

RESOLUTION NO. 2014-08

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE PHELAN PINON HILLS COMMUNITY SERVICES DISTRICT
ESTABLISHING PURCHASING PROCEDURES**

WHEREAS, the Board of Directors of the Phelan Pinon Hills Community Services District finds as follows:

A. The Phelan Pinon Hills Community Services District ("the District") is a community services district organized and operating pursuant to California Government Code Section 61000 et seq.

B. On July 23, 2008, the District's Board of Directors ("the Board") adopted Purchasing Policies and Procedures for the District ("the Purchasing Policy").

C. Pursuant to Section 8.C of the Purchasing Policy, the Board adopted Resolution No. 2008-11 on August 13, 2008, to delegate to the District's General Manager the authority to repair or replace a public facility, or take any other related and immediate action, that is necessary to respond to an emergency situation, and to procure the necessary services and supplies for those purposes without giving notice for bids to let contracts.

D. The Board has performed periodic reviews of the Purchasing Policy as supplemented by Resolution No. 2008-11, the latest version of which is currently reflected in Resolution No. 2011-07 adopted by the Board on August 17, 2011.

E. The Board now wishes to further amend the District's Purchasing Policy in the manner attached hereto.

THEREFORE, THE BOARD OF DIRECTORS of the Phelan Pinon Hills Community Services District does hereby resolve as follows:

1. The Purchasing Policy attached hereto and incorporated herein by this reference is hereby adopted.

2. The provisions of this Resolution shall supersede Resolution No. 2011-07 adopted by the Board on August 17, 2011, and shall take effect immediately upon adoption.

Adopted this 19th day of March, 2014.

AYES: Brandon, Morrissette, Pace, Roberts, Whalen

NOES:


ABSTAIN:

ABSENT:



President, Board of Directors

ATTEST:



Secretary

PHELAN PINON HILLS COMMUNITY SERVICES DISTRICT
Purchasing Policy and Procedures

Section 1. Purpose

The purposes of this policy are to standardize the purchasing procedures of the Phelan Pinon Hills Community Services District, thereby securing for the District the advantages of a centralized and uniform purchasing policy saving the taxpayers money and increasing public confidence in the procedures for District purchasing; to promote the fair and equitable treatment of all consumers and suppliers of goods and services; and to set forth the duties and responsibilities of the General Manager and District staff.

Section 2. Definitions

A) Approved Vendors – means those vendors approved by the General Manager for bidding purposes after satisfactory compliance with the Pre-Qualification Program contained in Section 7 below. The detailed list of Approved Vendors shall be on file at the District office at all times.

B) Bid Most Advantageous To The District – means the Lowest Responsible bidder on a District project that is subject to Competitive Bidding from among those bids that are deemed to be Responsive to the Specifications.

C) Board – means the Board of Directors of the District.

D) Capital Expenditure – means all major expenditures of a non-recurring nature such as new buildings, major remodeling projects and major equipment Purchases. Excluded from this definition shall be all in-house projects unless the cost of the materials alone exceeds \$5,000.

E) Competitive Bidding – means the process of obtaining the Bid Most Advantageous To The District for any Purchase conducted through a Formal Bid or Informal Bid.

F) District – means the Phelan Pinon Hills Community Services District.

G) Formal Bid – means a written quotation obtained in a sealed envelope from an Approved Vendor, or through District direct solicitation, public announcement, or published advertisement and opened at a specific day, place, and time. Bidders can be from the Approved Vendor's list or from bidders responding to advertisements or openly solicited requests for bids. Notice inviting bids for any contract requiring Competitive Bidding shall be published at least one time in a local newspaper of general circulation within the District. It is required to have the bid opened publicly at a specified day, place and time.

H) Informal Bid – means a written or oral quotation obtained from an Approved Vendor, but not required to be opened publicly at a specified day, place, and time.

I) Lowest – means the smallest bid in monetary terms received by the District for the cost of a project subject to Competitive Bidding.

J) Plans – means drawings or diagrams made to scale showing the structure or arrangement of a construction project, or a method or program showing a level of service or benefit defined within a contract. Plans will become part of the awarded contract. All bidders will be afforded an opportunity to examine the Plans.

K) Purchase – means buying, renting, leasing or otherwise acquiring Supplies or Services for a price.

L) Responsible – means the Lowest bidder who possesses the trustworthiness, quality, fitness, ability, capacity, and experience to satisfactorily perform a District project subject to Competitive Bidding. When the Lowest bidder is found not to be Responsible, the District must notify the bidder of this finding and the evidence upon which the finding was based, and the District must afford the bidder an opportunity to rebut such adverse evidence, and permit the bidder to present evidence that the bidder is Responsible.

M) Responsive – means a bid received by the District for a project subject to Competitive Bidding that substantially conforms to the bid Specifications and all applicable statutory requirements. A bidder is not entitled to a hearing on the question of Responsiveness, but is entitled to notice and the right to submit materials to the Board or the District's General Manager before a decision is made.

N) Services – means all labor furnished to the District by persons, firms, individuals or corporations not part of or connected with the District.

O) Sole Source Contractor – means a contractor or consultant that has been evaluated to provide unique or specialized Services or Supplies that cannot be obtained from other contractors or consultants. Such designation must be approved by the Board.

P) Specifications – means standards, including quality, set by the General Manager, supervisory staff or consultants as a guide and as a measure of that which successful vendors must achieve. Specifications shall be either technical specifications for bids, which shall state formulations as broadly as practicable, yet shall be specific enough to describe the requirements of the District, or non-technical specification for bids, which shall state the quality required in general terms. Specifications may be set forth in the District's Requests for Proposals package. Specifications will become part of the awarded contract. All bidders will be afforded an opportunity to examine the specifications.

Q) Splitting Purchases – means the intentional separation of a District project into smaller portions in order to avoid any of the Purchasing limits established by this policy.

R) Supplies – means all materials and equipment.

Section 3. Applicability

This policy shall apply to all Purchases made by the District, except as otherwise specified herein. In implementing this policy, District employees are prohibited from Splitting Purchases.

Section 4. Purchase of Construction Supplies

The District must comply with the following Competitive Bidding requirements with respect to the Purchase of Supplies for the construction or completion of any building, structure, or improvement when the cost exceeds \$25,000:

- A) **Formal Bids.** Contracts for Supplies for the construction or completion of any building, structure, or improvement, when the cost exceeds \$25,000, shall be contracted for and let to the Bid Most Advantageous To The District after notice. If two or more bids are the same and the Lowest, the Board may accept the one it chooses.
- B) **Notice.** The District shall publish a notice inviting bids for any contract for which Competitive Bidding is required at least one time in a newspaper of general circulation in the District at least one week before the time specified for receiving bids. The notice inviting bids shall set a date for opening the bids and distinctly state the Supplies to be Purchased.
- C) **Alternate Publication.** If the District's General Manager recommends, and the Board determines, that the publication of advertisements of the notice in trade journals and papers in lieu of publication in a newspaper of general circulation will increase the number of business enterprises receiving the notice, the Board may by resolution declare that those notices shall be published in trade journals and papers at least ten days prior to the time specified for receiving bids.
- D) **Rejection of Bids.** At its discretion, the Board may reject any bids presented and readvertise. The Board may also waive a minor bid irregularity that does not give an unfair advantage to another bidder. However, the Board is under no obligation to waive bid irregularities.
- E) **Emergencies.** In the case of an emergency, the District may proceed in accordance with Section 8 below.

Section 5. Construction Contracts

The District must comply with the following Competitive Bidding requirements with respect to the construction or completion of any building, structure, or improvement when the cost exceeds \$25,000:

- A) **Formal Bids.** All contracts for the construction or completion of any building, structure, or improvement, when the cost exceeds \$25,000, shall be contracted for and let to the Bid Most Advantageous to the District after notice. If two or more bids are the same and the Lowest, the Board may accept the one it chooses.

- B) **Notice.** The District shall publish a notice inviting bids for any contract for which Competitive Bidding is required at least one time in a newspaper of general circulation in the District at least ten days before the time specified for receiving bids. The notice inviting bids shall set a date for opening the bids and distinctly state the work to be done.
- C) **Alternate Publication.** If the District's General Manager recommends, and the Board determines, that the publication of advertisements of the notice in trade journals and papers in lieu of publication in a newspaper of general circulation will increase the number of business enterprises receiving the notice, the Board may by resolution declare that those notices shall be published in trade journals and papers at least ten days prior to the time specified for receiving bids.
- D) **Plans and Specifications.** If Plans and Specifications are prepared describing the work, all bidders shall be afforded an opportunity to examine the Plans and Specifications, and the Plans and Specifications shall be attached to and become a part of the contract, if one is awarded.
- E) **Bid Security.** All bids for construction work shall be presented under sealed cover and shall be accompanied by bidder's security in the form of either cash, a cashier's check made payable to the District, a certified check made payable to the District, or a bidder's bond executed by an admitted surety insurer made payable to the District. Upon an award to the bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the District beyond 60 days from the time the award is made.
- F) **Rejection of Bids.** At its discretion, the Board may reject any bids presented and readvertise. The Board may also waive a minor bid irregularity that does not give an unfair advantage to another bidder. However, the Board is under no obligation to waive bid irregularities.
- G) **Emergencies.** In the case of an emergency, the District may proceed in accordance with Section 8 below.
- H) **Bonds.** The Board may, subject to Civil Code Section 9550 et seq., require the posting of those bonds it deems desirable as a condition to the filing of a bid or the letting of a contract.
- I) **Record.** The District shall keep cost records of the work in the manner provided in Government Code Section 4000 et seq.

Section 6. Purchasing Limits for Other Contracts

The District must comply with the following requirements with respect to Purchases that are not subject to the provisions of Sections 4 and 5 above:

A) Formal Bids. Purchases shall be made by Formal Bid whenever such method is feasible and practical under existing conditions and circumstances.

B) Record of Bids. The District's General Manager shall keep a record of all bids submitted, and such record shall be open to proper inspection by any interested party within a reasonable amount of time.

C) Approval

1) No Purchase of Supplies or Services exceeding \$250 shall be made by any District staff without the approval of the General Manager. Notwithstanding the above, District staff may Purchase Supplies or Services in excess of the limit if the Supplies or Service has been approved on an open purchase order ("P.O.") and the staff person is identified as an authorized purchaser on the P.O. All purchases shall be processed through the requisition/PO process and approved accordingly.

2) No single Purchase of Supplies or Services exceeding \$25,000 shall be made by the District's General Manager without the approval of the Board.

D) Exemptions to Competitive Bidding. Notwithstanding the basic policy that the procurement of Services and Supplies shall be on a Competitive Bidding basis to the maximum practical extent, Purchases may be negotiated when one of the following circumstances is present:

- 1) When the total dollar value of the Purchase does not exceed \$15,000.
- 2) When an emergency exists, the District may proceed in accordance with Section 8 below.
- 3) When a Sole Source Contractor has been designated.
- 4) When Competitive Bidding would fail to produce an advantage and/or when the advertisement for Competitive Bidding would be undesirable, impractical, or impossible.
- 5) When the Purchase is for professional Services.

E) Purchasing Procedures & Policies. The Purchase of Services and Supplies shall be on the basis of Competitive Bidding to the maximum practical extent. However, whenever Supplies or Services are procured by Competitive Bidding, negotiation, price quotations or other evidence of reasonable prices and other vital matters deemed necessary by the District's General Manager shall be solicited by the maximum number of qualified sources of Supplies or Services consistent with the nature of and requirements for the Supplies or Services to be Purchased, in accordance with the basic policies set forth below:

1) Purchases - Not to Exceed \$5,000. When the General Manager considers prices to be fair and reasonable and when the total amount of the Purchase does not exceed \$5,000, procedures and documentation will be simplified to the maximum degree possible. The General

Manager shall establish such rules of procedures for such Purchases as he/she feels necessary to insure against abuse of the public interest. Procedures shall include verbal authorization, fax authorization, or other form of written authorization as required.

2) Purchases - \$5,000 to \$15,000. Purchases exceeding \$5,000 but not exceeding \$15,000 in total cost will be supported by a record of price quotations from three (3) different sources or an adequate explanation justifying the absence of such alternate quotes. Such quotations may be obtained in writing, verbally or by such other means as may be prescribed by the General Manager as appropriate to the circumstances. General Manager approval shall be written and become part of the supporting documentation for the Purchase.

3) Purchases - \$15,000 to \$25,000. Purchases exceeding \$15,000 but not exceeding \$25,000 in total cost will be supported by a record of price quotations and Informal Bids or Formal Bids at the discretion of the General Manager. Criteria to be used for Formal Bid shall be whether or not the Purchase is a Capital Expenditure, a contract for professional services or lease, or an annual purchase order for Supplies, and/or maintenance and repair services. General Manager approval shall be written and become part of the supporting documentation for the Purchase.

4) Purchases Exceeding \$25,000. Purchases exceeding \$25,000 in value must be approved by the Board prior to award. Request for such approval will be accompanied by a full statement of facts justifying the recommendation for award. Purchases with potential values that may exceed \$25,000 will be advertised at least once in a newspaper of general circulation within the District and at least one week before the time specified to receive bids. The District may advertise at least once in any appropriate industry publications or periodicals. Specifications, Plans, and bid procedures shall be provided to vendors responding to the advertisement. Bid responses to these advertised bids must be made in a written format. The Specifications and Plans shall become part of the awarded contract.

F) Rejection of Bids. The Board shall have the authority to reject any and all bids received in response to invitations for bids. The Board may also waive a minor bid irregularity that does not give an unfair advantage to another bidder. However, the Board is under no obligation to waive bid irregularities.

G) Requisitions. Purchases involving the immediate encumbrance of District funds shall be made only on a written requisition submitted by supervisory staff in such form as required by and approved by the General Manager in accordance with the procedures in this policy. Approval of the requisition shall result in the issuance of a P.O. or District check made payable to the vendor for the materials and supplies or services requested. For purchases where a P.O. is not necessary or accepted by the vendor, but a check is required, a request for a check shall be completed by District staff and approved by the General Manager. The General Manager shall examine each requisition and check request and shall have the authority to revise it as to quantity, quality, or estimated cost upon discussion with the requesting District staff.

H) Open Purchase Orders.

1) Limit under \$25,000. The General Manager shall have the authority to issue an open P.O. for Services and Supplies to any Approved Vendor in an amount not to exceed \$25,000. All open P.O.'s shall expire at 5:00 p.m. on June 30 of each fiscal year. District staff authorized to purchase on the open P.O. shall be identified on the P.O. and provide District identification to the Approved Vendor for every Purchase.

2) Limit exceeding \$25,000. Open P.O.'s exceeding \$25,000 shall be approved by the Board. Approval by the Board can be made during annual budget adoption process when individual open P.O.'s are identified within the budget and made part of the budget adoption resolution. Additional open P.O.'s exceeding \$25,000 opened during the fiscal year must have Board approval before issuance. All open P.O.'s shall expire at 5:00 p.m. on June 30 of each fiscal year. District staff authorized to purchase on the open P.O. shall be identified on the P.O. and provide District identification to the vendor for every Purchase.

Section 7. Pre-Qualification Program

A) Adoption. All Approved Vendors must be pre-qualified prior to submitting bids for the District's public works projects. It is mandatory that all Approved Vendors who intend to submit bids fully complete the pre-qualification questionnaire, provide all materials requested herein, and be approved by the District to be on the Approved Vendors list.

B) Applications. Pre-qualification applications may be submitted anytime. Contractors who submit a complete pre-qualification package will be notified by first class mail if not approved, such notice to be mailed no later than fifteen business days after submission of the information.

C) Questionnaire. Answers to questions contained in the District's pre-qualification questionnaire, information about current bonding capacity on an aggregate and per project limit, notarized statement from surety, and the most recent reviewed or audited financial statements, with accompanying notes and supplemental information, are required. The District will use these documents as the basis of rating Approved Vendors in respect to the size and scope of contracts upon which each Approved Vendor is qualified to bid. The District reserves the right to check other sources available. Each questionnaire must be signed under penalty of perjury in the manner designated at the end of the form, by an individual who has the legal authority to bind the Contractor on whose behalf that person is signing. If any information provided by a Contractor becomes inaccurate, the Contractor must immediately notify the District and provide updated accurate information in writing, under penalty of perjury.

D) Approval. Pre-qualification approval will remain valid through June 30th of each year, except that the District reserves the right during that calendar year to adjust, increase, limit, suspend, or rescind the pre-qualification ratings based on subsequently learned information and after giving notice of the proposed action to the Contractor and an opportunity for a hearing consistent with the hearing procedures described below for appealing a pre-qualification determination.

E) Selection. While it is the intent of the pre-qualification questionnaire and documents required therewith to assist the District in determining bidder responsibility prior to the submission of bids and to aid the District in selecting the Bid Most Advantageous To The District, neither the fact of pre-qualification, nor any pre-qualification rating, will preclude the District from a post-bid consideration and determination on a specific project of whether a bidder has the quality, fitness, capacity, and experience to satisfactorily perform the proposed work, and has demonstrated the requisite trustworthiness. Contractors are encouraged to submit pre-qualification packages as soon as possible, so that they may be notified of pre-qualification status well in advance of upcoming projects. The District reserves the right to waive minor irregularities and omissions in the information contained in the pre-qualification application submitted, to make all final determinations, and to determine at any time that the pre-qualification procedures will not be applied to a future public works project. A contractor may be found not pre-qualified for bidding on a specific public works contract to be let by the District, or on all contracts to be let by the District, until the contractor meets the District's requirements. In addition, a contractor may be found not pre-qualified for either omission of requested information or falsification of information.

F) Appeal. A contractor who has submitted a completed application form, and who receives a rating of "not qualified" from the District, may appeal that determination. There is no appeal from a finding that a contractor is not pre-qualified because of a failure to submit required information, but reapplication during one of the designated time periods is permitted. A contractor may appeal the District's decision with respect to its request for pre-qualification, and request a hearing by giving notice to the District no later than ten (10) business days after receipt of notice of its qualification status. Unless a Contractor files a timely appeal, the Contractor waives any and all rights to challenge the qualification decision of the District, whether by administrative process, judicial process, or any other legal process or proceeding.

G) Hearing. If the Contractor gives the required notice of appeal and requests a hearing, the hearing shall be conducted so that it is concluded no later than ten (10) business days after the District's receipt of its Notice of Appeal. The hearing so provided shall be an informal process conducted by a panel to which the Board has delegated responsibility to hear such appeals (the "Appeals Panel"). At or prior to the hearing, the Contractor will be given the opportunity to present information and present reasons in opposition to the pre-qualification determination. At the conclusion of the hearing or no later than one day after completion of the hearing, the Appeals Panel will render its decision. The date for submission and opening of bids for a specific project will not be delayed or postponed to allow for completion of an appeal process.

Section 8. Emergencies

A) Vote. In the case of an emergency, the District, pursuant to a four-fifths vote of the Board, may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary Services and Supplies for those purposes, without giving notice for bids to let contracts.

B) Findings. Before the Board takes any action pursuant to paragraph A) above, it shall make a finding, based on substantial evidence set forth in the minutes of its meeting, that the

emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency.

C) Delegation. The Board, by four-fifths vote, may delegate, by resolution or ordinance, to the District's General Manager the authority to order any action pursuant to paragraph A) above. Pursuant to Resolution No. 2008-11 adopted by the Board on August 13, 2008, the Board has delegated to the District's General Manager the authority to repair or replace a public facility, or take any other related and immediate action, that is necessary to respond to an "emergency situation" as defined in Government Code Section 54956.5(a), and to procure the necessary services and supplies for those purposes without giving notice for bids to let contracts.

D) Report. If the District's General Manager, pursuant to the authority delegated by the Board under paragraph C) above, orders any action specified in paragraph A) above, that person shall report to the Board, at its next meeting, the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency.

E) Review.

1) If the Board orders any action specified in paragraph A) above, the Board shall review the emergency action at its next regularly scheduled meeting and, except as specified below, at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue this action.

2) If the District's General Manager, pursuant to the authority delegated by the Board under paragraph C) above, orders any action specified in paragraph A) above, the Board shall initially review the emergency action not later than seven days after the action, or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action, and at least at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action, unless the District's General Manager has terminated that action prior to the Board reviewing the emergency action and making a determination pursuant to this paragraph.

3) When the Board reviews the emergency action pursuant to paragraph E)1) or E)2) above, it shall terminate the action at the earliest possible date completed by giving notice for bids to let contracts.

Section 9. Scope of General Manager's Authority

The District's General Manager shall purchase or contract for all Supplies, Services, and Capital Equipment needed in accordance with procedures prescribed by this adopted policy and such additional lawful rules, not inconsistent herewith, as the District's General Manager shall employ for the efficient internal management and operation of the District.

A) Exceptions

1) **Exceptions Prohibited.** The authority of the General Manager to make all purchases for the District shall not be abridged unless, by order of the Board, such exception is granted for a specific purpose.

2) **Temporary Absences.** During periods of temporary absences of the General Manager, the authority to implement the provisions of these regulations will be held by a District staff member so appointed by the General Manager and approved by the Board for the period of the absence.

B) Tax Exemptions. The General Manager shall act to procure for the District all Federal and State tax exemptions to which the District is entitled.

C) Cooperative Purchasing. The General Manager shall have the authority to join other units of government including Federal, State, County, Municipal and Municipal sub-divisions, such as Water Districts, Sewer Districts, School Districts, Special Districts and Councils of Government in cooperative purchasing plans when the best interests of the District would be served thereby and when such action is in accordance with and pursuant to law.

D) Other Duties. The District's General Manager shall perform such other duties related to the functions, duties, and authorities set forth herein, as may be prescribed by the Board and by any applicable state or local laws or ordinances.

Section 10. Miscellaneous

A) Local Purchases. The District will make every effort to Purchase from businesses located within the District's service area if the Purchase provides the best overall value for the District.

B) Conflict of Interest. No District employee or Board member authorized to act on behalf of the District shall enter into any agreement, contract, or P.O. with any individual, firm, corporation, or organization in which said employee, Board member, or relative of same has a financial interest. This shall also include the acceptance of any gift or gratuity, directly or indirectly, from any person, firm, corporation, or organization to which any P.O. or contract is, or might be, awarded, any rebate, gift, or anything of value whatsoever, except where given for the express use of benefit of the District. Inexpensive advertising items, bearing the name of a vendor, such as pens, pencils, paper weights, cups, candy, calendars, etc., are not considered articles of value or gifts in relation to this policy.

C) Supersedes Other Policies. This purchasing policy and procedures supersedes any inconsistent prior policies adopted by the Board.