

SUBJECT: BIDDING, PURCHASING, AND THE AWARDING OF CONTRACTS

POLICY:

Government Code Sections 54201 et seq. require that local agencies, including healthcare districts, adopt policies and procedures governing purchases of supplies and equipment by the District; and

Health and Safety Code Section 32132 requires that healthcare districts award to the lowest responsible bidder any contract involving the expenditure of more than Twenty-Five Thousand Dollars (\$25,000) for work to be done or for materials and supplies to be furnished, sold or leased to the District. There are a number of exceptions to the lowest bid policy. (See Section 9.)

PROCEDURE:

1. *District Policy.* The Board of Directors of Eden Township Healthcare District (“District”) hereby declares, as a general statement of policy, that it and its designees shall always endeavor to obtain the maximum value for each dollar expended, consistent with the responsibility of the District to provide the finest in health care to its patients.
2. *Purchases of \$25,000 or Less.* The Executive Director/CEO is hereby given authority to make all purchases and execute all purchase orders under \$15,000 for the District, except as hereinafter provided. For purchases over \$15,000 but less than \$25,000, the Executive Director/CEO must get approval from a Board Officer. Such authority shall not extend beyond purchases or contracts with a value in excess of Twenty-Five Thousand Dollars (\$25,000), unless otherwise provided. All of said purchases and contracts shall be upon written order whenever reasonably possible. The District shall keep and maintain written records of the same.
3. *Purchases Exceeding \$25,000.* With respect to all purchases exceeding \$25,000 for which competitive bids are required, the Board shall consider a minimum of three (3) bids; provided, however, where three bids cannot be obtained, or when the Board decides that time will not permit obtaining three bids, two (2) bids will suffice.
4. *Unbudgeted Expenditures.* With the approval of Chair or Acting Chair, the Executive Director/CEO, without the prior approval of the Board, may authorize an unbudgeted expenditure in an amount (a) up to \$25,000 for work, supplies or

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equipment not exceeding a total cost of \$500,000; or (b) up to \$50,000, for work, supplies or equipment equal to or exceeding a total cost of \$500,000. In such cases, the Board Chair, Acting Chair, or Executive Director/CEO will request ratification of such action at the next regularly scheduled Board meeting.

5. *Right to Required Competitive Bidding.* The Board of Directors reserves the right to direct competitive bidding for any contract whether or not said competitive bidding is required by law or required by the terms hereof.
6. *Specifications or Description.* Upon determination that work, materials or supplies subject to bidding procedures is required or desired, staff or consultants selected by the District shall prepare plans, specifications or a description of general conditions. When appropriate as determined by the Board, the plans, specifications or description (a) shall clearly set forth any liquidated damages provisions, and (b) may provide for a bonus to the contractor for completion of the project prior to a specified time.
7. *Solicitation of Bids by the District.* Where bidding is required or deemed desirable, the District shall publish an announcement, public notice or invitation at least ten (10) days before the date of opening the bids. The notice shall be published at least twice, not less than five (5) days apart, in a newspaper of general circulation in the jurisdiction of the county. The Board, in its discretion, may also publish notice inviting bids in other newspapers and/or trade journals. The notice shall:
 - (a) Describe the contemplated work or materials.
 - (b) Set forth the procedure by which potential bidders may obtain copies of the specifications or description of general conditions.
 - (c) State the final time and date and address for submission of bids (including designation of appropriate person or office) and the date, time and place for opening of bids.
 - (d) If applicable, include procedures for pre-qualification and information relating to bid guarantee.
 - (e) Set forth any bond requirements.
 - (f) If applicable as determined by the Board, establish the time within which the whole or any specified portion of the work shall be contemplated.
 - (g) If applicable as determined by the Board, (i) provide that for each day completion of work is delayed beyond the specified time, the contractor shall pay specified liquidated damages; or (ii) establish as extra compensation to the

contractor a bonus for completion of work prior to a specified time.

(h) Set forth such other matters, if any, as would reasonably enhance the number and quality of bids.

(i) Any notice for architectural or engineering services shall contain the following statement in boldface type: "Please be advised that the successful design professional will be required to indemnify, defend and hold harmless the District against liability for claims that arise out of or relate to the negligence, recklessness or willful misconduct of the design professional."

8. *Acceptance of Bids.* The following shall apply to the acceptance of bids by the District:

(a) No illegal, unfair, unethical or otherwise improper advantage shall be accorded to any bidder by the District.

(b) All bids for the purchases of supplies, equipment and for work to be done shall be required to be sealed and presented to the Board of Directors or its agent and publicly opened at a previously announced time and place.

(c) When bids for multiple items are solicited at the same time, the District shall have the right to accept partial bids only, unless the bidder has specified to the contrary, in which case, the District reserves the right to disregard the bid in its entirety.

(d) Contracts, when let, shall be awarded to the lowest responsible bidder meeting the applicable criteria established by the District, subject (as applicable) to a check of references and review of legal counsel. The District reserves the right to determine the degree of responsibility of the bidder after considering such matters as delivery times, product quality, product maintenance and the supplier's reputation for reliability and satisfactory service.

(e) If the Board determines that the lowest bidder is not responsible, the Board shall notify the low monetary bidder of any evidence reflecting upon its responsibility received from others, or concluded as a result of an independent investigation. The Board shall afford the low monetary bidder an opportunity to rebut such adverse evidence and shall permit it to present evidence that it is qualified to perform the contract. Such opportunity to rebut adverse evidence and to present evidence of qualification may be submitted in written form or at an informal hearing before the awarding body, committee and/or individual. The decision of the Board in such matters shall be final. The Board may award the

contract to the next lowest responsible bidder or to the lowest bidder on the condition that the lowest bidder furnish security other than or in addition to that set forth in the general description.

(f) The District is under no obligation, express or implied, to accept the lowest bid received, and the District reserves the right to reject all bids if the same is deemed to be appropriate.

(g) All bids submitted shall be accompanied by a bidder's bond in the amount of ten (10%) percent of the said total bid unless this requirement is waived by the District.

(h) The Board shall not be required to secure bids for change orders that do not materially change the scope of the work or materials or supplies set forth in a contract previously made, provide the contract was made in compliance with bidding requirements and no individual change amounts to more than five percent (5%) of the contract. The Board also reserves the right to waive inconsequential deviations from the specifications in the substance or form of bids received.

9. *Exceptions to the Lowest Bid Policy.* The Board shall not be required to apply the lowest bid policy in the following situations:

(a) *Emergency Contracts.* The Board may award contracts for work to be done or for materials and supplies to be furnished, sold or leased to the District if it first determines (i) an emergency exists that warrants such expenditure due to disaster, and (ii) it is necessary to protect public health, safety, welfare or property.

(b) *Medical or Surgical Equipment and Supplies.* The Board may establish policies with respect to the procurement of medical or surgical equipment or supplies without following the lowest bid policy. "Medical or surgical equipment or supplies" means equipment and/or supplies commonly, necessarily and directly used by or under the direction of a physician or surgeon in caring for or treating a patient in a hospital.

(c) *Electronic Data Processing and Telecommunications Goods and Services.* The Board shall employ competitive means to acquire electronic data processing and telecommunications goods and services, where such goods and services exceed a cost of Twenty-Five Thousand Dollars (\$25,000). "Competitive means" includes any appropriate means specified by the Board in its reasonable discretion. The Board shall award a contract pursuant to this paragraph on the cost-effectiveness of the proposal as determined by the evaluation criteria specified by the Board. Evaluation criteria shall not be limited to cost but may include other objective bases for selection of a vendor or service provider.

(d) *Professional Services.* The District may contract with and employ any person(s) to furnish to the District special services and advice in matters including, but not limited to, financial, economic, accounting, engineering, legal, architectural or administrative, provided such persons are specially trained and experienced and competent to perform the special services required. No competitive bidding shall be required; however, the District may establish, when appropriate, procedures for the project to assure that these services are engaged on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. The District may compensate such person as it deems proper for the services rendered. District board members and employees participating in the selection process for the engagement of these professional services shall adhere strictly to Government Code conflict of interest prohibitions.

(e) *Construction Management.* The Board may adopt procedures designed to derive the benefits and advantages of using professional management oversight of a project. Such procedures need not include public bidding but may include subjective criteria such as competence and experience, in the discretion of the Board. Construction management arrangements may be appropriate where District participation in the review and approval of subcontractor bids can lead to substantial cost savings and serve to cap maximum costs.

(f) *Participation of Minority, Women, Disabled Business, LGBTQ, Small Business Enterprises.* The District may award contracts that encourage the participation of minority, women, disabled, LGBTQ, or small business enterprises in public works contracts. The District may require that a contract be awarded to the lowest responsible bidder who also meets or makes a good faith effort to meet certain criteria established by the District, provided the District complies with the provisions of *Public Contract Code §§ 2000 et seq.*

10. *Construction Projects.*

(a) *Standardized Questionnaire and Prequalification.* The District may establish a uniform system to evaluate the ability, competency and integrity of bidders on public works projects. "Public work" means any work of improvement contracted for by a public entity. The District may establish a process for pre-qualifying prospective bidders and may require each prospective bidder to submit a standardized questionnaire and financial statement.

(b) *Subcontractors.* The Board, or a duly authorized officer under its authority, in taking bids for the construction of the public work or improvement, shall provide in specifications prepared for the work or improvement, or in the general conditions under which bids will be received, that any person making a bid or offer to perform the work shall in the bid or offer set forth: (i) the name and location of the place of business of each subcontractor who will perform work or

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labor or render service to the prime contractor in connection with the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of one percent (0.5%) of the prime contractor total bid; and (ii) the portion of the work which will be done by each such subcontractor, provided that only one subcontractor may be listed for each such portion of the work as is defined by the prime contractor in his bid.

(c) *Payment Bond.* The successful bidder to whom a contract involving expenditure on excess of Twenty-Five Thousand Dollars (\$25,000) for any public work is awarded shall furnish a payment bond in the amount of one hundred percent (100%) of the total amount payable by the terms of the contract. The District shall not require a payment bond from an architect, engineer or land surveyor.

APPROVED BY THE BOARD OF DIRECTORS

Ed Hernandez (Date)
Chair, Board of Directors

Roxann Lewis (Date)
Secretary, Board of Directors

Adopted: February 23, 1976

Reviewed:	September 27, 1976	February 10, 1993
	March 28, 1977	March 13, 1996
	February 11, 1983	June 11, 1997
	September 11, 1985	June 24, 1998
	May 16, 1990	July 28, 1999
	December 15, 2010	April 15, 2015
	July 15, 2020	August 19, 2020
	December 7, 2023	January 20, 2026

Revised: 01/20/26