

LOST PINES GROUNDWATER CONSERVATION DISTRICT PROCUREMENT POLICY AND PROCEDURES

I. PURPOSE

The purpose of this document is to provide a written policy for the procurement of material, equipment, and services, including construction and professional services. Lost Pines Groundwater Conservation District (“LPGCD” or “District”) is committed to ensuring that all purchases are in compliance with State laws, District rules, policies, and bylaws when procuring the highest quality material and services at the best value.

Texas Water Code Sec. 36.057(c) expressly provides that the district shall employ or contract with all persons, firms, partnerships, corporations, or other entities, public or private, deemed necessary by the board for the conduct of the affairs of the district, including, but not limited to, engineers, attorneys, financial advisors, operators, bookkeepers, tax assessors and collectors, auditors, and administrative staff. The LPGCD Board of Directors (the “Board”) shall also have the right to purchase all materials, supplies, equipment, vehicles, and machinery needed by the district to perform its purposes.

The Board is responsible for the management of all the affairs of the district, including district finances. The Board, by adoption of this policy, hereby empowers the General Manager to carry out this policy and make necessary interpretations as the need arises.

II. BIDDING AND PURCHASING PROCEDURES

A. Signature Authority & Purchase Orders

Purchase Orders are required for all purchases with the exception of credit card purchases. The Purchase order should contain the following information:

- LPGCD Account Number, Project Name, and Project number.
- Vendor Number (If an established vendor)
- Vendor Address/Phone Number/Fax Number (See Vendor Requirements in Section III, below)
- Date
- Quantity of Item needed (can be attached as written quote or worksheet)
- Parts or Catalog Number
- Description of Item and/or service being requested
- Price of material or estimate of price
- Specific physical address for delivery
- Signatures
- Upon final execution, all service contracts shall be attached to the original purchase order.

Each individual employee will have “signature authority” on purchase orders (POs) and reimbursements up to \$500.00 for purchases within the approved budget. The General Manager will have signature authority for budgeted expenses up to \$15,000.00, and the Board must approve expenses beyond \$15,000.00, or expenses that require a budget amendment. Only the General Manager will be authorized to approve expenditures, whether by PO, credit card, check or by reimbursement/check, beyond the requesting individual’s signature authority. Receipts will be required on any purchased item for any purpose and by any method.

Employees initiating any purchase shall ensure there are available funds within the budget of their area of responsibility and comply with the Level of Spending Authority - Appendix A.

All travel related expenses are subject to the conditions in the District’s Employee Manual and the Board of Director’s Travel Policy.

Non-travel-related credit card purchases on the District credit card by employees for expenses that are beyond their signature authority will require completed and approved purchase orders before such purchases are made. Credit card purchases made on the District credit card by employees for amounts within their signature authority must provide receipts and document the purpose of the purchase to the General Manager.

B. Formal Procurement Process

A formal solicitation is utilized by governmental entities to procure goods and/or services, including professional and construction services. The formal procurement process includes issuance of a solicitation, evaluation in accordance with solicitation criteria and subsequent contract award. Common solicitation options include, Invitation for Bids (IFB), Request for Proposals (RFP), and Request for Qualifications (RFQ). The specific solicitation option and process used is dependent on the good and/or service being procured.

1. **Competitive Bids** – Competitive bids are a formal solicitation utilized to procure goods and services, including construction services. In order to ensure adherence to District, local and state procurement rules, processing of Competitive Bids shall be as follows:
 - a. The primary person responsible for the solicitation will provide the bid name, opening date, and time of the bid opening to the designated Administrative Support person in the District’s main office. The support personnel will process bid responses by logging the time and date of each bid received by the District and holding the unopened bid until the formal bid opening time and date as determined by the District. Bid openings are open to the public and interested persons. At time of bid opening, bids will be opened, read aloud, and made available for public inspection. All bids must be received at the LPGCD main office unless otherwise noted on the specific solicitation document.

Negotiations are not allowed when using an Invitation for Bid solicitation.

b. All bidder's 'required documentation' (Section III below) must be received in the District's main office prior to issuance of any purchase order related to a specific solicitation as referenced above.

c. Vendor lists registering all vendors are maintained by the District.

2. **Competitive Proposals** - Competitive proposals are another type of formal solicitation similar to competitive bids and are utilized to procure goods and services, including construction services. Competitive Proposals are often used for procurements of high-technology products or more complex services and in some cases for procuring insurance.
 - a. There are two primary distinctions between competitive bids and competitive proposals. First, competitive proposals do not have a formal proposal opening for the public or interested persons to attend; there is no public reading of any of the submitted proposals and the offerors proposals are not made public for inspection when received by the District. However, competitive proposals have a closing date and time in which all offers must be received by the District or they will be considered late and nonresponsive.
 - b. Negotiations are allowed when using Competitive Proposal solicitations.
 - c. There is no minimum requirement for the number of proposals the District must receive.

3. **Request for Qualifications (RFQ)** – RFQs are another formal solicitation type utilized to procure professional services such as services provided by accountants, architects, land surveyors, real estate appraisers, and professional engineers. These respondents are selected based on professional qualifications and price is secondary to the respondent's qualifications and is not part of the initial evaluation process. These professional services must be procured utilizing an RFQ in accordance with Texas Gov't. Code Chapter 2254 (Professional Services Procurement Act). The RFQ process includes a two-step procurement process in which the first step is the issuance of a formal solicitation, an RFQ. Each respondent is evaluated by an established set of criteria identified within the RFQ. The respondents are subsequently ranked, and the highest ranked respondent will then move on to the second step of the procurement process and begin negotiations with the District to establish a fair and reasonable contract price for the said professional services. Pursuant to Texas Gov't. Code § 2254.004, if a contract cannot be negotiated with the highest qualified service provider; the governmental entity must end negotiations with said firm and may initiate negotiations with the next most highly qualified respondent. This process may continue until the District negotiates a fair and reasonable contract with a professional services provider.

The Professional Services Procurement Act (Texas Govt. Code Sec. 2254.001) prohibits using competitive proposals to procure professional services.

C. Emergency Purchases

These purchases are exempt from competitive bidding only after a formal declaration by the General Manager that an emergency exists. Board approval must be obtained as soon as practical thereafter. Examples of emergency purchases are:

1. Items and/or services purchased in case of public calamity to relieve the needs of the District.
2. Items and/or services to preserve or protect public health or safety.
3. Items and/or services necessary due to unforeseen damage to public or private property.

D. Cooperative Purchasing

Cooperative purchasing is one of the ways that local governments can save time and money in their purchasing programs. It occurs when two or more entities (state, federal or local governments) coordinate some or all of their purchasing needs so that they can join in purchases to the mutual benefit of all the entities concerned (e.g., fuel, radio equipment, vehicles). A local government cooperative purchasing agreement must be approved by the Board before purchases can be made. The General Manager or his/her designee will maintain a list of agencies the District has interlocal cooperative purchasing agreements with.

E. Grants

The district may make or accept grants, gratuities, advances, or loans in any form to or from any source approved by the board, including any governmental entity, and may enter into contracts, agreements, and covenants in connection with grants, gratuities, advances, or loans that the board considers appropriate. (Tex. Water Code §36.158).

F. Required Action by Board on certain Contracts

Contracts exceeding \$50,000 or contracts for non-budgeted items and services for technical, scientific, legal, fiscal, or other professional services must be approved by the Board. The terms and conditions of such a contract, including the terms for payment must be identified at the time of Board approval.

G. Contracts with other Governmental Agencies

The District may purchase property from any governmental entity by negotiated contract without the necessity of securing appraisals or advertising for bids. (Tex. Water Code Sec. 36.067).

H. Conflicts of Interest in Contracts

The provisions of Chapter 171 of the Local Government Code shall apply to the award of district contracts.

I. Contracting Award

The Board has authority to purchase all materials, supplies, equipment, vehicles, machinery, and services needed by the District to perform its purposes.

J. Change Orders

If changes in plans or specifications are necessary after the performance of the contract has begun, or if it is necessary to decrease or increase the quantity of the work to be performed, or of the materials, equipment, or supplies to be furnished, the board hereby authorizes the General Manager to approve a change order that involves an increase or decrease of \$50,000 or less. The aggregate of the change orders may not increase the original contract price by more than 10 percent. Additional change orders may be issued only as a result of unanticipated conditions encountered during construction, repair, or renovation, or changes in regulatory criteria or to facilitate project coordination with other political entities.

III. VENDOR REQUIREMENTS

All vendors providing services in excess of \$500 are required to have W-9 and Conflict of Interest Questionnaire Form (CIQ) on file. Any employee requesting a purchase needs to make sure the vendor has a W-9 and CIQ on file with the Accounting office.

If the vendor does not have a W-9 or CIQ on file, it is the requestor's responsibility to obtain one from the vendor. If the vendor will be on LPGCD property to perform repairs/maintenance, a certificate of insurance will also be required.

IV. ACCOUNTS PAYABLE (APPROVAL OF INVOICES)

The General Manager will approve, with board authorization, any invoice over \$10,000 as well as all legal, consulting, or capital projects related expenditure. This provision does not apply to contracts executed prior to implementation of this Policy.

V. SAMPLE STATUTORY CONTRACT PROVISIONS

Each approved and executed contract shall include, but not limited to, the following provisions:

a. Interested Parties. CONTRACTOR acknowledges that Texas Government Code Section 2252.908 (“Section 2252.908”) requires disclosure of certain matters by CONTRACTOR entering into a contract with a local government entity such as LPGCD. CONTRACTOR confirms that it has reviewed Section 2252.908 and will 1) complete FORM 1295 and electronically file it with the Texas Ethics Commission (“TEC”); and 2) submit the signed Form 1295, including the certification of filing number of the Form 1295 with the TEC, to LPGCD. Form 1295 is available at the TEC’s website: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. This amended engagement letter is not effective until the requirements listed above are satisfied. The signed Form 1295 may be submitted to the District in an electronic format.

b. Conflict of Interest. CONTRACTOR acknowledges that Texas Local Government Code Chapter 176 (“Chapter 176”) requires the disclosure of certain matters by CONTRACTOR doing business with or proposing to do business with local government entities such as LPGCD. CONTRACTOR confirms that it has reviewed Chapter 176 and, if it is required to do so, will complete and return FORM CIQ promulgated by the TEC and available on the TEC website within seven days of the date of submitting this amended engagement letter to LPGCD or within seven days of becoming aware of a matter that requires disclosure under Chapter 176, whichever is applicable.

c. Verification Under Ch. 2271, Texas Government Code. For purposes of Chapter 2271 of the Texas Government Code, CONTRACTOR represents and warrants that, at the time of execution and delivery of this amended engagement letter, neither CONTRACTOR, nor any wholly owned subsidiary, majority owned subsidiary, parent company, or affiliate of the same, boycotts Israel or will boycott Israel during the term of this amended engagement letter. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, “boycotts Israel” and “boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. CONTRACTOR understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with Developer and exists to make a profit.

d. Verification Under Ch. 2252, Texas Government Code. As of the date of this amended engagement letter, CONTRACTOR represents and warrants that, neither CONTRACTOR, nor any wholly owned subsidiary, majority owned

subsidiary, parent company, or affiliate of the same, if any, are companies identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes Contractor and each parent company, wholly- or majority-owned subsidiaries, and other affiliates of the same, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. CONTRACTOR understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with Developer and exists to make a profit.

VI. Recommended Contracting Practices

- a. Cost plus percentage-of-cost contracts are strictly prohibited. The contractor’s profit shall not be based on a percentage of the underlying project costs actually incurred.
- b. No award of a contract shall be given to a suspended, disbarred, or debarred contractor, nor may any prime contractor award a suspended or debarred subcontractor.
- c. Any contractor who assists in developing or drafting specifications, requirements, statements of work, invitations for bid, or request for proposals is prohibited from competing for and being awarded the subsequent contract for that same work.
- d. Any District contract shall have a maximum term of 5 years, including all renewal option periods.

Appendix A: Level of Spending Authority

Purchase Type	\$0-\$500.00	\$500.01-\$15,000.00	>\$15,000.00
Budget Amendment(s)	Employee	General Manager	Board of Directors
Credit Card	Employee	General Manager	Board of Directors
Goods	Employee	General Manager	Board of Directors
Services (including Construction)	Employee	General Manager	Board of Directors
Professional Services (TGC 2254)	Employee	General Manager	Board of Directors