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|  | Number | 04-04 A6 |
| | Effective | 09-01-2021 |
| PROCUREMENT POLICY | Page | <u>1</u> of <u>5</u> |
| | Approved: |  <small>Elliot Weinstein, MD (Sep 9, 2021 21:39 PDT)</small> |
| | | Dr. Elliot Weinstein, Chair |

PURPOSE The purpose is to set forth policies regarding contracting and procurement procedures in accordance with State law.

POLICY GUIDELINES It is the policy of First 5 San Bernardino to use resources in the most effective and efficient manner possible to create benefit for the residents of San Bernardino County, focusing on children prenatal through age 5. This shall be accomplished by obtaining the best value when procuring goods and services, while concurrently upholding the public trust in an open and honest environment and maintaining an equitable balance of opportunity, fairness, and impartiality.

It is also the policy of First 5 San Bernardino to comply with State law in all matters regarding Commission contracting and procurement to the extent applicable to the Commission. Without limiting the foregoing, First 5 San Bernardino will comply with all requirements of the following with respect to all contracting and procurement activities, to the extent applicable to the Commission:

- a) Children and Families Act of 1998 (Health and Safety Code Section 130100 *et seq.*), as amended from time to time;
- b) Public Contract Code (California Public Contract Code);
- c) Prevailing wage laws (Labor Code Section 1770 *et seq.*);
- d) California Environmental Quality Act (Public Resources Code Section 20041 *et seq.*) and the implementing guidelines promulgated by the State Office of Planning & Research in Title 14 California Code of Regulations Section 15000, *et seq.* (together, "CEQA"); and
- e) Relocation Assistance Act (Government Code Section 7260, *et seq.*, and the implementing regulations promulgated by the California Department of Housing and Community Development in Title 25, California Code of Regulations Section 6000, *et seq.*).

Moreover, with respect to all contracting and procurement decisions, all California laws regarding constitutional and other rights of persons and applicable nondiscrimination laws and constitutional and other limitations or finding of certain religious or other organizations shall be complied with, to the extent applicable, to the Commission or any specific contracting or procurement matter.

Any previously adopted policies that are inconsistent with the policy set forth herein shall be ineffective and of no further force and effect to the extent of any inconsistency herewith.

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**POLICY
GUIDELINES,
CONT'D**

Procurements are designed to result in agreements that *acquire* goods and services and *expend* funds in accordance with an approved budget. The primary intent of procuring is to capitalize limited resources for the optimal benefit for children of San Bernardino County.

When carrying out a procurement, especially for program services and systems support, the following three questions should be asked:

- What gain to residents will result from this investment?
- What are the chances the intended gain will be realized?
- Is this investment the best use of the money given all other possible opportunities?

The value added to the program or system by the good or service being procured must clearly be identifiable. Determining not to purchase always remains a valid option.

The following shall be adhered to when conducting procurements:

1. As the Contracting Authority, only the Commission and its designees have the authority to approve a contract or an agreement, unless otherwise directed by the Commission or provided for by law.
2. No person shall make, participate in making or use one's position to influence an action or a decision relating to a procurement in which there is a personal interest. If there is a conflict of interest or the potential for the perception of such, the individual must immediately disclose this to an appropriate representative of the Commission.

A personal interest may include a financial interest, family or personal relationship, or any circumstance or activity that would influence or appear to influence one's action, cause a breach of confidence in the procurement process or in any way detrimentally impact First 5 San Bernardino.

3. If State or Federal law mandates the procurement of services in a certain manner, then the law will govern the acquisition.

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**GUIDELINES,
CONT'D**

4. Contracts governed by California Government Code section 4525 *et seq.* (contracts for professional services for architectural, landscape architectural, engineering, environmental, land surveying and construction project management services) are subject to a formal selection, negotiations and approval process. Funds will not support capital projects for the purchase, construction or renovation of any land or facilities. Funds may be used for tenant improvements.

5. Procurements must be in compliance with, and supportive to, efforts outlined in the Strategic Plan and the budget allocation as approved by the Commission.

The Commission has sole authority to approve release for procurement, including but not limited to a Request for Applications (RFA), a Request for Proposals (RFP) or Request for Qualifications (RFQ).

6. The preferred method for procurement of goods and services and systems support is through a competitive process.

The following methods may be used to conduct a competitive procurement:

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| Venture | Focuses on the return based on outcomes, the probability of achieving the desired returns, and the advantage over alternate use of the funds. Direct discussions and technical assistance may be provided to agencies. This method, may be used in similar instances as the non-competitive Selected and Collaborative procurements, but would require a specifically designed Request for Applications (RFA), rendering it a competitive process. |
| Formal | Solicits proposals, through a Request for Proposals (RFP), in which the proposing agencies respond to a scope of work to fulfill the requirements. Proposals are evaluated by an impartial team and, if recommended, serve as the basis for contract negotiations. Requirements of an RFP coordinate with the Strategic Plan to address; gaps in services and unmet or high needs as identified by the Commission. |
| Bid | Solicits firm, fixed prices from a company or entity in response to detailed specifications. This method is used primarily for the acquisition of goods rather than services. |
| Solicitation | Used primarily for acquisition of goods and services of lower costs, usually not exceeding \$25,000. A Solicitation is less formal than a Venture, Formal or Bid procurement and contains fewer specifications, terms and conditions. A Solicitation can also be conducted in person, by telephone, via facsimile, electronically or in writing. |
| Researched | Staff conducts a thorough analysis and comparison of the goods or services offered by various qualified entities in order to determine the best selection. Procurement is usually limited to items for which a "catalog" or "market" price has been established and that are available to the general public in the course of ordinary trade. |

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**GUIDELINES,
CONT'D**

Shared Uses a procurement conducted by another governmental entity as the basis for selection. May be a mutually developed procurement, conducted independently by an agency in the course of normal operations, or based on its area of responsibility, expertise or legal authority.

7. Competitive procurements using the Bid or Solicitation method must solicit at least three appropriate entities and, if item being procured is over \$500, result in at least three responses. A confirmation from a solicited entity indicating a “no bid” shall be considered a response.

Due to the nature of the “Researched Procurement”, a minimum number of solicitations or responses are not required; however, at least three entities must be identified and evaluated in the research.

8. Non-competitive procurements may be used to maintain flexibility pursuant to the conditions set forth below.

The following are non-competitive procurements:

Unsolicited Initiated by a written proposal for a time-sensitive or innovative idea that is submitted by an agency and is not in response to an actively funded or pending procurement by First 5 San Bernardino. Such proposals can be considered only if they clearly align with the objectives of the Commission’s Strategic Plan, and clearly define and can deliver on an unmet need which the Commission seeks to support as a priority. Acceptance of and consideration of unsolicited proposals shall be subject to the discretion of the Executive Director.

Selected Used when there are special conditions justifying the direct selection of an entity. Rationale for selection may include unique special qualifications of key individuals, clearly identifiable successful experiences on similar projects or, although not a sole source, extremely limited number of potential providers. May also be justified in certain cases where the cost of the item to be procured would not warrant a competitive procurement or when insufficient time is available. This method may occur to support “place-based” initiatives or solicitation by the Commission of services or systems support via a collaborative-like venture to meet a prioritized need or fill a gap in services deemed critical for a specific community, population or organization or to leverage funding or assets to meet requirements for applications for Federal, State, local, i.e., foundation grant opportunities.

Collaborative Develops as a result of coordination with other entities in the formation of joint programs. A negotiated procurement such as this can be especially beneficial when the other agencies involved commit resources to achieve a mutual goal. Memorandum of Understanding or other contractual agreement will be developed to establish roles and outcomes expected from the collaborative.

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Continuing Used when there has been an ongoing, successful relationship with an entity providing the same or similar goods or services. Cost comparison should be conducted on a scheduled basis to verify reasonableness.

Sole Source Is for the rare cases where only one entity can provide the required goods or service after an adequate search has been made. For services, justification must explain why this particular method is the only acceptable possibility. To the extent possible, the fair market value of the item being procured should be identified.

9. Procurement must include outreach and advertising to provide information to potential suppliers of the goods or services, especially those located within the County, to the greatest extent possible and practical. The level of the outreach may correspond to the method and allocation of the procurement.
10. Procurement of items with a total cost of less than \$500 will be conducted competitively only when possible, practical and cost effective as with the Researched procurement.
11. Based on the procurement method and on the results of the selection process, recommendations to enter into contract negotiations may be submitted to the Commission for approval.
The rationale for the procurement process used will be included in the agenda item when the recommendations or agreements from the procurement are submitted to the Commission for approval.
12. The Commission shall be provided with periodic updates on planned or ongoing procurements and any recommended agreement to procure goods and service over \$25,000 shall be submitted for approval.
13. Conducting any procurement does not commit the Commission to award a contract. The Commission also reserves the right to accept or reject any or all bids or proposals received during the procurement process if the Commission determines it is in the best interest of First 5 San Bernardino to do so.

**EMERGENCY
GUIDELINES**

During an emergency, as defined in CFC SB Policy 02-03 A7 – Contracting Authority Policy, this Procurement Policy is temporarily suspended and the emergency authority in the Contracting Authority Policy shall govern.