

RESOLUTION NO. 2022-09

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF SAN DIEGO COMMUNITY POWER
ADOPTING A REVISED PROCUREMENT POLICY
FOR GOODS AND SERVICES**

A. San Diego Community Power (“SDCP”) is a joint powers agency formed pursuant to the Joint Exercise of Powers Act, Cal. Gov. Code § 6500 *et seq.*, California Public Utilities Code § 366.2, and a Joint Powers Agreement effective on October 1, 2019, as amended (“JPA Agreement”).

B. On April 23, 2020, the SDCP Board of Directors adopted Resolution 2020-02, adopting a Procurement Policy related to the procurement of goods and services by SDCP. SDCP’s Procurement Policy establishes formal and informal bidding procedures for SDCP’s procurement of professional services, general services, and supplies, and specifies that SDCP shall comply with the competitive bidding requirements of California law when procuring public works projects.

C. The SDCP Board of Directors now desires to amend the Procurement Policy to read as set forth in Exhibit A.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of San Diego Community Power as follows:

Section 1. The Board of Directors finds that the foregoing recitals are true and correct and are incorporated herein.

Section 2. The Procurement Policy attached hereto as Exhibit A is incorporated as though fully set forth herein, and is hereby adopted as the revised Procurement Policy of SDCP.

Section 3. If any provision of this resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the resolution which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are severable. The Board of Directors hereby declares that it would have adopted this resolution irrespective of the invalidity of any particular portion thereof.

Section 4. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED at a meeting of the Board of Directors of San Diego Community Power held on July 28, 2022.

AYES: Chair Mosca, Directors Dedina, Baber, Sotelo-Solis, and LaCava

NOES: None

ABSENT: None

ABSTAIN: None

Joseph M. Mesca

Chair, Board of Directors
San Diego Community Power

ATTEST:

Megan Wiegelman

Secretary, Board of Directors
San Diego Community Power



San Diego Community Power

Procurement Policy

Purpose

It is in the interest of San Diego Community Power ("SDCP") 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

SDCP may contract for professional services, including but not limited to consultant, legal, or design services, in its sole discretion. SDCP shall procure professional services in compliance with the Competitive Procurement Requirements in Section 5 of this Policy. SDCP 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

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

3. Procurement of Supplies

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

4. Procurement of Public Works Projects

SDCP shall comply with California Public Contract Code Section 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 Section 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. SDCP shall issue a request for proposals (RFP), a request for qualifications (RFQ), or similar competitive instrument for the purchase of goods or services in excess of \$125,000 in any given contract year or term. 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 \$124,999.99, 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 SDCP's records.
 - iii. For contracts valued at less than \$10,000, no formal or informal proposals shall be required, but SDCP staff is directed to seek the lowest cost supplies and the highest quality services available.
 - iv. The Chief Executive Officer ("CEO"), at his or her discretion, may direct that SDCP solicit competitive procurements through the formal bidding process for contracts under \$125,000.
- c. General Provisions. The provisions below shall apply to all methods of procurement described above.
 - i. When procuring goods and services utilizing state or federal funds (e.g., grant or loan funds), SDCP 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.
 - ii. SDCP shall not be required to award a contract to purchase goods or services from the lowest responsible bidder, unless required by California law.

- iii. No SDCP officer or employee shall split purchases into more than one purchase in order to avoid the Competitive Procurement Requirements in this Policy.
- iv. No SDCP 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 SDCP.

d. Exceptions to Competitive Procurement Requirements.

- i. The Board of Directors may, consistent with applicable law, waive one or more purchasing procedures in this Policy and/or use sole source procurement in its sole discretion.
- ii. Based on the unique facts or circumstances described below and a written justification retained in SDCP'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 SDCP are served; provided, however, that such method is not in violation of applicable law or policy.

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 SDCP 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 to rent or lease equipment.
- v. Competitive procurement shall not be required when the contract, goods or services will be provided by another governmental agency. SDCP can rely on the competitive procurement process provided by another governmental agency, provided that such agency's procurement is in compliance with California law.
- vi. In the event of an emergency, the CEO may suspend the normal purchasing and procurement requirements for goods and services related to abatement of the impacts or effects of the emergency.

6. Signing Authority:

SDCP's CEO and designated staff are authorized to execute contracts and related documents in accordance with SDCP'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 SDCP 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, compliance with subsections i (San Diego County Preference) and ii (Other Preferences) below, and other additional criteria added pursuant to SDCP's Inclusive and Sustainable 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. Proposers may only pursue two of the four preferences.
 - i. Businesses with office(s) located in San Diego County and include at least 25% San Diego County residents under their employment shall receive a bonus of up to 5 points or 5% out of a 100-point scoring system in competitive solicitations. To receive the preference, a proposer must submit written information relating to the location of its office(s) in San Diego County and the percentage of San Diego County residents under its employment.
 - ii. Businesses certified as disabled veteran business enterprises as by the Supplier Clearinghouse (thesupplierclearinghouse.com) shall receive a bonus of up to 5 points or 5% out of a 100-point scoring system in competitive solicitations. To receive the preference, a proposer must submit proof of current, valid certification by the

Supplier Clearinghouse. Such proof shall be subject to verification by SDCP.

- iii. Businesses certified as a Persons with Disabilities business enterprise by the Supplier Clearinghouse or Disability:IN shall receive a bonus of up to 5% or 5 points out of a 100 point scoring system in competitive solicitations. To receive the preference, a proposer must submit proof of current, valid certification by the Supplier Clearinghouse or Disability:IN. Such proof shall be subject to verification by SDCP.
 - iv. Businesses certified as small business by the Department of General Services shall receive a bonus of up to 5% or 5 points out of a 100-point scoring system in competitive solicitations. To receive the preference, a proposer must submit proof of current, valid certification by the Department of General Services. Such proof shall be subject to verification by SDCP.
- b. SDCP is committed to the highest standards of responsible behavior and integrity in all of its business relationships. SDCP 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 SDCP 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. Information on Supplier Diversity

Public Utilities Code Section 366.2(m) requires certain community choice aggregators, including SDCP, to annually submit to the CPUC: (1) a detailed and verifiable plan for increasing procurement from small, local, and diverse business enterprises; and (2) a report regarding its procurement from women, minority, disabled veteran, and LGBT business enterprises.

General Order 156 (GO 156), adopted by the California Public Utilities Commission (CPUC), requires certain California public utilities to engage in outreach activities and meet specific procurement goals from women, minority, disabled veteran, persons with disabilities, and LGBT business enterprises. Qualified businesses become GO 156 certified through the CPUC and are then added to the GO 156 Supplier Clearinghouse database (www.thesupplierclearinghouse.com).

To assist SDCP with its reporting obligations under Public Utilities Code Section 366.2(m) and with evaluating its supplier outreach and other activities, proposers that are awarded the contract will be asked to voluntarily disclose their certification status with the CPUC Clearinghouse, as well as their efforts to work with diverse business enterprises, including WBEs, MBEs, DVBES, and LGBTBEs.

Except as otherwise expressly provided under this Policy and/or required by applicable state or federal law or funding requirements (including, without limitation, any grant or loan conditions), SDCP shall not use any demographic information received from potential vendors in any way as part of its decision-making or selection process. Rather, SDCP will use such information solely for compliance with its reporting obligations to the CPUC and evaluation of SDCP's outreach and other activities consistent with applicable law. Pursuant to Article I, Section 31 of the California Constitution, SDCP shall not discriminate against or give preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin except as otherwise allowed therein.

10. Procurement of Power and Energy Attributes

SDCP must secure sufficient power resources and energy attributes to serve its customers, comply with State law, and meet SDCP's and its member agencies' goals. SDCP has adopted an Energy Risk Management Policy authorizing certain SDCP staff to enter into power purchase agreements and other agreements to secure power and energy attributes. This Procurement Policy shall not apply to the acquisition of power or energy attributes.

11. Review and Approval as to Form by General Counsel

All SDCP agreements must be approved as to the form and content by the General Counsel or his/her designee prior to signature by any authorized individual.