

REDWOOD COAST ENERGY AUTHORITY PROCUREMENT POLICY

1.0 GENERAL PROVISIONS

1.1 Purpose¹ The purpose of this Procurement Policy is to establish clear guidelines for authorization, soliciting, and appropriate conduct of purchasing activities relating to the acquisition of approved goods and services. This policy is intended to promote impartial, transparent, and fair processes that seek to provide the best value for RCEA and ensure compliance with federal and state requirements. All purchases must be made in accordance with this policy, other RCEA policies and procedures, as well as any and all applicable laws and are subject to audit at any time.

1.2 Purchasing Agent²

1.2.1 Designation. The Executive Director is designated the Purchasing Agent for RCEA. As Purchasing Agent, the Executive Director may, in accordance with all requirements of this Policy, purchase supplies, materials, equipment and goods, and contract for services and public works projects. No less frequently than annually, the Executive Director shall prepare procedures to implement the Procurement policy, including naming any designees and/or setting contract approval authority and spending limits for Department Directors and other RCEA employees.

1.2.2 Limit of Spending Authority. Except as otherwise specified in this Policy or approved by the Board of Directors, the Executive Director is authorized to purchase supplies, materials, equipment and goods, and contract for services and public works projects up to and including \$50,000.00. The Board of Directors shall approve the procurement of all supplies, materials, equipment and goods, and contract for services and public works projects that exceed \$50,000.00.

1.3 Other Responsibilities

1.3.1 Finance Director. Assists the Purchasing Agent with the following:

- 1.3.1.1 Prepare, maintain, and amend procedures to implement the Procurement Policy.
- 1.3.1.2 Help departments in matters related to identifying supply sources, examining alternative products, order follow-up, and adherence to contract terms and conditions.
- 1.3.1.3 Determining the appropriate method of acquisition and solicitation.
- 1.3.1.4 Purchasing, rent, or lease of supplies, equipment and services.
- 1.3.1.5 Sell, lease, trade, or otherwise dispose of property that is no longer needed for RCEA use.
- 1.3.1.6 Registration of any equipment

1.3.2 Department Directors. Assists the Purchasing Agent and/or designees with the following:

¹ Public Contract Code §§100, 20150.5; Government Code §§25508, 54202

² Government Code §§25500 et seq.; Public Contract Code §20132

- 1.3.2.1 Ensure that all purchases within their department are made for RCEA business and make appropriate use of RCEA funds.
- 1.3.2.2 Submit requests for the acquisition of goods and services in a manner suitable to the type of solicitation required.
- 1.3.2.3 Assure all requests are properly budgeted.
- 1.3.2.4 Provide adequate descriptions, specifications, scopes of work, or other instructions to assure a clear understanding of the requirements, including special conditions required by any grant or outside funding source to be used for the purchase.
- 1.3.2.5 Provide punctual responses to questions throughout the procurement process.
- 1.3.2.6 Provide adequate inspection, receiving, and quality control practices for all purchases.
- 1.3.2.7 Assure receipt and payment are consistent with the approved contract and payment terms.
- 1.3.2.8 Consult with the Finance Director and Purchasing Agent as needed for assistance with resolving problems with product or service delivery and vendor performance.

2.0 STANDARDS OF CONDUCT FOR PURCHASING AND PROCUREMENT ACTIVITIES³

2.1 Policy Statement. It is RCEA's policy to promote government integrity and guard against the actual and appearance of impropriety by prescribing the following standards of ethical conduct for all procurement and purchasing activities. All employees shall adhere to following standards of conduct when engaged in any procurement activities.

- 2.1.1 Employees shall discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors and to foster public confidence in the integrity of RCEA's procurement system.
- 2.1.2 Employees shall not solicit, demand, accept or agree to accept a gratuity, an offer of employment or any other benefit in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement, specification, standard, solicitation or contract.
- 2.1.3 Employees shall not participate directly or indirectly in a procurement when the employee knows that:
 - The employee or any member of the employee's immediate family has a personal financial interest pertaining to the procurement;
 - A business or organization in which the employee, or any member of the employee's immediate family, has a personal financial interest pertaining to the procurement; or
 - Any other person, business or organization with which the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning employment is involved in the procurement.

³ Government Code §§4525 et seq., 4529.10 et seq.

2.2 Discovery of an Actual or Potential Conflict of Interest. Upon discovery of an actual or potential conflict of interest, an employee shall promptly withdraw from further participation in the transaction involved and notify their immediate supervisor. The supervisor will consult with their director (or in the case of an actual or potential conflict of the Executive Director, with RCEA General Counsel) to determine whether an actual or potential conflict of interest exists and the appropriate mitigation if necessary. If there is a possibility that participation would create an appearance of conflict but not an actual or potential conflict, the Director shall consult with the Executive Director and General Counsel for direction on how to mitigate such appearance of conflict. In the case of an appearance of a conflict of interest by the Executive Director, the Executive Director shall consult with the Chair of the Board of Directors and General Counsel for direction on how to mitigate such appearance of conflict.

2.3 Discipline for Violation. The violation of any of these Standards will subject the violator to disciplinary action deemed appropriate by the Executive Director, up to and including dismissal.

2.4 Supplier, Contractor Ethics

2.4.1 It shall be a violation of ethical standards for any third party to offer, give, or agree to give any RCEA employee a gratuity, an offer of employment or any other benefit in connection with any RCEA decision, approval, disapproval, recommendation, specification, standard, solicitation or contract.

2.4.2 It shall be a violation of ethical standards for any person or firm to present false documents to RCEA or falsely represent its firm.

2.4.3 Suppliers and contractors shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with RCEA's best interests. This obligation shall apply to suppliers' and contractors' employees, agents, subcontractors, and third parties associated with accomplishing work for RCEA.

2.4.4 A violation of Supplier, Contractor Ethics may result in disqualification of the third party, or other parties involved in the conduct, from consideration of any procurement awards.

2.4.5 Any prospective contractor who develops or drafts specifications, requirements, statements of work, or other documents relevant to a particular procurement is excluded from competing for such procurements.

2.5 Personal Purchases. RCEA employees shall not make personal purchases, or cause them to be made, through RCEA's procurement system unless such purchases have been authorized by the Board as a special program available to all RCEA employees.

3.0 PROCUREMENT METHODS

3.1 Competitive Procurement. It is RCEA's responsibility to make appropriate use of public and rate-payer funds and promote transparency through the use of open and full competition to the maximum extent possible. Contracts for the purchase of goods and services shall be awarded as the result of a competitive process, except as otherwise

provided for in this policy or by law. Purchases shall not be artificially divided to circumvent any competitive bidding requirement. In addition, no department or employee shall draft or cause to be drafted any specifications in such a manner as to limit the bidding directly or indirectly to any one specific vendor or any specific brand, product, thing, or service, except for those items that are standardized for a particular purpose, are approved as exempt from competitive bidding requirements, or are approved as sole source purchases.

3.1.1 Dollar Thresholds for Purchases The following thresholds apply to procurement activities for the purchase of any goods or services required by RCEA departments where a competitive process is required, except for public projects:

- Mid-Sized Purchases. Purchases of supplies or equipment where the amount is more than \$4,000 but not expected to exceed \$10,000 require at least three quotes. Acceptance of a quote that is not the lowest cost is permissible when supported with written justification that the supplier provides best value for RCEA based on specified reasons such as time constraints, past performance, or quality. If only one quote is obtained after reasonable efforts to obtain more, the Department Director will consider whether a Sole Source justification exists and if not whether additional solicitation efforts would result in additional quotes.
- Large Purchases. Purchases of supplies or equipment where the amount is expected to equal or exceed \$10,000, but not exceed the spending limit of the Executive Director, must be supported by at least three quotes and approved by the Executive Director. If only two or fewer price quotations are obtained after reasonable efforts, the Executive Director may proceed to award the contract.
- Formal Solicitations
Purchases of goods or services with an estimated total cost of more than \$50,000 shall be made in accordance with the applicable procedures for competitive sealed solicitations, included but not limited to Invitations for Bids, Requests for Proposals, Requests for Qualifications, Requests for Information and any other formal solicitation method.

3.2 Energy Procurement. RCEA must secure sufficient power resources and energy attributes to serve its customers, comply with State law and meet RCEA's goals. The Executive Director is authorized to enter into agreements in accordance with the RCEA Board-approved Energy Risk Management Policy. Procurement of and contracts for energy (sometimes referred to as Power Purchase Agreements or PPAs) or for energy related products shall be subject to the requirements, approvals, and signing authorities set out in the Energy Risk Management Policy.

3.3 Piggyback or Cooperative Purchasing⁴. Supplies, goods, information technology and services may be procured without convening a competitive procurement process if the supplier has been awarded contracts by the state or other local agencies for the purchase of such supplies or services under a competitive process. RCEA may contract directly with the vendor without additional process if: 1) the prices paid are competitive with comparable products offered in the marketplace, 2) the original procurement was in compliance with the procurement requirements for the originally procuring entity, and 3) the conflict-of-interest provisions of this Policy are adhered to.

⁴ Public Contract Code §§ 10298 – 10299

3.4 Contracts for Certain Professional Services

3.4.1 Professional Services⁵. Professional services require extended analysis, the exercise of discretion, and independent judgment in the performance and/or application of an advanced, specialized type of knowledge, expertise, or training, which is customarily acquired either by a prolonged course of study or equivalent experience in the field. Examples include licensed professionals such as attorneys, accountants, design professionals, and real estate brokers, as well as non-licensed professionals such as software developers, financial, security professionals and other consultants. Such contracts may be awarded only on the basis of demonstrated competence and qualifications necessary for the type of services required, and at a fair and reasonable price.

3.4.1.1 Design and Engineering Professionals⁶. Architectural, design and engineering professionals must specifically be procured in a fair and competitive process that prohibits RCEA employees from participating in the selection process when the employee has a financial or business relationship with any private entity seeking the contract.

3.5 Single and Sole Source Purchases and Contracting.

Single and sole source procurement is generally not permitted except under circumstances specifically identified in this Policy. All single and sole source purchases must be justified in writing, with review and approval by the Executive Director when within the spending limits authorized for the Executive Director, and otherwise by the Governing Board of Directors.

3.5.1 Single Source Procurement Defined. There may be more than one possible source, yet there is a strong compelling reason to only use one specific vendor. Examples of acceptable rationale for single sourcing could be agency standardization or vendor ability to meet time constraints. Repeat business with a vendor or contractor is not justification for a single source.

3.5.2 Sole Source Procurement Defined. Purchases are directed to one source because there is only one particular vendor able to fulfill the procurement need. This may be based upon a lack of competition, copyright or proprietary issues, or a supplier's unique capability.

3.6 **Exempt Purchasing**. The Board of Directors hereby provides that the following transactions are exempt from the above purchasing and procurement authority limits, provided that such expenditures are consistent with the budget adopted by the Board:

3.6.1 Utilities, where there is no reasonable basis for competitive procurement

3.6.2 Renewal policies for insurance benefits already approved.

3.7 **Emergency Purchases**⁷. In the case of an emergency, the Executive Director is authorized to take action to repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services and supplies for those purposes without giving notice for bids to

⁵ Government Code §§4525 et seq., 31000, 53060

⁶ Government Code §4529.10 et seq.

⁷ Public Contract Code §§1102, 22050

let contracts. The Executive Director may contact one or more suppliers by telephone or electronically, and, as expeditiously as possible, determine the best price and quality of product or services available from the supplier(s).

3.7.1 For purposes of this Policy, “emergency” means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate attention to prevent or mitigate the loss or impairment of life, health, property, or essential public services including the provision of energy or power to RCEA customers. Before taking action, the Executive Director shall make a finding, based on substantial evidence that the emergency will not permit a delay resulting from a competitive solicitation and that the action is necessary to respond to the emergency.

3.7.2 The Executive Director shall Report to the Board of the Directors at its next meeting the reasons why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency.

3.7.3 The meeting which the Executive Director shall report to the Board must be not later than seven days after the action, or at the Board of Director’s next regularly scheduled meeting if that meeting is not later than 14 days after the action. Thereafter, the Executive Director shall report to the Board of Directors at least at every regularly scheduled meeting until the action is terminated.

3.7.4 The Board of Directors will review the Executive Director’s report and determine by four-fifths vote whether there is need to continue the action.

3.7.5 The Board of Directors 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.

4.0 PUBLIC PROJECTS CONSTRUCTION CONTRACTS

4.1 Public Projects, Defined and Applicability⁸. A “public project” means a project for the erection, improvement, painting and repair of public buildings and works. The bidding procedures contained in this Policy must be used for all public projects.

4.1.1 Small Public Projects (less than \$4,000)⁹. Public projects that are estimated to cost less than \$4,000, exclusive of the costs of equipment, supplies, materials, plans, specifications and engineering, may be procured by informal procedures, as set forth below, including requests for quotes. Work may be done under purchase order without additional written contract.

4.1.2 Mid-Sized Public Projects (\$4,000 - \$10,000)¹⁰. Public projects that are estimated to cost between \$4,000 and \$10,000, exclusive of the costs of equipment, supplies, materials, plans, specifications and engineering, may be procured by

⁸ Public Contract Code §§20121, 20150.1

⁹ Public Contract Code §20121

¹⁰ Public Contract Code §20150.4

informal or formal bidding procedures, as set forth below. All work must be done under contract rather than by purchase order.

4.1.3 Large Public Projects (\$10,000 and greater)¹¹. Public projects estimated to cost \$10,000 or more, exclusive of the costs of equipment, supplies, materials, plans, specifications and engineering, must be procured using formal bidding procedures. All work must be done under written contract rather than by purchase order.

4.2 **Prevailing Wage**¹². Prevailing wage requirements will apply to, and prevailing wages must be paid on, any “public works” project with total cost in excess of \$1,000. For purposes of prevailing wage requirements, “public works” means the “construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, including work done during preconstruction design, site assessment, tree removal, and feasibility study.”

4.3 **Public Projects Bidding Procedures**

4.3.1 Informal Bidding Procedures (Small and Mid-Sized Projects up to \$10,000)¹³. The following procedures must be followed when using an informal bidding process for small and mid-sized public projects:

- Registering Contractors. Prior to initiating an informal bidding process for a specific public project, RCEA must register contractors in Humboldt County by publishing notice of the opportunity to register with RCEA to be subsequently notified of informal public project bidding opportunities. The list of such contractors is a public record.
- Notice Inviting Bids¹⁴. Notice inviting bids for a specific small to mid-sized public project must be published at least one time in a newspaper of general circulation at least 24 hours prior to the time for opening bids. The Notice must describe the project in general terms and state the closing date for submission of bids. In RCEA’s discretion, the notice may also be published in any trade publication and/or mailed directly to the contractors registered with RCEA.

4.3.2 Formal Bidding Procedures (Large Public Projects \$10,000 and Greater)¹⁵. The following procedures must be followed when using formal bidding process for public projects in excess of \$10,000:

- Notice Inviting Bids. Notice inviting formal bids for a specific public project must be published at least 10 days before the date for opening bids, and must be published at least twice, not less than 5 days apart, in a newspaper of general circulation. The notice must describe the project in general terms

¹¹ Public Contract Code §§ 20121, 20150.1

¹² Labor Code §§1720, 1771

¹³ Public Contract Code §§20150.4 - 20150.7

¹⁴ Government Code §6061

¹⁵ Public Contract Code §§ 20121, 21024, 20125, 20128, 20129, 20150.8

and state the closing date for submission of bids. In RCEA's discretion, the notice may also be published in any trade publication.

- Project Plan Adoption. The RCEA Board of Directors must adopt the plans, specifications and working details for all public projects expected to exceed \$10,000.
- Contract Award. Contract awards shall be made by the Board of Directors to the lowest responsible bidder.

4.3.3 No Bid Splitting¹⁶. RCEA is committed to a program of purchasing competitively and wisely from responsible parties that are properly suited to the job intended, both as to price and quality. Purchase requisitions may not be artificially divided or split to circumvent any competitive bidding requirement. In addition, specifications may not be drafted in such a manner as to limit the bidding directly or indirectly to any one specific concern, or any specific brand, product, thing, or service. Certain items are approved as exempt from competitive bidding requirements or are approved as sole source purchases as provided for under this Policy.

5.0 ENVIRONMENTALLY PREFERABLE PURCHASING

RCEA's goal is to reduce greenhouse gas emissions generated by its operations whenever practicable. In this endeavor, terms and conditions of all solicitations shall encourage, whenever possible, services and products that are proven to be beneficial to the environment. Except when otherwise prohibited, whenever RCEA acquires services and/or supplies by purchase or contract, the Purchasing Agent, in evaluating the price or bid of shall award a fifteen percent preference on the price submitted involving the following environmentally beneficial attributes:

- Recycled Content: recycled product includes all non-hazardous materials, goods, and supplies and must contain at least 50 percent by weight secondary and/or postconsumer material, with at least 10 percent being post-consumer recycled product shall include any product which could have been disposed of as solid waste at the completion of its life cycle as a consumer item, but which otherwise is refurbished for reuse without substantial alteration of its form.
- Greener Products and Services: products that meet the standards and have ecolabels/certifications in their respective category (e.g. Energy Star for electronics) per the Environmental Protection Agency (EPA)'s [Recommendations of Specifications, Standards and Ecolabels](#).

6.0 HUMBOLDT COUNTY PREFERENCE

In recognition of the economic benefits provided by business located within RCEA's jurisdiction, a local preference credit of 5%, for Humboldt County businesses shall be permitted when evaluating competitive solicitations for supplies, equipment, materials and services that are not part of a public project. A Humboldt County business is defined as 1) conducting business in an office with a physical location within the County of Humboldt; and 2) holding a valid business license issued by the County of Humboldt or any City within the County. The Purchase Agent's determination regarding a business' local preference credit shall be final.

¹⁶ Public Contract Code §§100, 20120 et seq., 20123.5

7.0 SURPLUS PROPERTY DISPOSAL¹⁷

The term surplus property shall mean any property other than real property that is no longer needed or useable by RCEA. Any item of surplus property of an estimated value of one thousand dollars (\$1,000.00) or less may be declared surplus to RCEA needs by the Purchasing Agent. Any other item may be declared surplus by the Board of Directors.

7.1 Surplus Property Disposal Procedures. The Purchasing Agent is responsible for the disposition of all declared surplus property. The Purchasing Agent shall determine which of the following methods of disposition to use; the priority for disposition shall be in the order listed below:

7.1.1 Trade In. Surplus property may be offered as a trade-in for credit toward the acquisition of new property. All trade-in offers will be submitted for the review and approval of the Purchasing Agent.

7.1.2 Return to Manufacturer. Surplus property may, when possible, be returned to the manufacturer for buy-back or credit toward the purchase of new property.

7.1.3 Sale. Surplus property may be offered for sale. All surplus property is for sale “as-is” and “where-is” with no warranty, guarantee, or representation of any kind, expressed or implied, as to the condition, utility, or usability of the property offered for sale. Proceeds received from the sale of surplus property shall be paid into the RCEA treasury. Appropriate methods for sale are as follows:

- Public Auction: A public auction must convey surplus property to the highest bidder, for cash. A public auction sale or lease may be made at such place as the Board approves by vote. Notice of the sale or lease shall be given for five days prior thereto either by publication in a newspaper published in the county or by posting in three public places in the county. If the property does not exceed in value the sum of five hundred dollars (\$500), or the monthly rental value thereof is less than seventy-five dollars (\$75), it may be sold or leased at private sale without advertising authorized by a majority vote of the Board.
- Sealed Bids: Sealed bids may be solicited for the sale of surplus property. Surplus property disposed of in this manner shall be sold to the highest responsive bidder.
- Selling for Scrap: Surplus property with a minimal fair market value may be sold as scrap.

7.1.4 Donation or Disposal. If RCEA is unable to sell surplus property after using the methods provided in sections above, or if the cost of locating a buyer exceeds the estimated sale price of surplus property, the property may be donated to another public agency, educational institution, or registered non-profit entity under 501(c)(3) upon written request and determination that it is in the public interest to do so.

¹⁷ Government Code §25363

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