



DATE: June 3, 2024

MEMO TO: Gina Roberts, Chair
Finance Committee

FROM: Steve Neaman
Director of Finance

RECOMMENDATION: Provide policy direction regarding draft revisions to the District’s Purchasing Policy establishing an Apprenticeship Program requirement for contractors bidding on public works contracts.

STRATEGIC DIRECTION SUPPORTED: Organizational Sustainability

FINANCIAL DATA: There is no financial impact at this time.

BACKGROUND: At its November 9, 2023, meeting, the Finance Committee gave staff direction to add language to the District’s Purchasing Policy stating that a bidder for a public works contract would be considered “responsible” only if it and its subcontractors participate in an active apprenticeship and training program approved and registered with the U.S. Department of Labor’s Office of Apprenticeship (a “Program”).

The Program is further defined by the US Department of Labor’s Office of Apprenticeship. (See <https://www.dol.gov/agencies/eta/apprenticeship>). The Committee also gave direction that such language should contemplate potential exemptions to or waivers of the requirement.

For review and discussion at the April 4, 2024 Finance Committee meeting, staff and Corporate Counsel prepared draft revisions to the Purchasing Policy, which were discussed at that meeting and are attached to this memorandum. Those revisions would implement an apprenticeship program requirement, subject to: (i) a provision that the requirement applies only to public works contracts in excess of the “Statutory Competitive Bidding Threshold” (currently, \$30,000.00) and (ii) potential grounds for waiver of the requirement (a) if adherence to the requirement would result in a contract price that is 10% or more higher than the lowest bid; (b) if none of the bidders and subcontractors certify that they participate in the apprenticeship program; (c) if awarding to the lowest responsible bidder, even if it has provided certification of the apprenticeship program, would jeopardize the District’s receipt or use of state, federal or other grant funds; or (d) if waiver is generally in the “best interests” of the District.

Since the April 4 meeting, staff has met with the Chair and Vice Chair of the Committee to further discuss the potential revisions. Based on those discussions, staff recommends the following topics for discussion at the Committee’s June 3, 2024, meeting: (i) whether the required apprenticeship program must be the Department of Labor Apprenticeship program, or

whether alternative programs would be considered, (ii) whether all of a general contractor's subcontractors must participate in a qualified apprenticeship program, or whether a percentage of subcontractors (or subcontractors representing a certain percentage of the contract price) would suffice, (iii) whether to include a price differential as grounds for waiver (at 10% or any other level), (iv) the timing of when any waivers would be considered and approved, and (v) whether intergovernmental and cooperative purchasing contracts should be exempted.

For discussion of the above issues, staff is bringing this item back for additional Committee review and discussion and, if appropriate, policy direction.

REVIEW BY OTHERS: Manager of Board Operations, Purchasing Manager, Corporate Counsel.



Lake County Forest Preserves

Purchasing Policy

Adopted: March 4, 1983
Amended: March 17, 1989
Amended: May 17, 1991
Amended: April 16, 1993
Amended: April 15, 1994
Amended: January 21, 2005
Amended: November 10, 2009
Amended: October 13, 2020
Amended: September 13, 2022
Amended: ???, 2024

Lake County Forest Preserve District Purchasing Policy

1.0 Definitions

The following words have the following meanings when used in this Policy, the General Purchasing Procedures, and the P-Card Procedures:

Act. The Downstate Forest Preserve District Act, 70 ILCS 805/0.001 et seq.

Apprenticeship Program. [An apprenticeship and training program approved and registered with the United States Department of Labor's Bureau of Apprenticeship and Training.](#)

Appropriations Ordinance. An annual District appropriations ordinance approved by the Board pursuant to Section 13.3(a) of the Act, as such ordinance may be amended from time to time.

Approved Vendors. Vendors, suppliers, and contractors with which the District has a contract or agreed pricing for recurring Open Market Purchases.

Architectural, Engineering, and Land Surveying Services. Architectural services, engineering services, or land surveying services, as defined by the Local Government Professional Services Selection Act, 50 ILCS 510/1 et seq.

Bid Appeal Panel. The following people: (i) the Chair of the Finance Committee (or, in their absence, the Vice-Chair of the Finance Committee), who serves as Chair of the Bid Appeal Panel; (ii) a District Commissioner (other than the District President) appointed by the District President on an ad hoc basis; and (iii) the Executive Director or their designee. A Bid Appeal Panel member may withdraw from serving on the Bid Appeal Panel if he or she (i) believes that serving creates a conflict of interest or the appearance of impropriety or (ii) is unavailable for service.

Bid Protest. A written protest by an actual or prospective bidder or proposer protesting any act or omission by the Purchasing Manager, a Department Director, or other District employee related to a proposed contract for a Large District Purchase that is to be awarded by the District to the lowest responsible Competitive Bidder or the highest overall ranked Design-Build proposer.

Bid Security. A bond or a cashier's check submitted to the District by a Competitive Bidder or Design-Build proposer equal to 10% of the Competitive Bidder's or Design-Build proposer's proposed contract price, that provides security to the District if the Competitive Bidder or Design-Build proposer fails to timely enter into a binding contract with the District as provided in the invitation to bid or notice of award.

Board. The Board of Commissioners of the District.

Brooks Act Procedures. This term is defined in Section 2.C. The Brooks Act Procedures are attached to this Policy as Exhibit A.

Budget. The annual District budget approved by the Board pursuant to Section VII.B of the Rules, as such annual budget may be amended from time to time.

Campaign Contribution. A "contribution" as defined in Section 9-1.4 of the Election Code, 10 ILCS 5/9-1.4, made to (i) a Lake County Board member (in their capacity as a County Board

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E. Submission of Bids. Competitive Bidders shall submit competitive bids (i) in a sealed envelope bearing the legend "Sealed Bid for [Name of Work]" or (ii) if the District institutes an online, digital, or web-based competitive bidding system, on forms approved by the Purchasing Manager for use in such system, at the place and before the time for the opening of competitive bids specified in the invitation to bid. If the District receives a competitive bid after the time specified for the opening of competitive bids, the Purchasing Division shall return such competitive bid unopened to the Competitive Bidder that submitted it.

F. Opening and Evaluation of Bids. All competitive bids shall be opened in public with no less than two witnesses, which may include members of the District's staff, present at the place and time specified for the opening of such competitive bids. The Purchasing Division shall tabulate all competitive bids and refer them to the appropriate District Department for evaluation and recommendation.

G. Factors to Determine Lowest Responsible Bidder. ~~In determining which Competitive Bidder is the lowest responsible bidder, the District shall consider the following factors in addition to price, as applicable:~~

1. Apprenticeship Program Required for Certain Public Works Contracts: For any Public Works Contract with an initial contract price in excess of the Statutory Competitive Bidding Threshold, a Competitive Bidder will be deemed a "responsible bidder"

(i) only if it certifies that it, and each of its subcontractors, participates in an active Apprenticeship Program, unless such requirement has been waived by the Board, because it finds that

(a) no otherwise responsible Competitive Bidder has certified that it, and each of its subcontractors, participates in an active Apprenticeship Program,

(b) the lowest bid from a Competitive Bidder who has submitted such a certification is 10% or more higher than the lowest responsive bid from an otherwise responsible Competitive Bidder,

(c) awarding the Public Works Contract to the Competitive Bidder who submitted the lowest bid and submitted such a certification would jeopardize the District's receipt or use of state, federal, or other grant funds, or

(d) waiver is in the best interests of the District and

(ii) based on a consideration of the general factors set forth in Section 6.G.2 below.

2. General Factors: In determining which Competitive Bidder is the lowest responsible bidder, the District shall consider the following factors in addition to price, as applicable:

(i) the compliance of the bid, including proposed plans and specifications, with bidding and contract requirements,

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- ~~(i)(ii)~~ the ability, capacity, and skill of the Competitive Bidder to perform the contract,
- ~~(i)(iii)~~ whether the Competitive Bidder has the requisite facilities, plant, capital, financial resources, organization, and staffing to enable the Competitive Bidder to perform the contract successfully and promptly, within the time specified, without delay or interference,
- ~~(i)(iv)~~ the character, integrity, reputation, judgment, experience, and efficiency of the Competitive Bidder,
- ~~(i)(v)~~ the quality of the Competitive Bidder's performance of previous contracts or services,
- ~~(i)(vi)~~ the previous and existing compliance by the Competitive Bidder with other contracts and the laws or ordinances relating to said contracts,
- ~~(i)(vii)~~ where required by the contract, the ability of the Competitive Bidder to provide future maintenance and service,
- ~~(i)(viii)~~ the conditions placed on the bid by the Competitive Bidder, and
- ~~(i)(ix)~~ any other factor that the District may legally consider in determining which Competitive Bid is in the District's best interest.

~~(x) — for construction contracts, Competitive Bidder and its subcontractors must participate in active apprenticeship and training programs approved and registered with the United States Department of Labor's Bureau of Apprenticeship and Training ("Apprenticeship Participation").~~

~~1. Exceptions:~~

- ~~a. Apprenticeship Participation does not apply if it would jeopardize receipt or use of State or other grant funds.~~
- ~~b. When cost of Apprenticeship Participation would increase the cost of the contract by more than 10%.~~

H. Negotiation of Price on Lowest Bid. After all Competitive Bids for a Large District Purchase have been opened, the Purchasing Manager, or their designee, may negotiate with the lowest Competitive Bidder for a price lower than the lowest Competitive Bidder's bid, if the Purchasing Manager and the Department Director collectively determine that (i) the Lowest Competitive Bidder's bid would cause the price of the Large District Purchase to exceed the amount budgeted for the Large District Purchase in the Budget or (ii) it is otherwise in the District's best interests to do so. If multiple Competitive Bidders submit a lowest responsible bid, then the Purchasing Manager, or their designee, shall (i) solicit from each such Competitive Bidder a best and final bid and (ii) recommend that the contract for the District Purchase be awarded to (a) the Competitive Bidder who submitted the lowest best and final bid or (b) if there are multiple lowest best and final bids, recommend award of a contract for the District Purchase to (1) each of the low Competitive Bidders or (2) if it is not practical to award multiple contracts for the District Purchase, to a Competitive Bidder that is randomly selected among all the Competitive Bidders that submitted the lowest best and final bids. During negotiations with the Competitive Bidders, the Purchasing Manager and their designees may not negotiate to change the contract