

EXHIBIT A

COACHELLA VALLEY WATER DISTRICT

Finance Department

Procurement Policy



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1.1 Purpose

The purpose of this policy is to govern the procurement of goods, services, and construction other than capital improvements and to relate the policies and principals to applicable provisions of governing law and to District administrative policies. As used herein, the term “capital improvements” means new construction.

1.2 Policy

1.2.1 **Application.** The provisions of this chapter shall apply to contracts of the Coachella Valley Water District for the procurement and lease of goods, services, and construction, except that this chapter shall not apply to contracts for capital improvement projects, or for the services of attorneys, or to leases or purchases of real property, or to other contracts that are covered by separate Board policy.

1.2.2 **Interpretation.** This chapter shall be construed and applied to promote its underlying purposes and policies. The underlying purposes and policies of this chapter are:

- a) To simplify, clarify, and modernize the procurement of goods, services, and construction other than capital improvements by the District;
- b) To obtain in a cost-effective and responsive manner goods, services, and construction other than capital improvements that are required by the District in order for the District to better serve its customers;
- c) To provide increased economy in District procurement activities and to maximize as fully as practical the purchasing value of public funds;
- d) To ensure the fair and equitable treatment of all persons who deal with the procurement system of this District; and
- e) To provide safeguards for maintaining a procurement system of quality and integrity.

1.3 Procurement Authority

Procurement authority for the acquisition of goods, services, and construction other than capital improvements shall be centralized under the Director of Finance. The Director of Finance is authorized to:

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- a) Enter, administer, or terminate contractual obligations for the acquisition of goods, services, and construction other than capital improvements in accordance with this Chapter.
- b) Obtain full and open competition in accordance with prescribed policies and procedures in a manner that presents the best overall value to the District.
- c) Provide for the fair and equitable treatment of suppliers, consultants, and contractors.
- d) Prepare and recommend revisions and amendments to procurement rules and requirements governing the purchase of goods, services, and construction other than capital improvements.
- e) Supervise the receipt and inspection of all goods and services to ensure conformance with specifications.

1.4 Competitive Requirements

1.4.1 General Policy

All purchases or contracts for goods, services, and construction other than capital improvements will be based whenever possible and practical on competitive solicitation. The Board of Directors or the General Manager may grant exceptions to the competitive process for emergency conditions, supply limitation, and other circumstances with justification for such waiver documented with the acquisition.

1.4.2 Standardization

- a) Uniform Adoption of Standards. When goods or services have been uniformly adopted or otherwise standardized, or when an item is designated to match others in use by the District, the provisions of this section apply.
- b) Available Competition. When there is more than one distributor, consultant, or contractor for the standardized goods or services, competition may be limited to a quantified number of distributors, consultants, or contractors.
- c) Negotiations. A contract may be awarded without competition when the General Manager or his or her designee determines in writing after conducting a good faith review of available sources that there is only one source for the standardized required supply or service. The General Manager or his or her designee should conduct negotiations as appropriate for price, delivery, and terms.

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- d) Award. Award shall be made in accordance with this Chapter.
- e) Records. The Director of Finance or his or her designee shall maintain a record of standardized procurements for purchases of goods or services exceeding the amount fixed by the Board of Directors for solicitation of unsealed quotes.

1.4.3 Exceptions

Exceptions to the competitive requirements are:

- a) Emergency condition as defined herein;
- b) Sole source limitation, time constraint, or other circumstances where the awarding authority has determined it is in the best interest of the District;
- c) Cooperative procurement arrangements with other entities;
- d) "Piggyback" purchases, when the General Manager determines it is in the District's best interest to utilize the contracts of other governmental agencies or non-profit governmental entities;
- e) When the General Manager has determined that negotiation is in the best interest of the District.

1.4.4 Competitive Thresholds

Dollar thresholds for when competitive solicitations must be sought will be set by Board Resolution.

1.5 Award

1.5.1 Award of Bids

Award of competitive bids shall be made to the lowest responsible and responsive bidder.

- a) "Responsible bidder," as used in this policy means a bidder who can demonstrate the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the contract.
- b) "Responsive bidder," as used in this policy means a bidder whose bid or proposal complies in all material aspects with the solicitation by the submittal deadline.

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1.5.2 Award of Proposals

Award of competitive proposals shall be made to the offeror of the proposal that the District determined is in the District's best interest after consideration of all evaluation factors that were set forth in the solicitation. Dollar thresholds for award shall be the same as Award of Bids as set forth in Section 1.4.4 of this Chapter.

1.6 Standards of Conduct

1.6.1 Conflict of Interest

As required by the Fair Political Practices Act and Government Code Section 87000, etc seq., the District adopted a Conflict of Interest Code, which is set forth in Resolution No. 2009-19. In addition, the District adopted the following additional policy that applies to employees who are not already covered by the Fair Political Practices Act.

"It is the purpose of this policy to ensure high standards of ethical conduct and to prevent unlawful and unethical conduct so that the public might be protected from malfeasance and might have complete confidence in the ability of the District to serve the needs of the public without partiality.

A. Specific Rules. *The District prohibits all "non-designated positions" (employee) from engaging in the following activities without receiving advance written approval by the General Manager:*

1. *No employee shall engage in outside employment or consulting work or otherwise receive financial benefit from any firm that does business with the District.*
2. *No employee shall engage in outside business activities during working hours or on District property.*
3. *Except as specifically hereinafter provided, no employee shall accept any gifts from any business, or agent of any business that does work with or for the District is preparing a bid or has submitted a bid to do work for the District within the last year. Examples of gifts include but are not limited to money, liquor, meals, loans, and material gifts such as*

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unprepared foods, clothing, jewelry, equipment, hardware, trips, and perfume. The following items are not a violation of this policy:

- a) An employee may accept promotional items such as T-shirts and caps so long as the value of the item does not exceed \$25 in value.*
 - b) An employee may accept free dinners at District-approved conferences where the dinner is for a group rather than one or two individual employees.*
 - c) An employee may accept meals from consultants only where the meal is during or following a staff conference providing all District employees attending said conference are invited.*
 - d) An employee may accept natural and prepared food that is divided among office or department staff.*
 - e) An employee may accept an invitation to play in hosted golf tournaments that are open to all members of a certain class or group with prior written approval of the General Manager-Chief Engineer or Human Resources Director.*
 - f) An employee may accept medallions and memorabilia from outside visiting groups having a value less than \$25.*
- 4. No employee shall act upon or use any knowledge derived from District employment to engage in real estate investment, business activity, or any transaction for financial profit that was not known to the general public at the time such knowledge was acted upon or used for advantage.*
 - 5. No employee shall use any District funds for private purpose or use his position as a District employee to promote an outside purpose.*
 - 6. No employee shall engage in any illegal conduct.*
 - 7. No employee may solicit a contractor, consultant, or vendor for any outside group or cause.*
 - 8. No employee may own assets in common with vendors, consultants, or contractors.*
 - 9. No employee may purchase items from vendors, consultants, or contractors below their fair market value unless the item is offered to the public at large for the same price.*

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10. No employee shall obtain a financial or other benefit from sales or consulting activities for the District.

B. General Guidelines

- 1. This policy is intended to eliminate apparent conflicts that may ultimately compromise the employee and the District as well as actual conflicts. Employees shall not participate in activities that create the appearance of a conflict of interest to the public. In the event of a gift or situation not expressly covered by this policy, the potential conflict should be reported to the General Manager-Chief Engineer for review and either approval or disapproval. [Human Resources] . . . has a form for [this] use . . .*
- 2. For purposes of this policy, "employee" shall include the spouse of the employee. The spouse is included to ensure that an actual or the appearance of a conflict of interest does not occur. Disclosure of the spouse's employment per Paragraph B.1 normally will eliminate the appearance of a conflict of interest.*
- 3. Violation of any of the foregoing policies by any District employee shall be cause for discipline even if no actual illegal conduct occurs. The District may suspend, demote, terminate, or otherwise discipline any employee who violates this policy. In the event of any violation, the District shall use the most current procedure for employee discipline."*

1.6.2 Gifts and Gratuities

The receiving of gifts and other symbols of appreciation may compromise the integrity of professional relationships and can lead to inappropriate business practices, therefore;

No officer, or employee, shall receive or agree to receive, directly or indirectly, any compensation, reward, or gift from any source except from his or her appointing authority or employer, for any action related to the conduct of the District's business, except as set forth below:

- a) Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a breakfast, luncheon or dinner meeting or other meeting or on an inspection tour where the arrangements are consistent with the transaction of official business.

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- b) Acceptance of transportation, lodging, meals or refreshment, in connection with attendance at widely attended gatherings sponsored by industrial, technical or professional organizations; or in connection with attendance at public ceremonies or similar activities financed by non-governmental sources where the officer's or employee's participation on behalf of the District is the result of an invitation addressed to him or her in his or her official capacity, and the transportation, lodging, meals or refreshment accepted is related to, and is in keeping with, his or her official participation.
- c) Acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, or other items with individual value less than \$50 but no more than \$420 per year from a single source.
- d) Acceptance of incidental transportation from a private organization provided it is furnished in connection with the performance of the officer's or employee's official duties and is of a type customarily provided by the private organization.
- e) Acceptance of commendations, certificates or plaques for outstanding individual service or work on the District projects.
- f) A gift or gratuity, the receipt of which is prohibited under this section, shall be returned to the donor within 30 calendar days. If return is not possible, the gift of gratuity shall be turned over to a public or charitable institution within 30 calendar days without being claimed as a charitable deduction and a report of such action and the reasons why return was not feasible shall be documented in writing and reported to the individual's Department head. A copy of the written report shall be placed in the employee's personnel file. When possible the donor shall also be informed of the action by the employee.

1.6.3 Violations

Any individual who violates the standards of conduct policy shall be subject to disciplinary action up to and including termination and may be personally responsible for reimbursement of any services or goods received.

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1.7 Special Discounts

1.7.1 Employees/Relatives may utilize only authorized discounts for personal use.

- a) Employees of the District may utilize only those District-wide discounts that have been approved by the General Manager.
- b) Employees of the District shall **not** utilize any discounts that have **not** been approved by the General Manager.

1.7.2 Employees cannot utilize position for personal gain. Employees of the District are **not** to utilize their position with the District to solicit discounts, promotions, or other concessions from District suppliers, vendors, or contractors to purchase supplies, equipment, tools, etc.

1.7.3 Employees may use "General Public" discounts. Employees of the District may utilize discounts, promotions, etc. that are offered to the general public by District suppliers, vendors or contractors.

1.8 Contracts with District Employees and Board Members

1.8.1 May not knowingly award to employees or Board members. Neither a contract nor a purchase order shall be knowingly awarded to a District employee, Board member, business concern, or other organization that is owned or is substantially owned or controlled by one or more District employees or their immediate families. This policy is intended to avoid any conflict of interest that might arise between the employee's interests and their District duties and to avoid the appearance of favoritism or preferential treatment by the District toward its employees.

1.8.2 May authorize exception to policy. The Board or the General Manager may authorize an exception to this policy such as when the District's needs cannot reasonably be otherwise met.

1.9 Advertising

Advertising thresholds include tax, delivery, and all other costs

1.10 Sealed Solicitations

Solicitation thresholds include tax, delivery, and all other costs associated with the procurement. All solicitations in this section shall be documented.

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- a) Sealed and advertised competitive solicitations are required for goods and non-construction services estimated to cost \$50,000 or greater
- b) Sealed and advertised competitive solicitations are required for non-capital construction estimated to cost \$25,000 or greater
- c) Whenever possible and practical, solicitations shall provide a minimum of ten (10) calendar days for response.
- d) All sealed Invitations for Bid solicitations shall be publicly opened and read aloud in the presence of at least any three members of the Bid Opening Committee.¹
- e) Sealed solicitations mean hard copy paper or electronic bids or proposals or other offers that cannot be viewed by District personnel prior to the Submittal Deadline.
- f) Advertising means any form of advertisement designed to reach a reasonable and sufficient amount of prospective bidders or offerors, whether by newspaper, Internet, or other means.

¹ Resolutions 2009-90 Bids will be opened in the presence of any three of the following members (an alternate may be designated by each member): General Manager, Assistant General Manager, Assistant to General Manager, Secretary, Director of Engineering, Service Department Director, Finance Director, Procurement and Contracts Manager, Materials Management Supervisor.

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1.11 Unsealed Solicitations

Solicitation thresholds include tax, delivery, and all other costs associated with the procurement. All solicitations in this section shall be documented.

- 1.11.1 **Three quotes required.** Three competitive documented responses shall be solicited for procurement estimated to cost \$5,000 or more. Verbal and electronic solicitations may be solicited.

1.12 Contract Signatures

Only General Manager may sign. Only the General Manager or his or her authorized designee shall sign contracts on behalf of the District.

1.13 Electronic Commerce

Use where cost effective and practicable. The District may use electronic commerce whenever practicable or cost-effective. The District may accept electronic signatures and records in connection with District procurements.

1.14 Procurement Records

Maintain complete transactional history. The Director of Finance shall establish files containing the records of all contractual actions in accordance with the District's Record Retention Policy and established procedures. The documentation in the files shall be sufficient to constitute a complete history of the transaction policy.

1.15 Emergency Purchases

To prevent or mitigate losses. "Emergency" is defined for the purposes of this chapter as a sudden, unexpected occurrence that poses a clear and imminent danger, requiring quick action to prevent or mitigate the loss or impairment of life, health, property or essential public services. This would include natural events such as flood and earthquake, accidental events such as fire, and machine, equipment or structural failure that meets the above-stated requirements. The General Manager or his or her designee is authorized to approve emergency procurements in an emergency.

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1.16 Bid Guarantee Bond

Determined by General Manager. The General Manager or his or her designee shall determine whether a bid guarantee bond is necessary for a solicitation governed by this Chapter.

1.17 Insurance Requirements

Determined by General Manager. The General Manager or his or her designee shall determine the type and amount of insurance necessary for each procurement or contract.

1.18 Protests

1.18.1 Against Solicitation

- 1.18.1.1 A prospective bidder or offeror may file a protest to the District no later than four (4) working days prior to the due date of the solicitation in the event that the respondent believes the solicitation is:
- a) Unfairly restrictive;
 - b) Contains conflicting or ambiguous provisions;
 - c) Would result in a contract that would be commercially impossible to perform.
- 1.18.1.2 The protest must be made in writing (a letter, e-mail or facsimile) and must contain the following information:
- a) Name, address and phone number of the protestor
 - b) The title and solicitation number of the solicitation being protested
 - c) A detailed statement citing the provisions being protested, including the reason(s) for the protest.
- 1.18.1.3 Late protests shall not be considered. Protests not received by the District by the deadline are deemed waived.
- 1.18.1.4 The Director of Finance or his or her representative will respond after an investigation of the facts citing any actions that may be taken regarding the solicitation.

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1.18.2 Against Award

1.18.2.1 Protest of contract awards should be made immediately, but in no case later than five (5) working days after bid opening or after the protester has been notified of actions affecting its status as a successful respondent. The protest must be made in writing and include the following information:

- a) Name, address and phone number of the protestor
- b) The title and solicitation number of the solicitation being protested
- c) A detailed statement of the legal and/or factual grounds for the protest.
- d) A statement explaining how the firm protesting would have received the award had the situation not occurred.
- e) The form of relief requested

1.18.2.2 Legitimate protests of awards are limited to situations where:

- a) There has been a miscalculation by District in determining submitted price where price is identified as an evaluation factor
- b) There has been an identified irregularity in the evaluation process as outlined in the solicitation
- c) The selection was not in accordance with applicable laws, administrative code, or established District procedure.

1.19 Change Orders

1.19.1 **Scope.** Only District personnel acting within the scope of their authority are empowered to execute contract modifications on behalf of the District. Other District personnel shall not:

- a) Execute contract modifications;
- b) Act in such a manner as to cause the contractor to believe that they have authority to bind the District; or
- c) Direct or encourage the contractor to perform work that should be the subject of a contract modification.

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1.19.2 **Authority for changes to Non-Capital construction orders.** The following District personnel are authorized to approve change orders for the following amounts:

- a) Procurement and Contracts Manager may approve a change order up to \$5,000
- b) Director of Finance may approve a change order up to \$20,000
- c) General Manager may approve a change order up to \$50,000
- d) When the original procurement exceeds \$50,000 or if the original procurement plus the anticipated change order exceeds \$50,000, then the pending change order must be approved by the Board of Directors
- e) When the original procurement exceeds \$50,000 and the accumulated total of all pending change orders exceeds 10% of the original contract or \$50,000, then the pending change order must be approved by the Board of Directors.

1.19.3 **Pricing.** Contract modifications, including changes that could be issued unilaterally, shall be priced before their execution if this can be done without adversely affecting the interest of the District. If a significant cost increase could result from a contract modification and time does not permit negotiation of a definitive price, a maximum (not to exceed) price shall be negotiated.

1.20 Conformity with District Policies and Procedures

This policy is subject to changes in District policies and procedures directing the regular operation of Coachella Valley Water District, as they may be revised from time to time by the Board of Directors.

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EXHIBIT A

CVWD Resolution No. 2000-19

Delegating Certain Authority to the General Manager-Chief Engineer,

dated February 8, 2000

RESOLUTION NO. 2000-19

RESOLUTION OF THE BOARD OF DIRECTORS OF
THE COACHELLA VALLEY WATER DISTRICT
DELEGATING CERTAIN AUTHORITY TO THE
GENERAL MANAGER-CHIEF ENGINEER

1
2
3 BE IT RESOLVED by the Board of Directors of the Coachella Valley
4 Water District assembled in regular meeting this 8th day of February, 2000,
5 that there is hereby delegated to the General Manager-Chief Engineer the
6 following authority:

7 1. Operation and maintenance. The purchase of material and
8 supplies, including inventory items, does not require Board approval.
9 Routine rehabilitation and repair of District facilities does not require
10 Board approval when performed by District forces. Rehabilitation and
11 repair contracts utilizing outside contractor does not require Board
12 approval if \$50,000 or less and three written quotations were received;
13 over \$50,000 requires Board approval.

14 2. Budgeted construction. Preliminary planning and engineering
15 costs do not require Board approval for the first \$50,000 of expenditure.

16 Award of construction contracts and any other necessary
17 contracts will require bidding and Board approval. All consultant
18 agreements over \$10,000 will require Board approval with the exception of
19 those for special counsel and expert witnesses for pending and potential
20 litigation which are exempt from this limit.

21 3. Other budgeted items. The purchase of material and supplies
22 and furniture, fixtures and equipment listed in the budget as a line item
23 does not require Board approval except for the purchase of automobiles,
24 heavy equipment and construction equipment. The purchase of these items
25 require bidding and approval by the Board of Directors. All contracts
26 over \$50,000 from budgeted funds will require Board approval. All
27 consultant agreements over \$10,000 will require Board approval with the
28 exception of those for special counsel and expert witnesses for pending
29 and potential litigation which are exempt from this limit.

30 4. Nonbudgeted items. Nonbudgeted purchases below \$20,000 do not
31 require Board approval. All projects \$20,000 and more require Board
32 approval. All consultant agreements over \$10,000 will require Board

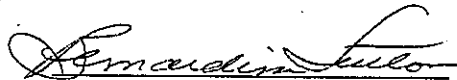
BE IT FURTHER RESOLVED that Resolution No. 90-219 and other resolutions in conflict with the foregoing, are hereby rescinded and repealed.

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STATE OF CALIFORNIA)
COACHELLA VALLEY WATER DISTRICT) ss.
OFFICE OF THE SECRETARY)

I, BERNARDINE SUTTON, Secretary of the Board of Directors of the Coachella Valley Water District, DO HEREBY CERTIFY that the foregoing is a full, true and correct copy of Resolution No. 2000-19 adopted by the Board of Directors of said District at a regular meeting thereof duly held and convened on the 8th day of February, 2000, at which meeting a quorum of said Board was present and acting throughout.

Dated this 8th day of February, 2000.


Secretary of the Coachella Valley Water District and of the Board of Directors thereof.

(SEAL)

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EXHIBIT B

CVWD Resolution No. 2009-90

Bidding Procedure,

dated May 26, 2009

RESOLUTION OF THE BOARD OF DIRECTORS OF
COACHELLA VALLEY WATER DISTRICT

RESOLUTION NO. 2009-90

1 BE IT RESOLVED by the Board of Directors of the Coachella Valley Water District
2 assembled in regular meeting this 26th day of May, 2009, that the bidding procedure will be
3 hereafter as follows:

4 1. That bids will be received at the District Offices before and until a specified time
5 and date; and

6 2. That all bids will be publicly opened at a specific time and date, at which time they
7 will be recorded; and

8 3. That bids will then be referred to the appropriate District Department to determine
9 whether bidders are competent and qualified, for tabulation of bids, and for recommendation;
10 and

11 4. That bids may be acted upon by the Board of Directors at a subsequent Board
12 meeting; and

13 BE IT FURTHER RESOLVED that the bids will be opened in the presence of any three
14 (3) of the following members (an alternate may be designated by each member):

15 1. General Manager-Chief Engineer

16 2. Assistant General Manager

17 3. Assistant to General Manager

18 4. Secretary

19 5. Director of Engineering

20 6. Service Department Director

21 7. Finance Director

22 8. Materials Management Supervisor

23 9. Procurement/Contracts Manager

24 BE IT FINALLY RESOLVED that Resolution No. 2008-122 adopted on the
25 10th day of June, 2008, is hereby rescinded.

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STATE OF CALIFORNIA)
COACHELLA VALLEY WATER DISTRICT) ss.
OFFICE OF THE SECRETARY)

I, JULIA FERNANDEZ, Secretary of the Board of Directors of the Coachella Valley Water District, DO HEREBY CERTIFY that the foregoing is a full, true and correct copy of Resolution No. 2009-90 adopted by the Board of Directors of said District at a regular meeting thereof duly held and convened on the 26th day of May, 2009, at which meeting a quorum of said Board was present and acting throughout. The Resolution was adopted by the following vote:

- AYES: Four
- NOES: None
- ABSTAIN: None
- ABSENT: Director Codekas

Dated this 26th day of May, 2009.

(SEAL)

Julia Fernandez
Board Secretary

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STATE OF CALIFORNIA)
COACHELLA VALLEY WATER DISTRICT) ss.
OFFICE OF THE SECRETARY)

I, JULIA FERNANDEZ, Secretary of the Board of Directors of the Coachella Valley Water District, DO HEREBY CERTIFY that the foregoing is a full, true and correct copy of Resolution No. 2009-153 adopted by the Board of Directors of said District at a regular meeting thereof duly held and convened on the 28th day of July, 2009, at which meeting a quorum of said Board was present and acting throughout. The Resolution was adopted by the following vote:

AYES: Four

NOES: None

ABSTAIN: None

ABSENT: Director Larson

Dated this 28th day of July, 2009.

(SEAL)


Board Secretary