

**ORDINANCE NO. 3-2015**

**AN ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE TAHOE-TRUCKEE SANITATION AGENCY  
ESTABLISHING PURCHASING AND  
PUBLIC WORKS CONTRACTING REGULATIONS**

BE IT ORDAINED by the Board of Directors of Tahoe-Truckee Sanitation Agency that the following purchasing and public works contracting regulations are hereby established:

**1. Purpose and Authority.** The purpose of this ordinance is to establish revised regulations, procedures and policies governing Agency purchases of material, supplies and equipment and public works contracting. This ordinance is adopted pursuant to Agency Act sections 67 and 80, Public Contract Code sections 21614 and 21616, Government Code section 54202, and other applicable law.

**2. Definitions**

a. "Contracting Agent" means the Agency General Manager or his or her designee.

b. "Emergency" means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

c. "Lowest Responsible Responsive Bidder" for purposes of the purchase of Material (section 5) means the bidder that timely submits a complete and fully responsive bid and that best responds in price, quality, service, fitness and capacity to meet the particular bid requirements; price alone will not be the determinative factor, but will be considered along with other relevant responsibility factors including, but not limited to, the ability of the bidder to deliver, quality, availability of parts or service, and prior Agency or other experience with the bidder. Lowest Responsible Responsive Bidder also includes any vendor on the open market or Internet that offers a price for the particular Material that is less than the low bid received after soliciting bids.

d. "Lowest Responsible Responsive Bidder" for purposes of public works bidding and contracting (section 6) shall have the meaning as found in applicable California case law (see, e.g., *Great West Contractors, Inc. v. Irvine Unified School District* (2010) 187 Cal.App.4th 1425).

e. "Material" means material, supplies, equipment, and merchandise, including, but not necessarily limited to, vehicles, computers, other machines, office supplies, chemicals, tools, and furniture.

**3. Applicability.** These regulations apply to (a) Agency purchases of Material, and (b) the approval and award of contracts for construction, reconstruction, installation or repair of Agency facilities, buildings, structures and other public works. These regulations do not apply to the following purchases, expenditures, contracts or work: (a) leases; (b) consultant or service contracts (including equipment service, maintenance or repair contracts); (c) utility service

accounts and contracts; (d) maintenance work (including painting, landscape maintenance, vehicle servicing and maintenance, and other routine work for the preservation or protection of equipment or facilities); (e) procurement of insurance and bonds; (f) purchase of fuel, oil or other vehicle maintenance supplies; (g) purchase of computer software; or, (h) construction, reconstruction, installation, repair or other work performed by Agency employees.

**4. Contracting Agent.** The Contracting Agent shall have responsibility and authority in connection with purchasing Material and public works contracting in accordance with these regulations. The Contracting Agent may delegate to other Agency officers or employees the authority to make purchases, approve contracts and perform other duties in accordance with these regulations. The Contracting Agent may adopt rules and procedures to implement and supplement these regulations so long as they are consistent with this ordinance.

## **5. Purchases**

a. Purchases Less Than \$5,000. For a purchase of Material of estimated value less than \$5,000, the Contracting Agent may make the purchase on the open market or through the Internet by seeking the most favorable terms and price either through negotiation, comparative pricing or informal competitive bidding, whichever method the Contracting Agent deems most appropriate in the circumstances. If there are unappropriated funds available in the current approved Agency budget for the purchase, then the Contracting Agent may approve the purchase through a written invoice, purchase order or contract. If there are not unappropriated funds within the approved budget, then the purchase must be authorized in advance by the Board of Directors.

b. Purchases \$5,000 And Over. A purchase of Material of estimated value greater than \$5,000 must be made pursuant to the following bidding procedures (except as provided in subsections (b)(5) and (b)(6)):

(1) Bid Notice. The Contracting Agent will prepare a notice inviting bids for the purchase, including a description of the Material to be purchased (including, if appropriate, reference to the bid specifications), the method to obtain more detailed information about the purchase, the deadline for receipt of sealed bids, and the time and place of the bid opening. The notice inviting bids will be posted in three public places in the Agency, posted on the Agency website, and distributed and noticed to responsible prospective suppliers and vendors in such other manner as the Contracting Agent deems appropriate. The Contracting Agent, in his or her discretion, may require bidders to post a bidder's security in a form and amount as determined by the Contracting Agent. If a bidder's security is to be required, the bid security requirements must be set forth in the notice inviting bids.

(2) Bid Opening. At the time and place for the bid opening, the bids will be opened in public. The Contracting Agent will tabulate all bids received and keep them open for public inspection. Any bids received after the bid receipt deadline will be returned to the bidder unopened.

(3) Bid Award; \$15,000 or Less. If the low bid is \$15,000 or less and there are unappropriated funds available in the current approved Agency budget for the purchase, then the Contracting Agent may (i) award the purchase to the Lowest Responsible Responsive Bidder, (ii) reject all bids and re-advertise for bids, (iii) reject all bids and not proceed with the purchase, or (iv) reject all bids and proceed with an open market or Internet purchase if the price to be paid on the open market or Internet is less than the low bid. The Contracting Agent may waive any irregularity, informality or minor error in any bid that does not affect the bid price. Upon award to the Lowest Responsible Responsive Bidder, the Contracting Agent will approve the purchase through a written invoice, purchase order or contract. If the estimated value of the purchase is \$15,000 or less and no responsive bids are received by the bid deadline, the Contracting Agent may make and approve the purchase on the open market or through the Internet by seeking the most favorable terms and price either through negotiation, comparative pricing or informal competitive bidding, whichever method the Contracting Agent deems most appropriate in the circumstances.

(4) Bid Award; Over \$15,000. If the low bid is over \$15,000 or if it is less than \$15,000 but there are not unappropriated funds available in the current approved Agency budget for the purchase, then, at the next Board of Directors meeting following the bid opening, the Contracting Agent will present the bids to the Board and make a recommendation on an award to the Lowest Responsible Responsive Bidder. In its discretion, the Board may (i) award the purchase to the Lowest Responsible Responsive Bidder, (ii) reject all bids and re-advertise for bids, (iii) reject all bids and not proceed with the purchase, or (iv) reject all bids and direct that an open market or Internet purchase be made by the Contracting Agent if the price to be paid on the open market or Internet is less than the low bid. The Board may waive any irregularity, informality or minor error in any bid that does not affect the bid price. Upon award to the Lowest Responsible Responsive Bidder, the purchase will be confirmed by an approved written invoice, purchase order or contract. If no responsive bids are received by the bid deadline, the Board may authorize the purchase to be made on the open market or through the Internet by seeking the most favorable terms and price either through negotiation, comparative pricing or informal competitive bidding, whichever method the Board or Contracting Agent deems most appropriate in the circumstances.

(5) Exceptions. Bidding will not be required for purchases in the following situations: (i) the General Manager determines that the Material can be obtained reasonably and efficiently only from one vendor or supplier; (ii) the General Manager determines that it is strongly preferred for efficient operations that the Material be of a particular model, brand or make in order to match and be compatible with the model, brand or make of existing in-use Material; (iii) the Material is to be purchased through or from the State of California or other federal, state or local government group sale program; (iv) Emergency purchases (see subsection (b)(6)); or (v) the Board of Directors finds and determines by resolution that the nature of the purchase is such that competitive proposals would be unavailing or would not produce an advantage and the solicitation of competitive bids therefore would be undesirable, impractical, or impossible. For any purchase subject to an exception (excluding item (v) above), the General Manager may approve the purchase if it is under \$15,000 and there are unappropriated funds available in the current approved Agency budget or if it is authorized in an Emergency under subsection (b)(6). Otherwise, the purchase must be approved by the Board of Directors.

(6) Emergency Purchases. In case of an Emergency, the Contracting Agent is authorized to make necessary purchases of Material in the open market or through the Internet after first obtaining the verbal consent of at least two members of the Board. Purchases made under this subsection do not require prior Board approval and may be made without complying with the bidding requirements. The Contracting Agent thereafter must report promptly to the Board concerning the type and amount of the purchase and the Emergency circumstances warranting the purchase.

## **6. Public Works Contracting**

a. Contracts Less Than \$5,000. For a public works contract of estimated value less than \$5,000, the Contracting Agent may negotiate the contract on the open market or through the Internet by seeking the most favorable terms and price either through negotiation, comparative pricing or informal competitive bidding, whichever method the Contracting Agent deems most appropriate in the circumstances. If there are unappropriated funds available in the current approved Agency budget for the contract, then the Contracting Agent may approve and sign the contract. If there are not unappropriated funds within the approved budget, then the contract must be approved by the Board of Directors.

b. Contracts \$5,000 And Over. A public works contract of estimated value greater than \$5,000 must be made pursuant to the following bidding procedures (except as provided in subsections (b)(5) and (b)(6)):

(1) Bid Notice. The Contracting Agent will prepare a notice inviting bids for the contract, including a description of the work to be performed (including, if appropriate, reference to the bid and contract specifications), the method to obtain more detailed information about the work, the deadline for receipt of sealed bids, and time and place of the bid opening. The notice inviting bids will be posted in three public places in the Agency, posted on the Agency website, and distributed and noticed to responsible contractors in such other manner (e.g., posting to appropriate construction trade journals) as the Contracting Agent deems appropriate. The Contracting Agent, in his or her discretion, may require bidders to post a bidder's security in a form and amount as determined by the Contracting Agent. If a bidder's security is to be required, the bid security requirements must be set forth in the notice inviting bids.

(2) Bid Opening. At the time and place for the bid opening, the bids will be opened in public. The Contracting Agent will tabulate all bids received and keep them open for public inspection. Any bids received after the bid receipt deadline will be returned to the bidder unopened.

(3) Bid Award; \$15,000 or Less. If the low bid is \$15,000 or less and there are unappropriated funds available in the current approved Agency budget for the purchase, then the Contracting Agent may (i) award the public works contract to the Lowest Responsible Responsive Bidder and approve and sign the contract, (ii) reject all bids and re-advertise for bids, or (iii) reject all bids and not proceed with the contract. The Contracting Agent may waive any irregularity, informality or minor error in any bid that does not affect the bid price. If the estimated value of the work is \$15,000 or less and no responsive bids are received by the bid

deadline, the Contracting Agent may authorize the work by negotiating and approving a contract or contracts with a qualified contractor or contractors.

(4) Bid Award; Over \$15,000. If the low bid is over \$15,000 or if it is less than \$15,000 but there are not unappropriated funds available in the current approved Agency budget for the purchase, then, at the next Board of Directors meeting following the bid opening, the Contracting Agent will present the bids to the Board and make a recommendation on an award to the Lowest Responsible Responsive Bidder. In its discretion, the Board may (i) award the public works contract to the Lowest Responsible Responsive Bidder and authorize contract approval, (ii) reject all bids and re-advertise for bids, or (iii) reject all bids and not proceed with the contract. The Board may waive any irregularity, informality or minor error in any bid that does not affect the bid price. If no responsive bids are received by the bid deadline, the Board may authorize the work to be performed by negotiated contract or contracts with a qualified contractor or contractors.

(5) Exceptions. Bidding will not be required for public works contracts in the following situations: (i) there will be no cost to the Agency; (ii) the work will be contracted through an arrangement with a federal, state or local government agency; (iii) Emergency contracting (see subsection (b)(6)); or (iv) the Board of Directors finds and determines by resolution that the nature of the contract is such that competitive proposals would be unavailing or would not produce an advantage and the solicitation of competitive bids therefore would be undesirable, impractical, or impossible. Except for Emergency contracting, any public works contract subject to an exception must be approved by the Board of Directors.

(6) Emergency Contracting. Pursuant to Public Contract Code section 22050, the Board of Directors delegates to the General Manager the authority to repair and replace any Agency facility, building or structure and to take any other directly related immediate action in response to an Emergency, including procuring necessary contractors, equipment, services and supplies, without giving public notice for bids to let contracts. In the event of an Emergency, the General Manager may take such action and approve such contracts as appropriate to respond to the Emergency in accordance and in compliance with the requirements of section 22050.

**7. Superseder.** This ordinance supersedes the Agency Purchasing Policy dated December 2004 and all other prior inconsistent Agency ordinances, resolutions, policies and procedures.

**8. Effective Date.** This ordinance shall be effective 30 days from the date of its adoption.

**9. Posting.** This ordinance shall be posted within the Agency in at least three conspicuous places within ten days after its adoption.

Passed and adopted at a meeting of the Board of Directors of Tahoe-Truckee Sanitation Agency on this 9<sup>th</sup> day of September 2015, at Truckee, California, by the following vote:

AYES: Directors Butterfield, Cox, Henrikson, Lewis, and Northrop  
NOES: None  
ABSENT: None  
ABSTAIN: None



O.R. Butterfield, President  
Board of Directors

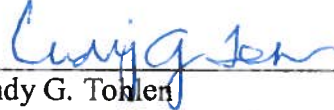
ATTEST:



LaRue Griffin  
Secretary of the Board of Directors  
TAHOE-TRUCKEE SANITATION AGENCY

CERTIFICATE

I hereby certify that the foregoing is a full, true and correct copy of Ordinance 3-2015, duly and regularly adopted by the Board of Directors of Tahoe-Truckee Sanitation Agency, County of Nevada, State of California, on September 9, 2015.



Cindy G. Tollen  
Assistant Secretary of the Board  
TAHOE-TRUCKEE SANITATION AGENCY