

	<b>Ben Lomond Fire Protection District</b>	<b>Policy # 4200</b> <b>Date 11/16</b>
	<b>SOP</b> <b>Board of Directors</b>	<b>TITLE: Purchasing and Bidding Procedures</b>  <b>Revision date 11/16</b>

**4200.1 DEFINITIONS:**

- 4200.1.1** Supplies and Equipment mean any and all articles of things which shall be used by the District.
- 4200.1.2** Contractual Services means any and all services which are required by the District, but which are not furnished by District employees.
- 4200.1.3** Purchasing Cooperative means a group that are working together to use their combined purchasing volume to obtain more advantageous pricing through economies of scale.
- 4200.1.4** Responsible Bid means an offer, submitted by a responsible bidder in ink or typewritten form, to furnish supplies, equipment or contractual services in conformity which the specifications, delivery terms and conditions, and other requirements included in the invitation for bids.
- 4200.1.5** Responsible Bidder means a bidder, who submits a responsible bid; who has furnished, when requested information and data to prove that his/her financial resources, production or service facilities, service reputation and experience are adequate to make satisfactory delivery of the supplies, materials, equipment or contractual service on which he/she bids; and who has not violated, or attempted to violate any provisions of these regulations.
- 4200.1.6** Bidder's List means a list of bidders for purposes of supplying equipment, supplies, materials or contractual service.
- 4200.1.7** Construction Bids means a bidder is providing bids for facility construction or remodel under the California Uniform Construction Cost Accounting Commission.

**4200.2 COOPERATIVE PROCUREMENT PROCEDURES**

- 4200.2.1** The DISTRICT may purchase equipment and other commodities or services directly from a vendor without competitive bidding, if

any of the following conditions exist:

- 4200.2.2** The item cannot be obtained through ordinary purchasing procedures, such as in situations where no bidders respond to a request for bids;
- 4200.2.3** The item is unique, or is not available from any other source (sole source). This can include copyrighted materials, conference facilities, lecturers, and workshop presenters;
- 4200.2.4** The item is available from the State, a RESA, or another DISTRICT provided the price, availability, and quality are comparable to those in the open market;
- 4200.2.5** The item is available from a statewide contract and “piggybacking” by local governmental entities is permitted in the contract;
- 4200.2.6** The item is available from a General Services Administration (GSA) schedule and the supplier is willing to sell to a DISTRICT in the state at the same or lower price.
- 4200.2.7** The item is available from a sheltered workshop;
- 4200.2.8** The item is available from a local purchasing cooperative, such as a RESA or a group of county boards that are working together to use their combined purchasing volume to obtain more advantageous pricing through economies of scale.
- 4200.2.9** The item is available from a legitimate government purchasing cooperative that has already obtained competitive bids that meet the requirements of this policy, such as the NPPGov Fire Rescue GPO, the U.S. Communities Purchasing Alliance, or The Cooperative Purchasing Network (TCPN).
- 4200.2.10** The item is a used vehicle or piece of equipment and its purchase is determined by the purchasing director to be in the best interest of the DISTRICT.
- 4200.2.11** Documentation of the justification for using these alternative competitive procurement procedures must be maintained.

### **4200.3 COMPETITIVE BIDDING**

- 4200.3.1** Purchases to be on Competitive Bids - All purchases of the contracts for supplies, equipment and contractual services in excess of Twenty Thousand Dollars (\$20,000) that cannot be obtained through cooperative purchasing procedures shall be based on competitive bids.
- 4200.3.3** Competitive Bids to be solicited by Public Notice - If the amount of the purchase is estimated to exceed Twenty Thousand (\$20,000), contract bids shall be solicited by public notice and written contracts.

- 4200.3.4** Method and Extend of Notice – The method and extent of public notice soliciting contract bids shall be as prescribed by the Board of Directors. Said Notice shall set forth the deadline for submission of bids to the Secretary to the Board and the terms, conditions, and specifications of the proposed purchase.
- 4200.3.5** Posting on Bulletin Board - Competitive bid purchase shall, in all cases be advertised by posting a copy of the Invitation for Bids on a public bulletin board in or adjacent to the District Administrative Office.
- 4200.3.6** Solicitation of Bidders on Bidders' List - The Fire Chief or his designee shall in addition, solicit bids from prospective bidders on any pertinent District bidder's list by sending them copies of the invitation for Bids.
- 4200.3.7** Submission of Bids - All bids shall be submitted sealed to the Secretary to the Board on or before the set deadline.
- 4200.3.8** Surety - If required by the Board of Directors, each bid shall be accompanied by surety in form of a certified cashier's check or bid bond in such amount as shall be prescribed in the public notice inviting bids.
- 4200.3.9** Bid Opening - The Fire Chief or his/her designee shall open all bids in the presence of the Secretary to the Board and other interested parties immediately after the deadline set for submission. A tabulation of all bids received, whether accepted or rejected, shall be made by the District's Secretary to the Board, and shall be open for public inspection during regular business hours for a period of not less than thirty (30) calendar days after the bid opening.
- 4200.3.10** Rejection of Bid - The Board of Directors may reject any and all bids and may re-advertise for bids when it determines the public interest will be served.
- 4200.3.11** Award for Contract for Purchases - The contract shall be awarded by the Board of Directors to the lowest responsible bidder whose bid conforms to the Invitation for Bids.
- 4200.3.12** Where Bids Tie - In the case of a tie for the lowest responsible bid, and if the public interest will not permit the delay of re-advertising for bids, the Board of Directors will award the contract to one of the bidders by drawing lots in public, or may make the purchase in the open market, provided the price paid in the open market shall not

exceed the lowest contract bid price submitted.

- 4200.3.13** Determining Lowest Responsible Bidder - In determining the lowest responsible bidder, the Board of Directors shall take into consideration the quality offered and its conformity with the specifications, the delivery and discount terms and conditions of the bid, the service reputation of the bidder, and other information and data required to prove his/her responsibility.
- 4200.3.14** Effects of Failure of Successful Bidder to Enter Contract - If the successful bidder does not enter into a contract within ten (10) days after mailing or personal delivery of notice of award of contract, he/she shall forfeit in cash an amount equal to the amount of any surety which accompanied his/her bond, unless the District is responsible for the delay. She/he shall also be liable for any cost in excess of his/her bid price which the District incurs in purchasing the commodities or services elsewhere.
- 4200.3.15** Faithful Performance Bond - If the Board of Directors so requires, the successful bidder shall furnish surety in the form of a certified or cashier's check or bond for the faithful performance of the contract in the amount specified.
- 4200.3.16** Approval, Execution and Filing of Contracts - All contract bid forms and all contracts shall be approved by the District Counsel as to form and legality. Following such approval, all contracts shall be signed, on behalf of the District, by the Chairman of the Board of Directors. A copy of each signed contract shall be filed with the County Auditor-Controller.

#### **4200.4 OPEN MARKET PURCHASES**

- 4200.4.1** Open Market Purchases are Authorized - If the amount of the purchase is estimated to be Three Thousand (\$3,000) or less, it shall be an open market purchase and shall not be subject to Competitive Bidding requirements. An open market purchase shall, whenever possible, be based on at least three price quotations, except for an open market purchase of less than One Thousand Dollars (\$1,000).
- 4200.4.2** Soliciting Bids for Open Market Purchases - The Fire Chief may solicit quotations by contacting parties on the pertinent bidders' list; by posting a copy of an invitation for quotations on a public bulletin board in or adjacent to the District Administrative Office and/or by contacting others who in the judgment of the Fire Chief would be

responsible suppliers.

**4200.4.3** Submission, Opening Tabulation - Quotations shall be submitted to the Fire Chief. The Secretary to the Board shall make a record of all written and telephoned quotations and such record shall be open to public inspection during regular business hours at least thirty (30) days after the date of the award of the contract.

**4200.4.4** Award to Open Market Bidder - All open market purchases shall be awarded to the party making the lowest responsible quotation. However, price and quality being equal, preference may be given to responsible local bidders.

## **4200.5 CONSTRUCTION BIDS**

### **4200.5.1 DEFINITIONS:**

**4200.5.2** CUPCCAA was enacted in 1983 under Public Contract Code section 22000. This act allows:

- Allows local agencies to perform public project work of up to \$45,000 with their own workforces (**Force Account**) if the agencies elect to follow the cost accounting procedures set forth in the *Cost Accounting Policies and Procedures Manual of the California Uniform Construction Cost Accounting Commission*
- Public projects of \$45,000 or less may be performed by negotiated contract, or by purchase order
- Public projects between \$45,000 and \$175,000 may be let to contract by informal procedures as set forth in the Act
- Public projects of more than \$175,000 shall, except as otherwise provided in the Act, be let to contract by formal bidding procedure

**4200.5.3** The Ben Lomond Fire Protection District (District) has elected, under Public Contract Code Section 22030, to become subject to the uniform public construction accounting procedures set forth in the Act and to the Commission's policies and procedures manual and cost accounting review procedures, as they may each from time to time be amended.

**4200.5.4** In accordance with the State of California Uniform Public Construction Cost Accounting Commission, the Ben Lomond Fire Protection District will establish an Informal Bidding Contractors List for each calendar year.

**4200.5.5** Per California Public Contract Code 22032, any Public Works Project that is estimated to be below \$175,000 is subject to the Informal Bidding Procedures set forth by the State of California Uniform Construction Cost Accounting Commission. All trade categories are subject to Informal Bidding Procedures.

### **4200.6. PROCEDURES FOR INFORMAL BIDDING:**

**4200.6.1** District maintains list of “registered” contractors, identified by work category.

**4200.6.2** District mails notice inviting bids at least 10 days before bids due to:

- All contractors on list for category of work; or
- Specified trade journals; or
- Both.

Notice should describe project in general terms with information for how to obtain detailed information and time and place for submission of bids.

- May include site walk, where appropriate

Notice need not include drawings, plans, etc., unless required for preparing bid.

Governing Board may delegate authority to award informal contracts to specific staff members (e.g., to Fire Chief).

If all bids received exceed \$175,000, Governing Board may pass four-fifths resolution, awarding contract to lowest responsible bidder if it determines District’s cost estimate was reasonable.

**4200.7           PROCEDURE FOR FORMAL BIDDING:**

**4200.7.1** Public projects of more than \$175,000 shall be let to contract by formal bidding procedures, including:

- Detailed architectural plans, voluminous bid and contract documents,
- Newspaper advertising for 14 days before bid opening;
- Notice in trade journals 15 days before bid opening;
- Other more detailed steps and processes.

**4200.8           EMERGENCY CONTRACTS:**

**4200.8.1** In cases of emergency when repair or replacements are necessary, the governing board may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the governing board, by contractor, or by a combination of the two.

By a four-fifths vote of the governing board, may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for

those purposes, without giving notice for bids to let contracts.

By a four-fifths vote of the governing board, the authority to enter emergency contracts may be delegated as long as the designee takes the action to the governing board within 7 days or at its next regularly scheduled meeting which shall be no more than 14 days after the action was taken. The designee must report at each following meeting until the action is terminated (contract completed).

#### **4200.9 PUBLIC PROJECT**

**4200.9.1** Public Project” per PCC §§ 22002(c) – These are not Repairs or Maintenance:

(1) Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.

(2) Painting or repainting of any publicly owned, leased, or operated facility.

#### **4200.10 MAINTENANCE**

**4200.10.1** Maintenance (per PCC §§ 22002(d))

(1) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.

(2) Minor repainting.

(3) Resurfacing of streets and highways at less than one inch.

(4) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.

SPECIFIED TRADE JOURNALS:

***Builders Exchange of Santa Clara County***

400 Reed Street, Santa Clara, CA 95050

**Phone:** 408-727-4000

**Fax:** 408-727-2779

**Email:** [mm@bxscoco.com](mailto:mm@bxscoco.com)

***Central Coast Builders Association***

20 Quail Run Circle, Salinas, CA 93907

**Phone:** 831-758-1624

**Fax:** 831-758-6203

**Email:** [staff@ccbuid.com](mailto:staff@ccbuid.com)

## **4200.11 SUSPENSION OF REGULATIONS**

**4200.11.1** Suspension of regulations - These regulations may be suspended by a vote of two-thirds of the Board of Directors upon the finding recorded in its minutes that competitive bidding or quotations would not be in the public interest.

**4200.11.2** In case of an emergency, the District Board may adopt a resolution by a two-thirds vote of all the members of the District Board declaring that the public interest and necessity demand immediate expenditure of public money to safeguard life, health or property. The district Board may expend any sum required in the emergency without submitting such expenditure to bid.

## **4200.12 Bid Protest Policy**

**4200.12.1** Bid protests for contracts awarded for purchases of commodities or professional services shall be submitted and responded to in accordance with the following requirements. These protest procedures do not apply to public works (construction) projects.

### **4200.12.2 Filing Of Protest**

Any directly affected party who is aggrieved in connection with the solicitation or award of a contract may file a protest regarding the procurement action.

Such protest must be filed in writing with:

Ben Lomond Fire Protection District  
9430 Highway 9  
Ben Lomond Ca 95005

Protests must be filed within seven (7) calendar days from the date notice of intent to award is issued by the procuring department. Failure to timely file a protest shall constitute a waiver of any right to protest.

Untimely protests will not be accepted or considered. Any protest shall:

- State in detail each and every ground asserted for the protest, citing to the law, rule, local ordinance, procedure or bid provision on which the protest is based; and
- Identify the remedy sought.

**Note:** Specification related protests must be fully supported by



technical data, test results, or other pertinent information that a rejected product or service offered is equal to or better than the specification requirement.

**4200.12.3 Protest Resolution Process**  
**Informal resolution**

After receiving a protest, the Purchasing Agent will, at the earliest convenience, contact the protesting party to seek informal resolution and/or to clarify the issues.

Written response within fourteen (14) calendar days following contact with the protesting party for informal resolution, the District shall provide a written response to the protesting party. The written response shall be prepared under the signature of the General Services Director. The letter constitutes the department's final decision on the protest and shall be considered the final agency action.

**4200.12.4 No Stay of Procurement Action During a Protest**

Nothing in these Policies and Procedures shall be deemed to prevent the Ben Lomond Fire Protection District from proceeding with negotiations or awarding a purchase order or contract while a protest is pending.

**4200.12.5 Remedies Prior to an Award**

If, after an award, it is determined by the Ben Lomond Fire Protection District Board that a solicitation or award of a contract or purchase order is in violation of these Policies and Procedures, then the following criteria will be employed to resolve the dispute.

1. If the person or entity awarded the contract or purchase order has not acted fraudulently, or in bad faith:
  - The contract or purchase order may be ratified and affirmed, provided it is determined that doing so is in the best interest of the Ben Lomond Fire Protection District
  - The contract/purchase order may be terminated  
If the person or entity awarded the contract or purchase order has acted fraudulently or in bad faith, the contract or purchase order shall be declared null and void.

## **4200.13 Purchasing Policy – Miscellaneous**

- 4200.13.1** Unlawful Purchases - If any employee contracts for any supplies, materials, equipment or contractual services contrary to the purchasing policy, such purchases or contract shall be void and of no effect, and the cost shall not constitute a legal charge against the District.
- 4200.13.2** Return of Merchandise - No supplies, materials or equipment shall be returned to a vendor for trade, credit, repair, or for any other reason without approval of the Fire Chief.
- 4200.13.3** Budgeted Items - All line items that have been approved in the current year's budget shall be deemed to have prior Board approval for purchase. Items needed to be returned to the Board for action shall appear under Old Business.
- 4200.13.4** Non-Budgeted Items - Non-budget services and repairs where bids and analysis have been completed, shall come to the Board of Directors under Old Business. The Fire Chief is authorized to encumber up to \$2,500.

## **4200.14 EXEMPTIONS**

- 4200.14.1** Exemptions - These procedures shall not apply to purchases of:
  - 4200.14.1.1** Legal Advertising
  - 4200.14.1.2** Medical Equipment or Supplies
  - 4200.14.1.3** Professional Services