

Orange County Power Authority
Policy Number 001: Procurement Policy
Approved: 11/20/2023 | Revised: 03/19/2024

Purpose

It is in the interest of the Orange County Power Authority (“Authority”) to establish administrative procurement practices that facilitate efficient business operations and provide fair compensation and local workforce opportunities whenever possible within a framework of high quality, competitive service offerings.

Policy

1. Procurement of Professional Services

The Authority may contract for professional services, including, but not limited to, consultant, legal, or design services, in its sole discretion. The Authority shall procure professional services in compliance with the Competitive Procurement Requirements in Section 5 of this Policy. The Authority shall endeavor to secure the highest quality professional services available and is not required to award a contract for services to the lowest proposer.

2. Procurement of General Services

The Authority may contract for general services, including, but not limited to, cleaning or maintenance services, in its sole discretion. Authority shall procure general services in compliance with the Competitive Procurement Requirements in Section 5 of this Policy. Although the Authority shall not be required to award to the lowest proposer, Authority staff shall seek to procure general services at the lowest costs.

3. Procurement of Supplies

The Authority shall procure supplies in compliance with the Competitive Procurement Requirements in Section 5 of this Policy. Although the Authority shall not be required to award to the lowest proposer, Authority staff shall seek to purchase supplies at the lowest costs. The Authority is encouraged to jointly procure supplies with other governmental agencies to obtain the lowest cost when possible. In the event one or more Authority employees are designated as purchasing agents, those individuals shall be included in Authority’s Conflict of Interest Code as persons who must file an annual statement of economic interest.

4. Procurement of Public Works Projects

Authority shall comply with California Public Contract Code § 20160 *et seq.* and other applicable laws and regulations when procuring public projects in excess of \$5,000. For purposes of this section, a “public project” shall have the same meaning as defined in Public Contract Code § 20160, and includes, among other things, projects for the erection, improvement, painting, or repair of public buildings and works.

5. Competitive Procurement Requirements

a. Formal Bidding. Authority shall issue a request for proposals (RFP), a request for qualifications (RFQ), or similar competitive instrument for the purchase of goods or services or a combination of goods and services in excess of \$100,000

in any given contract year. Proposals shall be evaluated in accordance with Section 7 of this Policy. These contracts are subject to Board approval before final execution.

- b. *Informal Bidding Procedures.*
 - i. For contracts valued between \$50,000 and \$99,999.99, staff shall solicit informal written proposals from at least three providers, if feasible. An informal written proposal consists of a written proposal that includes the provider's name, address, phone number, professional license number (if applicable), the work to be performed, and the amount of the proposal. A written proposal may be in an electronic format.
 - ii. For contracts valued between \$10,000 and \$49,999.99, staff shall solicit informal verbal proposals from at least three providers. Staff shall note the three verbal proposals by including the provider's name, address, phone number, and amount of the verbal proposal in Authority's records.
 - iii. For contracts valued at less than \$10,000, no formal or informal proposals shall be required, but Authority staff is directed to seek the lowest cost supplies and the highest quality services available.
 - iv. The Chief Executive Officer ("CEO"), in his or her discretion, may direct that Authority to solicit competitive procurements through the formal bidding process for contracts under \$100,000.

- c. *General Provisions.* The provisions below shall apply to all methods of procurement described above.
 - i. A purchase requisition shall be completed for all contracts and purchases unless described in Section 5.d.
 - ii. When procuring goods and services utilizing state or federal funds (e.g., grant or loan funds), Authority shall comply with all state or federal project requirements in securing any goods or services necessary. If there is conflict between the foregoing, the more restrictive requirements shall apply.
 - iii. Authority shall not be required to award a contract to purchase goods or services from the lowest responsible bidder, unless required by California law.
 - iv. No Authority officer or employee shall split purchases into more than one purchase in order to avoid the Competitive Procurement Requirements in this Policy.
 - v. No Authority officer or employee shall accept, directly or indirectly, any gift, rebate, money or anything else of value from any person or entity if such gift, rebate, money or anything of value is intended to reward or be an inducement for conducting business, placing orders with, or otherwise using the officer's or employee's position to secure a contract with Authority.
 - vi. All thresholds in this policy apply to contract amendments.
 - vii. For purposes of contracting with professional employer organizations, employers of record, or similar entities for hiring of positions within the

CEO's hiring authority, the thresholds in this policy shall be determined based on the net cost to OCPA (e.g., not including employee salary, benefits, taxes, or other amounts typically paid for direct-hire employees).

viii. Staff shall perform evaluations of contractors' performance and include those evaluations in reports for the Board's review when requesting approval of new contracts or contract amendments with those contractors in amounts that exceed \$100,000.

d. Exceptions to Competitive Procurement Requirements.

i. Based on the unique facts or circumstances described below and a written justification retained in Authority's records, the CEO, after consultation with the General Counsel, may waive one or more purchasing procedures in this Policy and/or use sole source procurement if the CEO determines that the best interests of Authority are served; provided, however, that such method is not in violation of applicable law or policy.

ii. Sole source purchasing is authorized when the goods or services contemplated are capable of being supplied or performed by a sole provider, such as the holder of an exclusive patent or franchise, for purchase of unique or innovative goods or services including but not limited to computer software and technology, or for purchases of goods or services when there is a demonstrated need for compatibility with an existing item or service. Sole source procurement may also be utilized when it is apparent that a needed product or service is uniquely available from the source, or for all practical purposes, it is justifiably in the best interest of Authority to utilize sole source procurement. The following factors shall not apply to sole source procurements and shall not be included in the sole source justification: personal preference for product or vendor; cost, vendor performance, or local service (this may be considered an award factor in competitive procurements); features that exceed the minimum requirements for the goods or services; explanation of the actual need and basic use for the equipment, unless the information relates to a request for unique factors.

iii. No competitive procurement shall be required for goods or services valued at less than \$10,000 in any one contract term or contract year.

iv. No competitive procurement shall be required for: Rent or lease of equipment; Utilities, where there is no reasonable basis for competitive procurement, including but not limited to telephonic communications, electric power, internet/cable, water, solid waste and debris collection (unless in relation to a construction project), and sewage; Tariffed costs and fees, including but not limited to SCE service fees and CAISO fees and costs, including OCPA's Estimated Aggregate Liability (EAL); Fees and taxes required by law; Routine office supplies; Insurance policies consistent with OCPA's approved benefits policy; Insurance coverage for OCPA that is provided by a self-insurance pool in which OCPA is a participant or insurance coverage obtained through an

insurance agency or broker on behalf of OCPA; Postage costs; Employee professional development expenses such as seminars, training, professional body license renewal; Refreshments, meals for meetings and events held for the purpose of conducting OCPA business.

v. Competitive procurement shall not be required when the contract, goods, or services are obtained through cooperative purchasing. “Cooperative purchasing” means the contract, goods, or services will: (1) be provided by another governmental agency; (2) be provided directly by a vendor at a price established by a competitive process administered by another public agency, provided that such agency’s procurement is in compliance with applicable law; or (3) result from the Authority joining with other public agencies in national, statewide, or regional cooperative purchasing plans or programs, including but not limited to the California Communities Purchasing Program (CCPP), the California Department of General Services (CADGS), the California Multiple Award Schedule (CMAS) or similar arrangements or plans, provided that such procurement is in compliance with applicable law. The Authority may use cooperative purchasing where doing so has been determined to be in the Authority’s best interest, either by the Board of Directors or CEO, as applicable based on the value of the contract, goods, or services.

vi. In the event of an emergency situation, contracts with a not-to-exceed maximum dollar amount of: (i) \$150,000 in the aggregate; or (ii) \$500,000 in the aggregate with the prior written consent of the Chair of the Board of Directors shall not be subject to competitive procurement under this Policy. An “emergency situation” for purposes hereof is a situation creating an imminent danger to life or property or other material financial loss that calls for immediate action with inadequate time for prior Board approval. The CEO shall within thirty (30) days of the emergency, deliver a report to the Board of Directors explaining the necessity for the action, a listing of expenditures made under these emergency powers and any recommended future actions. The above provisions shall not apply to emergency “public projects” (as defined in Public Contract Code section 20160), which may be approved in accordance with the provisions of Public Contract Code sections 20168 and 22050.

6. Signing Authority:

Authority’s CEO and designated staff are authorized to execute contracts and related documents in accordance with Authority’s Delegated Contract Authority Policy.

7. RFP/RFQ Issuance and Proposal Evaluation

a. Proposals received through formal bidding procedures shall be subject to a set of criteria and a scoring system, reviewed and evaluated by relevant Authority staff and an evaluation committee selected by the CEO or, at the discretion of the Board, members of a designated Board committee. Proposals received shall be evaluated based on competency to perform the scope of work, best fit, price competitiveness, and other additional criteria added pursuant to any Authority

workforce policy. The preferences below may not apply to procurements conducted jointly with other public agencies, and shall not apply when prohibited by state or federal statutes or regulations that require award to the lowest responsible bidder.

- b. Authority is committed to the highest standards of responsible behavior and integrity in all of its business relationships. Authority will consider a company's business practices, environmental record, and commitment to fair employment practices and compensation in its procurement decisions.

8. Nondiscrimination Contract Clause

Each Authority contract and subcontract shall contain a nondiscrimination clause that reads substantially as follows:

Contractor shall not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers. Contractor shall provide equal opportunity for subcontractors to participate in subcontracting opportunities.

9. Procurement of Power and Energy Attributes

Authority must secure sufficient power resources and energy attributes to serve its customers, comply with State law, and meet Authority's and its member agencies' goals. Authority may adopt a Risk Management Policy authorizing certain Authority staff to enter into power purchase agreements and other agreements to secure power and energy attributes, provided that such agreements are in substantially the same form as the Board- approved master power purchase agreements, and that all transactions and agreements are in strict compliance with Authority's Risk Management Policy.

10. Review and Approval as to Form by General Counsel

All Authority agreements must be approved as to the form and content by the General Counsel, or designee, prior to signature by any authorized individual.