



- Board of Directors
Legal and Claims Committee

12/8/2015 Board Meeting

7-3

Subject

Approve Administrative Code amendments to increase the competitive procurement threshold amount and the membership approval authority

Executive Summary

Increase Threshold Amount Requiring Competitive Procurement of Equipment, Materials, Routine Services and Professional Services

This letter proposes amending Administrative Code Sections 8140 and 8141(b) to increase the dollar value at which the acquisition of equipment, materials, supplies, routine services and professional services must be competitively procured, from \$25,000 to \$75,000. The proposed change will reduce the processing time for lower dollar value acquisitions and increase the overall efficiency of the procurement process.

Increase to Annual Dues Amount for New Memberships and Membership Renewals

This letter proposes amending Administrative Code Section 11202 to increase the authorized amount of annual dues which may be paid by a department head for new memberships from \$3,000 to \$10,000, and the amount of membership dues renewal increases from \$3,000 or 10 percent, whichever is less, to \$10,000. The proposed change will increase the efficiency of the approval and payment process for memberships in organizations whose mission supports Metropolitan's interests.

Details

This letter proposes amendments to Metropolitan's Administrative Code to increase the efficiency of both the acquisition process for equipment, materials, supplies, routine services and professional services; and the approval and payment process for new memberships and renewal of existing memberships in organizations whose mission supports Metropolitan's interests. The proposed amendments are set forth in **Attachment 1**, with overstrikes reflecting deletions and underlining reflecting additions. **Attachment 2** sets forth the sections as they would now appear in the Administrative Code.

This letter proposes amendments to Metropolitan's Administrative Code as follows:

1. Sections 8140 and 8141(b) would be amended to raise the threshold amount requiring the competitive procurement of equipment, materials, supplies, routine services, and professional services, to \$75,000. This does not include competitive procurement for construction/public works. Metropolitan's competitive procurement threshold for the listed areas was first established in 1971 at \$1,000. In 1989, the threshold was increased to \$5,000, and in 2001, the threshold was increased to the current amount of \$25,000.

Metropolitan's current competitive procurement threshold of \$25,000 has not been increased in over 13 years. The increase in inflation over the same period has had the effect of requiring an increasing number of acquisitions to be subjected to formal competitive procurement. Additionally, a review of sixty-six (66) public agencies revealed Metropolitan's existing competitive procurement threshold amount to be significantly below the average per agency bid threshold of \$55,000. The requested increase will allow Metropolitan to keep pace with inflation for the foreseeable future.

While a formal competitive procurement process is an appropriate tool for more complicated, higher-dollar acquisitions, if an agency sets its competitive procurement threshold amount too low, routine and lower-cost acquisitions can disproportionately and negatively impact the overall timeliness and efficiency of the agency's entire procurement process. This, in turn, can limit an agency's ability to quickly obtain goods and services to effectively manage its operations. Consequently, it is incumbent for agencies to periodically reassess their competitive procurement threshold and adjust as needed to promote highly efficient operations.

2. Section 11202 would be amended to increase the authorized amount of both annual dues for new memberships and increases in membership dues renewals which may be paid by a department head up to \$10,000. Currently, this section authorizes each department head to join and maintain memberships in organizations whose purposes serve the interests of Metropolitan. The current process requires that new memberships be brought to the Board for approval if annual dues exceed \$3,000, and that existing memberships be brought back to the Board for approval if annual dues increase by 10 percent or \$3,000, whichever is less. Section 11202 was last revised in 1997 to change the authorized amount of dues and dues increases to the current level. Over the past nearly 20 years, membership dues for most organizations have increased significantly. The proposed change would provide additional authority and flexibility to department heads to manage expenditures for membership dues while continuing to bring large dues increases to the Board for approval. Each department head will continue to annually report to the Board the list of District memberships and their cost.

Policy

Metropolitan Water District Administrative Code Section 8140: Competitive Procurement

Metropolitan Water District Administrative Code Section 8141(b): Competitive Sealed Bidding

Metropolitan Water District Administrative Code Section 11202: Payment of Dues

California Environmental Quality Act (CEQA)

CEQA determination for Options #1, #3 and #4:

The proposed actions are not defined as projects under CEQA because they involve continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, the proposed actions are not subject to CEQA because they involve 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). In addition, where it can be seen with certainty that there is no possibility that the proposed actions in question may have a significant effect on the environment, the proposed actions are not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed actions are not defined as projects and are not subject to CEQA pursuant to Sections 15378(b)(2), 15378(b)(4), and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination that the proposed actions are not defined as projects and are not subject to CEQA, and

Approve the amendments to the Administrative Code set forth in [Attachment 2](#) to reflect the changes recommended in this letter.

Fiscal Impact: None

Business Analysis: Reduce processing time and increase the efficiency of the procurement process and provide department heads with the flexibility to approve and manage more of the expenditures for memberships while still seeking board approval for new memberships and increases in membership dues where dues exceed \$10,000 annually.

Option #2

Do not approve amendments to the Administrative Code set forth in [Attachment 2](#).

Fiscal Impact: None

Business Analysis: Expected continued growth in the number of procurements requiring a formal competitive procurement process and the associated cost of materials, labor and professional services. Maintaining Administrative Code Section 11202 in its current form would continue the requirement that all future new membership dues exceeding \$3,000 annually or membership dues increases exceeding \$3,000 or 10 percent annually, whichever is less, go before the Board for individual consideration.

Option #3

Adopt the CEQA determination that the proposed action is not defined as a project and is not subject to CEQA, and

Approve the change recommended in this letter for an increase in the competitive procurement threshold for equipment, materials, routine services and professional services, and do not approve recommended changes for an increase in authorized annual dues amount for new memberships and membership renewals.

Fiscal Impact: None

Business Analysis: Reduce processing time and increase the efficiency of the procurement process. Continue to require all future new membership dues exceeding \$3,000 annually or membership dues increases exceeding \$3,000 or 10 percent annually, whichever is less, to go before the Board for individual consideration.

Option #4

Adopt the CEQA determination that the proposed action is not defined as a project and is not subject to CEQA, and

Do not approve the change recommended in this letter for an increase in the competitive procurement threshold for equipment, materials, routine services and professional services, and approve recommended changes for an increase in authorized annual dues amount for new memberships and membership renewals.

Fiscal Impact: Fiscal impact will depend on future increases in membership dues.

Business Analysis: Expected continual increases in the number of procurements requiring a formal competitive procurement process and the associated cost of materials, labor and professional services. Provide department heads with the flexibility to approve and manage more of the expenditures for the organizational dues while still seeking board approval for new memberships and increases in membership dues where dues exceed \$10,000 annually.

Staff Recommendation

Option #1



Marcia L. Scully
General Counsel

11/19/2015

Date



Jeffrey Kightlinger
General Manager

11/23/2015

Date

Attachment 1 – The Administrative Code of The Metropolitan Water District of Southern California (with changes marked)

Attachment 2 – The Administrative Code of The Metropolitan Water District of Southern California (clean version)

Ref# bt12639079

**The Administrative Code of The Metropolitan Water District of Southern California
Proposed Amendments to Sections 8140, 8141, and 11202 (with changes marked)**

§ 8140. Competitive Procurement

1. All contracts estimated to cost \$~~75,000~~^{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 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 General Manager'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.
 - (e) 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 General Manager, further advertising or posting will not alter this result.
 - (f) If the purchase is of used equipment which, in the opinion of the General Manager, is satisfactory for the work of the District.
 - (g) If the contract is with any governmental agency.
 - (h) Contracts for insurance or for services of a professional, artistic, scientific, or technical character.
 - (i) Change orders.
 - (j) Contracts for the handling of District airline ticketing, lodging, automobile rental reservations, and miscellaneous travel-related services.
 - (k) 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.

(l) 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.

[Remainder omitted]

§ 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~~75,000, the General Manager may prescribe the procedure for contracting, which may include competitive bidding as provided in this Article or as modified in the General Manager's discretion.

§ 11202. Payment of Dues.

Each department head is authorized to join organizations whose purposes serve the interests of the District. The membership may be in the department head's name or in the name of the District, as appropriate. Each department head may approve payment of dues of any such organization so long as annual dues are ~~\$10,000~~3,000 or less. Each department head may approve payment of future dues of any organization which the department head was authorized to join under this section or by the Board, so long as any increase does not exceed ~~10 percent of the previous annual dues or~~ \$10,000~~3,000, whichever is less~~. Each department head shall annually report to the Board the exercise of authority granted by this section.

**The Administrative Code of The Metropolitan Water District of Southern California
Proposed Amendments to Sections 8140, 8141, and 11202 (clean version)**

§ 8140. Competitive Procurement

1. All contracts estimated to cost \$75,000 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 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 General Manager'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.
 - (e) 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 General Manager, further advertising or posting will not alter this result.
 - (f) If the purchase is of used equipment which, in the opinion of the General Manager, is satisfactory for the work of the District.
 - (g) If the contract is with any governmental agency.
 - (h) Contracts for insurance or for services of a professional, artistic, scientific, or technical character.
 - (i) Change orders.
 - (j) Contracts for the handling of District airline ticketing, lodging, automobile rental reservations, and miscellaneous travel-related services.

(k) 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.

(l) 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.

[Remainder omitted]

§ 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 \$75,000, the General Manager may prescribe the procedure for contracting, which may include competitive bidding as provided in this Article or as modified in the General Manager's discretion.

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Each department head is authorized to join organizations whose purposes serve the interests of the District. The membership may be in the department head's name or in the name of the District, as appropriate. Each department head may approve payment of dues of any such organization so long as annual dues are \$10,000 or less. Each department head may approve payment of future dues of any organization which the department head was authorized to join under this section or by the Board, so long as any increase does not exceed \$10,000. Each department head shall annually report to the Board the exercise of authority granted by this section.