

Policy 2.7- Terms of Directors

Pursuant to Neb. Rev. Stat. § 2-3213, a Director's term shall be a four-year term. A Director's term will commence upon taking the Oath of Office and will end on December 31st of the fourth year of the term.

[January 10, 2019]

**15.0 Purchasing - Real Property.** For authorized programs and projects:

A. Offers to purchase title to real property within the District may be issued by the General Manager, title to real property may be purchased or accepted, and instruments relating thereto (containing such covenants and conditions as Legal Counsel approves as to form) may be executed by the General Manager

1. with prior approval of the transaction by the Board; or,
2. if the Board has previously determined the necessity for the acquisition and the consideration offered or to be paid by the District does not exceed the appraised fair market value reflected in the written report of a real estate appraiser retained by the District.

B. Leasehold interests in real property, in favor of the District, may be purchased or accepted, and instruments relating thereto (containing such covenants and conditions as Legal Counsel approves as to form) may be executed by the General Manager, with the prior approval of the transaction by the Board.

C. Leases of District real property to others may be granted, and instruments relating thereto (containing such covenants and condition as Legal Counsel approved as to form) may be executed by the General Manager

1. with the prior approval of the transaction by the Board;
2. if such lease is for an annual cash rental cropping lease.

D. Real property easements, permits and licenses for nominal consideration in favor of the District may be acquired, and instruments relating thereto (containing such covenants and conditions as Legal Counsel approves as to form) may be executed by the General Manager, without prior approval of the transaction by the Board.

E. Offers to purchase easements, permits and licenses over real property within the District for more than nominal consideration may be issued by the General Manager, real property easements, permits and licenses for more than nominal consideration in favor of the District may be acquired, and instruments relating thereto (containing such covenants and conditions as Legal Counsel approves as to form) may be executed by the General Manager

1. with prior approval of the transaction by the Board; or,
2. if the Board has previously determined the necessity for the acquisition and the consideration offered or to be paid by the District for the acquisition does not exceed the appraised damages reflected in the written report of a real estate appraiser retained by the District.

[December 5, 1986; June 13, 1991; November 9, 1993; September 14, 1995; January 8, 2015]

**15.1 Purchasing - Construction Services.** The General Manager is authorized to contract for construction services and to rent equipment for authorized programs and projects. Any such contract

shall not require Board approval when the contract price does not exceed ~~\$30,000~~50,000. Construction services shall mean construction, operation, maintenance, and repair of improvements to real estate and fixtures. Contracts shall not be phased or split to avoid the limitation. The General Manager is authorized to effect change orders accumulating not more than a total of 10% of the contract amount. Contracts under this policy shall be subject to the provisions of Policy 15.6, 15.7 and 15.8.

[December 5, 1986; June 13, 1991; April 15, 1993; December 10, 1998; February 14, 2013; January 10, 2019]

### **15.2 Purchasing - Professional Services.**

A. Statement of purpose. It is the purpose of this policy to provide a uniform procedure for advertising for and selecting firms for the award of contracts for professional services.

B. Definitions. As used throughout this policy, unless the context otherwise requires, the following terms shall have the following meanings:

1. Firm: Any person, partnership, association or corporation engaged in, and legally authorized to practice in the state, a professional service.
2. Professional services: Any one or more of the following services: architecture, engineering, land surveying, landscape architecture or land appraisal.
3. Auditing Services: Auditing Services are excluded from the requirements of Policy 15.2.B.2. and shall be obtained in accordance with Policy 15.6 Purchases by Formal Competitive Bidding.” The District shall obtain bids for auditing services at a minimum of every five years.

C. Selection Committee. The Ad Hoc Selection Committee responsible for selecting and negotiating with firms for these professional services shall consist of ~~three Directors appointed by the Chairperson and one non-voting staff member appointed by the General Manager, or, as determined by the Chairperson,~~ five Directors appointed by the Chairperson ~~and two non-voting staff members appointed by the General Manager.~~

D. Request for Services. Projects that have been determined by the General Manager as requiring professional services shall be advertised at least once in the daily newspaper having the greatest circulation in the District. Written requests for professional services (requests for proposals) shall be posted on the District’s website and may be sent by Management to known qualified firms. Such requests for ~~professional services proposals~~ shall indicate ~~that those firms wishing to participate shall contact the District for a copy of the general scope of the professional services.~~ ~~All firms requesting a copy of the general scope of the professional services shall be given~~ a uniform date by which to reply, and the name of the District staff member to contact for replies to any questions.

~~E. List of Firms. A list of all firms interested in providing professional services shall be developed and maintained by Management. Statements of qualifications and past performance data will be required to be filed by interested firms. Such statements should include the following:~~

- ~~1. Firm name, address, telephone number;~~

- ~~2. Years established and former names;~~
- ~~3. Type of services particularly qualified to perform;~~
- ~~4. Names of principals and states in which they are registered;~~
- ~~5. Names of key personnel to be utilized, experience of each and length of service with the firm;~~
- ~~6. Maximum number of the staff at any one time;~~
- ~~7. Outside consultants and associates that might be employed;~~
- ~~8. List of similar completed projects for which the firm was the principal professional;~~
- ~~9. Similar current projects of the firm and estimated construction costs of each; and;~~
- ~~10. History of professional negligence claims made against the firm during the past five years.~~

FE. Reply by interested firms. After the firm has obtained a copy of the general scope of the professional services, then firm shall reply in writing to the General Manager to the following items; following the format outlined in the request for proposals (RFP), by the date specified in the request.

- ~~1. Express if they are interested in the project;~~  
—
- ~~2. Relate any changes in the firm's qualifications and past performance data from those previously submitted;~~  
—
- ~~3. Express willingness and capability to meet time requirements;~~  
—
- ~~4. Other additional material as may be outlined in the scope of the project, or as may be beneficial to the selection committee; and;~~  
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- ~~5. Provide a proposed plan of approach to the project.~~  
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GF. Method of selection. The method of selection of a firm for professional services shall be in accordance with the following estimated fees, as established by the General Manager:

1. When the fee does not exceed ~~thirty-fifty~~ thousand dollars (~~\$30,000.00~~50,000), the General Manager shall select the firm directly, giving consideration to selection factors for the project which shall include, but not be limited to, the following:
  - a) ~~Firms which have sufficient professional manpower to meet project schedules~~Project understanding and approach;
  - b) ~~Firms with a sound performance record for meeting time and budget requirements~~The project organization, adequacy of available staff, location of personnel relative to the project location and the proposed schedule of completion;



- c) ~~Firms which possess project experience and management ability~~Similar projects completed by the firm.;
  - d) ~~Recent, current and projected work load with the District; and~~Qualifications of the professional personnel and staff members.;
  - e) ~~Any other specialized qualification which the firms might possess to benefit the project.~~
2. When the fee exceeds ~~thirty-five~~ thousand dollars (~~\$30,000.00~~50,000), the Ad Hoc selection committee shall, where possible, select the three (3), or more at its discretion, best qualified firms in accordance with the considerations set out in subsection (a1), above, and from the reply to the items set out in subparagraph ~~FE~~. The selection committee shall rank the firms first, second, third, etc. Where possible, the three (3) or more at its discretion, best qualified firms shall be given a time and place for a personal interview by the selection committee. After review of submittal materials and the personal interview, the selection committee shall rank the firms first, second, third, etc.

**HG.** Fee negotiations.

The firm ranked as first shall be notified to appear and negotiate with Management on the fee, detailed scope and schedule for the professional services requested. If Management and the firm selected as first cannot come to an agreement regarding the fee, the negotiations with that firm shall be terminated and the firm ranked second shall be contacted. If the factors which caused them to be ranked as such have not changed, negotiations shall be initiated with them. The procedure shall be repeated until an agreement is reached if it can be reached.

Where agreement is reached, the contract in final written form shall be submitted to the Ad Hoc selection committee for approval and be awarded and executed, if approved, in accord with all applicable provisions of these policies and applicable provisions of State Statutes.

The General Manager is authorized to effect contract scope and work changes accumulating not more than a total of 10% of the contract amount, with a not-to-exceed amount of ~~\$30,000~~50,000.

I. Board authority not limited. Nothing in this policy shall be construed to abrogate, limit or amend the authority of the Board in the award or approval of contracts.

[December 5, 1986; June 13, 1991; January 9, 1992; January 12, 2006; February 14, 2013; January 10, 2019]

**15.3 Purchasing - Personal Property.** The General Manager is authorized to contract for the purchase of personal property for authorized programs and projects without Board approval whenever the contract price does not exceed ~~\$30,000~~50,000. Contracts shall not be phased or split to avoid the limitation. Each contract or order, whether written or oral, for the purchase of personal property shall be entered into in the name of the District and shall expressly or impliedly provide that good title to such property shall be conveyed to the District free from any security interest or other lien or encumbrance. Contracts under this policy shall be subject to the provisions of Policy 15.6 and 15.7. Contracts under this policy shall not be subject to the provisions of Policy 15.8 unless otherwise required by the Board.

[December 5, 1985; June 13, 1991; December 9, 1993; December 10, 1998; February 14, 2013;  
January 10, 2019]

**15.4 Purchasing - Emergency Purchasing Authority.** In the event of flood or other natural disaster, or the immediate threat thereof, and after consultation with all available Directors and the concurrence of six (6) Directors and receipt of written authorization from the Chairperson, or the Vice-Chairperson in the Chairperson's absence from the District, regarding the nature of the emergency that exists, the infeasibility of a Board meeting, and the planned action. Management shall take the action authorized in such written authorization (Emergency Declaration, Form 15.4., Manual of Standard Forms (Appendix E)).

A. Such authorization may include the authority to take one or more of the following actions on behalf of the District:

1. Purchase or otherwise acquire easements or other interests in real estate;
2. Purchase, retain, or otherwise acquire the services of contractors or other persons using the informal bidding procedure in Policy 15.6.B., notwithstanding the maximum consideration or price limitation stated in Policy 15.6.B and the bonding requirements stated in Policies 15.7 and 15.8;
3. Purchase, lease, or otherwise acquire equipment, materials, supplies, or other personal property using the informal bidding procedure in Policy 15.6.B., notwithstanding the maximum consideration or price limitation stated in Policy 15.6.B and the bonding requirement stated in Policy 15.7;
4. Expend funds of the District, by District draft, by and with the concurrence of the Treasurer, when immediate payment is required as a pre-condition to the acquisition of necessary interests in real estate or the acquisition of necessary services or personal property; and,
5. Execute such contracts, purchase orders, leases, easements, assurances, or other covenants or documents in writing which may be required as a pre-condition to the acquisition of necessary interests in real estate or the acquisition of necessary personal services or personal property.

B. An attempt shall be made to contact each Director at the telephone number prescribed for the purpose of calling Special Board meetings as outlined in these policies. At the next regular meeting of the Board following such emergency, the General Manager shall present the written authorization and a written report of the actions taken pursuant to this resolution and recommendations as to any further action necessary to be taken by the Board with respect to such emergency.

[December 5, 1986; June 13, 1991; January 14, 2016]

**15.5 Purchasing - Repair Services.** Management is authorized to contract for maintenance and repair services consisting of the provision of parts and labor maintain and repair District office equipment, construction and maintenance equipment, vehicles and other District personal property without Board approval if the estimated cost of any instance of maintenance or repair, including parts

and labor, does not exceed \$15,000. If the estimated cost of an instance of maintenance or repair exceeds \$15,000, Management shall obtain approval from the Chairperson of the Programs, Projects and Operations Subcommittee, or Vice-Chairperson of the Subcommittee in the absence of the Chairperson. Contracts shall not be phased or split to avoid the limitation. Contracts under this policy shall be subject to the provisions of Policy 15.6, 15.7 and 15.8.

[December 5, 1986; June 13, 1991; December 10, 1998; February 14, 2013]

**15.6 Purchasing - Competitive Bidding.** The competitive bidding requirements hereinafter set forth shall not apply to the purchase of utilities, insurance policies, intangible personal property, such as bonds, bills, notes and certificates of deposit, and unique or non-competitive items, such as library books, publications and used personal property.

A. Purchases Exempt from Competitive Bidding. Whenever the consideration or price for the purchase of any service or any item of personal property, or whenever the aggregate consideration or price for the purchase in one transaction of two or more similar or identical services or items of personal property, shall be \$5,000 or less, such service(s) or item(s) of personal property may be purchased from any supplier of such service(s) or item(s) without calling for competitive bids.

B. Purchasing by Informal Competitive Bidding. Whenever the consideration or price for the purchase of any service or any item of personal property, or whenever the aggregate consideration for the purchase in one transaction of two or more similar or identical services or items of personal property, shall be estimated by Management to exceed the sum of \$5,000 and be less than \$50,000, Management shall cause the following information to be communicated to at least three known suppliers of such service or item, or in the case of two or more similar or identical services or items of personal property to be purchased in one transaction, to at least three known suppliers of all of such services or items, to-wit: (a) the specifications for such service(s) or item(s), and (b) an Invitation for Informal Competitive Bids (Form 15.6.B., Manual of Standard Forms, (Appendix E)) thereon, including a notification of the final time for the reception of bids. Management shall award such contract to the supplier determined by Management to be the lowest responsible bidder whose informal written bid shall be timely received. Management shall report such contract to the Board at the next regularly scheduled meeting, unless contracting for such specific item or service was previously authorized by the Board. A written memorandum of such communications and copies of the informal bids thus received shall be made and maintained in the files of the District and available for inspection by any interested person during all normal business hours; provided, however, in the event the lowest and best informal bid thus received exceeds the sum of \$50,000, Management shall submit to the Board for its consideration and action the informal bids received by the District.

C. Purchases by Formal Competitive Bidding.

1. Whenever the consideration or price for purchase of any service or item of personal property, or the aggregate consideration or price for the purchase in one transaction or of two or more similar or identical services or items, shall be estimated by Management to be the sum of \$50,000 or more, Management shall prepare or cause to be prepared detailed written specifications for such service(s) or item(s), and an invitation for bids thereon, and ~~shall transmit a copy of~~ the invitation for bids ~~by mail shall be posted on the District's website and may be sent by Management to each~~ known suppliers of such service or item, ~~or in the case of two or more services~~

~~or items to be purchased in one transaction, to each known supplier of all of such services or items,~~ or, as determined by the General Manager, the General Manager shall cause the invitation for formal sealed competitive bids to be published once each week for two consecutive weeks in a publication having general circulation within the District, the last publication of which shall be at least one week, and not more than three weeks, prior to the final time for reception of bids.

2. All formal sealed competitive bids received by the General Manager shall be publicly opened and read by the General Manager, or a designated representative, at the time specified in the invitation for bids. The bid opening must occur at least one week, and not more than two weeks, prior to the next duly convened meeting of the appropriate Subcommittee of the Board.
3. Contracts for the purchase of services or items of personal property in the amount of ~~\$30,000~~50,000 or more shall be awarded to the lowest responsible bidders by resolution of the Board, which reserves the right to accept or reject any and all bids in whole or part. Contracts shall not be phased or split to avoid the limitation.
4. Invitations for formal sealed competitive bids shall be drawn in accordance with Form 15.6.C., Invitation for Formal Competitive Bids, in the District's Manual of Standard Forms (Appendix E).

D. Unforeseen Requirements. In the event Management determines that there exists a need for personal property for an unforeseen need, repair, parts or materials for District projects which these regulations would normally require to be let for formal sealed competitive bids, he may use the informal bidding procedure described in Policy 15.6.B. to purchase such item or items.

[December 5, 1986; June 13, 1991; December 9, 1993; December 10, 1998; February 14, 2013; January 10, 2019]

**15.7 Purchasing - Bid Bonds.** Whenever the consideration or price for the purchase of any service or any item of personal property, or the aggregate consideration for the purchase in one transaction of two or more similar or identical services or items of personal property, shall be estimated by Management to exceed the sum of \$50,000, or whenever, prior to the issuance of the invitation for bids, Management shall determine it to be in the best interests of the District, each bidder, shall be required to submit to the District a corporate surety bid bond, with at least one corporate surety authorized to be business in the State of Nebraska (or a certified check payable solely to the District as bid security) in the amount of 5% of such bidder's bid, conditioned upon execution of such contract in accordance with such bidder's bid, any such corporate surety bond to be in such form as approved by Legal Counsel.

[June 13, 1991; December 10, 1998]

**15.8 Purchasing - Performance Bonds.** Whenever the consideration or price for the purchase of any service, or the aggregate consideration for the purchase in one transaction of two or more similar or identical services shall be estimated by Management to exceed the sum of \$50,000, or whenever, prior to the issuance of the invitation for bids, Management shall determine it to be in the best interests of the District, the successful bidder to whom or to which the contract for such purchase is awarded shall be required to submit bonds, with at least one corporate surety authorized to do business in the State of Nebraska, having a penalty amount equal to the amount of such



contract and conditioned upon faithful performance of such contract and upon payment of labor and materials furnished in connection therewith, such bond(s) to be in such form as approved by Legal Counsel.

[June 13, 1991; February 14, 2013; January 14, 2016]

**15.9 Purchasing – Cost-shared Projects.** Paragraphs 15.0 through 15.8 of these policies shall not apply to projects constructed by other governmental agencies, developers or other cooperators in accordance with cost-sharing agreements with the District that are specifically authorized by the Board. Paragraph 15.2 of these policies shall not apply to projects engineered by other governmental agencies, developers or other cooperators in accordance with cost-sharing agreements with the District that are specifically authorized by the Board.

[May 12, 2005]