



POLICY TITLE: PROCUREMENT AND PURCHASING POLICY

POLCY NUMBER: 3080

3080.10 GENERAL

3080.11 Purpose

The purpose of this policy is to establish the procedures governing purchase requisitions for materials, supplies and equipment in accordance with the State of California Government Code and contracting for public projects and consulting services in accordance with the State of California Public Contract Code and Uniform Public Construction Cost Accounting Act.

3080.12 Definitions

For the purposes of this policy, unless otherwise apparent from the context, certain words and phrases used in this policy are defined as follows:

- a) "District" refers to the Donner Summit Public Utility District.
- b) "Board" refers to the Board of Directors of Donner Summit Public Utility District.
- c) "General Manager" is the General Manager as appointed by the Board of Directors of Donner Summit Public Utility District.
- d) "Government Code" refers to the Government Code of the State of California.
- e) "Public Contract Code" refers to the Public Contract Code of the State of California.
- f) "Public Utility District Act" refers to Sections 15501-18055 of the Public Utilities Code of the State of California.
- g) "Supplies" includes materials, small tools and equipment, and other goods or commodities utilized in the daily operational efforts of the District.
- h) "Equipment" includes large heavy equipment, vehicles, furniture and fixtures.
- i) "Public project" is as defined in Chapter 2, Section 22002 of the Public Contract Code:
 - i. Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased or operated facility.
 - ii. Painting or repainting of any publicly owned, leased, or operated facility.
 - iii. In the case of a publicly owned utility system, "public project" shall include only the construction, erection, improvement, or repair of dams, reservoirs, power plants, and electrical transmission lines of 230,000 volts and higher.
 - iv. "Public project" does not include maintenance work. For purposes of this policy, "maintenance work" includes all of the following:
 - 1) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.
 - 2) Minor repainting.
 - 3) Resurfacing of streets and highways at less than one inch.
 - 4) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.

- 5) Work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, power plants, and electrical transmission lines of 230,000 volts and higher.
- j) For purposes of this policy, “facility” means any plant, building, structure, ground facility, utility system, subject to the limitation found in Public Contract Code section 22002(c)(3), real property, streets and highways, or other public work improvement.
- k) “Bidders list” refers to a list of prospective vendors.
- l) “Contractors list” refers to a list of contractors qualified to perform the duties required to construct public projects, of which should be developed and maintained by the General Manager using the criteria detailed by the California Uniform Construction Cost Accounting Commission.
- m) “Consultant” refers to a specially trained and experienced individual or firm for which they are qualified to provide expert services or advice related to financial, economic, accounting, architectural, engineering, legal, insurance, data processing, personnel or other administrative matters.
- n) “Professional services” shall mean and include professional services of any type or variety, including, but not limited to, services rendered by accountants, appraisers, architects, attorneys, auditors, designers, engineers, inspectors, physicians, surveyors, and other professional and technical callings requiring special licenses or certifications.
- o) “Purchase” refers to the acquisition of property including rental, lease or trade.
- p) “Purchase Order” shall mean a standardized form that authorizes a purchase when approved by the appropriate Purchasing Agent.
- q) “Purchasing Agent” refers to the appointed positions of the District charged with responsibilities governing procurement of supplies, equipment, and contracts for maintenance and public project services.
- r) “Responsible bidder” refers to a bidder who has demonstrated the specified qualifications and capabilities to satisfy the proposed work requirements.
- s) “Responsive bidder” refers to a bidder that responds appropriately according to the demands of the bidding instructions.
- t) “Emergency” refers to a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

3080.13 Purchasing Agents

- a) The Chief Plant Operator or General Manager shall act as the Purchasing Agent for procurements up to Five Thousand Dollars (\$5,000). The Chief Plant Operator does not have signature authority on contracts procured pursuant to this policy.
- b) The General Manager shall act as the Purchasing Agent for procurements with a value of more than Five Thousand Dollars (\$5,000.00) and up to Sixty Thousand Dollars (\$60,000.00).

3080.14 Purchasing Agent Duties

The Purchasing Agent shall have the authority to:

- a) Purchase or contract for supplies, equipment, maintenance services, or public projects in accordance with the purchasing procedures detailed in this directive;

- i. Exception. The Chief Plant Operator does not have signature authority on contracts procured pursuant to this policy;
- b) Procure quality supplies, equipment, and services for maintenance and public projects at the least expense to the District;
- c) Obtain as full and open competition as possible on all purchases and contracts;
- d) Keep informed of the current developments in the field of purchasing and contract administration as well as prices, market conditions and new products;
- e) Maintain reasonably necessary forms for the administration and operation of adhering to the procedures detailed in this directive;
- f) Supervise the regular inspection of all supplies and equipment for adequacies in their intended use;
- g) Obtain chemical and physical tests of samples submitted with bids which are necessary to determine their quality and conformance with specifications, where the cost may be covered by the District, or the District may order the cost be covered by the bidder;
- h) Recommend the transfer of surplus or unused supplies and equipment between departments as needed and the sale of all supplies and equipment that cannot be used by the District;
- i) Maintain bidders list, contractors list, local business preference list, current vendor list and other related records required to perform the duties of the purchasing function.

The Purchasing Agent is only authorized to procure supplies, equipment, and contracts for maintenance or public project services for which there is an unencumbered appropriation available to be charged.

3080.15 Staging of Purchases

Staging purchases and contracts into smaller units for the purposes of evading competitive bidding procedures in this directive is explicitly prohibited.

3080.16 Exemptions

The purchasing procedures detailed in this policy do not include the following:

- a) Travel expenses
- b) Subscriptions
- c) Advertisement of government mandated notices
- d) Reimbursement expenses
- e) Payroll and personnel related expenses
- f) Insurance claims
- g) Conference fees
- h) Banking services
- i) Postage, courier and delivery service charges
- j) Dues to approved organizations
- k) Payments to other government agencies
- l) Land
- m) Debt Service
- n) Claims settlements
- o) Grants

3080.20 PURCHASING AND CONTRACTING FOR SUPPLIES AND EQUIPMENT

3080.21 Purchasing Procedures for Supplies and Equipment

Purchasing procedures for supplies and equipment authorize the Purchasing Agent to acquire such items within their authorized purchasing threshold, as defined in Section 3080.13.

3080.22 Purchase Requisition Procedures

Purchase requisitions for the purchase of supplies and equipment are subject to the dollar limits provided in the table below.

Procurement Limits	Purchase Order	Bidding Procedures
< \$1,000	No purchase order required	No quotes
\$1,001 - \$10,000	Purchase order required	3 quotes required
> \$10,000	Purchase order required	Formal bidding procedure

For purchases not requiring formal bidding, the three quote requirement may be waived by the General Manager in the following circumstances:

- a) An attempt to obtain 3 quotes is documented in writing and only vendor is able to submit a quote.
- b) The General Manager determines that the supply or equipment can be obtained reasonably and efficiently from only one vendor.
- c) The General Manager determines that it is strongly preferred for efficient operations that the supply or equipment be of a particular model, brand, model, or make in order to be compatible with existing District equipment and operations.

For purchases requiring formal bidding, the Board may waive formal bidding by finding and determining by resolution that formal bidding would not produce an advantage and would therefore be undesirable, impractical, or impossible.

3080.23 Types of Purchase Orders

There are two (2) types of purchase orders the Purchasing Agent may issue, blanket purchase orders and individual purchase order requisitions. Procedures for each are provided below.

- a) Blanket purchase orders. Blanket purchase orders are issued by the Purchasing Agent for the purchase of supplies and equipment from the vendor for which there will be multiple or for ongoing monthly purchases. A blanket purchase order is issued to cover all amounts anticipated to be paid to the supplier for the fiscal year or contract term and typically expires at the end of the fiscal year or contract term. Blanket purchase orders are subject to the thresholds of the Purchasing Agents, as defined in Section 3080.13.
- b) Individual Purchase order requisitions. Individual purchase order requisitions are to be submitted to the Purchasing Agent, as described in Section 3080.15, for the purchase of supplies, equipment, and materials.

3080.24 Formal Bidding Procedures

The following provisions shall apply in contracting for supplies and equipment:

- a) Notices inviting bids. Notices inviting bids shall be prepared describing the bid items in general terms; referencing how to obtain more detailed information about the bid items; stating that the conditions and schedule may be found in the office of the District; mentioning that the supplies and equipment are to be delivered at such times, in such quantities, and in such a manner as the District may designate; and stating the time, date, and place for the submission of sealed bids.
- b) Material changes to the bid. If a material change to the bid specification is issued by the District later than seventy-two (72) hours prior to the opening of bids, the date and time shall be extended by no less than seventy-two (72) hours. The term "material change" means a change with a substantial cost impact on the total bid as determined by the District.
- c) Base Contract. Bid specifications which include one or more alternative bid schedules, shall identify and define the base bid for the purpose of awarding to the lowest responsive and responsible bidder.
- d) Bid opening procedure. Sealed bids shall be submitted to the Purchasing Agent and shall be identified as bids on the envelope. Such bids shall be opened in public at the time and place stated in the notice inviting bids, in the presence of all bidders who attend. A tabulation of all bids received shall be open for public inspection during regular business hours until award of the contract.
- e) Records of bid documents. Bid documents received by the District shall be maintained by the District department issuing the bid in accordance with the District's records retention schedule.
- f) Award of contracts. Contracts shall be awarded by the District to the responsible bidder that submits the lowest bid.
- g) No bids received. In the event no bids are received, the District shall have the option of any of the following:
 - i. Abandon the purchase; or
 - ii. Rebid the purchase.
- h) Rejection of bids. The District may elect to reject all bids. In the event all bids are rejected, the District shall have the option of any of the following:
 - i. Abandon the purchase or service; or
 - ii. Rebid the purchase.
- i) Tie bids. If two (2) or more bids are received from responsive and responsible bidders for the same total amount or unit price, and are the lowest, the District may accept the bid it chooses.
- j) Written contracts. Written contracts in the form approved by the District Legal Counsel shall be used in the award of bids.
- k) Sending, mailing, and publishing of notices. Notices inviting formal bids shall be published, sent, and mailed as follows:
 - i. Sent electronically, by facsimile or electronic mail, or mailed to all prospective vendors and firms at least fifteen (15) calendar days before the date of the bid opening;

- ii. Published at least once in a newspaper of general circulation, printed and published in the District, at least fourteen (14) calendar days before the date of the bid opening; and
 - iii. Other mailings, advertisements, and notifications deemed appropriate by the General Manager.
- l) Emergencies. In case of an emergency, the Board shall respond to the emergency pursuant to Section 3080.42 of this policy.
 - m) Exceptions. A separate formal bidding process is not required when purchases are made through a cooperative purchasing agreement or “piggy backing” with another public agency whose procurement process is substantially consistent with the provisions of this article.

3080.25 Local Business Preference

The District recognizes that local businesses make significant contributions to the economic health of the District. The District supports local business opportunities, which encourage businesses to move into and stay within the District, promote economic development, and maintain a strong local economic base, which in turn foster economic growth in the District. Therefore, the Board has determined it is in the District's best interest to establish and provide a preference to local businesses.

- a) Local preference. When a non-local business has submitted the lowest responsive and responsible bid, and when one or more local businesses have also bid, the local business's total bid amount will be reduced by ten percent (10%) or Five Thousand Dollars (\$5,000), whichever is lower, for bid comparison purposes. If the net amount is lower than the lowest bid, the bid will be awarded to the local business for the full amount of its bid.
- b) Local business. For purposes of this policy, "local business" means a vendor or contractor that has an office with at least one employee physically located within the District.

Exemptions. The local business preference does not apply to contracts funded by grants which prohibit the use of preferences.

3080.30 CONTRACTING REQUIREMENTS FOR WORK THAT IS NOT A PUBLIC PROJECT

3080.31 Contracting Procedures

Contracting procedures for work that is not a public project, as defined in this policy, are subject to the dollar limits provided in the table below.

Procurement Limits	Purchase Order	Bidding Procedures
< \$1,000	No purchase order required	No quotes
\$1,001 - \$60,000	Purchase order required	3 quotes required
> \$60,000	Purchase order required	Formal bidding procedure

For contracts not requiring formal bidding, the three quote requirement may be waived by the General Manager in the following circumstances:

- a) An attempt to obtain 3 quotes is documented in writing and only contractor is able to submit a quote.
- b) The General Manager determines that the work can only be reasonably and efficiently performed by one contractor.

3080.33 Formal Bidding Procedures

The provisions in Section 3080.24 shall apply to formal bidding procedures for contracting for work that is not a public project, except for subdivisions (g) and (h), which shall read:

- g) No bids received. In the event no bids are received, the District shall have the option of any of the following:
 - i. Abandon the service; or
 - ii. Rebid the service.
- h) Rejection of bids. The District may elect to reject all bids. In the event all bids are rejected, the District shall have the option of any of the following:
 - i. Abandon the service;
 - ii. Rebid the service; or
 - iii. Perform the service by employees of the District after the Board passes, by a two- thirds (2/3rd) vote, a resolution declaring that all bids submitted are unsatisfactory or excessive.

3080.40 CONTRACTING REQUIREMENTS FOR PUBLIC PROJECTS

The District has elected to participate in the Uniform Public Construction Cost Accounting Act (California Public Contract Code Section 22000 et. seq.) (UPCCA). All public projects as defined in this policy and the UPCCA shall adhere to the contracting requirements of this section. The contract amount limits listed in this section are periodically updated by the State of California. If the current contract amount limits adopted by the State are different from the amounts listed in this policy, then the amounts adopted by the State shall apply.

3080.41 Purchasing and Contracting Procedures for Public Projects

Contracting procedures for work that is a public project, as defined in this policy, are subject to the dollar limits provided in the table below.

Procurement Limits	Purchase Order	Bidding Procedures
< \$1,000	No purchase order required	No quotes
\$1,001 - \$60,000	Purchase order required	3 quotes required (open market)
\$60,000 - \$200,000	Purchase order required	Informal bidding procedure
>\$200,000	Purchase order required	Formal bidding procedure

- a) Open market bidding procedures. Purchases and contracts of an estimated value in the amount of Sixty Thousand Dollars (\$60,000.00) or less may be made by force account, negotiated contract or by purchase order pursuant to the provisions of Section 3080.44 of this policy, except as otherwise provided in this section.
- b) Informal bidding procedures. Purchases and contracts of an estimated value in the amount of Two Hundred Thousand Dollars (\$200,000.00) or less may be made by informal bidding procedures pursuant to the provisions of Sections 3080.45 and 3080.46 of this policy, except as otherwise provided in this section.
- c) Formal bidding procedures. Purchases and contracts of an estimated value in an amount greater than Two Hundred Thousand and no/100ths Dollars (\$200,000.00) shall be made by formal bidding procedures pursuant to the provisions of Sections 3080.45 and 3080.47 of this policy, except as otherwise provided in this section.
- d) Exceptions. The bidding procedures and force account restrictions set forth in this article shall be dispensed with when bidding would be impossible, impractical, or incongruent; in an emergency; when the price is controlled by law; when the commodity, or maintenance service, or project can only be provided or performed by one vendor. For the purposes of this section:
 - i. "Impossible" shall mean actual impossibility or extreme and unreasonable difficulty or expense.
 - ii. "Impractical" shall mean incapable of being performed by the bid procedure.
 - iii. "Incongruous" shall mean not suitable to the bid procedure.
- e) Cooperative agreements. No provision of this article shall be interpreted or construed to prohibit or prevent the District from purchasing or contracting for supplies, equipment, maintenance services, or public projects by contracts, arrangements, and agreements for cooperative purchasing programs not otherwise prohibited by law with any federal government agency, the state, the county, any other public agencies, or with any cooperative purchasing alliance acting on behalf of governmental entities. Any such contract, agreement, or arrangement otherwise subject to open market or informal bidding procedures shall be first approved by the Purchasing Agent and if subject to formal bidding procedures shall be first approved by the Board, or by the General Manager if the funding for the purchase has already been approved by the Board through the budget process. At the discretion of the appropriate approving authority, the bidding procedures of any agency may be used in such joint contracting arrangements.

3080.42 Emergencies

- a) Generally. In cases of emergency, the Board shall follow the procedures in Public Contract Code section 22050.
- b) Authority to Act. In cases of emergency, the Board, by a four-fifths (4/5ths) vote, may direct the General Manager to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts.
- c) Work by Day Labor or Contract. The work may be done by day labor under the direction of the Board, by contract, or by a combination of the two.
- d) Review of Board Actions. Where the Board orders any action as permitted by Public Contract Code section 22050, the Board shall review the emergency action every

- fourteen (14) days thereafter until the action is terminated, to determine, by a four-fifths (4/5) vote, that there is a need to continue the action.
- e) Review of General Manager Actions. Where the General Manager orders any action as permitted by Public Contract Code section 22050, the Board shall initially review the emergency action not later than seven (7) days after the action. The Board shall review the emergency action every fourteen (14) days thereafter until the action is terminated, to determine, by a four-fifths (4/5) vote, that there is a need to continue the action, unless the General Manager has terminated that action prior to the Board reviewing the emergency action and making a determination pursuant to this subdivision.
 - f) Termination of Emergency Action. When the Board reviews the emergency action, it shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed by giving notice for bids to let contracts.

3080.43 Authorized Signature

- a) Board President. The President shall be authorized to sign on behalf of the District all approved contracts provided for in this article. In the absence of the President, the Vice President shall be so authorized.
- b) General Manager. The General Manager shall be authorized to sign on behalf of the District all contracts provided for in Section 3080.40 of this policy and such other approved contracts as the Board may specifically direct from time to time.

3080.44 Open Market Bidding Procedures

Except as otherwise provided in subsections (d) and (e) of Section 3080.41, the solicitation of bids and award of contracts for public projects with an estimated value in the amount of Sixty Thousand Dollars (\$60,000.00) or less may be made by the Purchasing Agent by force account, negotiated contract or by purchase order. Whenever possible, bids shall be obtained in the open market in accordance with the following procedures:

- a) Minimum number of bids. Open market purchases, whenever possible, shall be based on at least three (3) bids and shall be awarded to the lowest responsive and responsible bidder.
- b) Notices inviting bids. The Purchasing Agent shall solicit bids from prospective vendors by written requests, by telephone, by facsimile or electronic mail, or by other advertising.
- c) Written records of bids. Written records of bids received shall be maintained by the Purchasing Agent in accordance with the District's records retention schedule. Such records, while so kept, shall be open to public inspection and shall include the business name, address, and telephone number of the vendor; vendor representative; description of the bid items, including unit quantities if applicable, unit prices or lump sum amount quoted by the vendor; and the date the bid was received.

3080.45 General Provisions for Informal and Formal Bidding Procedures

The following provisions shall apply in contracting for public projects under both informal and formal bidding procedures:

- a) Material changes to the bid. If a material change to the bid specification is issued by the District later than seventy-two (72) hours prior to the opening of bids, the date and time shall be extended by no less than seventy-two (72) hours. The term "material change" means a change with a substantial cost impact on the total bid as determined by the District.
- b) Base Contract. Bid specifications which include one or more alternative bid schedules, shall identify and define the base bid for the purpose of awarding to the lowest responsive and responsible bidder.
- c) Bid opening procedure. Sealed bids shall be submitted to the Purchasing Agent and shall be identified as bids on the envelope. Such bids shall be opened in public at the time and place stated in the notice inviting bids in the presence of all bidders who attend. A tabulation of all bids received shall be open for public inspection during regular business hours until award of the contract.
- d) Records of bid documents. Bid documents received by the District shall be maintained by the District department issuing the bid in accordance with the District's records retention schedule.
- e) Award of contracts. Contracts shall be awarded by the District to the responsive and responsible bidder that submits the lowest bid.
- f) No bids received. In the event no bids are received, the District shall have the option of any of the following:
 - i. Abandoning the purchase or project;
 - ii. Rebidding the purchase or project; or
 - iii. Perform the work by employees of the District.
- g) Rejection of bids. The District may elect to reject all bids. In the event the District anticipates rejecting all bids, the District shall provide a written notice to an apparent low bidder, pursuant to Public Contract Code section 22038. Furthermore, the District shall have the option of any of the following:
 - i. Abandon the project;
 - ii. Rebid the purchase or project using the appropriate bidding procedures; or
 - iii. Perform the project by force account without further complying with Public Contract Code section 22020 et seq., after the Board passes a resolution by a four-fifths (4/5th) vote of its governing body declaring that the project can be performed more economically by District employees.
- h) Tie bids. If two (2) or more bids are received from responsive and responsible bidders for the same total amount or unit price, and are the lowest, the District may accept the bid it chooses.
- i) Written contracts. Written contracts in the form approved by the District Legal Counsel shall be used in the award of bids.
- j) Bidders' security. Security will be required in an amount equal to ten percent (10%) of the bid quotation as described in the Public Contract Code. Upon an award to the lowest bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the district beyond sixty (60) days from the time the award is made.
- k) Bonds. Bidders for construction contracts shall give bonds for the faithful performance of the construction contract.

3080.46 Informal Bidding Procedures

Except as otherwise provided in subsections (a), (d), and (e) of Section 3080.41 and in Section 3080.42 of this article, the solicitation of bids may be authorized by the Purchasing Agent and the award of contracts for public projects with an estimated value in the amount of Two Hundred Thousand Dollars (\$200,000.00) or less may be made by the General Manager in accordance with the requirements of the Public Contract Code section 22032, et seq., and the following informal bidding procedures:

- a) Budgetary authorization. The bid items shall have been authorized as a part of an approved budget of the District, and the purchase or contract shall not exceed the amount so authorized.
- b) Contractor's List. A list of contractors shall be developed and maintained in accordance with the provisions of section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission.
- c) Notices inviting bids. Notices inviting bids shall be prepared describing the bid items in general terms; referencing how to obtain more detailed information about the bid items; and stating the time, date, and place for the submission of sealed bids.
- d) Mailing of notices. Notices inviting informal bids shall be mailed at least ten (10) calendar days before the due date of the submission of bids as follows:
 - i. Mailed to all firms on the bidders list or contractors list for the category of work being bid; or
 - ii. For bid items defined as public projects, mailed to all construction trade journals designated by the California Uniform Construction Cost Accounting Commission; or
 - iii. Sent to both (i) and (ii) above; and
 - iv. Other mailings, advertisements, and notifications as deemed appropriate by the purchasing agent.
- e) Bids received in excess of Two Hundred Thousand Dollars (\$200,000.00). If all bids received are in excess of Two Hundred Thousand Dollars (\$200,000.00), the Board may award the contract to the lowest responsive and responsible bidder by adoption of a resolution by a four-fifths (4/5ths) vote if the purchasing agent determines the cost estimate was reasonable and the low bid does not exceed Two Hundred Twelve Thousand Five Hundred Dollars (\$212,500.00).

3080.47 Formal Bidding Procedures

Except as provided in subsections (d) and (e) of Section 3080.41, the solicitation of bids and award of contracts for public projects with an estimated value in excess of Two Hundred Thousand Dollars (\$200,000.00) shall be made in accordance with the requirements of the Public Contract Code section 22031 et seq., and the following formal bidding procedures:

- a) Plans and specifications. The Board shall adopt any plans, specifications, and working details as appropriate for the bid items prior to a solicitation for formal bids.
- b) Notices. Notices inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project.
- c) Sending, mailing, and publishing of notices. Notices inviting formal bids shall be published, sent, and mailed as follows:

- i. For bid items defined as public projects, sent electronically, by either facsimile or electronic mail and mailed to all construction trade journals designated by the California Uniform Construction Cost Accounting Commission at least fifteen (15) calendar days before the date of the bid opening;
- ii. Sent electronically, by facsimile or electronic mail, or mailed to all firms on the bidders list at least fifteen (15) calendar days before the date of the bid opening;
- iii. Published at least once in a newspaper of general circulation, printed and published in the District, at least fourteen (14) calendar days before the date of the bid opening, or in a manner as authorized by Public Contract Code section 22037 if there is no newspaper of general circulation; and
- iv. Other mailings, advertisements, and notifications deemed appropriate by the department head of the requesting agency.

3080.48 Local Business Preference

The District recognizes that local businesses make significant contributions to the economic health of the District. The District supports local business opportunities, which encourage businesses to move into and stay within the District, promote economic development and maintain a strong local economic base, which in turn foster economic growth in the District. Therefore, the Board has determined it is in the District's best interest to establish and provide a preference to local businesses.

- a) Local preference. When a non-local business has submitted the lowest responsive and responsible bid, and when one or more local businesses have also bid, the local business's total bid amount will be reduced by ten percent (10%) or \$5,000, whichever is lower, for bid comparison purposes. If the net amount is lower than the lowest bid, the bid will be awarded to the local business for the full amount of its bid.
- b) Local business. For purposes of this policy, "local business" means a vendor or contractor that has an office with at least one (1) employee physically located within the District.
- c) Exemptions. The local business preference does not apply to the following:
 - i. Contracts funded by grants which prohibit the use of preferences, and
 - ii. Contracts for services.

3080.50 CONTRACTING REQUIREMENTS FOR PROFESSIONAL AND CONSULTING SERVICES

Contracts for consultant/professional services shall be made pursuant to the provisions of this article.

3080.51 Architectural, Landscape Architectural, Professional Engineering, Environmental, Land Surveying, and Construction Management Services

- a) Procurements for architectural, landscape architectural, professional engineering, environmental, land surveying, and construction management services contracts shall comply with this section and Section 3080.53.
- b) Selection. Contracts for architectural, landscape architectural, engineering, environmental, land surveying, and construction management services are subject to the provisions of this article and shall be awarded in accordance with the California

Government Code section 4525 et seq. Selection process will be designed to select the most qualified firm to provide the desired services at a reasonable price. Selection will not be solely based on price; however, price may be a factor in selecting a firm. If price will be a factor, it will be discussed in the RFP, along with the method used to consider price.

- c) Maximum Participation of Small Business Firms.
 - i. Definition of Small Business. "Small business," as used in this section, shall have the same definition in Government Code section 14837(d)(1).
 - ii. Quotes. The District shall attempt to obtain at least two (2) quotes or proposals from a small business, where this article requires quotes or RFPs under Section 3080.53.
- d) Prohibition of Unlawful Activity. The District specifically prohibits practices which might result in unlawful activity, including but not limited to rebates, kickbacks, or other unlawful consideration. The District also prohibits its employees from participating in the selection process when those employees have a financial interest with an individual or business entity seeking a contract under this Section and would be subject to the prohibition of Government Code section 87100.

3080.53 Procurement

- a) Procurement of Professional and Consultant Services: \$60,000.00 or Less.
 - i. Informal Request for Proposal Procedure. Except as set forth herein, the procurement of consultant or professional services with a value of Sixty Thousand Dollars (\$60,000.00) or less shall be made following the procedure prescribed below:
 - 1) Solicitation of Proposals. The General Manager may solicit proposals by written (including e-mail) or verbal request to prospective consultants. Informal requests for proposals shall attempt, whenever feasible, to obtain at least three (3) proposals.
 - 2) Award of Contracts. The General Manager shall award contracts pursuant to this subdivision to the best qualified and most responsible proposer, which may not necessarily be the lowest priced proposal. The dollar amount of the proposal shall be considered but the award need not be made to the lowest dollar proposal.
 - 3) Signature Authority. The General Manager shall have the authority to execute a contract granted pursuant to this section. Such contracts shall be formal written agreements executed by the General Manager on behalf of the District.
 - ii. Exceptions. The General Manager may dispense with the informal RFP procedure, whether the informal RFP procedure has been initiated or not, for the reasons set forth below:
 - 1) In an emergency;
 - 2) When the services can be obtained from only one (1) source which has been reviewed and approved in writing by the General Manager;
 - 3) When, in the judgment of the General Manager, compliance with the procedure is not in the best interest of the District; or
 - 4) When processed through a cooperative purchasing agreement with another public agency, whose procurement process is substantially consistent with the provisions of this article.
- b) Procurement of Professional and Consultant Services: More than \$60,000.00.

- i. Formal Request for Proposal Procedure. Except as set forth herein, the procurement of consultant or professional services with a value of more than Sixty Thousand Dollars (\$60,000.00) shall be made following the procedure prescribed below:
 - 1) Solicitation of Proposals. The General Manager shall solicit proposals by written (including e-mail) or verbal request to prospective consultants. Informal requests for proposals shall, whenever feasible, be based on at least three (3) proposals.
 - 2) Award of Contracts. The Board shall award contracts pursuant to this subdivision to the best qualified and most responsible proposer, which may not necessarily be the lowest priced proposal. The dollar amount of the proposal shall be considered but the award need not be made to the lowest dollar proposal.
 - 3) Signature Authority. The Board President, or General Manager with the Board's approval, shall have the authority to execute a contract granted pursuant to this section. Such contracts shall be formal written agreements executed by the Board President, or General Manager on behalf of the District.
- ii. Exceptions. The Board may dispense with the informal RFP procedure, whether the informal RFP procedure has been initiated or not, for the reasons set forth above under subdivision (a)(ii).

3080.60 PURCHASING AND CONTRACTING FOR FEDERAL GRANTS
3080.61 Codified Guidance

The Code of Federal Regulations (CFR) lists the general and permanent rules published in the Federal Register by each of the executive departments and agencies of the Federal Government. The CFR is a systematic collection of rules that are published in the Federal Register by the executive departments and agencies within the Federal government. It is divided into different Titles which represent areas subject to Federal regulation. Regulations are created through an enabling statute of Congress and serve as administrative law.

The Office of Management and Budget (OMB) is charged with the responsibility of the oversight and preparation of the Federal budget, in addition to the supervision of the budget of the various Federal agencies. OMB oversees and coordinates the Administration's procurement, financial management, information, and regulatory policies and serves on behalf of the President of the United States in developing government-wide policies which aid in ensuring that Federal grants are managed properly and that Federal grant monies are spent in accordance with applicable laws and regulations.

OMB issued what is commonly referred to as its "Super Circular" or Uniform Grants Guidance (UGG) effective December 26, 2014, with an option to elect July 1, 2018 as the grace period option effective date. The District has elected this grace period effective date. The following summarizes the revisions to the guidance for Federal Award Programs:

- Supersedes and streamlines various OMB Circulars
- Aims to be more efficient, effective and transparent
- Strengthen oversight of federal funds to reduce waste, fraud, and abuse

- Review UGG (Title 2, Subtitle A, Chapter II, Part 200)

UGG §200.317-326 specifically relates to procurement and are incorporated in this policy in the sections that follow.

3080.62 Competition (OMB §200.319)

- a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:
 - i. Placing unreasonable requirements on firms in order for them to qualify to do business;
 - ii. Requiring unnecessary experience and excessive bonding;
 - iii. Noncompetitive pricing practices between firms or between affiliated companies;
 - iv. Noncompetitive contracts to consultants that are on retainer contracts;
 - v. Organizational conflicts of interest;
 - vi. Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
 - vii. Any arbitrary action in the procurement process.
- b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:
 - i. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and
 - ii. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

- d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

3080.63 Methods of Procurement (OMB §200.320)

- a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.
- b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.
- c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.
 - i. In order for sealed bidding to be feasible, the following conditions should be present:
 - 1) A complete, adequate, and realistic specification or purchase description is available;
 - 2) Two or more responsible bidders are willing and able to compete effectively for the business; and
 - 3) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
 - ii. If sealed bids are used, the following requirements apply:
 - iii. Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local, and tribal governments, the invitation for bids must be publically advertised;
 - iv. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
 - v. All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
 - vi. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
 - vii. Any or all bids may be rejected if there is a sound documented reason.

- d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost- reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
 - i. Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
 - ii. Proposals must be solicited from an adequate number of qualified sources;
 - iii. The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
 - iv. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
 - v. The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.
- e) [Reserved]
- f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
 - i. The item is available only from a single source;
 - ii. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - iii. The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
 - iv. After solicitation of a number of sources, competition is determined inadequate.

3080.64 Contracting with Small and Minority Businesses (OMB §200.321)

- a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- b) Affirmative steps must include:
 - i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

- v. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- vi. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

3080.65 Procurement of Recovered Materials (OMB §200.322)

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

3080.66 Contract Cost and Price (OMB §200.323)

- a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.
- b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.
- d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

3080.67 Federal Awarding Agency or Pass-through Entity Review (OMB §200.324)

- a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or

pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

- b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
 - i. The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;
 - ii. The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
 - iii. The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;
 - iv. The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
 - v. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.
- c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.
 - i. The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;
 - ii. The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

3080.68 Bonding Requirements (OMB §200.325)

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

- a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

- b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contract.
- c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

3080.69 Contract Provisions (OMB §200.326)

The non-Federal entity’s contracts must contain the applicable provisions described in Appendix II to Part 200— Contract Provisions for non-Federal Entity Contracts Under Federal Awards.