

- **Board of Directors**  
**Engineering and Operations Committee**

September 13, 2005 Board Meeting

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7-5

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**Subject**

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Amend Administrative Code to update contracting and procurement policies

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**Description**

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Current practices in the procurement industry focus on obtaining best value for dollars spent and streamlining the acquisition process. Certain of Metropolitan's contracting policies are at odds with these practices. This board letter proposes changes in contracting policy to refocus the procurement of Metropolitan goods and services on obtaining best value and sensible and timely end results, not just process.

Currently, Metropolitan's contracting policy requires the procurement of all goods and non-professional services on a low-cost basis only, and does not permit consideration of other relevant factors that may represent a better value to Metropolitan. Although low price awarding is appropriate in most instances, there are times when a "best value" procurement (requiring a request for proposal) may be a more suitable option. A "best value" procurement strives to balance cost with quality factors through a fair, efficient, and practical procurement process to achieve Metropolitan's objectives at the best value for Metropolitan's ratepayers. The recommended amendments to the Administrative Code authorize the best value procurement method when it is determined impractical or not advantageous to use the current competitive sealed bidding method. Evaluation factors other than price that may be considered in the award of best value procurements include: operational costs and risks if the proposal is accepted; quality and benefits of the product or service, or its technical competency; qualifications of the proposer's staff; financial stability; and past performance.

An example of an instance where the "best value" method might prove beneficial would be for critical non-professional services such as hazardous waste disposal, which under the current Administrative Code must be acquired through a request for bid with selection based solely on the lowest bid. If this type of service is not done in accordance with all applicable regulations, it could lead to civil and criminal penalties due to potential liabilities resulting from improper dumping, failure to secure permits, or lack of properly trained and licensed personnel. With a bid based only on price, it is difficult to evaluate a firm's ability to economically and effectively provide services since the types and quantities of waste generated are constantly changing. An Administrative Code change allowing a "best value" acquisition would permit Metropolitan, in this instance, to evaluate a provider based on technical expertise, references, and findings of site visits to disposal sites, in addition to price. This is much more likely to result in the selection of a firm capable of serving and protecting Metropolitan's interest than in the currently allowed Request for Bid method. Another area where "best value" selection would be advantageous would be some state-of-the-art equipment acquisitions where having the ability to evaluate equipment based on endurance and performance differences would likely lead to better selections than simply awarding based on low price.

The recommended action would also amend Metropolitan's procedure for posting and advertising notices inviting bids for non-public works contracts to allow electronic posting on Metropolitan or another's Web site only. This amendment would streamline the bidding process, save money by reducing advertising costs in newspapers, and save time by relaying bid opportunities to the vendor community in a much quicker manner. Electronic posting would be consistent with Metropolitan's current practice of online bidding. Eliminating the requirement to place newspaper advertisements is estimated to save approximately \$18,000 per year. In addition, advertising through electronic net service has proven to be extremely effective in reaching and targeting potential bidders.

Metropolitan is currently reaching about five times the number of bidders through electronic notification than it was through newspaper advertising.

In several provisions of the Administrative Code, identified in **Attachment 1** and **Attachment 2**, the term “Executive Officer” is now used to indicate provisions applicable to all Executive Officers. This change would make provisions in Section 8100 consistent with other sections of the Administrative Code that expressly delegate contracting authorities to the General Counsel, General Auditor, and Ethics Officer as well as the CEO.

In addition to process changes, the proposed revisions provide a comprehensive restructuring of the Administrative Code sections relating to contracts to follow a more logical grouping of policies, clarify ambiguities, and remove inconsistencies. These later changes, which comprise the majority of the wording changes proposed, do not add new requirements but more clearly communicate the requirements of existing policies and applicable law.

Finally, changes are also made to the reporting requirements under Division II of the Administrative Code to maintain consistency with the contracting policy changes recommended under Division VIII. The changes in Division II reflect the re-numbering and re-ordering of sections in Division VIII.

The proposed amendments to update the contracting policies are shown on **Attachment 1**, with strikeouts reflecting deletions and underlining reflecting additions. **Attachment 2** sets forth the provisions, as they would now appear in Metropolitan’s Administrative Code.

## **Policy**

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Metropolitan Water District Administrative Code Sections 2700 *et seq.* and 8100 *et seq.*

### **California Environmental Quality Act (CEQA)**

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CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, the proposed action is not subject to CEQA because it involves other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (Section 15378(b)(4) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to CEQA pursuant to Sections 15378(b)(2) and 15378(b)(4) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

**Board Options/Fiscal Impacts**

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**Option #1**

Adopt the CEQA determination and authorize amendment of the Administrative Code to update contracting policies.

**Fiscal Impact:** None

**Option #2**

Do not authorize amendment of the Administrative Code to update contracting policies.

**Fiscal Impact:** None

**Staff Recommendation**

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Option #1

	8/11/2005
_____ Roy L. Wolfe Manager, Corporate Resources	Date

	8/22/2005
_____ Dennis B. Underwood CEO/General Manager	Date

**Attachment 1 – Proposed Amendments to Administrative Code – Redline Form**

**Attachment 2 – Proposed Amendments to Administrative Code – Clean Form**

BLA #3823

## Division VIII

### CONTRACTS/DISTRICT PROPERTY

Chapter	Sec.
1 Contracts	8100
2 District Property	8200
3 Business Outreach	8300

### Chapter 1 CONTRACTS

<u>Article</u>	<u>Sec.</u>
<u>1 General Provisions</u>	<u>8100</u>
<u>2 Authority to Contract</u>	<u>8120</u>
<u>3 Award of Contracts</u>	<u>8140</u>
<u>4 Contract Terms and Conditions</u>	<u>8160</u>

### Article 1 GENERAL PROVISIONS

Sec.
8100. Definitions
8101. Contract Documents
8102. Requisitions and Purchase Orders
8103. <del>Competitive Bids</del> <u>Delegation of Authority</u>
8104. <del>Prebid Procedures</del> <u>Approval by General Counsel</u>
<del>8105. Bonds</del>
<del>8106. Specifications and Drawings</del>
<del>8107. Non-Discriminatory Practices in District Contracts</del>
<del>8108. Payment of Prevailing Wages</del>
<del>8109. Indemnification Agreements</del>
<del>8110. Posting and Advertising</del>
<del>8111. Evaluation</del>
<del>8112. Rejection of Bids</del>
<del>8113. Award</del>
<del>8114. Execution</del>
<del>8115. Negotiated Contracts</del>
<del>8116. Approval by General Counsel</del>
<del>8117. Professional and Technical Consultants</del>
<del>8118. Contracts in Excess of \$250,000 Not Requiring Prior Board Approval</del>

~~8119. Delegation of Hearing Power~~

~~8120. Insurance Pertaining to Employees~~

~~8121. Contracts for Equipment, Materials, Supplies, and Routine Services~~

## § 8100. Definitions.

The definitions contained in this section govern the interpretation of this chapter:

(a) Best Value Procurement. – "Best value procurement" means a competitive procurement method where factors in addition to price are considered in order to award a contract that provides the best overall value to the District.

(~~a~~b) Change Order. - "Change order" means an amendment modifying the terms of an existing contract.

(~~b~~c) Contract. - "Contract" means any written agreement, including purchase orders, to which the District is a party.

(~~e~~d) Construction. - "Construction" includes erection, demolition, alteration, repair, and relocation.

(~~d~~e) Form of Agreement. - ~~The "f~~Form of agreement is the document evidencing the contractual relationship of the District and the successful bidder.

(~~e~~f) Notice Inviting Bids. - "Notice inviting bids" means a notice inviting proposals for entering into a contract upon the terms of contract documents incorporated in said notice by reference.

(g) Professional and Technical Services. – "Professional and technical services" mean a specialized personal service rendered by an independent contractor who has specialized knowledge, skill and expertise in an area generally recognized to be practiced exclusively by such contractors.

(h) Proposal. - ~~The "p~~Proposal ~~is means~~ the ~~bidder's~~prospective contractor's offer to enter into a contract upon the terms set forth therein or in the contract documents.

(i) Public Works. – "Public works" mean contracting for the erection, construction, alteration, repair, or improvement, including demolition and installation work, of any public structure, building, road, or other public improvement of any kind. Public works does not include work done by the District's force account, work not paid for out of public funds, or contracting for the purchase of finished products, materials, or supplies.

(~~i~~j) Purchase Order. - "Purchase order" means an authorization under which the party designated therein as ~~vendor~~contractor is to provide materials or services for which the District agrees to pay pursuant to the terms contained thereon or in a separate contract.

~~(gk) Notice Inviting Technical Request for Proposals. - "Notice inviting technical Request for proposals" means a notice requesting prospective bidders to submit all documents, whether attached or incorporated by reference, used for soliciting technical proposals through a competitive sealed proposal process.~~

~~(fl) Notice Inviting Pre-qualification Information Request for Qualifications. - "Notice inviting pre-qualification information" means a notice inviting prospective bidders or prospective lower-tier contractors to submit information that will permit the Chief Executive Officer to determine in advance of advertising of a notice inviting bids that a prospective bidder is responsible to perform a proposed contract or that a prospective lower-tier contractor is responsible to perform specified kinds of work. Request for qualifications" means all documents, whether attached or incorporated by reference, used for soliciting qualifications statements for the purpose of evaluating and pre-qualifying prospective contractors for a proposed contract or specified kinds of work or, where appropriate, selecting the most qualified contractor for a particular contract.~~

### **§ 8101. Contract Documents.**

(a) General. - The contract documents shall consist of such documents as ~~the~~ Chief Executive Officer may deem desirable in addition to those required by law.

(b) Documents Included. - The contract documents may include, among others, a notice inviting bids, proposal, bidder's bond, form of agreement, performance bond, payment bond, specifications and drawings.

(c) Authority to Carry out Power. - Whenever award is made by the Board, such award shall constitute approval of the contract documents and the Executive Officer authorized to enter into the contract shall be authorized to carry out the powers described in the contract documents.

### **§ 8102. Requisitions and Purchase Orders.**

(a) All requests for purchases must be signed by a Department Head or someone designated in writing by a Department Head to sign such requests for purchases.

(b) All purchase orders must be signed by ~~the~~ Chief Executive Officer or someone designated by ~~the~~ Chief Executive Officer in writing to sign such purchase orders.

### **§ 8103. Delegation of Authority.**

Any power delegated to an Executive Officer under this Chapter may be re-delegated by that officer in writing to any District employee designated by that officer.

**§ ~~8116~~8104. Approval by General Counsel.**

The General Counsel shall approve, in writing, the following:

- (a) ~~d~~Drafts of all contracts involving an expenditure ~~of~~ in excess of \$250,000 ~~or more~~ before the same are entered into by or on behalf of the District.

(b) Indemnification agreements as provided in Section 8120.

(c) Relocation agreements as provided in Section 8122(c).

**Article 2**  
**AUTHORITY TO CONTRACT**

Sec.

8120. Indemnification Agreements

8121. General Authority of the Chief Executive Officer to Enter Contracts

8122. Chief Executive Officer's Contracting Authority in Specified Circumstances

8123. Authority of the Chief Executive Officer to Amend Contracts.

8124. Contracting Authority of Executive Officers Other Than The Chief Executive Officer.

**§ ~~8109~~8120. Indemnification Agreements.**

~~The Chief~~An Executive Officer is authorized to bind the Metropolitan Water District to indemnify, hold harmless, and defend another party whenever the ~~Chief~~ Executive Officer, in his or her judgment, determines that such commitment will assist the District in carrying out its purposes and functions and such commitment is incidental to an agreement which the ~~Chief~~ Executive Officer is otherwise authorized to execute. Any such agreement ~~to be executed by the Chief Executive Officer under which the District agrees to indemnify, hold harmless, and defend another party,~~ shall be subject to approval by the General Counsel.

~~§ 8103. Competitive Bids.~~ [Former §8103 moved to new §8140]

~~§ 8104. Prebid Procedures.~~ [Former §8104 moved to new §8142]

~~§ 8105. Bonds.~~ [Former §8105 moved to new §8160]

~~§ 8106. Specifications and Drawings.~~ [Former §8106 moved to new §8143]

~~§ 8107. Non-Discrimination Practices in District Contracts.~~ [Former §8107 moved to new §8161]

~~§ 8108. Payment of Prevailing Wage.~~ [Former §8108 moved to new §8162]

~~§ 8110. Posting and Advertising.~~ [Former §8110 moved to new §8144]

~~§ 8111. Evaluation.~~ [Former §8111 moved to new §8145]

~~§ 8112. Rejection of Bids.~~ [Former 8112 moved to new §8146]

~~§ 8113. Award.~~ [Deleted in its entirety as redundant.]

~~§ 8114. Execution.~~ [Former §8114 moved to new §8147]

**§ 81158121. Negotiated General Authority of the Chief Executive Officer to Enter Contracts.**

~~———— All contracts not required to be let by competitive bidding shall be entered into as follows:~~

(a) Contracts Over \$250,000. - Except as provided in Section ~~8115(b)~~ 8122, if the amount payable or expected to be paid by the District under the terms of the contract is in excess of \$250,000 ~~or more~~, the contract shall be executed only upon prior approval of the Board, provided that the Board may designate an officer of the District to negotiate and execute classes of contracts without prior approval of the Board. ~~The Chief Executive Officer is authorized to negotiate and execute contracts in which the District receives funds of any amount, provided Board approval is not otherwise required.~~

~~———— (b) Emergency Contracts~~ [§8115(b) moved to new §8122]

(eb) Contracts Under of \$250,000 or less. - If the amount payable or expected to be paid by the District under the terms of a contract is ~~less than~~ \$250,000 or less the contract may be executed by the Chief Executive Officer ~~unless~~ except as provided in Section 8122 or otherwise directed by the Board.

~~———— (d) Change Orders~~ [§8115(d) moved to new §8123]

~~§ 8116. Approval by General Counsel~~ [§8116 moved to new §8104]

~~§ 8117. (c) Professional and Technical Consultants.~~ — The Chief Executive Officer may exercise without restriction the contractual powers conferred by Section ~~8115(e)~~ 8121(b) regardless of subject matter, ~~including the power to contract for professional and consulting services~~, provided that the amount payable under any one contract for professional and technical services during any one year shall not exceed \$250,000.

**§ 8122. Chief Executive Officer's Contracting Authority in Specified Circumstances.**

(a) Grants and Receipt of Funds. — The Chief Executive Officer is authorized to negotiate and execute contracts in which the District receives funds of any amount, provided Board approval is not otherwise required. [From former §8115(a)]

(b) Emergency Contracts.

The Chief Executive Officer is delegated the authority to waive competitive bid requirements and execute contracts over the amount of \$25,000 for the construction of works or structures, for the purchase of equipment, materials or supplies, or performance of labor or services and take any directly related and immediate action required by that emergency when such construction, purchase of equipment, materials or supplies is determined by the Chief Executive Officer to be for an emergency, subject to the following requirements:

(1) The Chief Executive Officer shall report to the Board not later than 7 days after the emergency action or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action, the details of the emergency and reasons justifying the actions taken.

(2) At each regularly scheduled meeting following the emergency action, the Board shall determine by four-fifths vote whether there is a need to continue the action or terminate action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed through competitive bid procedures.

(3) Such contracts shall not be binding on the District in an amount exceeding \$250,000 unless the Chief Executive Officer obtains ratification of such contract by a four-fifths vote of the Board.

~~§ 8118(a)~~ (c) Relocation Agreements

(1) The Chief Executive Officer is authorized to execute any agreement involving an amount not exceeding \$500,000 under which the District is to pay the cost of relocation or protection, or both, of facilities owned by others whenever the Chief Executive Officer deems that such action is necessary to the construction of District facilities.

(2) The Chief Executive Officer is authorized to issue all appropriate orders necessary to implement any such agreement, and, in the Chief Executive Officer's discretion, to advance funds therefor.

(3) The Chief Executive Officer is authorized to execute and to perform any agreement involving an amount not exceeding \$500,000 for the relocation or protection, or both, of District-owned facilities to accommodate the improvement of facilities owned by others and to determine whether a deposit shall be made prior to the commencement of work, and if so, in what amount.

(4) The Chief Executive Officer shall report quarterly to the Engineering and Operations Committee the Chief Executive Officer's execution under the authority of this Section of any agreements involving an amount in excess of \$100,000.

(5) All such agreements shall be subject to the approval of the General Counsel.

~~(b)(d)~~ Contracts for Utility Services. - The Chief Executive Officer is authorized to negotiate and execute contracts for utility services, other than electrical energy for the pumping of Colorado River water, to facilities owned or operated by the District without limitation as to amount.

~~(e)(e)~~ Power and Transmission Contracts.

(1) General Authorization. - The Chief Executive Officer is authorized to negotiate and execute contracts of ~~duration~~ up to 24 months duration from the end of the current month to furnish power or transmission capability to the District or dispose of power or transmission capability available to the District. Such contracts for power or transmission capability may not exceed a total payment obligation of \$35 million within any 24-month period unless authorized by the Board.

(2) Reporting. - The Chief Executive Officer shall report at the next regular meeting of the Board the execution of any contract authorized by this Section ~~8118(e)~~8122(e).

(3) Risk management. – The Chief Executive Officer shall maintain a risk management policy to provide guidance and management oversight for the purchase of supplemental energy for the Colorado river Aqueduct operations. The risk management policy shall address market and credit risks associated with the purchase of supplemental energy.

~~§8120. (f) Insurance Pertaining to Employees.~~

The Chief Executive Officer ~~of the District~~ is authorized to negotiate, renegotiate and enter into contracts with various insurance carriers for current plans of coverage or replacement plans of coverage consistent with the system of insurance for various types of employee group insurance plans heretofore approved or to be approved in the future by the Board.

~~§8121. (g) Contracts for Equipment, Materials, Supplies, and Routine Services.~~

~~(a1)~~ The Chief Executive Officer may execute contracts for the purchase or lease of operating equipment, regardless of dollar value, which is specifically identified in the budget provided that the amount of any contract does not exceed 110 percent of the amount identified in the budget for that operating equipment and that sufficient funds are available within the annual budget.

~~(b2)~~ The Chief Executive Officer may execute contracts for the purchase of materials, supplies, other consumable items such as fuels, water treatment chemicals, materials for construction projects and other bulk items, and for routine services such as waste disposal and maintenance services, which are generally identified in the budget, regardless of dollar value, provided that sufficient funds are available within the annual budget for such materials, supplies and routine services.

~~(e3)~~ All contracts under this section shall be awarded after competitive ~~bidding procurement~~ unless otherwise exempted by this Code.

~~(h) Travel. – The Chief Executive Officer may execute contracts for the handling of District airline ticketing, lodging, automobile rental reservations, and miscellaneous travel-related services. [From former §8103(k).]~~

~~§ 8113. Award.~~

~~(a) By Board. – Award of contract required to be made upon competitive bidding shall be made by the Board in the following instances:~~

~~(1) When the lowest responsible bid for the construction of works or structures, for the purchase of equipment, materials or supplies, or for the performance of labor or services is \$250,000 or more;~~

~~(2) Where competitive bids are required and the low bid meeting the requirements of the notice inviting bids is not accepted.~~

~~\_\_\_\_\_ (b) By Chief Executive Officer. In all cases other than those referred to in Section 8113(a) hereof, award of contract may be made by the Chief Executive Officer unless otherwise directed by the Board.~~

**§ 8123. Authority of the Chief Executive Officer to Amend Contracts.**

~~(da) Change Orders.~~—Except for capital construction contracts, if the amount payable under a change order is ~~less than~~ \$250,000 ~~or less~~, the Chief Executive Officer is authorized to execute the change order even if the change order will bring the total amount payable under the contract to ~~more than~~ \$250,000 ~~or more~~. Notwithstanding the foregoing, the Chief Executive Officer shall not, without prior Board approval, issue ~~one or more~~ change orders totaling more than \$250,000 to a contract involving an original total amount payable ~~underof~~ \$250,000 ~~or less~~, or a change order that would cause the amount payable under a contract for professional and consulting services to exceed the limit established by Section ~~8117~~8121(c).

~~\_\_\_\_\_ (b)~~ Change orders for capital construction projects may be executed by the Chief Executive Officer without prior Board approval for an aggregate amount of \$250,000 per contract or an aggregate amount not to exceed 5 percent of the initial amount of the contract.

**§ 8124. Contracting Authority of Executive Officers Other Than The Chief Executive Officer.**

~~\_\_\_\_\_ (a) General Counsel. – The contracting authority of the General Counsel is as provided in Section 6430 et seq.~~

~~\_\_\_\_\_ (b) General Auditor. – The contracting authority of the General Auditor is as provided in Section 6450 et seq.~~

~~\_\_\_\_\_ (c) Ethics Officer. – The contracting authority of the Ethics Officer is as provided in Section 6470 et seq.~~

~~§ 8119. Delegation of Hearing Power.~~ [Former §8119 moved to new §8148]

~~§ 8120. Insurance Pertaining to Employees.~~ [Former §8120 moved to new §8122(f)]

~~§ 8121. Contracts for Equipment, Materials, Supplies, and Routine Services.~~ [Former §8121 moved to new §8122(g)]

**Article 3**  
**AWARD OF CONTRACTS**

Sec.

8140. Competitive Procurement

8141. Competitive Sealed Bidding

8142. Prebid Procedures for Competitive Sealed Bidding

8143. Specifications and Drawings for Competitive Sealed Bidding

8144. Posting and Advertising for Competitive Sealed Bidding

8145. Evaluation of Bids

8146. Rejection of Bids

8147. Execution

8148. Delegation of Hearing Power

8149. Best Value Procurement

**§ ~~8103~~8140. Competitive ~~Bids~~Procurement.**

All contracts estimated to cost \$25,000 or more shall be made upon a competitive bidding procurement method of either competitive sealed bidding or best value procurement as provided in this Chapter, except:

(a) Contracts for miscellaneous services, such as telephone, telegraph, light, power and water, where rates or prices are fixed by legislation or by federal, state, county or municipal regulations.

(b) Contracts deemed to be for an emergency under the procedures set forth in ~~§8115~~8122(b) and in accordance with Public Contract Code Section 21567.

(c) Contracts executed in lieu of bringing an action in eminent domain, to reimburse an owner for the owner's costs of relocating or protecting facilities affected by District construction projects.

(d) If the articles wanted are patented, copyrighted or otherwise unique and not on sale by dealers generally, but only at a fixed and uniform price by their owner or the owner's agents or assigns. When such an article is to be purchased, the ~~Department Head~~Chief Executive Officer's designee preparing the specifications shall certify that the particular article will best serve the purpose of the District, and reasons for such conclusion shall be set forth.

(e) If competitive bidding procurement could not produce an advantage, or it is impracticable to obtain what is required subject to the competitive bidding procurement provisions because of the unique, exploratory, or experimental nature of the work. Prior to award of contract, the ~~Department Head~~Chief Executive Officer's designee proposing such contract shall certify that the contract is exempt from competitive bidding procurement and shall set forth in the certificate reasons for that determination.

(f) If, within six months previous to the date of execution of a proposed contract, advertising or posting for identical articles, or articles of the same general character, has failed to secure responsive proposals and, in the opinion of the Chief Executive Officer, further advertising or posting will not alter this result.

(g) If the purchase is of used equipment which, in the opinion of the Chief Executive Officer, is satisfactory for the work of the District.

(h) If the contract is with any governmental agency.

(i) Contracts for insurance or for services of a professional, artistic, scientific, or technical character.

(j) Change orders.

(k) ~~The Chief Executive Officer may enter into e~~Contracts for the handling of District airline ticketing, lodging, automobile rental reservations, and miscellaneous travel-related services.

(l) Contracts to buy or sell non-firm power on an hour-to- hour basis and other contracts of durations up to one year to furnish power or transmission capability to the District or dispose of power or transmission capability available to the District.

(m) Transactions pursuant to contracts secured by other public corporations which, in the opinion of the General Counsel, substantially comply with the competitive ~~bidding~~procurement requirements of this Chapter.

### **§ 8141. Competitive Sealed Bidding.**

~~(a) Except as otherwise provided in Section 8140, all contracts for public works estimated to cost \$25,000 or more shall be made upon competitive sealed bidding.~~

~~(b) When the~~For contracts other than public works contracts and for contracts estimated to cost of a contract is less than \$25,000, the Chief Executive Officer may prescribe the procedure for contracting, which may include competitive bidding as provided in this Article or as modified in the Chief Executive Officer's discretion. [From former § 8110 (c)]

### **§ ~~8104~~8142. Prebid Procedures for Competitive Sealed Bidding.**

(a) As used in this Section ~~8104~~8142, the term "applicants" includes prospective bidders and lower-tier contractors for contracts to be performed for the District.

(b) The notice inviting bids shall provide for the District's right to reject any and all proposals.

(c) The contracting procedure may provide one or more of the following:

(1) That, the Chief Executive Officer shall determine the responsibility of applicants in advance of receipt of bids and that bidding shall be restricted to bidders determined by the Chief Executive Officer to be responsible or that the performance of lower-tier contracts shall be restricted to lower-tier contractors determined by the Chief Executive Officer to be responsible. In determining responsibility, the Chief Executive Officer may consider:

(i) An applicant's experience in the design, construction, fabrication, assembly, or manufacture of works or materials similar to what will be called for under the contract documents;

(ii) The experience of others with the applicant in the construction, fabrication, assembly, or operation of similar works or materials designed, constructed, fabricated, or assembled by the applicant;

(iii) The physical plant, facilities, and equipment the applicant proposes to employ in the performance of a proposed contract or lower-tier contract;

(iv) The experience and expertise of an applicant's responsible managing personnel, key staff members, and other employees who would be assigned to the work if the applicant were awarded the contract or lower-tier contract;

(v) As to prospective bidders, the extent to which any part of the contract is to be performed by lower-tier contractors or suppliers;

(vi) The financial capability and resources of the applicant to perform the proposed contract or lower-tier contract; and

(vii) Any other factor bearing on the responsibility of an applicant, which factor shall be set forth in the notice inviting pre-qualification information.

(2) That, subject to standards to be set forth in the contract documents, each prospective bidder shall submit a technical proposal to the District and the responsiveness to the specifications of such proposal shall be determined by the Chief Executive Officer in advance of receipt of bids and bidding shall be restricted to bidders determined by the Chief Executive Officer to have furnished a technical proposal determined by the Chief Executive Officer to be responsive.

Provisions implementing this Section ~~81048142~~(c)(2) shall not be included in the contract documents unless the Chief Executive Officer finds the following conditions to be true:

(i) There are no sufficiently definite or complete specifications or purchase descriptions available to permit free competition without engineering evaluation and discussion of the technical aspects of the procurement;

(ii) Criteria do exist for evaluating technical proposals, such as design, manufacturing, testing, and performance requirements; and special requirements for operational suitability and ease of maintenance; and

(iii) It is expected that more than one technically qualified source will be available, both initially and after technical evaluation.

(3) That, as a condition to submitting a bid or performing a specified portion of the proposed contract, an applicant shall comply with any and all conditions precedent determined by the Chief Executive Officer to be necessary to enable the applicant to submit a bid to the District or to any other applicant, as the case may be, which takes into account all factors affecting performance of the work or portion of the work to be performed by the applicant.

(4) The Chief Executive Officer may determine that an applicant is responsible to perform more than one contract for which notices inviting bids are to be posted and advertised after the

date of the Chief Executive Officer's determination. In the event of such prior determination, the Chief Executive Officer may, at any time thereafter:

(i) Determine that an applicant is no longer responsible, or

(ii) Advertise and post additional notices ~~inviting requesting~~ pre-qualification information and determine that additional applicants are responsible to perform contracts subsequent to the contract for which pre-qualification information is initially requested.

(d) In the event any applicant is determined by the Chief Executive Officer not to be responsible or no longer responsible after previously having been determined to be responsible, or a prospective bidder's proposal is determined by the Chief Executive Officer not to be technically responsive to the contract documents, or the Chief Executive Officer determines that a bidder or an applicant has failed to comply with a condition precedent, the Chief Executive Officer shall set forth his ~~or her~~ determination in writing together with ~~his~~the reasons therefor and shall serve a copy of ~~his~~the determination and reasons on the bidder or applicant. The bidder or applicant may, within 10 days after service of the Chief Executive Officer's decision, file with the Executive Secretary a notice of protest and demand for hearing by the Executive Committee of the Board.

(e) Any hearing requested pursuant to Section ~~81048142~~(d) shall be conducted in accordance with the procedures provided for in Section ~~81198148~~.

(f) In the event a decision on a bidder's or applicant's protest is made less than 20 days before the date set for the opening of proposals, such opening shall be postponed to a date not less than 20 days after the date of decision.

(g) Notwithstanding any provision to the contrary in this Section ~~81048142~~, there shall be no right to a hearing on a bidder's or applicant's protest when the Executive Committee determines that award of contract is of ~~urgent necessity~~an emergency.

**§ ~~81068143~~. Specifications and Drawings for Competitive Sealed Bidding.**

(a) Specifications and necessary drawings for the construction of public works ~~or structures or for the furnishing of equipment, materials, supplies, or services~~ shall be prepared by, or under the direction of, the ~~Department Head~~Chief Executive Officer or designee responsible for seeing the work performed.

(b) Specifications, including drawings, if any, shall be sufficient to clearly describe the work required to be done, the quality and properties of materials to be furnished, the results and performance required, and the method of payment for the work done and materials and equipment furnished.

**§ ~~8110~~8144. Posting and Advertising for Competitive Sealed Bidding.**

(a) General. - No notice inviting bids for any contract required to be let upon competitive bidding shall be posted or advertised unless there is first prepared a complete set of contract documents detailing the terms of the agreement and the work to be performed, which set shall be available to any interested party.

(b) — Public Works Contracts Estimated to Cost \$25,000 or More. - Whenever a contract required to be let upon competitive bidding is estimated to cost \$25,000 or more, a notice inviting bids shall be posted in a public place within the District and shall be published not less than once in a newspaper or periodical designated by the Chief Executive Officer at least five days, exclusive of Saturday, Sunday and holidays, before the time for opening bids; provided, however, that the foregoing requirement shall not apply when bids will be considered only from bidders determined to be pre-qualified or whose technical proposal is determined to be responsive to the District's specifications, as determined under the procedure set forth in Section 8104.

~~———— (c) Contracts Estimated to Cost Less Than \$25,000~~

~~———— (1) When the estimated cost of a contract is less than \$25,000, the Chief Executive Officer may prescribe the procedure for contracting which may include competitive bidding. [Former § 8110 (c) moved to new § 8141 (b)]~~

(~~dc~~) Other Notices. - A notice ~~inviting requesting~~ pre-qualification information or a notice ~~inviting requesting~~ technical proposals shall be posted and advertised in the manner required for the notice inviting bids for the proposed contract for which prospective bidders or prospective lower-tier contractors will be required to be pre-qualified or for which a technical proposal is requested; provided, however, that a notice inviting technical proposals need not be posted or advertised where bidding is restricted to bidders determined to be pre-qualified under the procedure set forth in Section 8104. Posting and advertising shall take place sufficiently in advance of the date of posting and advertising of the notice inviting bids to permit the Chief Executive Officer to fully evaluate the information submitted in response thereto and to make a determination.

**§ ~~8111~~8145. Evaluation of Bids.**

(a) Unless otherwise directed by the Board, the Chief Executive Officer shall compare all bids received pursuant to any notice inviting bids or other solicitation for compliance with the terms of the notice inviting bids or solicitation and shall determine the lowest responsive, responsible bid of all those received and, when award of contract is to be made by the Board, make a recommendation in writing to the Board.

(b) As permitted by law, the bids may be adjusted as stated in the notice inviting bids to include bid preferences in furtherance of the District's Business Outreach goals.

**§ ~~81128146~~. Rejection of Bids.**

The Chief Executive Officer may reject all bids received, regardless of amount, but shall, whenever the lowest bid that is rejected is \$250,000 or more and the contract is recommended for award to another, report such action ~~to the Engineering and Operations Committee~~ in the recommendation to the Board.

**§ ~~81148147~~. Execution.**

After award, all contracts required to be let upon competitive bidding shall be executed on behalf of the District by the Chief Executive Officer unless otherwise directed by the Board.

**§ ~~81198148~~. Delegation of Hearing Power.**

Hearings on Substitution of Subcontractors.

(a) Whenever the Board is required by Section 4107 of the Public Contract Code to hold a hearing the Chief Executive Officer is authorized and directed to conduct such hearing, prescribe procedures therefor, give proper notice thereof, receive all evidence and testimony, rule on the admissibility of evidence, prepare a record of the proceedings, and submit such record and recommendations and based only upon such record, the Board shall make the determination required by law.

(b) The Chief Executive Officer may consent to the substitution of another subcontractor for the subcontractor listed in a prime contractor's original bid whenever the listed subcontractor, after having been notified as required by law, fails to submit written objections within the time allowed by law and the Chief Executive Officer determines that one of the grounds for substitution listed in Section 4107 of the Public Contract Code has been established to the Chief Executive Officer's satisfaction.

(c) Any power delegated to the Chief Executive Officer by this Section ~~81198148~~ may be re-delegated by the Chief Executive Officer to any officer or employee of the District.

**§ 8149. Best Value Procurement.**

(a) Application. – Whenever a contract other than a contract for public works is required to be competitively procured but it is considered impractical or not advantageous to use the competitive sealed bidding method, a contract may be awarded by the best value method of procurement as provided in this Section. The Executive Officer or designee shall determine in writing that the best value method of procurement is practical or advantageous for a particular procurement prior to using this method.

(b) Posting and Advertising. – Proposals shall be solicited through a request for proposals which shall be posted and advertised in a manner that provides adequate public notice of the request as determined by the Executive Officer.

(c) Evaluation Factors. – The evaluation factors to be used in the determination of award and the numerical weighting for each factor shall be stated in the request for proposals.

(1) Contract cost must be a factor in the determination of the award.

(2) Evaluation factors may be defined to include, but are not limited to, the following:

(i) Operational and other future costs and risks that the District would incur if the proposal is accepted;

(ii) Quality and benefits of the product or service, or its technical competency;

(iii) Quality and effectiveness of management approach and controls;

(iv) Qualifications of personnel and management team;

(v) Financial stability of the prospective contractor;

(vi) Past performance and past experience; and

(vii) Furtherance of the District’s Business Outreach Program goals.

(d) Evaluation of Proposals.

(1) Proposals shall be evaluated on the basis of the criteria stated in the request for proposals and by adhering to the weighting as assigned. Award will be made to the bidder whose proposal is determined to be the most advantageous to the District, except that the Executive Officer may reject all proposals received.

(2) Where the best value proposal is not the lowest price proposal from a responsive, responsible bidder, that selection shall be based on a written determination by the Executive Officer or designee that the superiority of the selected proposal warrants the additional costs.

**Article 4**

**CONTRACT TERMS AND CONDITIONS**

Sec.

8160. Bonds

8161. Non-Discrimination Practices in District Contracts.

8162. Payment of Prevailing Wages.

**§ ~~81058160~~. Bonds.**

(a) Every contract involving in excess of \$25,000 for the construction of public works ~~or structures for the District~~ shall be accompanied by a payment bond executed by a corporate surety authorized to do business in California, approved by the Chief Executive Officer. The payment bond shall contain the provisions required by Title 15 of Part 4 of Division 3 of the Civil Code.

(b) Every contract involving in excess of \$100,000 for the construction of public works ~~or structures for the District~~ or for the purchase of equipment, materials or supplies specially made or fabricated to District plans and specifications must be accompanied by a performance bond in an amount fixed by the Chief Executive Officer and executed by a corporate surety authorized to do business in California, approved by the Chief Executive Officer, or by a cash guarantee deposit in like amount. The Chief Executive Officer may require performance bonds for contracts of \$100,000 or less.

(c) Bidder's Bond. - Whenever a performance bond is required under Section ~~81058160~~(b), the Chief Executive Officer may require bids with respect to such work or purchase to be accompanied by either a certified or cashier's check, or bidder's bond executed by a corporate surety authorized to engage in such business in California, made payable to the District. Such check or bond shall be in an amount not less than specified in the notice inviting bids or, if no amount be so specified, then in an amount not less than 10 percent of the aggregate amount of the bid, and shall guarantee that the successful bidder will enter into a contract with the District on the terms stated in his or her proposal within the time specified in the contract documents.

**§ ~~81078161~~. Non-Discrimination Practices in District Contracts.**

The Chief Executive Officer is authorized to adopt a program to promote equal employment opportunities and non-discrimination practices in all District contracts involving an estimated cost exceeding \$25,000.

**§ ~~81088162~~. Payment of Prevailing Wages.**

If not otherwise required, ~~¶~~the Chief Executive Officer is authorized to include provisions relating to the payment of prevailing wages in ~~future special~~-service contracts in his or her discretion.

**[Revisions to Division II Re: Reporting Requirements]**

**Chapter 7  
PERIODIC STAFF REPORTS TO BOARD AND COMMITTEES**

Article		Sec.
1	Annual Reports	2700
2	Semi-annual Reports	2715
3	Quarterly Reports	2720
4	Monthly Reports	2740
5	Miscellaneous Reports	2750

**Article 1  
ANNUAL REPORTS**

Sec.

2700. Chief Executive Officer's Annual Reports

2701. Treasurer's Annual Reports

**§ 2700. Chief Executive Officer’s Annual Reports.**

The Chief Executive Officer shall annually make the following reports:

(a) To the Board:

(1) On financial matters generally;

(2) After consulting with the General Counsel, on the results of his or her review made pursuant to Section 5204 of District compliance with minimum fund requirements outlined in Sections 5201-5204 and with the articles and covenants contained in resolutions of issuance;

(3) On all leases made during the preceding year under the authority of Sections 8222, 8223; 8230 and 8232; and

(4) On the status of appropriations pursuant to Section 5108(c).

(b) To the Engineering, and Operations Committee on all consulting agreements in effect during the preceding year and the exercise of authority under Section ~~8103(k)~~8122(h). Each such report shall indicate when a consultant is a former employee of the District.

(c) To the Executive Committee on the Chief Executive Officer’s Business Plan and goals and objectives as required by Section 6415.

**§ 2701. Treasurer's Annual Reports.**

The Treasurer shall annually make the following reports:

(a) To the Board, on the investment policy of the District.

(b) To the Audit, Budget and Finance Committee:

(1) All payments after loss of a bond interest coupon made pursuant to Section 5104; and

(2) All issuances of duplicate bonds made pursuant to Section 5105.

**Article 2  
SEMIANNUAL REPORTS**

Sec.

2715. Chief Executive Officer's Semiannual Reports

**§ 2715. Chief Executive Officer's Semiannual Reports.**

(a) The Chief Executive Officer shall semiannually report to the Executive Committee on the implementation of Sections 6300-6305 and on the status of the Affirmative Action Program.

(b) The Chief Executive Officer shall report semiannually to the Board on the status of the District's Local Resources and Conservation Programs.

**Article 3  
QUARTERLY REPORTS**

Sec.

2720. Chief Executive Officer's Quarterly Reports

2721. General Counsel's Quarterly Reports

2722. General Auditor's Quarterly Reports

**§ 2720. Chief Executive Officer's Quarterly Reports.**

The Chief Executive Officer shall quarterly make the following reports:

(a) To the Engineering and Operations Committee:

(1) On service connections approved by the Chief Executive Officer pursuant to Sections 4700-4708 with the estimated cost and approximate location of each;

(2) On the execution of any relocation agreements involving an amount in excess of \$100,000 under the authority of Section ~~8118(a)~~8122(c);

(3) On the execution of any contract authorized pursuant to Section ~~8121~~8122(g);

(4) Deeds or grants accepted during the preceding quarter;

(5) Easements, or similar rights, granted during the preceding quarter under the authority of Section 8220, and shall also include in such report any relocation or protection agreement made in connection therewith;

(6) All leases made during the preceding quarter under the authority of Sections 8222, 8223, 8230 and 8232;

(7) The details of any transactions during the preceding quarter in which an improvement was disposed of in such a manner as to make the improvement available for subsequent use by a party other than the District; and

(8) Property sold pursuant to the authority granted by Section 8240 et seq.

(9) The status of all information technology projects throughout the organization

(b) To the Legal, and ~~Claims and Personnel~~ Committee, jointly with the General Counsel, the exercise of any power delegated to them by Sections 6431, 6433 and 6434.

(c) To the Legal, and ~~Claims and Personnel~~ Committee on the employment of any professional and technical consultant, the extension of any professional and technical consulting agreement, and on the exercise of authority under Section ~~8103(k)~~8121(c) and 8122(h) and 81178123(a) during the preceding calendar quarter. The report covering the last calendar quarter of the year may be combined with and included in the annual report. Each such report shall indicate when a consultant is a former employee of the District.

(d) To Budget, Finance, ~~and~~ Investment and Insurance Committee a summary of financial performance including Comparative Statements of Operations and Comparative Balance Sheets and variances thereof from estimates.

#### **§ 2721. General Counsel's Quarterly Reports.**

The General Counsel shall quarterly report to the Executive Committee the exercise of any power delegated to him by Section 6431.

#### **§ 2722. General Auditor's Quarterly Reports.**

The General Auditor shall report to the Executive Committee the exercise of any power delegated to him by Section 6452.

**Article 4  
MONTHLY REPORTS**

Sec.

2740. Chief Executive Officer's Monthly Reports

2741. General Counsel's Monthly Reports

2742. Treasurer's Monthly Reports

**§ 2740. Chief Executive Officer's Monthly Reports.**

(a) The Chief Executive Officer shall monthly report to the Board the execution of any power or transmission contract authorized by Section ~~8118(e)~~8122(e) and any transaction made under such contract.

**§ 2741. General Counsel's Monthly Reports.**

The General Counsel shall monthly make the following reports:

(a) To the Board, a determination as to eligibility of securities invested in by the Treasurer in the preceding month.

(b) To the Legal; and ~~Claims and Personnel~~ Committee, any changes made by staff in the organization of the Code and in the titles of divisions, chapters, sections and subsections.

**§ 2742. Treasurer's Monthly Reports.**

The Treasurer shall monthly make the following reports:

(a) To the Board, transactions made pursuant to the delegation made by Section 5101(a).

(b) To the Board and to the Chief Executive Officer, a report showing the type of investment, institution, date of maturity, amount of deposit, current market value for all securities with a maturity of more than 12 months, and rate of interest. The report shall specify in detail investments in repurchase or reverse repurchase agreements made pursuant to subdivision (i) of Section 53601 and subdivision (i) of Section 53635 of the Government Code. The report shall also state its relationship to the statement of investment policy. A subsidiary ledger of investments may be used in the report in accordance with accepted accounting practices.

**Article 5  
MISCELLANEOUS REPORTS**

Sec.

2750. Escheat to District of Unclaimed Funds

2751. Report of Exercise of Authority

2752. Rejection of Bids

**§ 2750. Escheat to District of Unclaimed Funds.**

The Treasurer shall file a report with the ~~Audit, Budget, and Finance~~, Investment and Insurance Committee after each publication made pursuant to Section 5113 regarding moneys unclaimed in the District treasury.

**§ 2751. Report of Exercise of Authority.**

The Chief Executive Officer shall report to the next following meeting of the ~~Audit, Budget, and Finance~~, Investment and Insurance Committee any exercise of authority pursuant to Sections 5300-5303.

~~**§ 2752. Rejection of Bids.**~~

~~———— The Chief Executive Officer shall, whenever the lowest bid that is rejected is \$125,000 or more, report the action to the Engineering and Operations Committee.~~

~~Section 2752 adopted by M.I. 36464 January 13, 1987, effective April 1, 1987; amended by M.I. 39036 June 11, 1991; amended by M. I. 44582 August 20, 2001.~~

~~**§ 2752. Emergency Contracting.**~~

~~———— The Chief Executive Officer shall report to the Board on any action taken under the authority of Section 8122(b) within 7 days after taking that action or at the next following meeting of the Engineering and Operations Committee if that meeting will occur not later than 14 days after the action.~~

## Division VIII

### CONTRACTS/DISTRICT PROPERTY

Chapter	Sec.
1 Contracts	8100
2 District Property	8200
3 Business Outreach	8300

### Chapter 1 CONTRACTS

Article	Sec.
1 General Provisions	8100
2 Authority to Contract	8120
3 Award of Contracts	8140
4 Contract Terms and Conditions	8160

### Article 1 GENERAL PROVISIONS

Sec.
8100. Definitions
8101. Contract Documents
8102. Requisitions and Purchase Orders
8103. Delegation of Authority
8104. Approval by General Counsel

#### **§ 8100. Definitions.**

The definitions contained in this section govern the interpretation of this chapter:

(a) Best Value Procurement. – "Best value procurement" means a competitive procurement method where factors in addition to price are considered in order to award a contract that provides the best overall value to the District.

(b) Change Order. - "Change order" means an amendment modifying the terms of an existing contract.

(c) Contract. - "Contract" means any written agreement, including purchase orders, to which the District is a party.

(d) Construction. - "Construction" includes erection, demolition, alteration, repair, and relocation.

(e) Form of Agreement. - "Form of agreement" is the document evidencing the contractual relationship of the District and the successful bidder.

(f) Notice Inviting Bids. - "Notice inviting bids" means a notice inviting proposals for entering into a contract upon the terms of contract documents incorporated in said notice by reference.

(g) Professional and Technical Services. – "Professional and technical services" mean a specialized personal service rendered by an independent contractor who has specialized knowledge, skill and expertise in an area generally recognized to be practiced exclusively by such contractors.

(h) Proposal. - "Proposal" means the prospective contractor's offer to enter into a contract upon the terms set forth therein or in the contract documents.

(i) Public Works. – "Public works" mean contracting for the erection, construction, alteration, repair, or improvement, including demolition and installation work, of any public structure, building, road, or other public improvement of any kind. Public works does not include work done by the District's force account, work not paid for out of public funds, or contracting for the purchase of finished products, materials, or supplies.

(j) Purchase Order. - "Purchase order" means an authorization under which the party designated therein as contractor is to provide materials or services for which the District agrees to pay pursuant to the terms contained thereon or in a separate contract.

(k) Request for Proposals. - "Request for proposals" means all documents, whether attached or incorporated by reference, used for soliciting technical proposals through a competitive sealed proposal process.

(l) Request for Qualifications. - "Request for qualifications" means all documents, whether attached or incorporated by reference, used for soliciting qualifications statements for the purpose of evaluating and pre-qualifying prospective contractors for a proposed contract or specified kinds of work or, where appropriate, selecting the most qualified contractor for a particular contract.

#### **§ 8101. Contract Documents.**

(a) General. - The contract documents shall consist of such documents as an Executive Officer may deem desirable in addition to those required by law.

(b) Documents Included. - The contract documents may include, among others, a notice inviting bids, proposal, bidder's bond, form of agreement, performance bond, payment bond, specifications and drawings.

(c) Authority to Carry out Power. - Whenever award is made by the Board, such award shall constitute approval of the contract documents and the Executive Officer authorized to enter into the contract shall be authorized to carry out the powers described in the contract documents.

**§ 8102. Requisitions and Purchase Orders.**

(a) All requests for purchases must be signed by a Department Head or someone designated in writing by a Department Head to sign such requests for purchases.

(b) All purchase orders must be signed by an Executive Officer or someone designated by an Executive Officer in writing to sign such purchase orders.

**§ 8103. Delegation of Authority.**

Any power delegated to an Executive Officer under this Chapter may be re-delegated by that officer in writing to any District employee designated by that officer.

**§ 8104. Approval by General Counsel.**

The General Counsel shall approve, in writing, the following:

(a) Drafts of all contracts involving an expenditure in excess of \$250,000 before the same are entered into by or on behalf of the District.

(b) Indemnification agreements as provided in Section 8120.

(c) Relocation agreements as provided in Section 8122(c).

**Article 2  
AUTHORITY TO CONTRACT**

Sec.

8120. Indemnification Agreements

8121. General Authority of the Chief Executive Officer to Enter Contracts

8122. Chief Executive Officer's Contracting Authority in Specified Circumstances

8123. Authority of the Chief Executive Officer to Amend Contracts.

8124. Contracting Authority of Executive Officers Other Than The Chief Executive Officer.

**§ 8120. Indemnification Agreements.**

An Executive Officer is authorized to bind the Metropolitan Water District to indemnify, hold harmless, and defend another party whenever the Executive Officer, in his or her judgment, determines that such commitment will assist the District in carrying out its purposes and functions and such

commitment is incidental to an agreement which the Executive Officer is otherwise authorized to execute. Any such agreement shall be subject to approval by the General Counsel.

**§ 8121. General Authority of the Chief Executive Officer to Enter Contracts.**

(a) Contracts Over \$250,000. - Except as provided in Section 8122, if the amount payable or expected to be paid by the District under the terms of the contract is in excess of \$250,000, the contract shall be executed only upon prior approval of the Board, provided that the Board may designate an officer of the District to negotiate and execute classes of contracts without prior approval of the Board.

(b) Contracts of \$250,000 or less. - If the amount payable or expected to be paid by the District under the terms of a contract is \$250,000 or less the contract may be executed by the Chief Executive Officer except as provided in Section 8122 or otherwise directed by the Board.

(c) Professional and Technical Consultants. – The Chief Executive Officer may exercise without restriction the contractual powers conferred by Section 8121(b) regardless of subject matter provided that the amount payable under any one contract for professional and technical services during any one-year shall not exceed \$250,000.

**§ 8122. Chief Executive Officer's Contracting Authority in Specified Circumstances.**

(a) Grants and Receipt of Funds. – The Chief Executive Officer is authorized to negotiate and execute contracts in which the District receives funds of any amount, provided Board approval is not otherwise required.

(b) Emergency Contracts.

The Chief Executive Officer is delegated the authority to waive competitive bid requirements and execute contracts over the amount of \$25,000 for the construction of works or structures, for the purchase of equipment, materials or supplies, or performance of labor or services and take any directly related and immediate action required by that emergency when such construction, purchase of equipment, materials or supplies is determined by the Chief Executive Officer to be for an emergency, subject to the following requirements:

(1) The Chief Executive Officer shall report to the Board not later than 7 days after the emergency action or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action, the details of the emergency and reasons justifying the actions taken.

(2) At each regularly scheduled meeting following the emergency action, the Board shall determine by four-fifths vote whether there is a need to continue the action or terminate action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed through competitive bid procedures.

(3) Such contracts shall not be binding on the District in an amount exceeding \$250,000 unless the Chief Executive Officer obtains ratification of such contract by a four-fifths vote of the Board.

(c) Relocation Agreements

(1) The Chief Executive Officer is authorized to execute any agreement involving an amount not exceeding \$500,000 under which the District is to pay the cost of relocation or protection, or both, of facilities owned by others whenever the Chief Executive Officer deems that such action is necessary to the construction of District facilities.

(2) The Chief Executive Officer is authorized to issue all appropriate orders necessary to implement any such agreement, and, in the Chief Executive Officer's discretion, to advance funds therefore.

(3) The Chief Executive Officer is authorized to execute and to perform any agreement involving an amount not exceeding \$500,000 for the relocation or protection, or both, of District-owned facilities to accommodate the improvement of facilities owned by others and to determine whether a deposit shall be made prior to the commencement of work, and if so, in what amount.

(4) The Chief Executive Officer shall report quarterly to the Engineering and Operations Committee the Chief Executive Officer's execution under the authority of this Section of any agreements involving an amount in excess of \$100,000.

(5) All such agreements shall be subject to the approval of the General Counsel.

(d) Contracts for Utility Services. - The Chief Executive Officer is authorized to negotiate and execute contracts for utility services, other than electrical energy for the pumping of Colorado River water, to facilities owned or operated by the District without limitation as to amount.

(e) Power and Transmission Contracts.

(1) General Authorization. - The Chief Executive Officer is authorized to negotiate and execute contracts of up to 24 months duration from the end of the current month to furnish power or transmission capability to the District or dispose of power or transmission capability available to the District. Such contracts for power or transmission capability may not exceed a total payment obligation of \$35 million within any 24-month period unless authorized by the Board.

(2) Reporting. - The Chief Executive Officer shall report at the next regular meeting of the Board the execution of any contract authorized by this Section 8122(e).

(3) Risk management. - The Chief Executive Officer shall maintain a risk management policy to provide guidance and management oversight for the purchase of supplemental energy for the Colorado River Aqueduct operations. The risk management policy shall address market and credit risks associated with the purchase of supplemental energy.

(f) Insurance Pertaining to Employees.

The Chief Executive Officer is authorized to negotiate, renegotiate and enter into contracts with various insurance carriers for current plans of coverage or replacement plans of coverage consistent with the system of insurance for various types of employee group insurance plans heretofore approved or to be approved in the future by the Board.

(g) Contracts for Equipment, Materials, Supplies, and Routine Services.

(1) The Chief Executive Officer may execute contracts for the purchase or lease of operating equipment, regardless of dollar value, which is specifically identified in the budget provided that the amount of any contract does not exceed 110 percent of the amount identified in the budget for that operating equipment and that sufficient funds are available within the annual budget.

(2) The Chief Executive Officer may execute contracts for the purchase of materials, supplies, other consumable items such as fuels, water treatment chemicals, materials for construction projects and other bulk items, and for routine services such as waste disposal and maintenance services, which are generally identified in the budget, regardless of dollar value, provided that sufficient funds are available within the annual budget for such materials, supplies and routine services.

(3) All contracts under this section shall be awarded after competitive procurement unless otherwise exempted by this Code.

(h) Travel. – The Chief Executive Officer may execute contracts for the handling of District airline ticketing, lodging, automobile rental reservations, and miscellaneous travel-related services.

**§ 8123. Authority of the Chief Executive Officer to Amend Contracts.**

(a) Except for capital construction contracts, if the amount payable under a change order is \$250,000 or less, the Chief Executive Officer is authorized to execute the change order even if the change order will bring the total amount payable under the contract to more than \$250,000. Notwithstanding the foregoing, the Chief Executive Officer shall not, without prior Board approval, issue one or more change orders totaling more than \$250,000 to a contract involving an original total amount payable of \$250,000 or less, or a change order that would cause the amount payable under a contract for professional and consulting services to exceed the limit established by Section 8121(c).

(b) Change orders for capital construction projects may be executed by the Chief Executive Officer without prior Board approval for an aggregate amount of \$250,000 per contract or an aggregate amount not to exceed 5 percent of the initial amount of the contract.

**§ 8124. Contracting Authority of Executive Officers Other Than The Chief Executive Officer.**

(a) General Counsel. – The contracting authority of the General Counsel is as provided in Section 6430 *et seq.*

(b) General Auditor. – The contracting authority of the General Auditor is as provided in Section 6450 *et seq.*

(c) Ethics Officer. – The contracting authority of the Ethics Officer is as provided in Section 6470 *et seq.*

### **Article 3 AWARD OF CONTRACTS**

Sec.

- 8140. Competitive Procurement
- 8141. Competitive Sealed Bidding
- 8142. Prebid Procedures for Competitive Sealed Bidding
- 8143. Specifications and Drawings for Competitive Sealed Bidding
- 8144. Posting and Advertising for Competitive Sealed Bidding
- 8145. Evaluation of Bids
- 8146. Rejection of Bids
- 8147. Execution
- 8148. Delegation of Hearing Power
- 8149. Best Value Procurement

#### **§ 8140. Competitive Procurement.**

All contracts estimated to cost \$25,000 or more shall be made upon a competitive procurement method of either competitive sealed bidding or best value procurement as provided in this Chapter, except:

(a) Contracts for miscellaneous services, such as telephone, telegraph, light, power and water, where rates or prices are fixed by legislation or by federal, state, county or municipal regulations.

(b) Contracts deemed to be for an emergency under the procedures set forth in 8122(b) and in accordance with Public Contract Code Section 21567.

(c) Contracts executed in lieu of bringing an action in eminent domain, to reimburse an owner for the owner's costs of relocating or protecting facilities affected by District construction projects.

(d) If the articles wanted are patented, copyrighted or otherwise unique and not on sale by dealers generally, but only at a fixed and uniform price by their owner or the owner's agents or assigns. When such an article is to be purchased, the Chief Executive Officer's designee preparing the specifications shall certify that the particular article will best serve the purpose of the District, and reasons for such conclusion shall be set forth.

(e) If competitive procurement could not produce an advantage, or it is impracticable to obtain what is required subject to the competitive procurement provisions because of the unique, exploratory,

or experimental nature of the work. Prior to award of contract, the Chief Executive Officer's designee proposing such contract shall certify that the contract is exempt from competitive procurement and shall set forth in the certificate reasons for that determination.

(f) If, within six months previous to the date of execution of a proposed contract, advertising or posting for identical articles, or articles of the same general character, has failed to secure responsive proposals and, in the opinion of the Chief Executive Officer, further advertising or posting will not alter this result.

(g) If the purchase is of used equipment, which in the opinion of the Chief Executive Officer, is satisfactory for the work of the District.

(h) If the contract is with any governmental agency.

(i) Contracts for insurance or for services of a professional, artistic, scientific, or technical character.

(j) Change orders.

(k) Contracts for the handling of District airline ticketing, lodging, automobile rental reservations, and miscellaneous travel-related services.

(l) Contracts to buy or sell non-firm power on a hour-to-hour basis and other contracts of durations up to one year to furnish power or transmission capability to the District or dispose of power or transmission capability available to the District.

(m) Transactions pursuant to contracts secured by other public corporations which, in the opinion of the General Counsel, substantially comply with the competitive procurement requirements of this Chapter.

#### **§ 8141. Competitive Sealed Bidding.**

(a) Except as otherwise provided in Section 8140, all contracts for public works estimated to cost \$25,000 or more shall be made upon competitive sealed bidding.

(b) For contracts other than public works contracts and for contracts estimated to cost less than \$25,000, the Chief Executive Officer may prescribe the procedure for contracting, which may include competitive bidding as provided in this Article or as modified in the Chief Executive Officer's discretion.

#### **§ 8142. Prebid Procedures for Competitive Sealed Bidding.**

(a) As used in this Section 8142, the term "applicants" includes prospective bidders and lower-tier contractors for contracts to be performed for the District.

(b) The notice inviting bids shall provide for the District's right to reject any and all proposals.

(c) The contracting procedure may provide one or more of the following:

(1) That, the Chief Executive Officer shall determine the responsibility of applicants in advance of receipt of bids and that bidding shall be restricted to bidders determined by the Chief Executive Officer to be responsible or that the performance of lower-tier contracts shall be restricted to lower-tier contractors determined by the Chief Executive Officer to be responsible. In determining responsibility, the Chief Executive Officer may consider:

(i) An applicant's experience in the design, construction, fabrication, assembly, or manufacture of works or materials similar to what will be called for under the contract documents;

(ii) The experience of others with the applicant in the construction, fabrication, assembly, or operation of similar works or materials designed, constructed, fabricated, or assembled by the applicant;

(iii) The physical plant, facilities, and equipment the applicant proposes to employ in the performance of a proposed contract or lower-tier contract;

(iv) The experience and expertise of an applicant's responsible managing personnel, key staff members, and other employees who would be assigned to the work if the applicant were awarded the contract or lower-tier contract;

(v) As to prospective bidders, the extent to which any part of the contract is to be performed by lower-tier contractors or suppliers;

(vi) The financial capability and resources of the applicant to perform the proposed contract or lower-tier contract; and

(vii) Any other factor bearing on the responsibility of an applicant, which factor shall be set forth in the notice inviting pre-qualification information.

(2) That, subject to standards to be set forth in the contract documents, each prospective bidder shall submit a technical proposal to the District and the responsiveness to the specifications of such proposal shall be determined by the Chief Executive Officer in advance of receipt of bids and bidding shall be restricted to bidders determined by the Chief Executive Officer to have furnished a technical proposal determined by the Chief Executive Officer to be responsive.

Provisions implementing this Section 8142(c)(2) shall not be included in the contract documents unless the Chief Executive Officer finds the following conditions to be true:

(i) There are no sufficiently definite or complete specifications or purchase descriptions available to permit free competition without engineering evaluation and discussion of the technical aspects of the procurement;

(ii) Criteria do exist for evaluating technical proposals, such as design, manufacturing, testing, and performance requirements; and special requirements for operational suitability and ease of maintenance; and

(iii) It is expected that more than one technically qualified source will be available, both initially and after technical evaluation.

(3) That, as a condition to submitting a bid or performing a specified portion of the proposed contract, an applicant shall comply with any and all conditions precedent determined by the Chief Executive Officer to be necessary to enable the applicant to submit a bid to the District or to any other applicant, as the case may be, which takes into account all factors affecting performance of the work or portion of the work to be performed by the applicant.

(4) The Chief Executive Officer may determine that an applicant is responsible to perform more than one contract for which notices inviting bids are to be posted and advertised after the date of the Chief Executive Officer's determination. In the event of such prior determination, the Chief Executive Officer may, at any time thereafter:

(i) Determine that an applicant is no longer responsible, or

(ii) Advertise and post additional notices requesting pre-qualification information and determine that additional applicants are responsible to perform contracts subsequent to the contract for which pre-qualification information is initially requested.

(d) In the event any applicant is determined by the Chief Executive Officer not to be responsible or no longer responsible after previously having been determined to be responsible, or a prospective bidder's proposal is determined by the Chief Executive Officer not to be technically responsive to the contract documents, or the Chief Executive Officer determines that a bidder or an applicant has failed to comply with a condition precedent, the Chief Executive Officer shall set forth his or her determination in writing together with the reasons therefore and shall serve a copy of the determination and reasons on the bidder or applicant. The bidder or applicant may, within 10 days after service of the Chief Executive Officer's decision, file with the Executive Secretary a notice of protest and demand for hearing by the Executive Committee of the Board.

(e) Any hearing requested pursuant to Section 8142(d) shall be conducted in accordance with the procedures provided for in Section 8148.

(f) In the event a decision on a bidder's or applicant's protest is made less than 20 days before the date set for the opening of proposals, such opening shall be postponed to a date not less than 20 days after the date of decision.

(g) Notwithstanding any provision to the contrary in this Section 8142, there shall be no right to a hearing on a bidder's or applicant's protest when the Executive Committee determines that award of contract is of an emergency.

**§ 8143. Specifications and Drawings for Competitive Sealed Bidding.**

(a) Specifications and necessary drawings for the construction of public works shall be prepared by, or under the direction of, the Chief Executive Officer or designee responsible for seeing the work performed.

(b) Specifications, including drawings, if any, shall be sufficient to clearly describe the work required to be done, the quality and properties of materials to be furnished, the results and performance required, and the method of payment for the work done and materials and equipment furnished.

**§ 8144. Posting and Advertising for Competitive Sealed Bidding.**

(a) General. - No notice inviting bids for any contract required to be let upon competitive bidding shall be posted or advertised unless there is first prepared a complete set of contract documents detailing the terms of the agreement and the work to be performed, which set shall be available to any interested party.

(b) Public Works Contracts Estimated to Cost \$25,000 or More. - Whenever a contract required to be let upon competitive bidding is estimated to cost \$25,000 or more, a notice inviting bids shall be posted in a public place within the District and shall be published not less than once in a newspaper or periodical designated by the Chief Executive Officer at least five days, exclusive of Saturday, Sunday and holidays, before the time for opening bids; provided, however, that the foregoing requirement shall not apply when bids will be considered only from bidders determined to be pre-qualified or whose technical proposal is determined to be responsive to the District's specifications, as determined under the procedure set forth in Section 8104.

(c) Other Notices. - A notice requesting pre-qualification information or a notice requesting technical proposals shall be posted and advertised in the manner required for the notice inviting bids for the proposed contract for which prospective bidders or prospective lower-tier contractors will be required to be pre-qualified or for which a technical proposal is requested; provided, however, that a notice inviting technical proposals need not be posted or advertised where bidding is restricted to bidders determined to be pre-qualified under the procedure set forth in Section 8104. Posting and advertising shall take place sufficiently in advance of the date of posting and advertising of the notice inviting bids to permit the Chief Executive Officer to fully evaluate the information submitted in response thereto and to make a determination.

**§ 8145. Evaluation of Bids.**

(a) Unless otherwise directed by the Board, the Chief Executive Officer shall compare all bids received pursuant to any notice inviting bids or other solicitation for compliance with the terms of the notice inviting bids or solicitation and shall determine the lowest responsive, responsible bid of all those received and, when award of contract is to be made by the Board, make a recommendation in writing to the Board.

(b) As permitted by law, the bids may be adjusted as stated in the notice inviting bids to include bid preferences in furtherance of the District's Business Outreach goals.

**§ 8146. Rejection of Bids.**

The Chief Executive Officer may reject all bids received, regardless of amount, but shall, whenever the lowest bid that is rejected is \$250,000 or more and the contract is recommended for award to another, report such action in the recommendation to the Board.

**§ 8147. Execution.**

After award, all contracts required to be let upon competitive bidding shall be executed on behalf of the District by the Chief Executive Officer unless otherwise directed by the Board.

**§ 8148. Delegation of Hearing Power.**

Hearings on Substitution of Subcontractors.

(a) Whenever the Board is required by Section 4107 of the Public Contract Code to hold a hearing the Chief Executive Officer is authorized and directed to conduct such hearing, prescribe procedures therefore, give proper notice thereof, receive all evidence and testimony, rule on the admissibility of evidence, prepare a record of the proceedings, and submit such record and recommendations and based only upon such record, the Board shall make the determination required by law.

(b) The Chief Executive Officer may consent to the substitution of another subcontractor for the subcontractor listed in a prime contractor's original bid whenever the listed subcontractor, after having been notified as required by law, fails to submit written objections within the time allowed by law and the Chief Executive Officer determines that one of the grounds for substitution listed in Section 4107 of the Public Contract Code has been established to the Chief Executive Officer's satisfaction.

(c) Any power delegated to the Chief Executive Officer by this Section 8148 may be re-delegated by the Chief Executive Officer to any officer or employee of the District.

**§ 8149. Best Value Procurement.**

(a) Application. – Whenever a contract other than a contract for public works is required to be competitively procured but it is considered impractical or not advantageous to use the competitive sealed bidding method, a contract may be awarded by the best value method of procurement as provided in this Section. The Executive Officer or designee shall determine in writing that the best value method of procurement is practical or advantageous for a particular procurement prior to using this method.

(b) Posting and Advertising. – Proposals shall be solicited through a request for proposals which shall be posted and advertised in a manner that provides adequate public notice of the request as determined by the Executive Officer.

(c) Evaluation Factors. – The evaluation factors to be used in the determination of award and the numerical weighting for each factor shall be stated in the request for proposals.

- (1) Contract cost must be a factor in the determination of the award.
- (2) Evaluation factors may be defined to include, but are not limited to, the following:
  - (i) Operational and other future costs and risks that the District would incur if the proposal is accepted;
  - (ii) Quality and benefits of the product or service, or its technical competency;
  - (iii) Quality and effectiveness of management approach and controls;
  - (iv) Qualifications of personnel and management team;
  - (v) Financial stability of the prospective contractor;
  - (vi) Past performance and past experience; and
  - (vii) Furtherance of the District's Business Outreach Program goals.

(d) Evaluation of Proposals.

(1) Proposals shall be evaluated on the basis of the criteria stated in the request for proposals and by adhering to the weighting as assigned. Award will be made to the bidder whose proposal is determined to be the most advantageous to the District, except that the Executive Officer may reject all proposals received.

(2) Where the best value proposal is not the lowest price proposal from a responsive, responsible bidder, that selection shall be based on a written determination by the Executive Officer or designee that the superiority of the selected proposal warrants the additional costs.

**Article 4**  
**CONTRACT TERMS AND CONDITIONS**

Sec.

8160. Bonds

8161. Non-Discrimination Practices in District Contracts.

8162. Payment of Prevailing Wages.

**§ 8160. Bonds.**

(a) Every contract involving in excess of \$25,000 for the construction of public works shall be accompanied by a payment bond executed by a corporate surety authorized to do business in California, approved by the Chief Executive Officer. The payment bond shall contain the provisions required by Title 15 of Part 4 of Division 3 of the Civil Code.

(b) Every contract involving in excess of \$100,000 for the construction of public works or for the purchase of equipment, materials or supplies specially made or fabricated to District plans and specifications must be accompanied by a performance bond in an amount fixed by the Chief Executive Officer and executed by a corporate surety authorized to do business in California, approved by the Chief Executive Officer, or by a cash guarantee deposit in like amount. The Chief Executive Officer may require performance bonds for contracts of \$100,000 or less.

(c) Bidder's Bond. - Whenever a performance bond is required under Section 8160(b), the Chief Executive Officer may require bids with respect to such work or purchase to be accompanied by either a certified or cashier's check, or bidder's bond executed by a corporate surety authorized to engage in such business in California, made payable to the District. Such check or bond shall be in an amount not less than specified in the notice inviting bids or, if no amount be so specified, then in an amount not less than 10 percent of the aggregate amount of the bid, and shall guarantee that the successful bidder will enter into a contract with the District on the terms stated in his or her proposal within the time specified in the contract documents.

**§ 8161. Non-Discrimination Practices in District Contracts.**

The Chief Executive Officer is authorized to adopt a program to promote equal employment opportunities and non-discrimination practices in all District contracts involving an estimated cost exceeding \$25,000.

**§ 8162. Payment of Prevailing Wages.**

If not otherwise required, the Chief Executive Officer is authorized to include provisions relating to the payment of prevailing wages in service contracts in his or her discretion.

**[Revisions to Division II Re: Reporting Requirements]**

**Chapter 7  
PERIODIC STAFF REPORTS TO BOARD AND COMMITTEES**

Article		Sec.
1	Annual Reports	2700
2	Semi-annual Reports	2715
3	Quarterly Reports	2720
4	Monthly Reports	2740
5	Miscellaneous Reports	2750

**Article 1  
ANNUAL REPORTS**

- Sec.
- 2700. Chief Executive Officer's Annual Reports
  - 2701. Treasurer's Annual Reports

**§ 2700. Chief Executive Officer’s Annual Reports.**

The Chief Executive Officer shall annually make the following reports:

(a) To the Board:

(1) On financial matters generally;

(2) After consulting with the General Counsel, on the results of his or her review made pursuant to Section 5204 of District compliance with minimum fund requirements outlined in Sections 5201-5204 and with the articles and covenants contained in resolutions of issuance;

(3) On all leases made during the preceding year under the authority of Sections 8222, 8223; 8230 and 8232; and

(4) On the status of appropriations pursuant to Section 5108(c).

(b) To the Engineering, and Operations Committee on all consulting agreements in effect during the preceding year and the exercise of authority under Section 8122(h). Each such report shall indicate when a consultant is a former employee of the District.

(c) To the Executive Committee on the Chief Executive Officer’s Business Plan and goals and objectives as required by Section 6415.

**§ 2701. Treasurer's Annual Reports.**

The Treasurer shall annually make the following reports:

(a) To the Board, on the investment policy of the District.

(b) To the Audit, Budget and Finance Committee:

(1) All payments after loss of a bond interest coupon made pursuant to Section 5104; and

(2) All issuances of duplicate bonds made pursuant to Section 5105.

**Article 2  
SEMIANNUAL REPORTS**

Sec.

2715. Chief Executive Officer's Semiannual Reports

**§ 2715. Chief Executive Officer's Semiannual Reports.**

(a) The Chief Executive Officer shall semiannually report to the Executive Committee on the implementation of Sections 6300-6305 and on the status of the Affirmative Action Program.

(b) The Chief Executive Officer shall report semiannually to the Board on the status of the District's Local Resources and Conservation Programs.

**Article 3  
QUARTERLY REPORTS**

Sec.

2720. Chief Executive Officer's Quarterly Reports

2721. General Counsel's Quarterly Reports

2722. General Auditor's Quarterly Reports

**§ 2720. Chief Executive Officer's Quarterly Reports.**

The Chief Executive Officer shall quarterly make the following reports:

(a) To the Engineering and Operations Committee:

(1) On service connections approved by the Chief Executive Officer pursuant to Sections 4700-4708 with the estimated cost and approximate location of each;

(2) On the execution of any relocation agreements involving an amount in excess of \$100,000 under the authority of Section 8122(c);

(3) On the execution of any contract authorized pursuant to Section 8122(g);

(4) Deeds or grants accepted during the preceding quarter;

(5) Easements, or similar rights, granted during the preceding quarter under the authority of Section 8220, and shall also include in such report any relocation or protection agreement made in connection therewith;

(6) All leases made during the preceding quarter under the authority of Sections 8222, 8223, 8230 and 8232;

(7) The details of any transactions during the preceding quarter in which an improvement was disposed of in such a manner as to make the improvement available for subsequent use by a party other than the District; and

(8) Property sold pursuant to the authority granted by Section 8240 et seq.

(9) The status of all information technology projects throughout the organization

(b) To the Legal and Claims Committee, jointly with the General Counsel, the exercise of any power delegated to them by Sections 6431, 6433 and 6434.

(c) To the Legal and Claims Committee on the employment of any professional and technical consultant, the extension of any professional and technical consulting agreement, and on the exercise of authority under Section 8121(c) and 8122(h) during the preceding calendar quarter. The report covering the last calendar quarter of the year may be combined with and included in the annual report. Each such report shall indicate when a consultant is a former employee of the District.

(d) To Budget, Finance, Insurance and Investment Committee a summary of financial performance including Comparative Statements of Operations and Comparative Balance Sheets and variances thereof from estimates.

#### **§ 2721. General Counsel's Quarterly Reports.**

The General Counsel shall quarterly report to the Executive Committee the exercise of any power delegated to him by Section 6431.

#### **§ 2722. General Auditor's Quarterly Reports.**

The General Auditor shall report to the Executive Committee the exercise of any power delegated to him by Section 6452.

**Article 4**  
**MONTHLY REPORTS**

Sec.

2740. Chief Executive Officer's Monthly Reports

2741. General Counsel's Monthly Reports

2742. Treasurer's Monthly Reports

**§ 2740. Chief Executive Officer's Monthly Reports.**

(a) The Chief Executive Officer shall monthly report to the Board the execution of any power or transmission contract authorized by Section 8122(e) and any transaction made under such contract.

**§ 2741. General Counsel's Monthly Reports.**

The General Counsel shall monthly make the following reports:

(a) To the Board, a determination as to eligibility of securities invested in by the Treasurer in the preceding month.

(b) To the Legal and Claims Committee, any changes made by staff in the organization of the Code and in the titles of divisions, chapters, sections and subsections.

**§ 2742. Treasurer's Monthly Reports.**

The Treasurer shall monthly make the following reports:

(a) To the Board, transactions made pursuant to the delegation made by Section 5101(a).

(b) To the Board and to the Chief Executive Officer, a report showing the type of investment, institution, date of maturity, amount of deposit, current market value for all securities with a maturity of more than 12 months, and rate of interest. The report shall specify in detail investments in repurchase or reverse repurchase agreements made pursuant to subdivision (i) of Section 53601 and subdivision (i) of Section 53635 of the Government Code. The report shall also state its relationship to the statement of investment policy. A subsidiary ledger of investments may be used in the report in accordance with accepted accounting practices.

**Article 5**  
**MISCELLANEOUS REPORTS**

Sec.

2750. Escheat to District of Unclaimed Funds

2751. Report of Exercise of Authority

2752. Rejection of Bids

**§ 2750. Escheat to District of Unclaimed Funds.**

The Treasurer shall file a report with the Budget, Finance, Investment and Insurance Committee after each publication made pursuant to Section 5113 regarding moneys unclaimed in the District treasury.

**§ 2751. Report of Exercise of Authority.**

The Chief Executive Officer shall report to the next following meeting of the Budget, Finance, Investment and Insurance Committee any exercise of authority pursuant to Sections 5300-5303.

**§ 2752. Emergency Contracting.**

The Chief Executive Officer shall report to the Board on any action taken under the authority of Section 8122(b) within 7 days after taking that action or at the next following meeting of the Engineering and Operations Committee if that meeting will occur not later than 14 days after the action.