

**AMENDMENT TO THE SMCSO FINANCIAL POLICIES, FINANCIAL - PROCUREMENT
MANAGEMENT SECTION – PARA. VI. CLAIMS OR LITIGATION**

BACKGROUND: The General Manager's authorization to settle claims or litigation is not clearly defined in the District's Standard Procedures or Financial Policies. It was recommended by District Counsel to amend the District's Financial Policies providing the General Manager limited authority to settle claims and litigation under ten thousand dollars.

The amendment was presented to the Board at the Strategic Planning Workshop, a Special Meeting on March 21, 2018. The language and intent were discussed and clarifying questions answered by District Counsel. Following the review, the Board directed the General Manager and Counsel to amend the "Financial – Procurement Management" by adding the proposed "Section VI. Claims and Litigation" to the Financial Policies.

RECOMMENDATION: Approve the Amendment to the SMCSO Financial Policies, Financial - Procurement Management Section - Para. VI. Claims or Litigation.

ATTACHMENT: SMCSO Financial Policies Manual, Adopted by Board Action on September 6th, 2016 Financial - Procurement Management Section (Pages 50-56) with the added Section VI. Claims or Litigation.



PREPARED BY: _____
Jeffrey Kingston, General Manager

*SMCSD Financial Policies Manual
Adopted by Board Action on September 6, 2016*

FINANCIAL – PROCUREMENT MANAGEMENT

Contracting

PURPOSE

The purpose of the Contracting policy is to provide direction regarding how contracts and purchase orders should be awarded, processed, and approved to ensure integrity and consistency with established District policies and legal requirements. It also ensures that the most efficient, cost-effective, transparent, and accountable processes are used to select the most qualified service provider, and the most cost-effective materials and supplies vendor.

POLICY

I. Approval

This Contracting policy is used in conjunction with the Signature Authority Policy, which defines the signature responsibility and approval levels within the District for specific types of procurement transactions.

II. General Procedures and Processes

The General Manager shall establish the contracting procedures for the District. The District will standardize the contract development and engagement process to ensure selection of a responsive and responsible contractor and/or supplier to meet the purpose of this Policy and that comply with relevant State laws.

These procedures will ensure competitive and evaluative contract awards, and negotiated and sole source procurements, which include, but are not limited to, scope of work, quotations, proposals, bids, determining contractor and vendor qualifications, selecting proprietary sources, and emergency procurement. The General Manager shall ensure that the contracting and purchase order processes are conducted in an efficient and cost-effective manner. In doing so, effective and appropriate planning, timing, specifications, terms and conditions, pricing strategies, risk management, consolidating, and multiple quoting of contracts and purchases shall be considered. At the General Manager's discretion, the contract terms and conditions and form may be reviewed by legal counsel before the contract is executed.

III. Contracting and Procurement Processes

A. Public Construction Projects

District staff shall follow contracting processes, according to the Uniform Public Construction Cost Accounting Act (UPCCAA) and California Public Contract Code 20800, et seq. for Sanitary Districts. Construction projects performed under contract shall be evaluated under the following bidding parameters.

- 1) If the estimated cost of a project is less than the Tier I amount (refer to District Policy, *Signature Authority*) the General Manager can execute a contract or purchase order agreement for the defined services.
- 2) If the estimated cost of a project is within the Tier II amount, the project can be informally bid and the General Manager has the authority to execute a contract or purchase order agreement.
- 3) If the estimated cost of a project exceeds the Tier III amount, the contract is subject to Board approval.

B. Professional Services Agreements

District staff shall follow the following parameters for evaluating professional services contracts. The processes shall consider and evaluate the consultant's suggested approach, scope of work, proposed fees, relevant experience, and other qualifications that are in the best interests of the District.

- 1) For those services within the General Manager's signature authority, the General Manager has the discretion to negotiate an agreement directly with a consultant unless he/she determines that it is in the best interests of the District to conduct a formal request for proposal (RFP) and/or qualifications (RFQ) process.
- 2) For those services that exceed the General Manager's signature authority, the consultant shall be selected by an RFP or RFQ/RFP process. The contract shall be awarded to the best value service provider by the SMCSD Board.

C. Maintenance Services Contracts

District staff shall follow the following parameters for evaluating maintenance services contracts. Maintenance services are those activities defined by UPCCAA as, 1) routine, recurring and usual work for the preservation or protection of a publicly owned or operated facility for its intended purposes, 2) minor repainting, 3) landscape maintenance, or 4) work performed to keep, operate, and maintain publicly owned waste disposal systems.

- 1) For those California Uniform Construction Cost Accounting Commission (CUCCAC) Tier I maintenance services within the General Manager's signatory authority, the General Manager has the discretion to negotiate an agreement directly with a service provider unless he/she determines that it is in the best interests of the District to conduct a formal request for quotes from multiple service providers.
- 2) For those maintenance services that exceed the General Manager's signature authority, the service provider shall be selected by a request for quotes or bidding process. The maintenance contract shall be awarded by the SMCSD Board to the service provider with the lowest cost that can provide the defined scope of services.

D. Equipment, Materials, and Supplies Procurement

District staff shall conduct the following processes for procuring equipment, materials and supplies.

- a. For the purchase of equipment, materials, and/or supplies whose costs are within the General Manager's signatory authority, such procurements shall be performed under the District's Purchasing Policy.
- b. For the purchase of equipment, materials, and/or supplies that require the Board's approval, contracts or purchase orders shall be awarded to a vendor/supplier using the District's procurement procedures, unless sole source procurement is justified and approved by the Board.

E. Cooperative Agreements

The General Manager shall determine when the District may enter into intergovernmental cooperative agreements to achieve economies of scale, promote District goals and objectives, or where it is financially advantageous.

Cooperative agreements (such as “pooling” contracts) may be used when the District can join contractually with other governmental agencies to meet mutual contractual needs. Such agreements may be bid or negotiated together with the cooperating agencies or utilize new or existing contracts (*piggyback contracts*) that allow for cooperative arrangements. Approval of these agreements shall be consistent with the District’s Signature Authority Policy.

**Financial – Procurement Management
Purchasing**

PURPOSE

The purpose of the Purchase policy is to provide District staff with the direction to ensure continuity and uniformity in its purchasing operation for non-contract goods and services.

POLICY

I. Approval

This Purchasing Policy is associated with the District’s Signature Authority Policy, which defines the signature responsibility and approval levels within the District for specific types of procurement transactions. The process for complying with each method of procurement is explained below.

II. Blanket Purchase Order

At the beginning of each fiscal year, the administrative staff shall establish and distribute a list of blanket purchase order (open account) numbers, based on requests by managers and leads, to be used for purchases less than \$1,000. District staff shall communicate to the vendor the specific assigned purchase order (PO) number when making purchases to ensure the number is on all vendor invoices and related

documents. In lieu of creating an open account, vendors may provide business credit cards to the District. With discretion, the General Manager shall approve applications for these types of cards after review by the Office Manager. The cards shall be used for purchases of less than \$1,000 and may only be used at the business where the card was issued. Managers shall designate the employees who are allowed to use these types of cards when purchases need to be made. Until an invoice is received, the designated employees or the Office Manager shall keep a record of the purchase (i.e., receipt, packing slip) to provide supporting documentation for invoice or statement payment processing. These cards shall also be governed by the same policies stated under the Purchase Card section below.

III. Purchase Order

District staff shall use a purchase order for purchases in amounts greater than or equal to \$1,000. All purchase orders shall be in writing using the appropriate form and documentation, have the appropriate approvals, and be submitted to the vendor for processing.

IV. Petty Cash

District staff can use petty cash for purchases of \$100 or less with vendors unable to establish an open account with the District and for necessary small infrequent expenses. The General Manager may authorize a petty cash disbursement greater than \$100 if it is determined to be a prudent and appropriate payment or reimbursement method, and in the best interest of the District. These expenses may include supplies, parts, bridge tolls, attendance at offsite meetings and trainings, multi-District meetings, etc. All requests for petty cash disbursements shall be in writing using the appropriate form and approved by the department manager. Petty cash disbursements are made by the Administrative Assistant or Office Manager.

V. State of California Purchase Card Program

The Board of Directors shall approve the number and type of management, supervisory, and administrative positions that are authorized to use purchase cards (credit cards). The General Manager shall issue the cards to the specific employees (cardholders) and establish procedures for the appropriate use for making District- specific purchases when

the above purchasing methods are impractical, inefficient, or not applicable. Monthly credit limits shall be set at \$5,000 for supervisors/designated staff and \$10,000 for Office Manager and General Manager. The Office Manager will serve as the administrator of the District's purchase cards. He/she will manage the District's account in accordance with the requirements of the Purchase Card Program and the Agency's policies, including, but not limited to, assigning purchase cards and purchase limits to authorized employee card holders, collecting and cancelling cards as needed, and reviewing purchase card transactions.

A. Use of Card

The cardholder shall be the only person authorized to sign for purchased items and shall be the only person to authorize telephone and online transactions using the purchase card. Cardholder shall not give or authorize use of card to another employee without the General Manager's approval. The employee who is assigned a purchase card is responsible for safeguarding the card as well as ensuring proper use of the card.

Managers ensure that purchase card use in their respective areas is consistent with this Policy/Procedure and other related procedures. Each cardholder is responsible for keeping a record of the purchase (i.e., receipt, packing slip) to document purchases on the purchase card's account statement. An approved purchase order is required before using the purchase card for any transactions over \$1,000. An approved travel preauthorization is required when using the purchase card for transactions related to training or travel on District business. Department managers are ultimately responsible for monitoring and approving all purchase card transactions within their department.

The Purchase Card shall not be used for the following purchases:

1. Professional Services (labor costs)
2. Contract Services
3. Capital/construction costs
4. Cash advances/personal use
5. Purchase of firearms, liquor, or cigarettes
6. Per Diem meal allowance
7. Items for personal, non-District use

B. Lost or Stolen Card

If a District purchase card is lost or stolen, the cardholder shall immediately report this to the Office Manager so that he/she can notify the Purchase Card Program.

C. Misuse of the Card

Any misuse of the purchase card or violations of the Purchase Card Program guidelines or this Policy, including, but not limited to, personal use of the purchase card, shall result in the loss of purchase card privileges. All cardholders are subject to disciplinary actions for misuse and misappropriations of District funds. Cardholders who use or allow use of the card for personal purposes shall reimburse the District for all incurred charges.

VI. Claims or Litigation

The General Manager is authorized to negotiate and execute on the behalf of the District, without prior approval of the Board of Directors for settlement of a claim or litigation against the District, after consultation with the Board President and General Counsel, where the total expenditure does not exceed ten thousand dollars.