



**SONOMA VALLEY HEALTH CARE DISTRICT  
 GOVERNANCE COMMITTEE MEETING  
 AGENDA  
 TUESDAY, January 26, 2016  
 8:30AM**

**ADMINISTRATION CONFERENCE ROOM  
 347 ANDRIEUX STREET, SONOMA, CA 95476**

AGENDA ITEM	RECOMMENDATION	
<b>MISSION STATEMENT</b> <i>The mission of the SVHCD is to maintain, improve, and restore the health of everyone in our community.</i>		
<b>1. CALL TO ORDER/ANNOUNCEMENTS</b>	<i>Hohorst</i>	
<b>2. PUBLIC COMMENT SECTION</b> <i>At this time, members of the public may comment on any item not appearing on the agenda. It is recommended that you keep your comments to three minutes or less. Under State Law, matters presented under this item cannot be discussed or acted upon by the Committee at this time. For items appearing on the agenda, the public will be invited to make comments at the time the item comes up for Committee consideration.</i>	<i>Hohorst</i>	
<b>3. CONSENT CALENDAR</b> <ul style="list-style-type: none"> <li>• Minutes from 12.15.16</li> </ul>	<i>Hohorst</i>	Action
<b>4. POLICY GOVERNING BIDDING FOR FACILITY CONTRACTS</b>	<i>Hohorst</i>	Action
<b>5. ADJOURN</b>	<i>Hohorst</i>	



**SONOMA VALLEY HEALTH CARE DISTRICT  
 GOVERNANCE COMMITTEE MEETING**  
**MINUTES**  
 TUESDAY, DECEMBER 15, 2015  
 8:30AM

**ADMINISTRATION CONFERENCE ROOM**  
**347 ANDRIEUX STREET, SONOMA, CA 95476**

AGENDA ITEM	RECOMMENDATION	
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<b>1. CALL TO ORDER/ANNOUNCEMENTS</b>	<i>Hohorst</i>	
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<b>3. CONSENT CALENDAR</b> <ul style="list-style-type: none"> <li>• Minutes from 9.22.15</li> </ul>	<i>Hohorst</i>	Action <b>MOTION</b> to approve by Boerum. All in favor.
<b>4. POLICY GOVERNING BIDDING FOR FACILITY CONTRACTS</b> Bring forward to January 7, 2016 Board meeting as inform item.	<i>Hohorst</i>	Action <b>MOTION</b> to approve by Boerum. All in favor.
<b>5. POLICY ON APPOINTMENT OF COMMITTEE MEMBERS</b> Bring forward to January 7, 2016 Board meeting as action item	<i>Hohorst</i>	Action <b>MOTION</b> to approve by Boerum. All in favor.
<b>6. ADJOURN</b>	<i>Hohorst</i>	



**Meeting Date:** January 7, 2016

**Prepared by:** Peter Hohorst

**Agenda Item Title:** **Policy on Governing Bidding for Facilities Contracts**

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**Recommendations:**

That the policy governing bidding for facilities contracts be approved subject to review by legal counsel.

**Background:**

The Board does not have an existing policy that specifies how contracting for facilities projects is to be handled. The Board has previously approved a policy governing contracts for purchasing material and services that are not part of a facilities project. . During the past four years almost all facilities work was performed under the design-build agreement with Otto Construction, and a policy governing contracting for facilities work was not a pressing need.

Under the Health and Safety Code the procedures and requirements are different for the two categories. This policy outlines the procedures and criteria that must be followed to be in compliance with the Health and Safety Code and the Public Contracting Code. It also clarifies the authority delegated to the CEO and the authority retained by the Board.

**Consequences of Negative Action/Alternative Actions:**

Without a set policy the complies with the Health and Safety Code and the Public Contracting Code the District is at risk of failing to comply with the law because of ignorance of the law.

**Financial Impact:**

None if the policy is adopted

**Attachment:**

Policy on Governing Bidding for Facilities Contracts



**TO: SVHCD Board of Directors**

**Prepared by: Peter Hohorst**

**Date: 1.7.16**

**Agenda Item Title: Policy Governing Bidding for Facility Contracts**

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**PURPOSE:**

It is the intent of the Board of Directors (“Board”) of the Sonoma Valley Health Care District (“District”) to provide an equal opportunity to all qualified and responsible parties wishing to participate in the bidding process with respect to the Sonoma Valley Health Care District (“District”) and the Sonoma Valley Hospital (“Hospital”).

It is the intent of the Board, consistent with the District’s obligations, to obtain the maximum value for all expenditures.

It is the intent of the Board to clarify, with this policy, the authority granted to the President and Chief Executive Officer (“CEO”) by the Board with regard to District and Hospital purchases and contracts. It is also the intent to clarify the authority retained by the Board.

In all instances where authority is granted to the CEO, it is understood that the CEO may in turn delegate this authority to a member of the CEO’s staff. Responsibility for adherence to this policy, when the authority is delegated by the CEO to a staff member, remains with the CEO.

For purposes of this Policy “Facility Project” is defined as work relating to projects involving construction or improvement of a hospital or health facility (i.e. public works projects), but excluding routine or recurring maintenance.

**STATEMENT OF BOARD POLICY:**

**Section 1     Scope and Application of the Policy**

**1.1     Delegation of Authority**

Except as specified in Section 5 of this policy, the Board hereby delegates to the CEO the authority to act on behalf of the Board in the implementation of the provisions of this Policy.

**1.2     Bidding Threshold**

The District, with certain exceptions, as covered in Section 2, (H&S Code 32132) shall award any contract exceeding twenty-five thousand dollars (\$25,000) for projects relating to the construction or improvement of the Hospital or a facility owned by or leased to the District (Facility Projects) to the lowest responsible bidder using the “formal” bidding procedures provided in Section 3 [Formal Bidding Procedure]. Alternately, the District shall reject all bids.

**1.3     Authority to Make Purchases.**

The District's CEO is hereby given authority to make all purchases and to execute all purchase orders or contracts for the District duly authorized pursuant to this Policy. All purchases and contracts shall be upon written order.

#### **1.4 Contract File**

The CEO shall keep and maintain written or electronic records of all contracts. The contract file shall include a description of the method used to select the contractor or service provider, including a copy of the request for proposal (RFP) or other form of solicitation, the amount of the contract, the expiration date of the contract, and the name of the contractor or service provider. The file shall also include a copy of the Notice of Bids and the names of all bidders and their proposals.

The contract file for all contracts awarded under the exceptions listed in section 2 shall include a description of the exception and an explanation of the method used to select the contractor or service provider.

The contract file shall include the names of any employ of the District, or any Board member who elected to recuse themselves from the award process because of a conflict of interest.

#### **1.5 Conflict of Interest**

With respect to all contracts covered by this Policy, any practices or procedures which might result in unlawful activity shall be prohibited, including practices which might result in rebates, kickbacks or other unlawful consideration. No employee of the District may participate in any selection process when such employee has a relationship with a person or business entity seeking a contract which would subject those employees to the prohibitions in *Government Code § 87100*

#### **1.6 No Advantage.**

No illegal, unfair, unethical or otherwise improper advantage shall be accorded to any bidder by the District, a Board member or an employee of the District/Hospital.

### **Section 2. Exceptions to Bidding and Lowest Bid Policy**

The District shall not be required to apply the lowest bid policy to (a) emergency contracts, (b) emergency service contracts, (c) change orders to existing contracts that are less than 5% of the original contract, (d) routine and recurring maintenance, (e) professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms for work on Facility Projects, and (f) Facility Projects where the District has elected to use a design-build method to select the contractor H&S Code 32132.b)

#### **Section 2.1 Emergency Contracts.**

Notwithstanding anything to the contrary, the Board may award contracts without following the lowest bid policy, if it first determines (i) an emergency exists that warrants such expenditure due to fire, flood, storm, epidemic or other disaster or equipment failure and (ii) it is necessary to protect public health, safety, welfare or property. (H&S Code 32136). In the event that the emergency requires immediate action, the CEO may make the determination that an emergency condition exists and award a contract without first receiving Board approval. The CEO shall inform the Board of the contract and the emergency at the next regularly scheduled Board meeting.

## **Section 2.2** Change Orders

Notwithstanding anything to the contrary, the CEO shall not be required to secure bids for change orders that do not materially change the scope of work set forth in a contract previously made, provided (i) the contract was made in compliance with bidding requirements, and (ii) no individual change order amounts to more than five percent (5%) of the contract (H&S Code 32132.c).

## **Section 2.3** Professional Services

Notwithstanding anything to the contrary, where required by facility projects, the CEO shall award contracts for professional services of private architectural, landscape architectural, engineering, environmental, land surveying or construction management firms on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. (Government Code § 4526.) No competitive bidding shall be required. (Health and Safety Code § 32132(b).)

If the CEO elects to solicit bids for architectural, landscape architectural, engineering, environmental, land surveying or construction management firms, the Notice Inviting Bids for these 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.”* (Public Contract Code § 20103.6 and Civil Code § 2782.8.)

The CEO shall establish procedures for verifying competence and professional qualifications and for determining fair and reasonable benchmark prices for these services (Government Code § 4526.).

## **Section 2.5** Design – Build Projects

Notwithstanding anything to the contrary, the Board may elect to use the Design – Build method to select a contractor for construction or improvement of the Hospital facility if the project amount will be greater than \$1.0 million. (H&S Code 32132.5., Public Contract Code 20133.)

If the Board elects to use the design – build method, the Board shall follow the contracting provisions of Public Contract Code 20133 and shall award the contract based on “best value” as defined in section 20133. Because of their complexity the Design – Build contracting provisions have not been delineated in this policy.

## **Section 3.** Formal Bidding Procedure

### **Section 3.1** Bid Packet

Where formal bidding is required, the CEO shall prepare a bid packet, including a notice inviting formal bids (“Notice Inviting Bids”). The packet shall include a description of the scope of Work in such detail and written with such specificity as may be required to allow all potential bidders to understand the need and give a level playing field to all bidders (Specifications). In establishing the Specifications, the CEO may consider the direct cost of the project as well as any requirement reasonably related to the quality, fitness and capacity of a bidder to perform the proposed Work satisfactorily.

#### **(a)** Prequalification

The CEO may establish a uniform prequalification system using a standard questionnaire to evaluate the ability, competency and integrity of bidders as outlined in Public Contract Code §§ 20101 et seq. In such event, the CEO may require each prospective bidder to complete and submit a standardized questionnaire and financial statement.

**(b) Bidder's Security**

The CEO shall include in the Specifications a requirement that all bids be accompanied by bidder's security in the form of cash, a cashier's check, certified check, or a bidder's bond executed by an admitted surety insurer made payable to the Hospital. The security shall be in an amount equal to at least ten percent (10%) of the amount bid. (Public Contract Code § 10167.) Any bid not accompanied by one of the applicable bidder's security shall be rejected as non-responsive. The District shall return to all unsuccessful bidders their respective bidder's security within five (5) working days after awarding the contract.

**(c) Performance Bond**

The CEO shall include in the Specifications, a requirement that the successful bidder furnish a performance bond in the amount of one hundred percent (100%) of the contract sum at the time of entering into the contract if the contract amount for the work is in excess of \$500,000. The performance bond shall be filed with the District to insure the District against faulty, improper or incomplete materials or workmanship, and to insure the District of complete and proper performance of the contract.

**(d) Payment Bond**

The CEO shall include in the Specifications, a requirement that the successful bidder to whom a contract is awarded which is in excess of twenty-five thousand dollars (\$25,000) shall furnish a payment bond acceptable to the District. (Civil Code § 9550) This labor and material bond shall be filed with the District pursuant to applicable laws of the State of California. The CEO shall not require a payment bond from an architectural, landscape architectural, engineering, land surveying or construction management firms.

**(e) Completion Date**

The CEO may include in the Specifications a time within which the whole or any specified portion of the Work shall be completed. (Government Code § 53069.85.)

The CEO may include in the Specifications a provision that the contractor shall forfeit a specified sum of money for each day completion is delayed beyond the date stated in the Specifications.

The CEO may include in the Specifications a provision for the payment of a bonus to the contractor for completion of the project prior to the specified date stated in the Specifications when such timely completion would be beneficial to the District. (Government Code § 53069.85.)

**(f) Subcontractors**

The CEO shall include in the Specifications a provision that any prime contractor include in his/her bid: (i) the name and address of each subcontractor who will perform labor or render service or fabricate or install a portion of the Work in excess of 5% of the total amount of the contract and (ii) a description of Work to be performed by each such subcontractor.

The bidder shall list only one subcontractor for each portion as is defined by the bidder in his/her bid. (Public Contract Code § 4104.)

A prime contractor whose bid is accepted may not substitute a new subcontractor in place of the subcontractor listed in the original bid except as allowed under Public Contract Code 4107.

### **3.2 Notice Inviting Bids.**

Where formal bidding is required, the CEO shall publish the Notice Inviting Bids at least ten (10) days before the date of opening the bids. Notice shall be published at least twice, not less than five (5) days apart, in a newspaper of general circulation, printed and published in the jurisdiction of the District. (Public Contract Code 22037).

In addition, the CEO shall also publish Notice Inviting Bids in a trade publication, as specified in Public Contract Code § 22036.

### **3.3 Requirements of Notice Inviting Bids**

The CEO shall include all of the following in the Notice Inviting Bids:

- a. Description of the contemplated Work;
- b. The procedure by which potential bidders may obtain electronic copies of the Plans and Specifications;
- c. The final time, date and address (or e-mail address) for receiving and opening of bids (including designation of the appropriate District person or office) (Government Code § 53068; Public Contract Code § 4104.5, 22037)
- d. The date, time and place for opening of bids;
- e. The payment or performance bond amounts if required by the Specifications (Civil Code § 9550)
- f. The time within which the whole or any specified portion of the Work shall be completed (Government Code § 53069.85)
- g. The penalty amount, if required by the Specifications, for each day completion is delayed beyond the specified time. (Government Code 53069.85)
- h. The bonus amount payable to the contractor for completion of the work prior to the specified completion day if a bonus payment is included in the Specifications. (Government Code 53069.85)

### **3.4 Submission of Bids.**

The CEO shall accept only written sealed bids from the prospective bidders. The CEO shall date and time stamp all bids upon receipt. All bids shall remain sealed until the date and time set forth for opening the bids in the Notice Inviting Bids. Any bid received by the District after the time specified in the Notice Inviting Bids shall be returned unopened. (Government Code 53068)

### **3.5 Examination and Evaluation of Bids.**

On the date provided in the Notice Inviting Bids, the District shall publicly open the sealed bids. A person designated by the CEO, will attend and officiate over the opening of bids ("Opening"). The bids will be made public for bidders and other properly interested parties who may be present at the Opening.



The District reserves the right not to determine the low bidder at the Opening, to obtain the opinion of counsel on the legality and sufficiency of all bids, and to determine at a later date which bid to accept. Such determination shall be made within sixty (60) days of the Opening or unless a different period of time is specified in the Notice Inviting Bids.

In the event there are two or more identical lowest bids pursuant to any provision requiring competitive bidding, the CEO may determine by lot which bid shall be accepted. (Government Code 53064)

### **3.6. Award of Contract.**

The CEO shall award the contract to the lowest bidder, provided the bidder is responsible as defined by section 3.7 and the bid is reasonable and meets the requirements and criteria set forth in the Notice Inviting Bids

Any contract awarded by the District shall be subject to all applicable provisions of federal, California and local laws. In the event of a conflict between any contract documents and any applicable law, the law shall prevail.

Notwithstanding anything to the contrary, the District is under no obligation to accept the lowest responsible bidder and reserves the right to reject all bids. (H&S Code 32132)

### **Section 3.7 Responsible Bidder**

a. For purposes of this Policy, “responsible bidder” means a bidder who has demonstrated the attribute of trustworthiness and quality during prior service, a reputation for reliability and satisfactory service with other clients, sufficient financial capacity and the physical capability and the technical and non-technical expertise in order to perform the contract satisfactorily (Public Contract Code 1103).

b. If the CEO determines that the lowest bidder is not responsible, the Board may award the contract to the next lowest responsible bidder

c. If the Board decides to award the contract to a bidder other than the lowest bidder pursuant to subparagraph (b), the Board shall first notify the low bidder of any evidence, either obtained from third parties or concluded as a result of the District’s investigation, which reflects on such bidder’s responsibility. The District shall afford the low bidder an opportunity to rebut such adverse evidence and shall permit such bidder to present evidence that it is qualified. Such opportunity to rebut adverse evidence and to present evidence of qualification shall be submitted in writing to the District.

### **Section 4. Bid Conditions**

All formal bids shall be subject to the following general conditions.

#### **Section 4.1 Minimum Number of Bids.**

The CEO shall consider a minimum of three (3) bids whenever possible; however, where the CEO cannot obtain three bids or when the CEO decides that time will not permit obtaining three bids, the CEO may consider a minimum of two (2) bids.

#### **Section 4.2 Multiple Bids.**

When bids for multiple items are solicited at the same time, the CEO may accept parts of one or more bids (provided the Notice Inviting Bids so indicates) unless the bidder has specified to the contrary, in which event the District reserves the right to disregard the bid in its entirety.

**Section 4.4** Minor Deviations.

The CEO reserves the right to waive inconsequential deviations from the specifications in the substance or form of bids received.

**Section 5.** Limit of Authority Delegated to CEO

**Section 5.1** District Contracts (Non Hospital)

Facility Project contracts or contracts regarding land purchases and leases which bind the District (but not the Hospital) to the terms of a contractual agreement shall be approved by the Board and shall be signed by the Chair of the Board unless the Board designates an alternate signer when the contract is approved.

**Section 5.2** Capital Project Contracts

Facility Project contracts for capital projects that will financially obligate the Hospital to more than \$100,000 shall be reviewed by the Finance Committee.

Facility Project contracts for capital projects that are included in the capital budget and will obligate the Hospital to more than \$250,000 shall be approved by the Board.

Facility Project contracts for capital projects that are not included in the capital budget and will obligate the Hospital to more than \$50,000 shall be approved by the Board.

Facility Project change orders that in aggregate increase the scope of the Facility Project by more than 20% shall be approved by the Board.

**Section 5.3** Board Approval Process

For all Facility Project contracts where the approval of the Board is required (not delegated to the CEO) the project Specifications and the Notice Inviting Bids shall be approved by the Board before publication.

For all Facility Project contracts where the approval of the Board is required (not delegated to the CEO) the final contract shall be reviewed by the Finance Committee before submission to the Board for approval.