constantly being asked to manage more effectively, to secure better economic results, to speed up the process, and to be innovative in accomplishing our mission.

The nature of purchasing functions makes it critical that all players in the process remain independent, free of obligation or suspicion, and completely fair and impartial. Maintaining the integrity and credibility of a purchasing program requires a clear set of guidelines, rules and responsibilities to govern the behavior of purchasing employees. Credibility and public confidence are vital throughout the purchasing and contracting system. Any erosion of honesty, integrity or openness tends to be more injurious to purchasing than to most other public programs. The shadow of doubt can be as harmful as the conduct itself. It is with this in mind that the following policies and procedures are set forth.

**A District employee may not:**

participate in work on a contract by taking action as an employee through decision, approval, disapproval, recommendation, giving advice, investigation or similar action knowing that the employee, or member of their immediate family has an actual or potential financial interest in the contract, including prospective employment; solicit or accept anything of value from an actual or potential vendor; be employed by, or agree to work for, a vendor or potential vendor; knowingly disclose confidential information for personal gain; or

**A Vendor or potential Vendor may not:**

offer, give, or agree to give an employee anything of value

## 4. GENERAL PURCHASING POLICY FOR GRANT PROCUREMENTS

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### A. General Information

The District will not be obligated to purchase goods that are delivered for use on a trial basis.

The following purchasing strategies that are made with the intention of circumventing formal competitive bidding procedures are in violation :

- **Component Purchases** – purchasing a series of component parts of goods which normally would be purchased as a whole.
- **Separate Purchases** – purchasing goods and services in a series of separate purchases, which in normal purchasing practices, would have been purchased in one purchase.
- **Sequential Purchases** – purchases made over a period of time that in normal purchasing practices, would be made as one purchase.

**Employees must not purchase goods or services for their own personal benefit.**

Departments should notify the Purchasing Department of any shortages, late deliveries, damaged merchandise or any other problems relating to the Vendor's performance.

### B. Invitations to Bid

As a courtesy to Vendors and as a means of encouraging competition, the Purchasing Department will attempt to send a notice of each solicitation to appropriate Vendors.

### C. After Hours/Emergency Purchases

An emergency purchase requires a **letter of justification**, which will become a part of the file. The letter should be signed by the General Manager and must:

- State the reason for the emergency purchase by explaining what the emergency is and/or what caused the emergency situation;
- Statement of the financial or operational damage that will occur if needs are not satisfied immediately (be specific – do not simply say that there will be a loss or some damage); and
- State why the needs were not or could not be anticipated so that items could have been procured through the Purchasing Department following regular Purchasing procedures.

**D. Interlocal Agreements**

All Interlocal agreements involving the purchase of goods, repairs, or maintenance agreements must be approved by the District's Board of Directors.

**E. Bonding Requirements**

***Bid Bonds***

Bid bonds will not be required for contracts that are valued at less than \$100,000. Bid bonds will not be required from any bidder or proponent whose rates are subject to regulation by a state agency.

If the Business Manager/ Purchasing Agent determines that a bid bond is required for a particular contract, the notice to bidders or request for proposals or offers will state that a bid bond in the amount of 5% of the contract price is required and that it must be executed by a surety company authorized to do business in Texas.

***Performance Bonds***

Performance bonds will not be required for contracts that are valued at less than \$100,000. Performance bonds will not be required from any bidder or proponent whose rates are subject to regulation by a state agency.

If the Business Manager/ Purchasing Agent determines that a performance bond is required for a particular contract, the notice to bidders or request for proposals or offers will state that a performance bond in the full amount of the contract price is required. Said performance bond must be executed by a company authorized to do business in Texas before the contractor commences work and within 10 days after the contract is executed.

## 5. SPECIFICATIONS

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### A. Definition

A specification is a concise description of goods or services that an entity seeks to buy, and the requirements the Vendor must meet in order to be considered for the award. A specification may include requirements for testing, inspection, demonstration, or preparing any goods or services for delivery, or preparing or installing them for use. The specification is the total description of the goods or services to be purchased.

### B. Purpose

The purpose of any specification is to provide Vendors with firm criteria of a minimum standard acceptable for goods or services. A good specification has four (4) characteristics:

- It establishes the minimum acceptability of the goods or services;
- It promotes competitive bidding;
- It contains provision for reasonable test and inspection for acceptability of the goods or services; and
- It provides for an equitable award to the lowest and BEST bid from a responsible bidder.

### C. Preparation

Specifications, which shall be the basis of sealed bids or sealed proposals submitted to the Business Manager/ Purchasing Agent, shall be written to allow for competitive bidding.

The District Board of Director's is the final authority for approval of specifications.

## **6. VENDOR REGISTRATION: SAM (SYSTEM FOR AWARD MANAGEMENT)**

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Vendors doing business with the District on Federal Grant Projects are **required** to be registered with The System for Award Management (SAM), with an “active” status.

The System for Award Management (SAM) is the Official U.S. Government system that consolidated the capabilities of CCR/FedReg, ORCA, and EPLS. There is NO fee to register for this site. Entities may register at no cost directly from the SAM website at: <https://www.sam.gov>

## 7. PROCEDURES FOR PURCHASES UNDER \$75,000

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### A. Procedures

#### INFORMAL QUOTES

- Informal Quotations used only for purchases of items under \$5,000.00
  1. Informal quotations may be obtained by telephone, or in person or in writing.
  2. The Department should encourage competition by contacting as many vendors as possible. Utmost care must be taken, however, to ensure that vendors are given exactly the same information and that prices are not disclosed from one vendor to another.
  3. For all purchases, the Business Manager/ Purchasing Agent or designee shall make the determination of the “most responsive bidder”.
  4. For the purpose of this section, “most responsive bidder” shall be the Bidder whose proposal is determined to be the most advantageous to the District taking into consideration:
    - a. The price
    - b. The capability, integrity, and reliability of the bidder to assure good faith performance.
    - c. Any evaluation factors supplied by the Requesting Department and Purchasing Department to the Bidder.

#### **Purchases from \$1.00 to \$999.99**

- d. **Require one verbal quote from the selected vendor.**

#### **Purchases from \$1,000.00 to \$4,999.99**

- e. **Obtain at least two verbal quotes, one of which is the lowest quote.**

#### FORMAL QUOTES

- Formal Quotation shall be used for purchases of items or services from \$5,000.00 to \$74,999.00. **All written quotations must be on vendor letterhead/ quote form.**

#### **Purchases from \$5,000.00 to \$74,999.99**

- a. **Obtain at least three written quotes, one of which is the lowest quote.**

The Business Manager/ Purchasing Agent and the General Manager have the authority to deviate from the policy for purchases under \$75,000 **if it is in the BEST interests of the District and will facilitate specific District operations.**

## **8. COMPETITIVE BIDDING FOR GRANT PURCHASES EXCEEDING \$75,000**

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### **A. Definitions**

Competitive bidding means letting available Vendors compete with each other to provide goods and/or services.

Formal Competitive bidding requires due advertisement, giving opportunity to bid, and contemplates bidding on the same undertaking upon each of the same material items and services covered by the contract; upon the same thing. It requires that all bidders be placed upon the same plane of equality and that they each bid upon the same terms and conditions involved in all the items and services and parts of the contract, and that the proposal specify as to all bids the same, or substantially similar specifications.

Formal Competitive Bidding requires approval by the District's Board of Directors.

Sealed Bids will be used for contracts exceeding \$75,000 (but will not be limited to contracts exceeding \$75,000). The Purchasing Department will solicit bids from Vendors in response to the District's specifications and contractual terms and conditions.

### **B. Bidding Legal Notice**

The Bidding Notice must include:

- The specifications describing the item to be purchased or a statement of where the specifications may be obtained;
- The time and place for receiving and opening bids and the name and position of the District official or employee to whom the bids are to be sent;
- The type of bond required by the bidder.

If unit pricing is required, the District may specify approximate quantities estimated on the BEST available information. The Business Manager/ Purchasing Agent shall explain how the lowest price will be calculated in the bid specification.

After the development of specifications and preparation of the Notice to Bidders, the Business Manager/ Purchasing Agent will advertise the bid.

A notice of a proposed purchase will be published at least once a week in a newspaper of general circulation in the County, with the first day of publication occurring before the 14th day before the date of the bid opening.

### **C. Addendum**

The bid opening date on the Notice to Bidders may be extended if an error is discovered, or the nature of the goods and services requires an extension. The Business Manager/ Purchasing Agent may amend specifications to clarify the original intent or to correct clerical errors if inquiries about the meaning of the specifications indicate the

need for such an amendment; if the changes are so insignificant that they are not likely to matter to the Vendor in determining price or ability to respond, if there is no change to the quantity, or delivery requirements; and if the amendment does not change the scope of the specifications. There must be at least two (2) days between the date of the amendment and the opening date specified in the notice.

#### **E. Receipt of Bids**

The following procedures will be adhered to when receiving bids:

- All bids will be received in the District Administration Building.
- All bids will be stamped with the time and date received. The clock at the District Reception Desk will serve as the official time clock for the purpose of identifying the time bids were received in the Administration Building.
- **No bids will be received after the opening time on the day of bid opening.** All bids received after the opening time will be returned unopened to the bidder with a letter from the Business Manager/ Purchasing Agent notifying the bidder that the submitted bid was received after the due date and time.
- After bids are received, a secure place will be provided in the Business Manager/ Purchasing Agent's office for holding of the bids until the bid opening date. The bids are to be received sealed and shall remain sealed until opened on the advertised date and time by the District in a public forum.

The above process should be undertaken in a manner that will preclude any notion of favoritism, revealing bid prices or information. Having sealed bids publicly received and read should inhibit any perception that the District is manipulating the receiving of bids.

#### **F. Public Opening of Bids**

Sealed bids will be opened publicly by the District and will be documented. Preliminary tabulations will be provided to the public at <http://www.dd6.org/purchasing/bid-specs/bids>.

The Business Manager/ Purchasing Agent, or a Purchasing representative, will open the bids on the date, time and place specified in the notice.

#### **G. Evaluation of Bids**

The Business Manager/ Purchasing Agent will evaluate all bids, with the assistance from the user department, and a recommendation about the lowest and BEST responsible bid will be made to the District Board of Directors. Bids will be evaluated based on:

- The relative price of the bids, including the cost of repair and maintenance if heavy equipment is the subject of the bid, and the cost of delivery and hauling;
- The compliance of goods and services with specifications;
- The responsibility of the Vendor, including the Vendor's financial and practical ability to perform the contract; and

- The Vendor's past performance record;
- References from other purchasers;
- Results of Demonstrations with employee recommendations.

The Purchasing Department will submit tabulation, evaluation, and award recommendations to the District Board of Directors for inclusion on the District Board of Directors Agenda for award. When the lowest priced bid is not the BEST bid, clear justification for not selecting the lowest bid must be documented to the District Board of Directors

The District Board of Directors will either approve the recommendation or reject all bids and authorize the Business Manager/ Purchasing Agent to re-bid the goods and/or services.

## **H. Contract Award**

The Business Manager/ Purchasing Agent shall recommend a contract award to the District Board of Directors in session. The District's Board of Directors shall:

- Award the contract to the responsible bidder(s) who submits the lowest and BEST bid; or
- Reject all bids and publish a new notice.

## **9. COMPETITIVE PROPOSALS FOR HIGH TECHNOLOGY GOODS AND SERVICES, AND SPECIAL SERVICES EXCEEDING \$75,000**

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### **A. Definitions**

Competitive proposals may be solicited through a Request for Proposal (RFP).

Formal, sealed Requests for Proposals (RFPs) will be used to procure high technology goods and services and special services exceeding \$75,000 (but not limited to those exceeding \$75,000). The RFP will solicit proposals from Vendors in response to the District's requirements and contractual terms and conditions. A formal contract must be approved by the District Board of Directors.

### **B. Procedures**

Competitive proposals for high technology goods and services and special services will be accomplished as follows:

#### *Notice*

After the development of requirements and preparation of the RFP, the Business Manager/ Purchasing Agent will publish a notice of the proposed purchase, unless the District Board of Directors of the RFP is required.

The notice must include:

The specifications describing the goods and services to be purchased, or a statement of where the specifications may be obtained;

- The time and place for receiving and opening RFPs and to whom the RFPs are to be sent;
- The method of bond required (if necessary) of the proponent.

A notice of a proposed purchase must be published at least once a week in a newspaper of general circulation in the District, with the first day of publication occurring before the 14th day before the date of the proposal opening.

The Bidder's Notice will be distributed to a minimum of three (3) potential bidders.

The notice may be distributed and documented via the following methods:

- Email – Document email distribution in bid file with printout of the sent email with header visible
- Fax – Document fax distribution in bid file with confirmation page showing the fax was successfully sent

### **C. Receipt of Competitive Proposals**

The following procedures will be adhered to when receiving proposals:

- All proposals will be received by the District on the date and time specified.
- All proposals will be stamped with the time and date received. The date stamp clock in the District Administration Building will serve as the official time clock for the purpose of identifying the date and time bids were received.
- No RFPs will be received after the opening time on the day of proposal opening. All RFPs received after the opening time will be returned unopened.
- After proposals are received, a secure place will be provided in the Business Manager/ Purchasing Agent's office for the holding of the proposals until the proposal opening date. The proposals are to be received sealed and shall remain sealed until opened on the advertised date and time by the Business Manager/ Purchasing Agent or Purchasing Representative.

The above process should be undertaken in a manner that will preclude any notion of favoritism, or revealing proposal information. Having sealed proposals publicly received and recorded should inhibit any perception that the District is manipulating the receiving of proposals.

### **D. Opening of Proposals**

Sealed proposals will be opened by the Business Manager/ Purchasing Agent or Purchasing Representative and will be documented.

Proposals will be opened so as to avoid disclosure of contents to competing proponents and will be kept secret during the process of negotiation. All proposals that have been submitted will be available and open for public inspection 10 days after the contract is awarded, except for trade secrets and confidential proprietary information contained in the proposals and identified as such if the solicitation provides for this information to be kept secret.

### **E. Evaluation of Proposals**

The Business Manager/ Purchasing Agent will evaluate all proposals, with assistance from the user department, or by committee. Purchasing will make the recommendation to the District Board of Directors.

The RFP must specify the relative importance of price and other evaluation factors.

### **F. Negotiations**

All negotiations will be supervised by the Business Manager/ Purchasing Agent and the General Manager. Any conversations with proponents must be in coordination with the Business Manager/ Purchasing Agent. Departments contacting proponents without coordinating with the Business Manager/ Purchasing Agent risk jeopardizing the integrity of the Districts Purchasing process.

**G. Contract Award**

The award of the contract shall be made by the District Board of Directors to the responsible proponent whose proposal is determined to be the lowest and BEST evaluated offer resulting from negotiation, taking into consideration the relative importance of price and other evaluation factors set forth in the RFP.

# 10. PURCHASING OF PROFESSIONAL SERVICES

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## A. Introduction

The two principal laws with which the Purchasing Department must comply are the **Professional Services Purchasing Act** and the **Purchasing Act**.

There are two kinds of professional services:

- Those professional services specifically defined under the Professional Services Purchasing Act; and
- Those “other” professional services that are not specifically defined under either the Professional Services Purchasing Act or the District Purchasing Policy and which must be obtained in compliance with the District Purchasing Policy. The Business Manager/ Purchasing Agent must rely on court cases and Attorney General opinions to determine what services are included in these “other” professional services.

## B. Professional Services Purchasing Act

### *Definition*

Professional services are defined in the Professional Services Purchasing Act as:

- Those within the scope of the practice of accounting, architecture, optometry, medicine, land surveying, or professional engineering as defined by the laws of the State of Texas; and/or
- Those performed by any licensed architect, optometrist, physician, surgeon, certified public accountant, land surveyor, or professional engineer in connection with his professional employment or practice.

The Act states that contracts for the Purchasing of these professional services **may not** be awarded on the basis of price. Instead, services must be awarded on the basis of demonstrated competence and qualifications.

## C. Purchasing Act

### *“Other” Services Defined*

As defined in this manual, “other” personal or professional services are those services usually referred to as a professional service, but not specifically defined or covered in the Professional Services Purchasing Act. Examples include computer programmers, lawyers, grant managers, facilitators, etc. Various court opinions have defined these “other” professional services as services requiring technical skill and expertise; labor and skill which are predominantly mental or intellectual, rather than physical or manual; or, a special skill and experience. “Other” personal services have been defined as services that must be performed by a particular person and, by the terms of the contract, no substitutions are allowed.