

ALAMEDA-CONTRA COSTA TRANSIT DISTRICT



STAFF REPORT

MEETING DATE: 11/13/2024

Staff Report No. 24-516

TO: AC Transit Board of Directors
FROM: Michael A. Hursh, General Manager/Chief Executive Officer
SUBJECT: Amendments to Board Policy 465

ACTION ITEM

AGENDA PLANNING REQUEST:

RECOMMENDED ACTION(S):

Consider the adoption of Resolution 24-038 approving a revised Board Policy 465 - Procurement Policy ("Policy"). [Passage of the Resolution by a four-fifths vote (six affirmative votes) is required pursuant to section 22050 of the California Public Contract Code.]

Staff Contact:
Chris Andrichak, Chief Financial Officer

STRATEGIC IMPORTANCE:

Goal - Financial Stability and Resiliency
Initiative - Financial Efficiency and Revenue Maximization

The proposed amendments to the Policy will help maintain compliance with the requirements of the California Public Contract Code and established best practices. It will also clarify the process required for the procurement of goods, services, and public works and expedite procurements.

BUDGETARY/FISCAL IMPACT:

Outside of staff time, no additional costs are required to improve and implement the proposed changes to the Policy.

BACKGROUND/RATIONALE:

The proposed changes to the Policy focus on enhancing clarity, improving efficiency, and aligning District procurement practices with current needs and state requirements. The changes were developed in conjunction with outside procurement counsel and reviewed by other departments. The changes in wording and organization make the redline version, while attached, difficult to review. Therefore, staff has prepared a summary of the proposed changes to the Policy, which is included below.

Definitions

- Three defined terms were removed since they were unnecessary or no longer referenced in the Policy: Cardinal Change, Debarment, Vendor Performance Management.
- Six defined terms were added to clarify terms used in the Policy: Fair and Reasonable, Formal Solicitation, Maintenance Services, Public Works, Single Source (vs Sole Source), and Unsolicited Proposals

Policy Goals

- To eliminate duplication, the Disadvantaged Business Enterprise (DBE) and Small Business Enterprise (SBE) goals were rewritten to simply reference other existing policies.
- The Buy America and American Made goals were clarified.
- Added new Policy Goals of “Locally Made”, “Sustainability”, and “Claims and Disputes”.

A “Conflicts of Interest” section was added.

Procurement Standards

- Reorganized with new sub-sections to better differentiate the standards that apply to different procurements: Goods, Services, Public Works, Cooperative Procurements, and Non-Competitive Procurements.
- The sub-section on Services now includes a reference to “Maintenance Services” (along with a related definition) to clarify the difference from Public Works procurements.
- The sub-sections further describe the requirements based on the dollar amount of the contract.
- The Non-Competitive Procurements sub-section includes better definition of sole and single source contracts, as well as a discussion of emergency contracts.
- The Non-Competitive Procurements sub-section also explains the Board's authority (and that of the General Manager (GM)) to waive the requirements of the Policy when permitted by law, when it is determined to be in the best interest of the District, and when a determination is made that following competitive bidding procedures would be unavailing.

Contract Award Authority

- Staff proposes that the Board delegate to the GM the authority to approve all solicitations. Previously, solicitations over \$500,000 needed Board approval. Solicitations are non-binding actions, and the Board still retains approval authority over larger awards.
- Staff proposes that the Board delegate to the GM the authority to approve Public Works contracts up to \$250,000, where the prior delegation of authority was \$100,000. This makes the GM award authority is consistent at \$250,000 for all procurement types. This threshold is consistent with the levels at BART and the Valley Transportation Authority (VTA).
- Staff proposes that the Board delegate to the GM the authority to exercise all pre-priced option years that were originally included in a Board-awarded contract.

- Staff proposes that the Board delegate to the GM the authority to approve time-only extensions of up to 50% of the original base contract period for any contract where the period was specified in the award. This allows for extensions to complete tasks or deliveries that have no additional cost impact.
- Staff proposes that the Board delegate to the GM the authority to approve revenue leases up to \$250,000 per year, up from \$100,000 per year. This brings it in line with the contract approval threshold.
- The section on Vendor Performance and Debarment was removed, along with the associated definitions. The process included in the current Policy was never utilized and is not workable with current staffing levels or systems. The current procurement process includes a standard “responsibility” determination where staff checks federal records for debarment, and licenses. Additionally, Request for Proposals/Quotes generally take past performance into consideration, either with the District directly or via references that are requested from vendors. Despite this change, staff will continue to work with legal counsel to ensure that the District only contracts with responsible contractors, as required by law.

Miscellaneous

- The revised Policy specifies that the District's services contracts will generally have a five year term. This revision was added to align with the authority delegated to the GM to award services contracts valued at less than \$250,000 per contract year. The description also gives preference to contracts with a base period plus option years to allow for better management of vendor performance. This matches the District’s normal award structure of a three-year base term with two one-year options, but allows for other periods where they make sense.

Appendices

For clarity, the tables in appendix have been significantly streamlined to simply refer to the dollar thresholds and types of procurement.

This report includes a Resolution, which is required for the amendments of the Policy related to emergency procurements (See section 22050 of the California Public Contract Code).

ADVANTAGES/DISADVANTAGES:

Advantages to approving the revised Policy include helping the District stay in compliance with applicable procurement laws and regulations, clarifying definitions and processes for the benefit of staff and vendors, and streamlining the procurement process. Staff can identify no disadvantages to updating the Policy.

ALTERNATIVES ANALYSIS:

The changes proposed for the Policy are the most useful and clear alternatives that were considered by staff in reviewing the Policy.

PRIOR RELEVANT BOARD ACTION/POLICIES:

SR 19-298 - Consider approving minor amendments to Board Policy 465 - Procurement Policy.

ATTACHMENTS:

1. Resolution 24-038
2. Exhibit A - Board Policy 465 - Procurement Policy
3. Board Policy 465 - Procurement Policy with revisions

Prepared by:

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In Collaboration with:

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Approved/Reviewed by:

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