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STAFF REPORT

Date: January 17, 2024  
To: TRPA Governing Board  
From: TRPA Staff  
Subject: Updated Procurement Policy

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Summary and Staff Recommendation:

TRPA's Purchasing Policy has not been updated since 2008. The Office of Management and Budget has updated and simplified procurement rules for entities receiving federal funding. The proposed changes are consistent with that new guidance.

There are three substantive changes:

1. Separate the Governing Board Policy statement from the daily "how to" guidance to staff members working on contracting.
2. Increase the levels at which a procurement requires a formal RFP, informal RFP, or constitutes a small purchase.
3. Identify specific situations where full competition is impractical and not in the best interest of the Agency.

Required Motions: In order to adopt the new TRPA Procurement Policy, the Governing Board must make the following motion, based on the staff report:

- 1) A motion to r adopt of the new TRPA Procurement Policy

In order for the motion to pass, an affirmative vote of any eight Board members is required.

Project Description/Background:

TRPA staff works to update processes and procedures for maximum efficiency while maintaining compliance with Federal and State regulations. In 2019 the OMB updated its guidance to government entities receiving federal funding. Staff proposes adjusting our internal policies and procedures in light of those changes.

The first change is to separate the policy, which must be set by the Governing Board, from the day to day implementation, or "how to", guidance. The latter guidance changes frequently as organizations and managers shift in roles and responsibilities. Since those items are purely tactical, there is no reason to require constant action from the Governing Board to modify the manual. This policy sets the overall direction of how procurement should be handled. Any potential conflict between the policy and the internal procurement manual will be decided based on the policy adopted by the board. As a result, the

Procurement Policy has been reduced from a 65-page document, with attachments, down to a clean five-page policy document.

The second proposed change is to increase the levels for micro-purchases and informal RFPs to:

Proposed TRPA	CA (Fi\$Cal)	NV	OMB	Type of Procurement
\$10,000	\$5,000	\$5,000	\$35,000	Micro Purchase. No quotes required
\$50,000	\$25,000	\$25,000	\$800,000	Small Purchase, multiple quotes required
> \$50,000	> \$25,000	>\$25,000	>\$800,000	Formal procurement (RFP)

Micro purchases would routinely be made using Agency credit cards. Some of the small purchases may also be handled by credit card, if appropriate, but generally would utilize a Purchase Order or, depending on complexity, a Contract. Everything requiring a formal RFP would use a PO or Contract. Purchase orders are used when the item or service being acquired is straightforward, easy to determine if it meets the purchasing criteria (e.g., a physical deliverable or obvious service) and does not have any major non-financial liability issues. Contracts are used for complex purchases where “delivery” requires professional judgement or there are significant liability issues.

The third change is an update to the list of situations where contracting by negotiation, instead of a RFP process, is warranted. This list was developed over time by real-world situations. Most of the exceptions have carried over from the prior policy. The three new or significantly changed provisions are:

- a. *When the Agency has made a joint proposal for funding with partner entities and the distribution of work between the partners was set out in the proposal.* We are increasing collaboration with other entities in the basin and pursuing joint funding requests. This new provision recognizes that and permits us to proceed with the existing team that prepared the proposal.
- b. *When the Agency has established an ongoing strategic partnership with another Governmental Entity to handle specific areas of work that the Agency itself does not perform. The Governing Board will review and approve all such arrangements at least once every five years.* We anticipate using more of these types of arrangements with partner entities going forward. One example of this is our AIS Prevention Program agreement with the Tahoe Resource Conservation District (TRCD). We made a strategic assessment at the beginning of the program to work with the TRCD on inspection and decontamination stations. Instead of executing a formal RFP process every five years, we propose a regular review of the strategic relationship on the same schedule or, as conditions warrant, more frequently.
- c. *When supplies or service can only be obtained from one person, firm, or Agency. This includes technical services in connection with the assembly, installation, or servicing of equipment or software of a highly technical or specialized nature. This explicitly includes websites and online services.* This provision has been modified to combine three individual ones in the original Policy. It is also intended to cover situations like contracts we have with boat ramps on the AIS prevention program. Since all boat ramps must

participate for the program to work, there is no point in a competitive procurement process.

Issues and Concerns:

One major issue is that neither California nor Nevada have updated their policies based on the new OMB guidelines. We would be adopting procurement levels that are higher than either state.

Contact Information:

For questions regarding this agenda item, please contact Chris Keillor, CFO at (775) 589-5222 or [ckeillor@trpa.gov](mailto:ckeillor@trpa.gov). To submit a written public comment, email [publiccomment@trpa.gov](mailto:publiccomment@trpa.gov) with the appropriate agenda item in the subject line. Written comments received by 4 p.m. the day before a scheduled public meeting will be distributed and posted to the TRPA website before the meeting begins. TRPA does not guarantee written comments received after 4 p.m. the day before a meeting will be distributed and posted in time for the meeting.

Attachments:

- A. Proposed TRPA Procurement Policy
- B. Crosswalk between existing policy (2008) and revised

Attachment A

Proposed TRPA Procurement Policy



## **Purchasing Policy**

**Approved January 24, 2024**

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## **Table of Contents**

1.	PURCHASING AND FINANCIAL POLICY .....	4
2.	PROCUREMENT BY NEGOTIATION FOR SOLE SOURCE PURCHASES AND CONTRACTING .....	5
3.	USE OF OTHER AGENCY BID AWARDS .....	7
4.	CAPITAL EQUIPMENT PURCHASES.....	7
5.	EMERGENCIES.....	7

**PURCHASING AND FINANCIAL POLICY** It is the policy of the Tahoe Regional Planning Agency to acquire all services and supplies competitively at the lowest cost considering needs for performance, maintenance, continuity, and appropriateness.

**1 PURPOSE**

- A This policy governs the purchase of supplies, equipment and services required by the Agency.
- B The purpose of this policy is to:
  - (a) Establish efficient, consistent procedures for the procurement of supplies, equipment and services including professional services and, when needed, construction services.
  - (b) To procure these items at the best value to the agency considering cost, quality, and delivery schedule.
  - (c) To exercise control over purchases to assure that they are both budgeted and authorized.
  - (d) To encourage full and open competition wherever reasonable.

**1.2 NON-DISCRIMINATION**

The Agency does not discriminate against any potential contractor or vendor on the basis of sex, race, color, religion, national origin, or ancestry.

**1.3 APPROVAL LEVELS**

- A The following personnel are authorized to approve purchases and contracts for the Agency to the limits noted below:
  - (a) Staff appointed in writing by the Executive Director \$0 - up to \$10,000.
  - (b) Executive Director
    - (i) if NOT budgeted: \$0 - \$100,000.
    - (ii) if budgeted: up to budgeted amount.
  - (c) Governing Board – if NOT budgeted \$100,000+.
- B The Executive Director or his/her designee is designated as the Agency's Purchasing Agent.
- C It is the responsibility of each person who approves a purchase or contract to ensure that adequate funds have been budgeted for each transaction.
- D All contracts must be approved by the appropriate authority or his/her designee following review of Legal Counsel, the Chief Financial Officer, and the Department Manager

**1.4 GENERAL BID REQUIREMENTS**

- A Micro purchases are anything under \$10,000 and do not require bids or requests for proposal. The responsible purchaser will take care to ensure the Agency receives the best value for the expenditure and stay aware of potential suppliers and costs. The use of credit cards for these purchases is encouraged. Appropriate documentation will support every such purchase.
- B The simplified acquisition threshold will cover purchases between \$10,000 and \$50,000. The project manager will seek out at least 3 competitive bids, but no formal Request for Proposal (RFP) is required. Bids and the decision criteria will be documented and kept by the Finance Department.
- C All purchases and contracts for more than \$50,000 will be administered by formal Request for Bids or Request for Proposals unless the procurement is done as an emergency under the authority of Section 19 herein, or is a negotiated procurement as provided under the exceptions allowed in Section 7.3.



- D Specific instructions on how to meet these requirements can be found in the Purchasing Manual. Any conflict between the Purchasing Policy and the Purchasing Manual will be governed by the Purchasing Policy.

#### 1.5 PROHIBITION ON CONTRACTING WITH AGENCY EMPLOYEES AND OFFICIALS

Except when approved by the Governing Board, contracts shall not knowingly be entered into with business firms which are substantially owned or controlled by Agency employees or Officials except for the most compelling of reasons (*example: such cases where the needs of the Agency cannot reasonably be otherwise supplied*).

#### 1.6 AWARD CRITERIA

- A TRPA will acquire goods and service on a “best value” basis considering cost, quality, and timeliness. Except for Construction contracts, purchases and contracts shall not be made solely based on price. Cost-factors such as total life cycle, maintenance, the availability of repair parts and service centers, suitability for intended use, trade-in value, and other relevant information will be considered. For professional service contracts, the award criteria will differ for each engagement. Award criteria should be specified in any Requests for Proposal.
- B For construction contracts, awards will be made to the lowest responsive and responsible bidder. Proposals will first be evaluated to ensure they are a) responsive to the statement of work in the RFP and b) the bidder is fully qualified to complete the work including possessing appropriate licenses and certifications. The cost proposal will only be reviewed after the initial screening for qualified responsive bids.

#### 1.1 PROCUREMENT RESPONSIBILITY AND AUTHORITY

- C The Agency Purchase Agent shall have the authority to purchase all supplies, equipment, and non-professional services required by the Agency.
- D The Department requiring such services will manage contracts for professional services and the Project Manager appointed by the Department Manager will be responsible for ensuring these policies and procedures are complied with.
- E The Chief Financial Officer will oversee the purchasing system, review all major contracts, and supervise payments of invoices. The CFO will also be responsible for the purchase of insurance for the Agency.
- F The Agency Purchase Agent or his/her designee will be responsible for insuring that these policies and procedures are complied with.
- G The Executive Director is the only official authorized to commit the Agency to a contract.

## 2 PROCUREMENT BY NEGOTIATION FOR SOLE SOURCE PURCHASES AND CONTRACTING

#### A PURPOSE

- (a) Some circumstances make it impractical to utilize the formal bid procedures described in Section X and Section X as applicable, and when those certain, restricted instances arise, the procurement of these supplies and services will be done by negotiation using the procedures of this Section. Sole source is only allowed for the circumstances specified in this section.

#### B MAXIMUM COMPETITION REQUIRED

Negotiated procurements shall only be used when a competitive procurement is not practical. Wherever supplies or services are to be procured by negotiation, proposals or informal bids shall be obtained from at least 3 sources if possible.

## 2.2 APPROVAL FOR USE OF THESE PROCEDURES

The Executive Director must approve the use of the negotiation procedures for all budgeted procurements or up to \$100,000 if not budgeted. The Governing Board must approve procurements exceeding these amounts.

## 2.3 CIRCUMSTANCES PERMITTING NEGOTIATION

A Negotiation may be used ONLY under the following circumstances:

- (a) When the Executive Director determines that an emergency condition exists that will not permit the delay required by formal bidding. This subsection requires a formal declaration of Emergency by the Executive Director.
- (b) When the Agency has made a joint proposal for funding with partner entities and the distribution of work between the partners was set out in the proposal.
- (c) When the contemplated procurement is funded by a third party, or parties, and the Agency and funding party, or parties, agree in writing to waive the normal bidding requirements when such a waiver is reasonable and prudent.
- (d) When the Agency has established an ongoing strategic partnership with another Governmental Entity to handle specific areas of work that the Agency itself does not perform. The Governing Board will review and approve all such arrangements at least once every five years.
- (e) When supplies or service can only be obtained from one person, firm, or Agency. This includes technical services in connection with the assembly, installation, or servicing of equipment or software of a highly technical or specialized nature. This explicitly includes websites and online services.
- (f) When formal bids have been solicited and no responsive bid has been received from more than one responsible bidder.
- (g) When the item being purchased is a "used" item. In these cases, the Agency will utilize all available resources to assure that the value is appropriate (*as in use of Kelly Blue Book for used vehicles*).
- (h) When the contemplated procurement involves maintenance, repair, alteration, or inspection and the exact nature or amount of the work to be done is not known. In this instance a time and materials contract should be negotiated based on agreed labor rates.
- (i) When it is impractical to draft adequate specifications for a Request for Bid.
- (j) When the contemplated procurement is for original equipment manufactured (OEM) parts or components being procured as replacement parts in support of equipment or software specially designed by the manufacturer, or where licensing agreements prohibit modification without the approval of the vendor.
- (k) For the procurement of technical equipment requiring standardization and interchangeability of parts when it is determined that such standardization and interchangeability is necessary in the best interests of the Agency.
- (l) When the contemplated procurement involves training services.
- (m) For any other procurement authorized by the Executive Director where direct Negotiation is reasonable and prudent.

### 3 USE OF OTHER AGENCY BID AWARDS

The Agency may utilize the competitive bid processes of other government agencies.

#### 3.1 GENERAL SERVICES AGENCY AWARD SCHEDULES

TRPA is eligible to purchase goods and services through the United States General Services Agency award schedules.

#### 3.2 CALIFORNIA MULTIPLE AWARD SCHEDULES – CMAS

- A The State of California established the CMAS program for use by state agencies and local governments for the streamlined acquisition of numerous types of goods and services.
- B The State of California establishes fixed price contracts with vendors based on the vendors Federal General Services Administration (GSA) contract or other multiple award contracts. These GSA prices are then extended to the participating State and local governmental agencies.
- C It is cost efficient for the Agency to utilize these contracts because it provides competitive prices while avoiding the expense and time involved in developing bid specifications and soliciting, analyzing, and awarding bids.
- D The use of CMAS contracts is hereby authorized in place of the Agency's own bidding procedures and such contracts may be approved with the limitations of Section 1.3 of this manual.

#### 3.3 NEVADA CONTRACTS

The State of Nevada Purchasing Department, working with other western states, frequently issues awards based on competitive responses. These may be utilized by TRPA on a case-by-case basis.

### 4 CAPITAL EQUIPMENT PURCHASES

The Agency shall identify and account for all capital and material items of significance.

- 4.1 The Agency shall track and capitalize all assets with a value of \$5,000 or more. New assets fitting this definition will be booked and the value capitalized annually. It shall inventory and track assets which require special tracking due to their intrinsic value as, determined by the Chief Financial Officer or Controller. All assets shall be inventoried on a rotating basis so that all of TRPA's tangible capital assets are physically accounted for at least once every 2 years.
- 4.2 The TRPA financial staff will utilize the current asset listing to isolate and inventory all relevant, existing tangible property of the Agency. These will be tracked for inventory purposes only. Once the inventory is compiled, the Agency will complete 100% of the inventory every 2-years to comply with OMB circular A-133 requirements as scheduled by the Finance unit.
- 4.3 All new assets will be tracked for inventory purposes based on the year acquired. Such assets will be capitalized for expensing purposes annually by the Finance unit.
- 4.4 Each Department is responsible for developing an annual Capital Budget/Equipment request as needed and scheduled by the annual budget calendar. This will be reviewed by the Leadership Team and adopted by the Governing Board during the annual budget process.

### 5 Emergencies

- 5.1 In order for this authority to be used, the need must be compelling and of unusual urgency as when the Agency could be seriously injured, financially or otherwise, or unable to perform mission-related functions if the property or services to be purchased or contracted for were not furnished by a certain time, and when they could not be procured by that time using the methods set forth in this policy. This applies irrespective of whether that urgency could or should have been foreseen.

*For example, this authority may be used when property or services are needed at once because of fire, flood, explosion, mechanical breakdown, or other disaster.*

- 5.2 The applicable procedures in Section 13, Procurement by Negotiation, will be utilized for procurements under this authority to the maximum extent possible.
- 5.3 All procurement actions under this authority exceeding \$50,000 to any single contractor will be reviewed and approved by the Executive Director.
- 5.4 The Governing Board Chair or Vice Chair shall be advised of such purchases as soon as practical, and the Governing Board advised at each subsequent Governing Board meeting until the emergency has passed.

Attachment B

Crosswalk between existing policy (2008) and revised

## Tahoe Regional Planning Agency

### *Procurment Policy vs. Procurement Manual Breakout*

Section	Title	New Location
<b>1</b>	<b>Purchasing and Financial Policies and Procedures</b>	<b>Keep in Policy, New Section 1</b>
<b>2</b>	<b>Procurement Responsibility and Authority</b>	<b>Keep in Policy, New Section 1</b>
3	Purchasing Goods and non-professional services costing less than \$25,000	Move to Procurement Manual and consolidate, rules are the same for all three.
4	Purchasing Goods and non-professional services costing more than \$25,000	Move to Procurement Manual
5	Contracting for Professional Services	<b>Keep in Policy, New Section 2</b>
6	Contracting for Construction Work	Move to Procurement Manual
<b>7</b>	<b>Procurement by Negotiation for sole source purchases and contracts</b>	<b>Keep in Policy, New Section 3</b>
8	General Procedures Applicable to all Formal Bids	Move to Procurement Manual
<b>9</b>	<b>Use of Other Agency Bid Awards</b>	<b>Keep in Policy, New Section 3</b>
10	Payment Policy	Move to Procurement Manual
11	Method of Payment	Move to Procurement Manual
12	Receiving and Processing Procedures	Move to Procurement Manual
13	Meals, Travel, Lodging, and Training	Move to Procurement Manual
<b>14</b>	<b>Capital Equipment Purchases and Accounting</b>	<b>Keep in Policy, New Section 4</b>
15	Utilities	Move to Procurement Manual
16	Insurance Purchases	Move to Procurement Manual
17	Credit Cards	Move to Procurement Manual
18	Surplus Property	Move to Procurement Manual
<b>19</b>	<b>Emergencies</b>	<b>Keep in Policy, New Section 5</b>
20	Environmental Policies and Procedures	Move to Procurement Manual