

# **LAKE WORTH DRAINAGE DISTRICT POLICY FOR PROCUREMENT OF GOODS AND SERVICES**

## **Introduction:**

The procurement of goods and services for Lake Worth Drainage District ("District" or "LWDD") is regulated by this policy, the District's enabling legislation (Chapter 2009-258, Laws of Florida), and applicable state laws. The procedures established herein shall be applied to all procurements of goods and services.

## **1.1 Purchasing Authority**

**1.1.1** The District Board of Supervisors ("Board") has delegated limited authority to the Executive Director, or his or her designee, to procure goods and services. Any contract for goods and services in excess of the authority of the Executive Director as described in Section 1.2.2 shall be approved by the Board.

**1.1.2** The Executive Director, or his or her designee, has the authority to carry out all executive procurement functions including but not limited to the following: development of solicitation materials; advertisement of solicitations; cancellation or postponement of solicitations; determination whether responses are responsible and responsive; determination of sole source procurements; negotiation of contracts, where negotiation is called for herein; administration of contracts; renewal of contracts where the contract provides for unilateral renewal by the District upon written notice; and all other procurement functions reasonably necessary to effectuate the provisions in this Chapter.

**1.1.3** The Executive Director shall delegate the authority to conduct purchasing activities that are described in this policy through the issuance of a Purchasing Delegation of Authority memo. The memo will list the names of all individuals who are authorized to conduct certain purchasing procedures on behalf of the Executive Director, and the limits of that authority (if any). The Purchasing Delegation of Authority memo will remain on file with the District and be periodically reviewed.

## **1.2 Purchasing Category Thresholds**

**1.2.1** The current purchasing threshold categories are:

CATEGORY ONE:	\$ Under \$15,000
CATEGORY TWO:	\$ 15,001 to \$35,000
CATEGORY THREE:	\$ 35,001 to \$65,000
CATEGORY FOUR:	\$ 65,001 and over

**1.2.2** The procurement of goods and services where the purchase price or total contract price is estimated to be \$65,000 or less during the contract term shall be approved by the Executive Director or designee.

**1.2.3** The procurement of goods and services where the purchase price or total contract price is estimated to be greater than \$65,000 shall be approved by the Board, except for the purchase of certain budgeted goods and services made pursuant to Section 1.5.7.

**1.2.4** Purchases of goods and/or services shall not be divided so as to avoid the requirements of Section 1.4 herein.

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**1.3 Informal Methods of Competitive Solicitation: Categories One, Two and Three**

For the procurement of goods and/or services for Category One, Two, and Three, the District may use informal competitive solicitation methods as described in this section, unless otherwise the procurement is exempted from competitive solicitation as described in Section 1.5.

Purchases under this section shall be selected on the basis of best value. "Best value" means the highest overall value to the District based on objective and subjective factors that include, but are not limited to, price, quality, design, workmanship, and vendor's history of performance with the District.

**1.3.1** Category One purchases may be made without seeking competitive price quotes if the Executive Director or designee considers the price to be reasonable based on research, experience, purchase history, or other information.

**1.3.2** Category Two purchases shall be made by obtaining two or more written or verbal quotations whenever practical. Should verbal quotations be received, the name and address of the company and the amount quoted shall be documented. If after reasonable effort, only one quotation is received, the purchase may be made provided that the pricing is determined to be fair and reasonable.

**1.3.3** Category Three purchases shall be made by obtaining an adequate number of quotes from qualified sources after publicly advertising a Request for Quotations. The Request for Quotations shall be advertised on a website designated by the District for this purpose for a minimum of seven (7) days or by using such other method that ensures fair and open competition, as determined by the Executive Director or designee. If after such time, only one quotation is received, the purchase may be made provided that the pricing is determined to be fair and reasonable.

**1.4 Formal Methods of Competitive Solicitation: Category Four**

For the procurement of goods and/or services for Category Four, the competitive solicitation methods described in this section shall be used, unless otherwise the procurement is exempted from competitive solicitation as described in Section 1.5. The three types of methods described in this section are Invitation to Bid, Request for Proposal, and Request for Qualifications. Any formal competitive solicitation shall be made available simultaneously to all vendors, must include the time and date for the receipt of bids, proposals, or replies and of the public opening of bids (if required), and must include all contractual terms and conditions applicable to the procurement, including the criteria that will be used to evaluate the bid, proposal, or reply.

**1.4.1 Invitation to Bid**

An Invitation to Bid shall be used when LWDD is capable of specifically defining the scope of work for which a contractual service is required or when LWDD is capable of establishing precise specifications defining the actual commodity or group of commodities required. The contract is awarded primarily on the basis of price.

**1.4.1.1**

The Invitation to Bid shall be advertised on a website designated by the District for this purpose and ensures fair and open competition include a detailed description of the commodities or contractual services sought. If LWDD contemplates renewal

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of the contract, the Invitation to Bid shall include a statement to that effect. An Invitation to Bid for a public construction project in excess of \$200,000 shall also be publicly advertised at least once in a newspaper of general circulation in Palm Beach County for a minimum of thirty (30) days, in accordance with F.S. § 255.0525, as may be amended.

**1.4.1.2**

Sealed bids shall be opened at a publicly noticed meeting at the time and place stated in the Invitation to Bid.

**1.4.1.3**

The Executive Director, or designee, shall evaluate the bids to determine which responsive and responsible bidder will provide the lowest price to the LWDD. The evaluation shall include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor.

**1.4.1.4**

If less than two responsive bids are received, the Executive Director may negotiate on the best terms and conditions. The Executive Director shall document the reasons that such action is in the best interest of LWDD in lieu of reissuing the Invitation to Bid.

**1.4.1.5**

A Notice of Intent to Award a contract shall be posted on a website designated by the District for this purpose.

**1.4.1.6**

The Executive Director, or designee, shall present the evaluation of the bids, or the negotiated terms and conditions from the sole bidder, to the Board as a recommendation to award. A firm fixed-price contract shall be awarded to the responsive and responsible bidder whose bid is lowest in price.

**1.4.2 Request for Proposals**

A Request for Proposals shall be used when conditions are not appropriate for the use of an Invitation to Bid and when the contract award is not based primarily on price.

**1.4.2.1**

Requests for Proposals shall be made available simultaneously to all vendors and must include a statement describing the commodities or contractual services sought and the relative importance of price and other evaluation criteria. If LWDD contemplates renewal of the contract, the Request for Proposals shall include a statement to that effect.

**1.4.2.2**

Proposals may be opened at a publicly noticed meeting.

**1.4.2.3**

A selection committee appointed by the Executive Director, or designee, shall evaluate and rank the proposals. Meetings of the selection committee must be publicly noticed and comply with the Florida Sunshine law.

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**1.4.2.4**

If less than two responsive proposals are received, the Executive Director, or designee, may negotiate on the best terms and conditions. The Executive Director, or designee, shall document the reasons that such action is in the best interest of LWDD in lieu of reissuing the Request for Proposals.

**1.4.2.5**

A Notice of Intent to Award a contract shall be posted on the on a website designated by the District for this purpose.

**1.4.2.6**

The Executive Director shall present the selection committee's ranking of the proposals, or the negotiated terms and conditions from the sole proposer, to the Board as a recommendation to award. Notwithstanding the ranking of responses by the selection committee, the Board may elect to re-evaluate the responses when the recommendation to award is brought before the Board.

**1.4.2.7**

A contract shall be awarded to the responsible and responsive proposer whose proposal is determined to be the most advantageous to LWDD, taking into consideration the price and other criteria set forth in the request for proposals.

**1.4.3 Request for Qualifications**

A Request for Qualifications shall be used to procure the services of architects, landscape architects, professional engineers, and registered surveyors and mappers in accordance with F. S. § 287.055, the Consultants' Competitive Negotiation Act (CCNA), as may be amended from time to time. It may also be used when the District wants to select a vendor based solely on their professional skill and knowledge, and where price is not a selection factor.

**1.4.3.1**

Requests for Qualifications shall be made available simultaneously to all vendors and must include a statement describing the contractual services sought and qualifications required.

**1.4.3.2**

Vendor responses may be opened at a publicly noticed meeting.

**1.4.3.3**

The Executive Director, or designee, may evaluate and rank the statements of qualifications, or may appoint a selection committee to assist with evaluating and ranking of the statements of qualifications. Meetings of the selection committee must be publicly noticed and comply with the Florida Sunshine law.

**1.4.3.4**

The highest ranked vendor will be notified in writing to submit a Fee Proposal. Upon receipt of the Fee Proposal, the Executive Director, shall attempt to negotiate an agreement with the highest ranked vendor to bring before the Board for

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approval. If an agreement cannot be reached with the highest ranked vendor within 30 days of ranking, the Executive Director shall terminate negotiations with that vendor, and commence negotiations with the next-highest ranked vendor.

This process may continue until a contract acceptable to the District has been executed by the vendor or all responses are rejected. No vendor shall have any rights against the District arising from such negotiations or termination thereof.

**1.4.3.5**

A Notice of Intent to Award a contract shall be posted on a website designated by the District for this purpose.

**1.4.3.6**

The Executive Director shall present the negotiated contract to the Board as a recommendation to award.

**1.4.3.7**

The District may enter into continuing contracts for the services of architects, landscape architects, professional engineers, registered surveyors and mappers, whereby the firm provides professional services to the District for District projects, where the estimated construction cost for each individual project does not exceed \$4 million or for study services where the estimated fee for each individual study does not exceed \$500,000 in accordance with F. S. § 287.055, the Consultants' Competitive Negotiation Act (CCNA), as may be amended from time to time.

**1.4.5 Auditing Services**

The District shall issue a Request for Proposal for District auditing services. The Board of Supervisors shall establish the selection committee, which must consist of at least three members, one of who must be a member of the Board, in accordance with F. S. § 218.391 as may be amended. The Executive Director or District employees shall not serve as a members of the selection committee, but may serve as technical advisors to the selection committee.

**1.4.6 Other Competitive Solicitation Methods**

The Executive Director may develop and implement procedures for other methods of procurement, including but not limited to Invitation to Negotiate, Request for Information, Design-Build, and Construction Manager at Risk.

**1.5 Direct acquisition methods (non-competitive solicitation methods)**

The following procurements may be made without using the competitive solicitation methods described in Sections 1.3 and 1.4. Purchases over \$65,000 shall be approved by the Board, except for those of certain budgeted goods and services made pursuant to Section 1.5.7.

**1.5.1 Professional services**

Except as otherwise provided for in Florida Law, the LWDD may contract for professional services (which include, but is not limited to, services provided by attorneys, accountants,

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actuaries, appraisers, lobbyists, environmental experts, insurance brokers, and financial advisors) without using competitive solicitation methods described in Sections 1.3 and 1.4.

### **1.5.2. Sole Source**

LWDD may purchase or contract for goods and services that are available from only one source without using the competitive solicitation methods described in Sections 1.3 and 1.4.

Sole source means that there is only one vendor capable of providing an item or service, and therefore it is not possible to obtain competitive bids. Sole source also includes those goods or services where licensing, warranty or compatibility requirements limit the selection to the original equipment manufacturer, manufacturer's service representative or distributor of the manufacturer's equipment, or authorized repair facility, including, but not limited to, purchases of parts, repairs or maintenance services for field equipment and water control facilities (ex. pumps, gates, generators, specialized field equipment, etc.).

### **1.5.3 Software**

LWDD may purchase or contract for licensed computer software, web-based applications, or maintenance for such software and applications without using competitive solicitation methods described in Sections 1.3 and 1.4. Purchases of licensed computer software, web-based applications, or maintenance for such software and applications where the purchase is estimated to be greater than \$65,000 and is not part of an existing software or web-based application system, shall be subject to approval by the Board. This section does not apply to commercial off the shelf software that is available for purchase from multiple vendors.

### **1.5.4 Pre-qualified vendor lists**

LWDD may pre-qualify vendors to perform certain services regularly required by the District by issuing a Request for Pre-Qualification that describes the necessary skills, certifications, equipment, or other pre-requisites required to perform the service. Vendors who meet the necessary requirements will be placed on the pre-qualified vendor list for that service, subject to the Board's approval of the list of pre-qualified vendors. The Board shall also approve the annual budget for service and/or the purchasing threshold for each individual work order.

When the LWDD has a need for work to be performed by a pre-qualified vendor, a Request for Work Order Bid shall be issued to the vendors who are on the pre-qualified vendor list for that type of work. The pre-qualified vendors will be given at least seven (7) days to submit a bid. A work order will be awarded to the pre-qualified vendor who submits to lowest bid. Work orders that exceed either the approved budget for that service or the approved purchasing threshold for work orders for that service shall be subject to Board approval.

### **1.5.5. Other government contracts (piggyback contracts)**

LWDD may purchase or contract for goods and/or services by piggybacking off the purchasing agreements of other Florida special districts, municipalities, or counties without using competitive solicitation methods described in Sections 1.3 and 1.4, subject to the

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following conditions. Contracts for purchases that are estimated to be greater than \$65,000 must be approved by the Board.

**1.5.5.1**

The other government entities' purchasing agreement must have been procured using formal competitive selection procedures that meet or exceed the requirements of this Purchasing Policy.

**1.5.5.2**

LWDD may not use this method to contract for services governed by F. S. § 287.055, the Consultants' Competitive Negotiation Act (CCNA) or for goods and/or services that are not the same as or exceed the scope of the other government's purchasing agreement.

**1.5.5.3**

LWDD may piggyback off other government entities' purchasing agreement only during the term of the other governmental entity's agreement. The term of the LWDD contract shall extend no more than six months from the expiration date of the other governmental entity's purchasing agreement, including expiration of any renewals.

**1.5.5.4**

The District shall require the vendor to certify that the price or rate represents the lowest price or rate for the non-real property, goods, or services of any contract between the vendor and any other governmental entity within the state.

**1.5.6 Use of cooperative purchasing program agreements**

LWDD may purchase or contract for goods and/or services from vendors participating in a cooperative purchasing program without using the competitive solicitation methods described in Sections 1.3 and 1.4, subject to the following conditions. This includes in cooperative purchasing program operated by the State of Florida, associations affiliated with State (such as the Florida Sheriffs Association and the Florida Fire Chiefs' Association), and the Goods and Services Administration (GSA) of the Federal government.

**1.5.6.1**

Purchases shall be based on the rates or prices listed in the vendor's agreement with the cooperative purchasing program.

**1.5.6.2**

Purchases from a vendor participating in cooperative purchasing program operated by private organizations such as National Association of State Purchasing Officials (NASPO) ValuePoint, Sourcewell, and Omnia Partners, shall be made after review and approval of cooperative purchasing agreement by the District legal counsel.

**1.5.7 Purchases of certain budgeted goods and services**

The LWDD may purchase or contract for the following goods and services without using competitive selection procedures described in Sections 1.3 and 1.4 when the goods and/or

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service is properly budgeted for, as demonstrated in the approved budget as a line item. The purchase must be made on the basis of best value, subject to the approval by the Executive Director, or designee.

- 1.5.7.1 Bulk fuel
- 1.5.7.2 Commercial and Investment Banking services
- 1.5.7.3 Commercial Insurance
- 1.5.7.4 Health benefits and other health-related services
- 1.5.7.5 Utilities. Water, sewer, gas, electrical, phone, internet, security, and other utility services
- 1.5.7.6 Advertising services
- 1.5.7.7 Purchases of licensed computer software, web-based applications, or maintenance for such software and applications that are part of an existing software or web-based application system use by the District, in accordance with Section 1.5.3
- 1.5.7.8 Work orders issued to pre-qualified vendors, in accordance with Section 1.5.4
- 1.5.7.9 Purchases of vehicles and equipment made through a cooperative purchasing program, in accordance with Section 1.5.6
- 1.5.7.10 Maintenance service of equipment when considered to be in the best interest of the District. Services must be performed by the equipment manufacturer, manufacturer's service representative, a distributor of the manufacturer's equipment or after at least three (3) responsive services have been evaluated.
- 1.5.7.11 Memberships, dues, subscriptions, publications
- 1.5.7.12 Training, conferences, seminars, and travel expenses
- 1.5.7.13 Postage, shipping and freight costs
- 1.5.7.14 Recording fees
- 1.5.7.15 Licenses and permits
- 1.5.7.16 Refunds
- 1.5.7.17 Reimbursements for damages to non-vendor or third parties
- 1.5.7.18 Personnel verifications, background checks and drug testing

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1.5.7.19 Employee uniform services

1.5.7.20 First aid/safety equipment and services

### **1.5.8 Emergency purchases**

In the case of an emergency, which is defined as a situation where there is an imminent danger to the public health, safety, or welfare or other substantial loss to LWDD, the LWDD may purchase or contract for goods and/or services without using competitive selection procedures described in Sections 1.3 and 1.4, subject to the following conditions.

#### **1.5.8.1**

In the case of an emergency declared by the federal, state, or local government, the Executive Director shall have the authority to make an emergency purchase of goods and services necessitated by the emergency without prior Board approval. Purchases that are estimated to be greater than \$65,000 shall be ratified by the Board as soon as practicable.

#### **1.5.8.2**

In the case of a non-declared emergency, the Executive Director shall first make a written determination that an imminent danger to the public health, safety, or welfare, or other substantial loss to LWDD requires an emergency action. The LWDD may purchase or contract for goods and services after endeavoring to obtain pricing information from at least two prospective vendors, unless LWDD determines in writing that the time required to obtain pricing information will increase the immediate danger to the public health, safety, or welfare or other substantial loss to LWDD. Purchases that are estimated to be greater than \$65,000 shall be ratified by the Board as soon as practicable.

### **1.6 Contract Renewals and Extensions**

#### **1.6.1**

When the Board approves a contract for goods and/or services that provides for one or more unilateral renewals, the Executive Director may approve such renewals, unless otherwise provided in the contract or applicable law. A renewal approved under this section shall be in writing and shall be subject to the same terms and conditions set forth in the initial contract.

#### **1.6.2**

The Executive Director may extend an expiring contract approved by the Board for a period not to exceed 6 months. A contract extension approved under this section shall be in writing and shall be subject to the same terms and conditions set forth in the initial contract.

### **1.7 Bid Protest Procedures**

If a Respondent intends to protest LWDD's award of a contract, it must follow the procedure described in this section. Failure to comply with the requirements of this section shall be deemed conclusively to constitute a waiver, abandonment or relinquishment of any and all claims resulting

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from LWDD's award of the contract. Only Category Four purchases that are made subject to a competitive solicitation procedure are subject to protest.

**1.7.1**

The Respondent shall file a Notice of Intent to Protest with the Executive Director in writing within 72 hours (excluding weekends and District observed holidays) after the Notice of Intent to Award is posted. The Respondent shall file a Formal Written Protest which includes a complete and concise statement of the grounds for the protest, supported by relevant documents, within ten (10) calendar days after filing Notice of Intent to Protest.

**1.7.2**

The Notice of Intent to Protest and Formal Written Notice shall be delivered via certified or registered U.S. Mail, return receipt requested, to the LWDD administrative offices, 13081 South Military Trail, Delray Beach, FL 33484, Attn: Executive Director, with an electronic mail copy transmitted to [info@lwdd.net](mailto:info@lwdd.net).

**1.7.3**

Any Respondent who files a formal written protest shall post with the District at the time of filing the formal written protest, a protest bond in the amount of 1% of the contract amount or \$25,000 whichever is less. In the event the Respondent receives an adverse determination of its protest, the bond shall be forfeited to the LWDD.

**1.7.4**

Failure to file notice of intent to protest, a formal written protest, and/or the protest bond within the time prescribed shall constitute a waiver of proceedings.

**1.7.5**

The Executive Director shall have the authority to settle and resolve the protest if such a settlement or resolution is in the best interest of the LWDD in the Executive Director's sole opinion.

**1.7.6**

If the protest is not resolved by mutual agreement, the Executive Director shall issue a decision in writing within ten (10) calendar days after receipt of the formal written protest, which time may be extended upon agreement of the parties. The decision shall state the reasons for the action taken and inform the Respondent of his or her right to appeal the decision to the LWDD Board of Supervisors. A copy of the decision shall be mailed or otherwise furnished to the Respondent.

**1.8 Definitions**

"Cooperative purchasing program" means an arrangement in which multiple governmental agencies combine their buying requirements onto a single contract and where the aggregate volume enhances their purchasing power.

"Construction Manager at Risk" means an alternative competitive solicitation method done in accordance with F.S. § 287.055 that is used to obtain a firm that will be responsible for construction project scheduling and coordination in both preconstruction and construction phases and generally responsible for the successful, timely, and economical completion of the construction project.

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“Design-Build” means an alternative competitive solicitation method that is used to obtain single contract with a design/build firm for the design and construction of a District construction project in accordance with F.S. § 287.055.

“Executive Director” means the Executive Director of the District.

“Invitation to Bid (ITB)” means a written solicitation for competitive sealed bids where the District can define the commodity, group of commodities, or contractual service that is required.

“Invitation to Negotiate (ITN)” means an alternative competitive solicitation method that is used to determine the best method for achieving a specific goal or solving a particular problem. An Invitation to Negotiate may be issued to identify one or more responsive vendors with which the agency may negotiate in order to receive the best value. This method shall not be used for procurements governed by F.S. § 287.055.

“Piggyback” or “Piggybacking” means procurement of goods and/or services by relying upon the terms and conditions of a contract made between another government entity and a vendor that was awarded pursuant to a competitive solicitation.

“Respondent” means any person or entity that responds to a competitive solicitation issued by LWDD.

“Responsible” means that a vendor has the present capability in all respects to fully perform the contract requirements, the integrity, and the reliability that will assure good faith performance. Evidence of responsibility will include without limitation, the vendor’s history of past performance, the vendor’s complaint history, the vendor’s history of litigation related to the provision of services, the number of years the vendor has been in the business of performing the service, and the technical and financial resources available to the vendor to perform the work.

“Responsive” means a response to a solicitation that conforms in all material respects to the solicitation.

“Request for Information (RFI)” means an alternative competitive solicitation method that is used to assess the market or the feasibility of a proposed good or service, or when vendor input to specifications or a scope of work is required. An RFI may be issued to request submission of unpriced offers, products, or scopes of services, which may be followed by subsequent competitive solicitation method that is not limited to those firms who responded to the RFI.

“Request for Proposals (RFP)” means a written solicitation for competitive proposals when it is not practicable for the District to specifically define the scope of work for which the goods and/or contractual service is required.

“Request for Qualifications (RFQ)” means a written solicitation for statements of qualification based on a respondent’s qualifications and experience for a prescribed scope of services, where price is not used as a selection factor.

“Sole source” means there is only one vendor capable of providing an item or service, and therefore it is not possible to obtain competitive bids.