



## **PROCUREMENT AND CONTRACTING - EQUIPMENT & SUPPLIES**

### **Purpose**

To establish procedures for acquiring supplies, equipment, and materials.

### **Background**

When purchasing equipment, supplies, and materials, SANDAG staff is required to use a competitive procurement process, unless a justification in Section 3 of this policy applies. Pursuant to Public Utilities Code section 132352.4(5), SANDAG is required to select the lowest responsible bidder meeting specifications for awards of \$50,000 or more, not including sales tax. This section also states two exceptions to this requirement. First, if an article of a specified brand or trade name is the only article that will properly meet the needs of SANDAG, competitive procurement is not required. Second, the Board may approve a purchase of equipment, supplies, or materials that exceeds \$50,000 without utilizing competitive procurement methods if it is in the best interest of SANDAG to do so. The Board hereby finds that it is in the best interest of the agency to authorize simplified procurement procedures for contract awards covered by this policy that will not exceed \$100,000. All references to the Executive Director in this policy also apply to the Executive Director's designee.

### **Policy**

1. Supplies, equipment, and materials not otherwise provided for in a contract for construction or services, and estimated to cost more than \$100,000, shall be listed separately in the budget or otherwise provided for by Board action or Executive Director approval before suppliers are asked to submit any binding proposals or bids.
2. For purposes of this policy, the term "micro purchase amount" shall mean an amount that will not exceed the ceiling amount for micro purchases set by the applicable funding agency(ies) for the procurement.
3. For purchases in excess of the micro purchase amount involving federal funds, all applicable federal requirements and certifications must be attached to the purchase order or contract. For purchases that exceed \$50,000, a purchase order or a contract must be used in order to ensure provisions are included to protect the interests of SANDAG.
4. Normally, SANDAG will utilize a full and open competition when soliciting bids or proposals for procurements in excess of \$50,000. Under certain circumstances, however, a procurement may be justified that does not utilize full and open competition. These procurements are known as limited competition procurements. When less than full and open competition is used, SANDAG shall solicit offers from as many potential sources as is practicable under the circumstances. Noncompetitive procurement is known as sole source procurement. Noncompetitive and limited competition procurements shall only be permitted when the conditions below are met.

- 4.1 When there are no federal funds involved the following additional factors may make limited competition or sole source procurement within the best interest of SANDAG. Therefore, a limited competition or sole source for these types of procurements may be permitted when one of the conditions in this section (3.1) is met:
  - 4.1.1 There is only one vendor capable of providing the item because the item is unique or highly specialized.
  - 4.1.2 The item should be purchased from a particular vendor in the interest of economy or efficiency as a logical follow-on to an order already issued under a competitively awarded contract.
  - 4.1.3 The cost to prepare for a competitive procurement exceeds the cost of the item.
  - 4.1.4 The item is an integral repair part or accessory compatible with existing equipment.
  - 4.1.5 The item is essential in maintaining research or operational continuity.
  - 4.1.6 The item is one with which staff members who will use the item have specialized training and/or expertise and retraining would incur substantial cost in time and/or money.
  - 4.1.7 The procurement is of the type that may be made as a sole source procurement pursuant to the Public Contracts Code.
- 4.2 When the project will be paid for in whole or in part by federal funds one of the conditions allowing a limited competition or sole source procurement set forth in the latest version of FTA Circular 4220.1, or the equivalent from other federal funding agencies, must be met. For projects funded in whole or in part by Caltrans or Federal Highway Administration funds, the applicable provisions in the Caltrans Local Assistance Procedures Manual must be met.
5. For purchases below the micro purchase amount, a micro purchase procurement method may be used. A micro purchase is a noncompetitive purchase technique; however, the price of the item must still be fair and reasonable. There should be equitable distribution among qualified suppliers in the local area and no splitting of procurements to avoid competition. A bid is only required from the vendor of choice and no contract is required.
6. For purchases in excess of the micro purchase amount and \$50,000, a simplified competitive procurement method may be used:
  - 6.1. Staff shall obtain written bids or document oral bids from at least three suppliers in a manner that permits prices and other terms to be compared.
  - 6.2 Staff shall recommend the supplier that will provide the best value to SANDAG, taking into account the possible range of competing product and materials available, fitness of purpose, manufacturer's warranty, and other similar factors in addition to price.
  - 6.3 Staff shall obtain approval as required in the administrative delegation of authority policy and the small procurement procedures for use of the recommended supplier.

7. For purchases in excess of \$50,000, an invitation for bids (IFB) shall be issued and the award will be made to lowest responsible bidder submitting a responsive bid:
  - 7.1 The IFB will be posted on the SANDAG Web site. In addition, notice of the IFB will be sent to suppliers previously known to be interested in providing the needed article(s).
  - 7.2 Notice of the IFB will be published on SANDAG's website and electronic vendor portal, in at least one newspaper of general circulation and at least one minority publication in San Diego County and in such other publications as appropriate at least two weeks before the bid opening date. The notice shall state that SANDAG is interested in receiving bids from qualified firms, and indicate how additional information can be obtained, the date, location and time for receiving and opening the sealed bids. For federally funded projects, the IFB must also be published in one or more Disadvantaged Business Enterprise-certified publications.
8. For purchases that are better suited for a Request for Proposals (RFP) (negotiated purchase) or purchase on the open market, instead of an IFB (low bidder), approval may be sought from the Contracts Manager to utilize a different procurement process. An alternate procurement process to the IFB may be in the best interest of SANDAG in the following example situations:
  - 8.1 The purchase may be made at a lower price on the open market.
  - 8.2 Competitive bidding is an inadequate method of procurement because it is necessary to purchase prototype equipment or modifications in order to conduct and evaluate operational testing.
  - 8.3 The article(s) to be procured is undergoing rapid technological changes and it is in the public's interest to issue an RFP so that the broadest possible range of competing product and materials available, fitness of purpose, manufacturer's warranty, and other similar factors in addition to price, can be taken into consideration.
9. If staff seeks authorization to utilize an alternate procurement process under section 7, documentation setting forth the reasons a deviation from the typical competitive bidding process is warranted, and a technical evaluation of the articles, prices, and suppliers shall be submitted in the requisition packet.
10. The Board's Equal Employment Opportunity Program and adequate audit provisions to allow the SANDAG independent performance auditor access to the contracted entity's records needed to verify compliance with the terms specified in the contract will be incorporated by reference in all SANDAG equipment and supplies contract templates.
11. Conflicts of Interest
  - 11.1 SANDAG shall not contract with, and will reject any bid or proposal submitted by, the following persons or entities, unless the Executive Director finds that special circumstances exist which justify the approval of such contract:
    - 11.1.1 Persons employed by SANDAG;

- 11.1.2 Profit-making firms or businesses in which SANDAG employees serve as officers, principals, partners or major shareholders;
  - 11.1.3 Persons who, within the immediately preceding twelve (12) months, were employed by SANDAG and (1) were employed in positions of substantial responsibility in the area of service to be performed by the contract, or (2) participated in any way in developing the contract or its service specifications; or
  - 11.1.4 Profit-making firms or businesses in which the former employees described in subsection 10.1.3 serve as officers, principals, partners or major shareholders.
- 11.2 SANDAG staff and third parties with whom SANDAG does business shall comply with SANDAG administrative policies concerning Standard of Conduct and all relevant Board Policies.
  - 11.3 A Notice of Potential for Conflict of Interest shall be included when relevant in any procurement issued by SANDAG. The Notice shall include the policy of the Board as listed herein. Any agreement issued in accordance with this policy shall include or make reference to the policy listed herein.
  - 11.4 A “firm” shall be defined as any company or family of companies where there is a single parent board of directors or staff of officers who can influence the policies and actions of the design company, construction management company, and the construction company.
  - 11.5 “Ineligible” firms shall include the prime consultant for the services, subcontractors for portions of the services, and affiliates of either. An affiliate is a firm that is subject to the control of the same persons through joint ownership or otherwise.
  - 11.6 If there is any doubt by a firm regarding a potential conflict of interest for a specific project or function, the appropriate member of management staff, depending on type of project, will, upon written request, provide a written ruling. This procedure is encouraged prior to submittal of proposals or bids. In the event a conflict of interest is determined to exist, a written appeal may be made by the affected firm to the Executive Director within five calendar days of notice from SANDAG the conflict. The Executive Director shall determine the adequacy of the appeal and make a subsequent final decision. No further appeal shall be considered.

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