INLAND EMPIRE HEALTH PLAN			
Department: Finance – Purchasing			
Subject: Purchasing Policy and Procedures Manual	Policy #:	FIN/PUR 01	
Prepared by: Finance and Legal Department	Original Effective Date:	MO # <u>05-139</u> 05/12/2005	
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Approved by Purchasing Director:  Cita Longsworth	Revision Date:	7/10/20	
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### **APPLIES TO:**

A. This policy applies to all IEHP Team Members.

### **POLICY:**

A. Details of the Purchasing Policy and Procedures are on pages 2-61.

### **PURPOSE:**

In accordance with Inland Empire Health Plan, herein referred to as IEHP, a public entity that complies with the purchasing authority granted by the IEHP Governing Board through the Chief Executive Officer (CEO), who has designated the Purchasing Department to be responsible for the purchase or lease of all materials, supplies, furnishings, equipment, relating to vendors or other personal property, and personal and professional services in accordance with the limitations set forth herein.

Other than the sections relating to provider contract templates, this manual generally does not cover the purchase of General Medical Services. In some cases, however, selected Medical Services purchases may be required to follow the process outlined herein. If staff is unsure about what process a purchase is required to follow, the Purchasing or Legal department should be consulted.

This manual is to serve as a permanent, up-to-date guide to IEHP Purchasing Policies and Procedures. As necessary changes are made to the Policies and Procedures, appropriate revisions will be made to the manual.

The Purchasing Department in conjunction with the Legal Department shall be responsible for accurately maintaining this manual and posting it on the Purchasing Department's intranet site.



### Inland Empire Health Plan

### PURCHASING POLICY AND PROCEDURES MANUAL



**Inland Empire Health Plan (IEHP)** 

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# SECTION 1 GENERAL PURCHASING PROVISIONS

Revised: July 2020

- 1. Introduction. In accordance with Inland Empire Health Plan, herein referred to as IEHP, a public entity that complies with the purchasing authority granted by the IEHP Governing Board through the Chief Executive Officer (CEO), who has designated the Purchasing Department to be responsible for the purchase or lease of all materials, supplies, furnishings, equipment, relating to vendors or other personal property, and personal and professional services in accordance with the limitations set forth herein.
  - 1.1 Purpose. This manual maintains uniform procedures relating to the purchase of commodities and services needed in the operation of IEHP. The requirements stated herein shall apply to all purchases of commodities and services. As approved by the Governing Board and delegated by the CEO, the Chiefs, Directors, Managers, or Supervisors are the only individuals authorized to commit funds for the acquisition of commodities or services.

The Purchasing Department is a service department designated to support the IEHP Organization and its departments. Purchasing involves the acquisition of equipment, furnishings, supplies, maintenance services, construction services and contractual services within pre-established budgetary constraints. Purchasing also includes preparing budget estimates; preparing bid specifications; initiating formal quotations, proposals and bids, conducting public bid openings; evaluating bids; and awarding and administrating contracts until completion or termination.

Other than the sections relating to provider contract templates, this manual generally does not cover the purchase of General Medical Services. In some cases, however, selected Medical Services purchases may be required to follow the process outlined herein. If staff is unsure about what process a purchase is required to follow, the Purchasing or Legal department should be consulted.

This manual replaces all previous purchasing manuals and procedures. Any issues regarding IEHP's purchasing process not covered in this manual shall be addressed by the Purchasing Manager on an individual basis taking into consideration the requirements of Governing Board through Minute Order 16-64 and 16-65 *et. al.* and advice of legal counsel.

- **1.2 Revisions.** This manual is to serve as a permanent, up-to-date guide to IEHP Purchasing policies. As necessary changes are made to the policies, appropriate revisions will be made. The Purchasing Department, in conjunction with the Legal Department, shall be responsible for accurately maintaining this manual and posting it on the Purchasing Department's intranet site.
- **1.3 Code of Business Conduct and Ethics.** All Purchasing activities are to be performed in accordance with this Purchasing Manual. Any and all practices which might result in unlawful activity are specifically prohibited. Under <a href="IEHP's Code of Business Conduct and Ethics">IEHP's Code of Business Conduct and Ethics</a>, it is every employee's responsibility to follow good business and ethical practices and to adhere to federal and state laws and regulations, as well as applicable IEHP policy and procedures.

### SECTION 2 DEFINITIONS

- **2 Definitions.** The following words, when used in this manual are defined as follows:
  - **2.1 Acknowledgment.** A communication (written or electronic) used to inform the Buyer/PCS that the supplier has accepted the purchase order. An acknowledgment creates a bilateral contract, as long as the terms of the acknowledgment are not substantively different from those of the purchase order.
  - **2.2 Addendum.** An addition to, deletion from, correction, modification or cancellation of a formal Solicitation.
  - **2.3 Amendment.** An agreed addition to, deletion from, correction or modification to the terms and conditions, scope of work, specifications or provisions of a contract.
  - **2.4 Analyst Purchasing.** This class is assigned to Purchasing and reports to a Purchasing Supervisor. Positions are assigned to analyze procurement related transactions to ensure compliance with IEHP Contracts, Standards of Work, Policies, and Purchasing Manual.
  - **2.5 Auction Techniques.** An unethical practice in which a Buyer/PCS indicates to a potential vendor a cost or price that it must meet to obtain further consideration or furnishing information about other vendor's prices or advising a potential vendor of its price standing relative to another vendor's. (However, it is permissible to inform a vendor that IEHP considers its cost or price too high or unrealistic.)
  - **2.6 Audit.** A detailed review and examination of records, documents, and the business processes with the confirmation by outside experts of a situation or condition concluding with a detailed report or findings. An audit may be instigated pursuant to IEHP's internal policies or by a regulatory agency.
  - **2.7 Authority.** The right to perform certain acts or prescribe rules governing the conduct of others.
  - **2.8 Back-Door Buying or Selling.** Unofficial, irregular, devious buying or selling, usually resulting from undue efforts to induce preference for a particular vendor with the intent of limiting competition; unauthorized actions. Also, evasive actions taken by the seller to circumvent the Purchasing Department and agency rules/regulations trying to influence or sell directly to the agency's internal user/customer department. This scenario is an unethical practice and not endorsed by IEHP.
  - **2.9 Best and Final Offer (BAFO).** A request to all bidders still in the competitive range to submit a best and final offer.
  - **2.10 Best Value.** The expected outcome of an acquisition that in IEHP's estimation will provide the greatest overall benefit in response to the requirement. Best Value procurement is a procurement process where price and other key factors may be considered in the evaluation and selection process to minimize impacts and enhance the long-term performance and value of a solicitation submission.

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Highlights of Best Value evaluations include but are not limited to:

- Price must be one of the evaluation criteria when procuring.
- Quality performance, timeliness of performance, customer satisfaction, on-budget performance, technical capacity, qualifications, and ability to assess and minimize risks.
- Best value determination must be based on the evaluation criteria detailed in the solicitation document. If criteria other than price are used, the solicitation document must clearly state the relative importance of price and other factors.
- **2.11 Bid Bond.** A "bid guaranty" consisting of a firm commitment in the amount of ten percent (10%) of the bid amount, in the form of a financial commitment secured by cash or a bank issued bond, that the bidder will upon acceptance of its bid, execute such contractual documents as may be required within the time specified. Please refer to Section 7, Public Works.
- **2.12 Bidding Time.** The bidding timeline shows the sequence of events for a typical Solicitation that informs the vendors of the all occurrences, typically from the beginning of a Solicitation release to the award.
- **2.13 Buyer I.** This class is assigned to Purchasing and reports to a Purchasing Supervisor. Positions are assigned the lower level buying of IEHP purchasing responsibility, which includes procuring materials, supplies, equipment, and services for use, by all departments. The Buyer I will assist department members with related duties as required.
- **2.14 Change Order.** A written notice advising the contractor of changes in the contract terms and conditions and internally to make encumbrance changes.
- **2.15 Competition.** A valid response to a Solicitation.
- **2.16 Competitive Range.** The price range of all responsive bids.
- **2.17 Consent of Assignment.** A legal consent by which a person (Assignor) agrees and acknowledges the assignment of specific rights and obligations to another person (Assignee).
- **2.18 Construction.** The building, altering, improving, repair, or demolition of any real property owned or leased by IEHP.
- **2.19 Contract.** An agreement or purchase order for the purchase or disposal of commodities or services.
- **2.20 Coordinator.** This class is assigned to Purchasing and reports to a Purchasing Supervisor. Positions are assigned to assist with timely processing of buyer related transactions. The Coordinator will analyze transactions to ensure compliance with IEHP Standards of Work, policies, and Purchasing Manual. The Coordinator will also ensure that internal and external inquiries are responded to in an accurate and timely manner.
- **2.21 Cure.** An opportunity given to a seller to correct product defects or other contract non-performance issues prior to an agreed-upon deadline.

- **2.22 Delegation of Authority.** As used in this manual, a "delegation of authority" is the formal recorded conveyance of authority from the Governing Board to the CEO and/or his appointed delegates. Any such transfers of powers and duties are therefore significant actions requiring great care and scrutiny.
- **2.23 Delegate.** The employee who is officially transferred the authority to act on behalf of the delegator.
- **2.24 Delegator.** The CEO authorized to act as representative for IEHP as the deputy or agent.
- 2.25 Department of Industrial Relations (DIR). A department of the State of California, which is a regulatory agency for various functions, including enforceability of SB854, which now requires Public Works contractors subject to prevailing wage requirements to register annually with the Department of Industrial Relations and pay an annual fee. Effective January 1, 2015, IEHP will accept Public Works bids from only those contractors and subcontractors who have complied with this requirement. Please refer to the DIR website: <a href="http://www.dir.ca.gov/Public-Works/PublicWorks.html">http://www.dir.ca.gov/Public-Works/PublicWorks.html</a>
- **2.26 Designee.** The delegated employee who has authority to take procurement related action on behalf of IEHP's CEO, who has transferred his authority ("delegates") to the IEHP employee ("Delegate").
- **2.27 Emergency Purchase.** The immediate purchase of commodities or services caused by a sudden, unexpected turn of events beyond the control of IEHP involving, but not limited to, public health, welfare, safety, injury or loss.
- **2.28 Equal Clause.** Whenever reference to a specific brand name is used in the specifications of a Solicitation, it is illustrative and to be construed as a specification which describes a component that has been tested or evaluated by IEHP as best meeting specific operational, design, performance, maintenance, quality and reliability standards and requirements of IEHP, thereby incorporating these requirements by reference within the specification.
  - A. An equivalent ("or equal") may be offered by the bidder, subject to testing or evaluation by IEHP prior to award of contract.
  - B. IEHP shall be the sole judge of whether any proposed item will fulfill its requirements for IEHP's intended purpose and reserves the right to reject proposed item as non-responsive.
  - C. It shall be the sole responsibility of the bidder to provide, at bidder's expense, any product information, test data, and other information or documents IEHP may require for fully evaluating or demonstrating the acceptability of the offered substitute.
  - D. Where appropriate, independent testing or evaluation (including destructive testing) may be required as a condition of acceptance at a qualified test facility at the bidder's expense.

- **2.29 eSignature Electronic Signature.** The US Federal ESIGN Act defines an "electronic signature" as an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record. IEHP utilizes DocuSign in its contract management system. Outside of the contract management system, IEHP recognizes only those signature authorities on the State of California's Approved List of Digital Signature Authorities.
- **2.30 FOB–Destination.** Free on Board Destination. The title of the tangibles does not transfer from the supplier to IEHP until the products are received. IEHP is not responsible for products damaged in transit and should notify the supplier for a "no charge" replacement product(s).
- **2.31 FOB-Origin.** Free on-Board Origin. Indicates that the title of the tangibles transfers to IEHP as soon as they leave the vendor's dock. IEHP is responsible for the transit of tangibles and must contact the delivery carrier to process a freight claim if products arrive damaged.
- **2.32 Formal Bid.** The Purchasing Department shall procure a formal written and sealed Solicitation via a competitive bid process on behalf of IEHP departments for commodities and services over \$100,000. The bidders shall have their proposal signed by an authorized representative of their company/firm in response to IEHP's written Solicitation that acknowledges the Solicitation requirements.
- **2.33 Independent Contractor.** An individual hired to perform a specific service. Commonly referred to as a consultant, freelancer, contractor, etc., he or she is the master of his or her own time. Usually, a contractual relationship exists whereby the independent contractor is responsible for all aspects of the means and methods of the job. He or she is fully liable for any job-related actions and is not eligible for employee benefits. IEHP may require proof of adequate insurance from independent contractors.
- **2.34 Informal Bid.** A written quotation from potential bidders up to \$100,000 for commodities and services. Informal bids do not require a public opening at a specific date and time. Departments that provide informal quotes to the Purchasing Department must complete a Conga Intake, and include three (3) written quotations, along with supporting documentation, that indicates the product/services are comparable in scope from each bidder. Informal bids cannot have various submission dates that are more than one (1) week apart in total.
- **2.35 Invitation to Negotiate.** An invitation extended to prospective contractors whether by advertisement, written Solicitation, electronic media or any other form of communication, to define the specifications, terms and conditions of a contract for commodities or contractual services. Cost may or may not be a consideration in the initial stages of negotiating.
- **2.36 Leveling.** Assisting a bidder in bringing its proposal up to the level of other proposals by coaching or providing solutions. Leveling is a form of fraud in which a contract is promised to a specific vendor, even though a public Solicitation is being pursued for the sake of appearances by asking other vendors to submit a bid. This form of collusion is illegal and is a form of price fixing. Buyer/PCSs that use leveling will be subject to applicable HR disciplinary processes and any other investigation by internal processes.

- **2.37 Liquidated Damages.** Damages paid usually in the form of a monetary payment, agreed by the parties to a contract, which are due and payable as damages by the party who breaches all or part of the contract. This may be applied on a daily basis for as long as the breach is in effect. However, it may not be imposed as an arbitrary penalty.
- **2.38 Micro Dollar Purchases.** Affords management the ability to obtain good / services with a not exceed total Purchasing spend of \$10,000 per vendor, per year, without competitive bidding.
- **2.39 PO/Contracts** A mechanism used to establish an administrative hierarchy with vendors and for the purchase of tangibles or services.
- **2.40 Payment Bond.** The payment bond protects most providers of material and labor to a job. It guarantees that the contractor will pay bills in accordance with the contract terms. A payment bond shall be no less than one hundred percent (100%) of the total sum payable to IEHP under the Public Works Contract at the time of contract from an admitted surety insurer pursuant to <u>California Code of Civil Procedure Section 995.120</u>. The types of security acceptable by IEHP are detailed in Section 7, Public Works.
- **2.41 Payment Terms.** The number of days in which the accounts payable department has to pay an invoice. This may include a percentage discount offered off the invoice price for paying the invoice in a certain number of days. IEHP standard default terms are net 30, i.e., payable within 30 days. Please refer to Section 7, Public Works.
- **2.42 Performance Bond.** A bond issued by an insurance company to guarantee satisfactory completion of a project by a contractor.
- **2.43 Professional Service Contracts.** Professional service contracts are those purchases in which the vendor performs a labor-intensive service (i.e., auditing, consulting, counseling, temporary help, equipment maintenance, etc.), rather than providing a product.
- **2.44 PO Approval Authority.** Supervisor \$999, Manager \$4,999 Director \$14,999, Sr. Director \$34,999, Executive Director \$49,999, Chiefs \$99,999, CEO \$200,000, Governing Board \$200,001 and above. This authority may be limited per project, subject to minute order and signature authority.
- **2.45 Pre-bid or Pre-Proposal Conference.** When bids are complex in nature due to specifications, the number of suppliers bidding, the amount of business to be awarded, the critical nature of the resulting contract, etc., a pre-bid or pre-proposal conference may be an appropriate way to communicate information to the potential suppliers.
- **2.46 Prevailing Wage Rate.** The wage that contractors must pay its employees for a Public Works project, in accordance with <u>Lab. Code Sections 1720 et seq.</u> The Director of the Department of Industrial Relations of the State of California, in the manner provided by law, has ascertained the general prevailing wage rate per diem wages and rate of legal holidays, and overtime works. Contractor must pay any labor therein described or classified in an amount not less than the rates specified.

- **2.47 Price Reasonableness.** A price that does not exceed that which would be incurred by a prudent person in the conduct of a competitive business. A reasonable price is established by competition, market test, price or cost analysis, or through the experience and judgment of the Purchasing Manager, or designee.
- **2.48 Procurement Card (P-Card).** A payment method whereby internal customers are empowered to deal directly with suppliers for purchases using a credit card issued by a bank or major credit provider.
- **2.49 Procurement Contract Specialist I** (PCS I). This class is assigned to the Purchasing Department and reports to the Purchasing Manager or designee. Positions are assigned the full span of purchasing and contracts administration responsibility, which includes assisting and advising departments in selection of the most equitable and efficient solicitation process, negotiations, and for major contract implementation.
- 2.50 Procurement Contract Specialist II (PCS II). This is the advanced level in the Procurement series of the Purchasing Department. Positions are assigned the highest level of IEHP purchasing responsibility, which includes consulting with departments in selection of the most equitable and efficient solicitation process, in negotiations, and for major contract implementation. This classification is distinguished from the Procurement Contract Specialist by its assignment to the most complicated tasks, independence in procurement methods and solicitation processes used, and responsibility for the highest dollar, most complex, political and higher risk procurements.
- **2.51 Proposal.** An offer that, if accepted, creates a contract. A proposal may be made in response to a Solicitation or may be unsolicited.
- **2.52 Protest.** A written objection by a potential interested party to a Solicitation or award of a contract, with the intention of receiving a remedial result.
- **2.53 Public Works.** Construction, alteration, demolition, installation, or repair work done under contract and paid in whole or in part out of public funds. It can include preconstruction and post-construction activities related to a public works project. (See Lab. Code Section 1720).
- **2.54 Purchase.** An acquisition of commodities or contractual services obtained by contract, whether by rent, lease, installment or lease purchase, or outright purchase. The following are not purchases: transfer, donations, sale or exchange of personal property or services between IEHP departments.
- **2.55 Purchasing Supervisor.** This is a first-line supervisory position in the Purchasing Department. This single position classification, under general direction from the Purchasing Manager, exercises direct supervision over assigned procurement/contracts personnel in the operation of IEHP's centralized purchasing system. The incumbent performs complex and technical duties in the procurement of tangibles, services and supplies for IEHP departments, including the development of service contracts, requests for proposals, and/or contract administration.

- **2.56 Request for Bid (RFB).** An RFB is a competitive Solicitation for Public Works only, and is used whenever IEHP can specify with certainty the performance, functional or technical characteristics or the item or service needed. This bid is opened publicly, and award is generally to the lowest cost bidder meeting the minimum specifications as specified in the bid document and has the ability to fulfill the obligation.
- **2.57 Request for Information (RFI).** An RFI is a questionnaire or inquiry into the supplier's background to gather, share and clarify information needed in the development of an RFQ/P, or as a tool used during budget preparation activities. An RFI is not limited to suppliers but can also include input from consumers, community groups and other interested parties. An RFI can be written, oral, or electronically communicated.
- **2.58** Request for Proposal (RFP). A competitive Solicitation that is used whenever IEHP cannot specify with certainty the item or service needed and the vendor is asked to propose a solution to a particular situation. These proposals are not opened publicly, and bidders may be called to clarify their responses and allow for further negotiations of the prices, terms and conditions of their offer. These are generally awarded to the vendor that best meets all the requirements listed in the RFP evaluation criteria.
- **2.59** Request for Qualifications (RFQu). These procedures are used when a large or complicated purchase is being considered and the potential pool of suppliers must be prequalified. In this case, an RFQu is a questionnaire or inquiry into the supplier's background. This is used to determine if the supplier meets the minimum standards needed to successfully bid on the project and, if awarded, successfully complete the project.
- **2.60** Request for Quotation (RFQ). A competitive Solicitation that is used whenever IEHP can specify with certainty the performance, functional or technical characteristics or the item or service needed. This bid is opened publicly and award is generally to the lowest cost bidder meeting the minimum specifications as specified in the bid document and has the ability to fulfill the obligation.
- **Responsible Bidder.** A bidder who has the capability in all respects to perform the contract requirements fully, and whose integrity and reliability will assure good-faith performance.
- **2.62 Responsive Quotation/Bid.** A quotation/bid determined by the Purchasing Manager or designee, to be in substantial conformance with the specifications, delivery requirements, and conditions prescribed in the request for quotations or request for proposal, free of material mistakes or errors.
- **2.63 Signatory Authority.** Legal power delegated by the Governing Board to the CEO or the CEO's delegate to sign a contract up to limits established by policy on behalf of IEHP. The CEO's primary signature delegate shall be the CFO, followed by the secondary delegate, General Counsel.
- **2.64 Single Source Purchase.** A purchase of a commodity or service without obtaining competitive bids although more than one source is available.
- **2.65 Small Dollar Purchases.** Require management to obtain quotes (3 minimum), and competitive prices required for all informal bids via written quotes/documentation or

through a RFP/RFQ/RFQu.

- **2.66 Sole Source Purchase.** A purchase of a commodity or service that is noncompetitive in price, specifications, use, or scope of work. The commodity or service is proprietary and no other vendor is qualified or willing to meet IEHP's specified requirements.
- **2.67 Solicitation.** Process of notifying prospective or qualified bidders of IEHP's request to receive bids on the specified product or project. Solicitations include RFQ, RFP, RFQu, and RFB, which may be made public through advertising, mailings, Purchasing's 3<sup>rd</sup> party bidding platform, or some other method of communication.
- **2.68 Specifications.** Detailed statements describing the materials, dimensions, performance requirements, or workmanship of something to be built, installed, manufactured or processed to define what constitutes an acceptable product or service.
- **2.69 Statement/Scope of Work (SOW).** The SOW provides potential suppliers with a clear description of the work to be performed, including inspections, testing and acceptance, quality, support services, documentation, maintenance, results to be achieved, and any other requirements.
- **2.70 Tangible Goods/Items.** A physical item that can be perceived by the sense of touch. Examples of a tangible product include software licensing/subscriptions, vehicles, food items, computers, telephones, etc..
- **2.71 Total Cost/Life Cycle Cost.** A comprehensive systems approach to analyzing purchases, processes, and supply chain-related decisions to include the purchase price, transportation cost, indirect handling, inspection, maintenance cost, disposables, installation, operation, training, and disposal.
- **2.72 Turnkey.** In construction procurement, a requirement whereby the contractor is responsible for the entire project including designing the project, contracting for construction and then furnishing the structure. In technology procurement, one vendor is responsible for the hardware, software, and support. This may also apply when contractor is totally responsible for an entire project, from start to finish.
- **2.73 Types of Purchase Orders.** IEHP utilizes a variety of vehicles to procure tangibles and services. Selecting the specific purchase order (PO) type is an important function for the Buyer/PCS. The type of PO can affect several aspects of the order such as matching for payment, sales tax requirements and other reporting requirements.
- **2.74 Use by Political Entities (Piggyback Awards).** When using another governmental agency's Solicitation and agreement to procure tangibles/services without having to go out to bid. Please refer to Section 4.3 Use by Political Entities (Piggyback) Awards and Contracts.

## SECTION 3 PURCHASING AUTHORITY

### 3. Purchasing

Delegates or designees that are issued procurement authority may be revoked if procurement policies and guidelines are not upheld. Only the Purchasing Department staff has the authority to issue purchase orders via IEHP's financial system. Any subsequent Change Orders will be initiated by the Business Unit and approved in the financial system according to the workflow dollar limits below before final review and processing by Purchasing.

The following have the authority to approve, in IEHP's financial system only, funds for the procurement of tangibles and/or services (including professional services, software licenses, and maintenance, excluding the execution of contracts) up to the dollar limitations indicated below. Only the CEO and authorized delegates are authorized to sign agreements on behalf of IEHP. The CEO's primary signature delegate shall be the CFO, followed by the secondary delegate, General Counsel.

### WORKFLOW LIMITS WITHIN THE ORACLE FINANCIAL SYSTEM

Position	Dollar Limit (Not to Exceed)	
Supervisor	\$ 999.00	
Manager	\$ 4,999	
Director	\$ 14,999	
Senior Director	\$ 34,999	
Executive Director	\$ 49,999	
Chief Officer	\$ 99,999	
CEO	\$ 200,000 (Unlimited for Competed Tangibles)	
Governing Board	\$ 200,001 and above	

### 3.1 Delegation of Purchasing Authority

Per Governing Board: Approval of an Increase to the Chief Executive Officer's Purchasing Authority under Minute Orders 16-64 and 16-65 (or current revision):

### A. Approved Recommended Action:

That the Governing Board of the Inland Empire Health Plan (IEHP):

- The Chief Executive Officer, or delegate, shall make related changes to applicable Inland Empire Health Plan procurement policies and procedures, as necessary. The Chief Executive Officer's purchasing policy is as follows:
  - i. Any consulting, professional or personal services pursuant to purchase order, verbal or written contract shall not exceed \$200,000 from a single vendor in any one-year period, which period shall begin from the effective date of the contract. (MO 16-64). Part of this scope would include multi-year contracts (but limited to the annual limit stated above).

- ii. Purchases of tangible items that were formally competitively bid through the Purchasing Department shall have no dollar restriction for award. (MO 16-65). A purchase order shall be approved by the CEO or designee provided the tangible item be awarded to the lowest responsive/responsible vendor.
- iii. Other than low bid, where the difference between the low bidder and the next bid is over \$10,001, requestor must obtain approval by the CEO or Delegate prior to award.
- iv. Board approval is required in a mixed transaction involving both the purchase of goods and the service of installation of the goods purchased. A written contract or purchase order above \$200,000 must be submitted to the Board for approval.
- v. This approach will allow the CEO the necessary flexibility in entering into vendor contracts, as intended under the previous MO 13-49, MO 14-307 and 14-308, to meet the operational needs of IEHP.
- vi. Additionally, IEHP intends to maintain its competitive bid procedures and will ensure that all awarded contracts are in compliance with such internal procedures and in accordance with law.
- B. After the IEHP Governing Board has approved standard contract template agreements by formal action, the CEO, or delegate, is authorized to sign them for medical.
  - 1) Provider (General)
  - 2) IPA and Hospital
  - 3) Admitter
  - 4) Vision
  - 5) Ancillary and Urgent Care
  - 6) Outpatient Hospital
  - 7) PCP fee-for-service
  - 8) PCP Capitated
  - 9) Vision
  - 10) Letter of Agreement
  - 11) Professional Services
  - 12) Business Associate
  - 13) Trading Partner
- C. As such, the Chief Executive Officer's additional purchasing authority shall be as follows:
  - 1) The CEO or delegate who is authorized to execute any and all sponsorship agreements or approval of a vendor for the participation in community events where the total expenditure does not exceed the CEO spending authority.
  - 2) In the event the CEO or delegate is not otherwise granted authority, Governing Board approval shall be required to approve all non-standard contracts for General Medical Services for the medical provider network of IEHP.

### 3.2 Compliance

Purchasing will utilize its Contracts Administration Unit to audit department related procurement activities to ensure compliance with all state and federal programs.

### 3.3 Purchasing Authority Limitations Table

### **Bidding Requirements**

<b>Micro-Purchase:</b> Affords management the ability to obtain good / services with a not exceed total Purchasing spend of \$10,000 per vendor, per year, without competitive bidding.	Bidding Requirements:  Not Required  \$0-\$10,000  Although competitive bidding is not required, the Purchasing Department recommends obtaining a minimum of (3) quotes.	
Small Purchase – Informal Bid/Request for Proposal/ Request for Quotation: Obtain quotes (3 minimum), and competitive prices required for all informal bids via written quotes/documentation.	Bidding Requirements: \$10,001-\$100,000 (Informal)	
Sealed Bid/Request for Quotation/Request for Qualifications/Request for Information: Purchasing Department will issue a formal competitive Bid. To be solicited on the stakeholder's behalf.	<b>Bidding Requirements</b> : \$100,001 and up (Formal)	
Single or Sole Source	No Bidding applicable	
Public Works		
Construction of, improvements to, repairs to or remodeling of public owned land, buildings or attachments. Uniform Cost Accounting Act and Public Contract Code. Bids must go through the assigned Plan Rooms. (Please refer to Purchasing Department).	Formal Bidding Requirements: \$60,000-\$200,000  Over \$200,000 must be advertised in the newspaper for two weeks	

## SECTION 4 CONTRACTS AND SOURCING

### 4. Procurement Activities

- A. Uniformity and consistency are desired for purchasing activities and contract development. IEHP team members are encouraged to use approved standard forms/templates. Standard contracts documents include IEHP's Professional Service Agreement (PSA) and addendum template that were developed in cooperation with Purchasing and the Legal Department. The utilization of vendor contract documents may be acceptable; however, review by the Legal Department will be required to safeguard and protect IEHP's interest. Purchasing and the Legal Department can assist team members with legal aspects, competitive bidding, vendor selection, and proper procedures for contract development and submittal to the CEO for approval. For this entire section, please refer to Section 3.3 Bidding Requirements and Signature Authority Limitations.
- B. The CEO or his designee is authorized to execute or approve any and all sponsorship agreements for the participation in events where the total expenditure does not exceed the CEO spending authority.
- C. In the event the CEO or delegate is not otherwise granted authority, Governing Board approval shall be required to approve all non-standard contracts for General Medical Services for the medical provider network of IEHP.
- D. The Purchasing Department shall coordinate all procurements on behalf of IEHP.
- E. Contracts shall be entered into only after it has been determined that prices are reasonable considering all of the circumstances pertaining to the particular purchase under consideration:
  - 1) Price reasonableness can be established through competition sufficient to ensure an adequate market test, or supported by an appropriate cost analysis.
  - 2) Particular attention must be given to pricing in a non-competitive purchase.
  - 3) Pricing techniques are utilized selectively in price or cost analysis, recognizing their fundamental soundness but also taking into consideration the different character and scale of purchases.
  - 4) A reasonable price need not be the lowest price available, but is one that offers the best quality and value to IEHP.
  - 5) The CEO, or delegate, is authorized to execute documents necessary to finalize purchases for services wherein the aggregate amount from a single vendor is \$200,000 or under, and agreements or purchase orders over \$200,000 must be submitted to the Governing Board for approval.
  - Agreements or purchase orders under this section will require a competitive bidding process that shall include obtaining a minimum of three quotes for all purchases of tangibles and services. Purchasing staff shall make a good faith effort to obtain a minimum of three quotes; however, in the event three quotes are not obtainable, staff shall document the steps taken and the reason for the inability to obtain it. Purchases over \$100,000 must go through a formal Solicitation process through the Purchasing Department.

### 4.1 Goods (Tangible/Intangible)

Per Minute Order 16-65 approved 5/9/16, and upon approval of the Purchasing Manual by the Governing Board, the CEO or designee may purchase competitively bid tangibles/goods without Board approval. Goods is generically used to refer to commodities or items of all types, excepting services, said items usually being involved in trade or commerce, including but not limited to equipment, goods, supplies, and software and software maintenance (electronic/online upgrades only) purchased by IEHP. This category includes most everything except professional services, Public Works, and real estate. For sole/single/emergency purchases please refer to 4.7 Sole/Single Source procedures.

### 4.2 Professional Services

Minute Orders 15-238/16-64 delegates to the CEO or delegate authority to execute agreements/contracts/purchase orders in an amount not exceed \$200,000 from a single vendor in any one-year period, which period shall begin from the effective date of the contract. Board approval may be required in a mixed transaction involving both the purchase of goods and the service or installation of the goods purchased. Final determination on a mix of goods and services - purchase will be made by Purchasing, Legal, and/or Governing Board Secretary. A written contract or purchase order above \$200,000 must be submitted to the Board for approval.

### 4.3 Use by Political Entities (Piggyback) Awards and Contracts and Cooperative Purchasing

- A. When using another governmental agency's agreement, utilizing Multiple Award Schedules (MAS), or participation in a Group Purchasing Organization (GPO), Purchasing Alliance (PA) or any other Cooperative Purchasing Program, and the vendor agrees to extend the same or better pricing, terms, and conditions to IEHP, the Purchasing Department may purchase supplies and general services through such piggybacking or cooperative purchasing.
- B. In cases of piggybacking, it is understood that the requesting entity shall make purchases in their own name, make direct payment, and be liable directly to the vendor; and the governmental agency that controls the agreement shall in no way be responsible to the vendor for other entities' purchases.
  - 1) Purchase of goods, equipment, and contractual services may be purchased from other governmental agency bids or cooperative purchasing agreements without additional competitive bidding provided:
    - i. The governmental agency went through a competitive bid process advertising the solicitation; and
    - The bid documents and selection procedures used by the other governmental agency are consistent with IEHP's purchasing regulations and permit other entities to purchase from the award/bid; and
    - iii. The awarded vendor of either governmental agency participated in the competitive bidding process, and received a current governmental agency contract that is still in full force and effect; and
    - iv. The contract includes the tangibles or services seeking to be purchased

by IEHP.

- 2) However, if the piggybacked contract was not secured via a competitive bid process, the use of the contract will be viewed as Sole Source procurement and IEHP's sole/single source policy must be followed. Please refer to Section 4.7 Sole/Single.
- 3) The Purchasing Department shall obtain as necessary, a current reference list of governmental agency and federal-approved vendors. In cases where there is a question about a vendor's approved status, the Purchasing Department shall contact the appropriate governmental entity and confirm the vendor's status.
- 4) The Purchasing Department and/or the Legal Department shall review the vendor's contract to ensure compliance with Policy provisions above. Copies of contracts may be supplied by either the vendor or the governmental agency.
- 5) Copies of any contract being referenced in lieu of bidding shall be retained by the Purchasing Department.
- C. For cooperative purchasing agreements, the Purchasing Department may purchase supplies and general services through a MAS, GPO, PA or any other Cooperative Purchasing Program if the underlying purchase was made using competitive negotiation or bidding procedures at least as restrictive as those contained in this Purchasing Manual and the Purchasing Department determines that such purchase is in IEHP's best interests.
- D. In all such cases, the supplies or services purchased must be the same and be offered at the same or better price as the supplies and services offered to the other governmental agencies or members of the GPO, PA or any other Cooperative Purchasing Program.

### 4.4 Requirements for Competitive Bidding on Renewing Agreements

- A. When negotiating multi-year contracts, the best practice is ensuring that the term is renewable in one-year increments with the "Non-Appropriation of Funds" clause notated in the agreement/PO, found in the Professional Services Agreement (PSA). This provides the department flexibility in either opting to terminate the use of the service or maintaining the service for a period-of-time for the life of the project/term. For specialized services whereby it is at the department's best interest/best value to maintain the service long-term, the department may consider seeking CEO/Board approval for a longer multi-year agreement.
- B. Other than contracts for medical services, Enterprise Solution Agreements (ELA) may be for the life of the project and must be Board approved if over the CEO's authority. All other agreements such as service, maintenance, and license

agreements (Non-ELA) shall have a term that is limited to a reasonable term and include the option for one annual renewal. Under no circumstances may a contract automatically renew and require additional funding or obligations to IEHP, unless approved by the CEO or the Board.

### 4.5 Contract Amendments

A contract amendment is an addition to, deletion from, correction or modification of an existing agreement. An amendment can include, but is not limited to, the following:

- A. A change in the contract date
- B. A change in the specifications for the project
- C. A change in the wording of the contract
- D. A change in the costs or fees of the project

### **4.6** Non-Cancelable Contracts

All non-cancelable contracts committing IEHP to a contractual period exceeding one fiscal year must have the CEO, delegate, or Board approval.

### 4.7 Sole Source/Single Source

CEO or delegate approval is required to purchase any item or service valued at \$10,001 and above without obtaining competitive bids. The requesting department shall complete a Conga Intake . The request will be reviewed by the Purchasing Department to determine if competitive pricing could be obtained and/or if the SSJ request provides the best value for the IEHP. Sole/Single Source procurements for any purchases that are valued at \$10,001 and above shall be justified based on unique circumstances and approved by the CEO or delegate, to include:

- A. Single Source purchases from a specific vendor, where substitutes to the vendor or brand are unacceptable, must be accompanied by a written justification explaining the circumstances that make substitutes unsuitable.
- B. Sole Source Justifications are to be supported by factual information. The unique features of a product or vendor or the substantiated circumstances where alternative products or vendors do not exist qualify purchases for Sole Source procurement. Such justifications may include the following reasons:
  - 1) Attorneys selected by the Legal Department.
  - 2) Public utilities with territorial exclusivity.
  - 3) An existing contract with a renewal/extension option incorporated in the agreement.
  - 4) No viable alternative available or alternative vendors do not meet requirements. The search criteria and efforts to identify alternative vendors must be documented.
  - 5) Availability of replacement parts of existing equipment.
  - 6) The need to meet unique physical design or quality requirements; characteristics proprietary to a single manufacturer or company and

- essential to the proposed use.
- 7) Significant additional costs would be incurred by changing vendors in this particular application. IEHP Team Members may have received specialized training and/or developed extensive experience so that the proposed cost justifies the Sole Source.
- The requested product/vendor is essential to maintaining the delivery of care to IEHP members and/or the continuity of IEHP business operations.
- 9) An existing contract with a renewal/extension option required to be incorporated in the agreement. All contracts must have a period of performance/term identified, unless approved by the CEO or Board, regardless of the dollar amount.
- 10) A written explanation identifying the qualifying criteria must be presented to the IEHP Governing Board for all Sole Source procurements requiring Governing Board approval.
- C. In accordance with Purchasing Manual Section 3.3, titled, "Purchasing Authority Limitation Table Micro-Purchase", Purchases under \$10,000 do not require justification.
- D. All Sole/Single Source justifications shall be approved by the Purchasing Manager and CEO or delegate and filed with the Purchasing Department in the Conga contract management system to initiate an agreement in lieu of competitive bidding documentation.
- E. Sole/Single Source purchases in excess of \$200,000 shall be approved by the Governing Board.
- F. Single Source Procurements shall not exceed \$10,000 in any given contract and/or fiscal year from a single vendor in aggregate without obtaining Conga Intake approval.

### 4.8 Emergency Purchases

- A. An emergency is an unexpected turn of events involving but not limited to, equipment failure, public health emergency, welfare, safety, injury or loss. A pressing need is one arising from unforeseen causes, including but not limited to, delay by contractors, delay in transportation, breakdown in machinery, or unanticipated volume of work.
- B. While procurement procedures are desirable for purchases, when an emergency or pressing need arises, it is necessary to conduct an Emergency Purchase without obtaining competition.
- C. Using the emergency purchase process is not acceptable for satisfying preferences or conveniences, and departments must anticipate their needs for tangibles and services to avoid requesting emergency purchases based on inadequate forecasting or overlooked requirements.
- D. Departments should utilize the Purchasing Department when possible to help with the emergency purchases.

- E. In emergency or pressing situations where time is of the essence and conditions warrant extreme measures to stabilize conditions, the procurement procedures for such tangibles, services, or equipment shall be as follows:
  - 1) Notify the appropriate individual of the emergency or a pressing business need. The requestor shall seek approval of the emergency procurement via email or phone call. Please refer to 3.3 for a list of the IEHP titles who can verbally approve emergency purchases with their authority level. For emergency purchases above \$200,000, Board level authorization, the department must obtain the authorization from the CEO or designee. With authorization from the CEO, the department director or designee may make the necessary purchases of the needed items or services.
  - When an emergency purchase occurs, within three (3) working days afterward, the department is to contact Purchasing and/or the Legal Department to determine if a contract exists that can meet the emergency need. Requesting departments shall limit the purchase quantity of what is necessary to meet the emergency condition.
  - 3) The department should submit all other documentation regarding the request to the CEO or delegate for approval.
  - 4) If the purchase was over \$200,000, Board level authorization, and approved by the CEO, the requesting Department will submit a Board Report including the Governing Board to "Ratify and Approve" the emergency purchase at their next regularly scheduled Governing Board meeting.

### 4.9 Corporate Credit Card Program

- A. The CFO and designated IEHP Team Members (approved by the CFO) are authorized to be issued an individual IEHP Visa Credit Card (Cal-Card Credit Card). The card is issued in the Team Member's name for use in paying for expenses incurred in the normal course of IEHP business that do not lend themselves to usual purchasing methods. Business expenses appropriate for credit card payment typically include hotels, dining, airfare and small (dollar value) retail purchases. Use of the P-Card shall not circumvent obtaining 3 quotes for products subject to the competitive bid process. P-Card usage is a payment mechanism only. Please refer to the Corporate Credit Card policy.
- B. Cardholders using the cards for personal expenses shall lose their credit card privilege and shall be subject to appropriate disciplinary action.
- C. Credit card expenditures shall be reconciled and approved on a monthly basis by the card holder.
- D. For tangibles purchases requiring a P-Card transaction, Purchasing will be responsible to obtain three quotes and turn in with the monthly reconciliation statement from the bank. In general, services cannot be paid by a P-Card. Exceptions to the policy will be allowed at the discretion of the Purchasing and Accounting Department.

### **4.10** Card Procedures:

A. Upon issuance, the Cardholder shall sign a "Credit Card Received and

<u>Acknowledgement" form.</u> This document codifies release of the credit card to the Cardholder and provides an agreement on the part of the Cardholder to surrender the credit card when his/her employment with IEHP terminates, or if requested sooner by the CFO or designee.

### B. Monthly Reconciliation:

- 1) The cardholder or authorized team member are responsible to download and review monthly itemized statement.
- 2) The Cardholder shall review the statement with their Administrative Assistant or authorized Team Member, complete a <u>Visa Expenditures</u> <u>Summary form</u> and submit its supporting documents to the Finance Department Accounts Payable team. Copies of credit card receipts <u>must</u> be attached with every submittal.. (Note: credit card receipts are not substitutes for detailed hotel bills/folios.)
- Cardholders are required to submit their credit card statements for CFO, or designee, approval within one week of receipt when statements are published.
- 4) Upon approval by the CFO, or designee, the Finance Department Accounts Payable Team Members shall prepare the statement for payment through the regular Accounts Payable procedures.
- 5) IEHP travel policy must be followed for any travel related expenses. (See IEHP Travel Policy).

### 4.11 Membership and Credit Cards Policy:

- A. The CFO, or designee, is authorized to maintain IEHP corporate credit cards, and Vendor-specific/membership credit cards from selected retail/wholesale club vendors from which IEHP routinely purchases tangibles, to facilitate purchases that do not lend themselves to usual purchasing methods. These cards may be used in cases where suppliers shall not accept purchase orders, only offer purchases through the Internet, and in other circumstances that prohibit the issuance of a purchase order.
- B. The IEHP Director of Finance, or duly authorized personnel, shall supervise the use of the credit card and reconcile monthly statements of noted purchases.
- C. Credit cards shall be maintained in a locked location...

### 4.12 Procedures

- A. Membership Card and Credit Card Usage:
  - 1) Membership cards and credit cards, with the exception of gas credit cards, are "checked out" from Finance. Finance records use of all corporate credit cards in a tracking log. The log identifies the requesting Cardholder, which card is utilized, date checked out, date returned; the log is also signed by the Cardholder.
  - 2) The Cardholder purchases item(s) with the credit card.
  - 3) A copy of the receipt must be returned to Finance, along with the membership card.

- 4) The Supporting Documentation for Expenditure form is filled out by the Cardholder, the original receipt is stapled to the form, and the form is returned to Accounts Payable.
- 5) The credit card is returned to the Finance Department and the log is updated with the date returned.
- The IEHP fleet gas cards are maintained by the Facilities team and are assigned to a specific vehicle. They are provided to team members at the time an IEHP vehicle is assigned. Team members are required to refuel the vehicle before returning to IEHP. (See IEHP Use of Company Vehicles Policy FAC FS 007).
- 7) Team Members must have valid auto insurance and be on the approved drivers list maintained by Human Resources in order to utilize membership cards and credit cards.

### 4.13 Purchases with Petty Cash:

- A. The procurement of tangibles using the petty cash funds of IEHP shall be at the discretion of the CFO, or designee. Petty cash is used on a limited basis to obtain reimbursement for small individual purchases incurred in the normal course of IEHP business that do not lend themselves to usual purchasing methods.
- B. Petty Cash purchases are limited to \$25.
- C. Oversight of the Petty Cash fund is conducted by the Director of Finance. (Governing Board Resolution 95-20.)
- D. The IEHP Team Member, or appropriate Administrative Assistant, shall complete an IEHP Petty Cash Request form.
- E. The form shall be approved by the Team Member's Manager.

### 4.14 Inappropriate and Unauthorized Purchase Activities

### A. Splitting of Orders

The signature authority is limited by IEHP's internal policy and/or Board policy. Deliberate attempts to split orders, where the purpose is keeping total cost of each order down below bid limits, and failure to combine orders when practical for the best interest of IEHP in order to circumvent the limitations, is prohibited and may result in disciplinary actions including reduced or suspended purchasing authority.

### B. Splitting of Public Works Projects

Splitting of Public Works projects is against the law under <u>California Public Contract Code Section 22033</u>. Appropriate action will be taken against those parties intentionally splitting a Public Works Project.

### C. Unauthorized Purchases

Purchase transactions that are either entered into by an individual that is not authorized to contract on behalf of IEHP or entered into by an individual normally authorized to contract but who uses an unauthorized procurement method, or exceeds their delegated authority will result in disciplinary actions. Repeated and/or

flagrant violation of the authorization delegated to individuals, by the CEO, may result in disciplinary action.

### 4.15 Surplus/Donation of Equipment (Order 17-15)

### A. Delegated Power of Purchasing Manager.

In accordance with the CEO's delegated authority, the Purchasing Manager may sell or dispose of any personal property belonging to IEHP which is not found to be required for public use ("Surplus Property"). When purchasing personal property for which it is not necessary to advertise for bids, the Purchasing Manager may solicit and accept advantageous trade-in allowance for Surplus Property, without advertising for offers on such property. When specifically authorized, the Purchasing Manager shall similarly dispose of personal property and report to the Finance Department for any necessary reconciliation.

### B. Surplus and Salvage Pool

- 1) Whenever personal property is no longer needed by an internal department, the department may report and transfer the property to a Surplus and Salvage Pool to be maintained and supervised by the Facilities Director, the designated custodian charged with maintaining the Surplus and Salvage Pool inventory.
- 2) If an internal department needs any personal property in the Surplus and Salvage Pool, the department may submit a request to the Facilities Director. The Facilities Director has the discretion to grant or deny the request.
- 3) Upon approval by the CEO or his delegate, a third party (community based organization, nonprofit corporation or foundation, etc.) may acquire Surplus Property (other than vehicles) placed in the Surplus and Salvage Pool after such property has been made available for a reasonable period of time to other IEHP departments. Any donation or sale of Surplus Property to a third party is made "as-is" and without any express or implied representation or warranties under applicable California, federal or common law.

### C. Advertising Proposed Sale or Disposition of Surplus Property

The Purchasing Manager may advertise the proposed sale or other disposition of Surplus Property. The Purchasing Manager shall decide the medium (paper, electronic, etc.), amount, nature, makeup, and content of the advertising. In the disposition of specialty property (excluding real property) and property that has limited marketability or purpose, the Purchasing Manager may use alternative methods to dispose of the property without advertising. Alternative methods include, but are not limited to, consignment and sale to a single identified buyer. In the event that the Surplus Property is found to have no resale value, the Purchasing Manager may direct the Surplus Property be destroyed or disposed of in any manner the Purchasing Manager sees fit.

## SECTION 5 SOLICITING COMPETITION

### 5. Soliciting Competition

As prudent managers of public funds, IEHP utilizes open and competitive bidding from all responsible and responsive bidders as its principal means of vendor selection. It is important that all solicitations are conducted with fairness and openness to eliminate any appearance of impropriety, favoritism, or collusion. It is the mission for all those involved in the procurement process to give all vendors an equal opportunity to earn IEHP business when providing the lowest possible cost consistent with the quality and/or function of the product or service required.

### 5.1 Exemptions to obtaining competition

There are exemptions to obtaining competition as referenced in state or federal law, or by Governing Board delegation. IEHP staff may identify a need that will require competitive bids. Prior to initiating a Solicitation, a Conga Intake shall be completed and submitted.

A. In general, including but not limited to the following are exempt from obtaining competitive bids:

### **Exempted Item**

Advertising (Air Time/Newspaper/Magazine Ad Space not Ad Agency or Design

All Contracts Not Related to Procurement of Goods and/or Services, Specifically MOUs with Other Governmental Agencies

Common Carrier Transportation

**Government Printed Publications** 

Memberships to Professional Organizations

Medical Services Payments

Procurement Credit Card Payments to Bank

Postage and USPS PO Box Fees (Not Private Mail Companies)

Sponsorships/Donations

Subscriptions to Publications

**Utility Services** 

Workers Compensation Payments

Any Other Item Specifically Exempted from the Purchase Order Requirement by the Governing Board

### **5.2** Public Notice

Adequate public notice of the Solicitation shall be posted on the Purchasing website or can be mailed, or emailed to a sufficient number of potential bidders, advertised in a general publication newspaper with a local circulation, or other approved media and shall include a description of the project and/or tangibles required, and where interested bidders may apply for consideration.

### **5.3** Bidding Time for Formal Bids

A bidding time shall be set that affords bidders a reasonable time to prepare the bids. A minimum of 14 calendar days shall be provided unless a shorter time is deemed necessary for a particular procurement as determined by the Purchasing Manager. When a bid includes a pre-bid conference, the bid close date shall be no less than 14 calendar days after the bidder's conference or posted bid addendum/amendments.

### 5.4 Create Solicitation

- A. Solicitation is initiated when a statement/scope of work (SOW) or technical specifications and a Conga Intake is completed and submitted.
- B. The SOW is further developed by the PCS and the subject matter expert (SME), such as the business unit or other expert specifically engaged to develop the SOW.
- C. The SME forwards the SOW document (Word and/or Excel files) to the Purchasing Department.
- D. The assigned PCS will draft the Solicitation document and submit the draft to the SME and any other departmental stakeholder for final review before posting. The SME is responsible for identifying all departmental stakeholders who may have an interest or whose input is necessary for the Solicitation.
- E. Upon final review/approval from the department's stakeholders, the PCS will post the bid on the Bonfire website for advertisement.
- F. Potential bidders should be directed to post any questions they have via the Bonfire website. For transparency purposes, any questions the PCS may receive via email should be transferred to the Bonfire website. The PCS will answer any questions via the Bonfire website.

### 5.5 Mandatory vs. Non-Mandatory Pre-Bid Conferences

Through mutual consent, the stakeholder and the PCS will determine if a pre-bid conference is needed. The greater the complexity of the proposal, the greater the need for a pre-bid conference to ensure responsive, useful and comparable bids are received. If a pre-bid conference is mandatory and attendance is made a condition for bidding, it is important that bidders are advised of this in any published pre-bid notice. When planning a mandatory pre-bid conference, adequate time must be allowed for the suppliers to receive the material and make plans to attend.

### 5.6 Pre-Bid/Proposal Conference

- A. Conference location, date and time are to be specified in bids and issued to vendors a minimum of ten (10) working days in advance of the conference date. Exceptions shall be addressed by the Purchasing Manager on an individual basis taking travel arrangements and urgency of need into consideration.
- B. The PCS is to require all in attendance to sign in and retain the sign in sheet as part of the bid documentation.
- C. The PCS reviews all terms and conditions, the scope of work or product specifications, answers any questions that the attendees have, and defers the technical questions to the department representative(s) for clarification.

- D. If it becomes necessary to make changes in a Solicitation in matters such as quantity, specifications, delivery schedule, or date for receipt of proposals, or to clarify or correct ambiguities or defects, an addendum to the bid must be issued. Addendums will be issued via the Bonfire website.
- E. Any addendums resulting from the pre-bid/pre-proposal conference must be issued in sufficient time to permit bidders to consider the information in submitting or modifying their proposals.
- F. Potential bidders should be directed to post any questions they have via the Bonfire website. For transparency purposes, any questions the PCS may receive via email or phone call should not be answered outside of the Bonfire website. The PCS will answer any questions via the Bonfire website.

### 5.7 Solicitation Addendums

If there are any modifications to the Solicitation, the department is to email the modification(s) as a Word or Excel attachment to Purchasing, using Conga messaging. The PCS will insert into the appropriate format and issue an addendum to the Solicitation on the Bonfire website. If the department wishes to cancel the Solicitation, the PCS will issue a cancellation notice. The stakeholder shall provide to Purchasing a valid reason for the cancellation.

### 5.8 Modification and Withdrawal of Bid

A bidder may modify or withdraw its bid at any time before bid opening if the modification or withdrawal is received before the time and date set for the bid opening in the location designation for the receipt of bids. All documentation relating to a withdrawal or modification of a bid shall be kept as part of the procurement file.

### 5.9 Minor informalities

Minor informalities in a bid may be waived if Purchasing Manager deems it advantageous to IEHP.

### 5.10 Timeline

- A. The following timeline is based on IEHP's requirements and will be adhered to unless modified by amendment:
  - 1) RFP release
  - 2) Bidders' questions Due (2:00 pm PT)
  - 3) Send responses to Bidders' Questions within 5 days of the deadline for submission of questions.
  - 4) Proposals due (2:00 p.m. PT)
  - 5) Proposal evaluations complete, finalists selected
  - 6) Vendor presentations/oral interviews
  - 7) Finalization and execution of contract
  - 8) Proposed contract presented to IEHP Governing Board or CEO for approval
  - 9) Purchase order and/or contract issued
  - 10) Installation completed, service fully implemented

B. Please remember that if the RFP requires Governing Board approval, begin the timeline with the date you would like to present the chosen vendor to the Board. Allow sufficient time for answers to bidder's questions, responses to the questions, bidder proposals, review and scoring of the proposals. Also, when evaluating proposals, be sure to submit and allocate time for review of any contract or BAA exception requests to the Legal Department and obtain written responses prior to evaluation.

### 5.11 HIPAA Business Associate Agreement (HIPAA BAA)

If activities or services from the Solicitation require the vendor to receive, maintain or transmit any protected health information or is otherwise determined to be a Business Associate, the vendor shall enter into a HIPAA Business Associate Agreement ("HIPAA BAA") with IEHP to warrant that the vendor will comply with all applicable California and federal privacy laws, including but limited to HIPAA, HITECH, and all regulations promulgated thereto, as a Business Associate of IEHP. Vendor shall review the terms of the HIPAA BAA, and will be deemed to have agreed to the terms and conditions therein unless Bidder identifies an objection, and lists such objection in their bid submission - Exceptions to Contract. Should IEHP agree to a change of language, it shall do so in writing. Should IEHP be unwilling to accept the requested changes of language and agreement on the HIPAA BAA language cannot be reached, negotiations with the second ranking vendor may commence.

### 5.12 Vendor Data Sharing Assessment Form

- A. As part of IEHP's compliance requirements for those Solicitations that require a security assessment, a questionnaire is required from IEHP's Security Department to the requesting department and the vendor(s) responding to the Solicitation.
- B. Through the Solicitation process, these assessments are required for a proper vendor on-boarding process, which will streamline the security vetting process to ensure the vendor can adequately protect IEHP's data before contract award and access to IEHP data. Implementing the assessments during the Solicitation process will abbreviate the delay of projects.

### **5.13** Personal Property Loan Agreement

- A. If after a Solicitation, the evaluation team requires testing of a product/equipment, the vendor shall provide the product/equipment on a temporary test or loan basis, and only Purchasing may accept the loan of a commodity on behalf of IEHP. The vendor must sign the Personal Property Loan Agreement, available from the Purchasing Department, which must be completed prior to delivery of any product/equipment left with IEHP for demonstration or loan.
- B. As part of the evaluation process of the Solicitation, IEHP Team Members are authorized to test/evaluate an item prior to initiating a purchase in cases where the functionality or appropriateness of the product to IEHP is unclear. This procedure allows IEHP to return items that do not fit IEHP's needs or goals. Follow the steps below to begin the loan process:
  - 1) Contact the appropriate Administrative Assistant to initiate the request. The Administrative Assistant will complete the Personal Property Loan Agreement and have the Chief/Director sign the form.

- 2) The form shall be submitted to the vendor for signature prior to receiving the product.
- 3) The item requested for use on a trial basis must have criteria established to determine the success or failure of the trial and the periods to make that determination prior to the expiration of the trial period.
- 4) If the item is deemed appropriate, and funding is approved, a PO must be issued with the PO number and is applied against any subsequent invoice for the item.
- 5) The IEHP receiver inspects all incoming items for verification against a valid purchase order number and packing slip. A receiver may refuse any improperly marked items or shipping containers.
- 6) Upon completion of the test, the originator must obtain approval to purchase the product from his/her Chief, and if necessary the CEO, for approval based on the guidelines for signature authority.
- 7) If the item is deemed inadequate for use by IEHP, IEHP shall notify the Purchasing Department of the intent to return the merchandise. It is the responsibility of business unit/department purchasing products or materials to determine whether purchased products or materials received meet requirements in a timely manner. Any defective, inappropriate, or unacceptable merchandise received should be promptly returned to the vendor.

#### C. Material/Merchandise Returned to Supplier

- The IEHP Team Member requesting the product is responsible for the identification of and return to Receiving of all items requiring return. The Team Member shall prepare the IEHP Product Return to Supplier Form (obtain from Receiving) and attach a copy of the PO. The Return to Supplier Form along with the PO copy and the corresponding merchandise is returned to Receiving. The product is sent to the Receiving Department.
- 2) The Receiving Team Member verifies and properly cares for the products while in his or her possession prior to being picked up by the supplier or before the items are shipped to vendor.

#### 5.14 Grant Funding

Purchases made with grant funding will follow all applicable guidelines as outlined in this manual. The responsibility for advising the Purchasing Department of any grant-related purchasing restrictions or requirements shall remain with the IEHP business unit/department and grant awardees. The requesting department may be required to provide a copy of the grant with their request to the Purchasing Department.

# SECTION 6 SELECTION PROCESS AND NEGOTIATION

# **IE THE PURCHASING MANUAL**

#### 6. Selection Process and Negotiation

Proposal evaluation is an assessment of both the proposal and the bidder's ability, as demonstrated by the proposal, to perform the prospective contract successfully. Evaluation of the proposals is based on the criteria stated in the Solicitation document. After selection of the finalist by the Evaluation Committee, contract negotiation shall commence.

#### 6.1 Receipt of Bids

Bids and bid modifications shall be received by appropriate staff, marked with the date and time of receipt and stored unopened in a secure location until the bid opening.

#### 6.2 Bid Opening

RFBs must be submitted in hard copy format and shall be opened publicly at the time, date, and location advertised in the bid document. The name of each bidder, the bid price, and other pertinent information shall be read aloud and recorded. Pricing shall be made public on the Bonfire website.

#### **6.3** Evaluation Criteria

- A. RFPs allow departments to utilize a weighted point method as a quantitative tool to assign different levels of importance to various factors. Stakeholder departments must select the criteria to be evaluated.
- B. The criteria should include, but is not limited to the following:
  - 1) Overall cost to IEHP
  - 2) Technical specifications (equipment) / performance outcomes (services)
  - 3) Applicable experience/performance history
  - 4) References
  - 5) Overall responsiveness to the requirements of the RFP
  - 6) Managerial and financial stability
  - 7) Information Technology Assessment

#### **6.4** Evaluation Team

- A. Evaluations will be performed by a team of subject matter experts (may include Team Members and external consultants) and proctored by the PCS. The evaluation team should be composed of qualified personnel based on their expertise on the services/scope of work to be provided. All evaluation material will be considered confidential while being reviewed by the evaluation team and will not be released by IEHP until an award is made. Each member of the evaluation team must sign the "Code of Conduct and Ethics" form. It is imperative that the evaluation team member does not have any personal, business, or any other relationship that will influence their decision in the evaluation process. An evaluation team member must agree not to disclose any information on the evaluation process to other than an Evaluation Committee team member.
- B. Scoring/Evaluating Each solicited bid is scored for technical evaluation and selection of the successful bidder. This may be done via committee or by a few select people. In any case, it is recommended that a subject matter expert(s) from the stakeholder department(s), preferably the users, review and score each proposal.

#### **6.5** Evaluation Criteria Weight Factors

Collectively, the Evaluation Committee members will determine how the evaluation of a proposal should be conducted and identify specific evaluation criterion to determine the best-value bidder. A determined weight factor for each selected criterion reflect their importance in relation to the other RFP factors. Price is generally a heavily weighted criterion. However, there are RFP situations in which skills and experience of the bidders can weigh more than price. In cases where price is less important than other criteria, it is recommended to consult with the Purchasing department for proper guidance and final weight determination.

A published RFP must explicitly state the evaluation criteria and aligns with the necessary scope of work requirements. Evaluation criteria can take into consideration a variety of information including, but not limited to, oral presentation, bidder demonstrations, conformance to the RFP requirements, experience, expertise, qualifications, proposed strategy and/or equipment, bidder availability to meet project deadlines, etc.

#### 6.6 Pre-Negotiation Plans

- A. Best practices utilize written Pre-Negotiation Plans prior to conducting negotiations as a tool to judge the overall reasonableness of the price proposed and to negotiate a fair and reasonable price or cost fee.
- B. Pre-Negotiation Plans include specific objectives, which are acceptable to all organizational elements of the department, such as pertinent issues to be negotiated, and cost objectives.
- C. Pre-Negotiations require a reasoned analysis of the offertory's price, comprehensive market analysis (supply, available sources, price ranges, etc.), proposed technical specifications, terms & conditions, etc.
- D. The Pre-Negotiation Plan should address areas of concern of various interested parties in the development and approval of a unified negotiation position so that internal differences of opinion can be resolved before negotiations begin, producing negotiation objectives that management can support.

#### 6.7 Negotiation

- A. Negotiation is a process by which compromise, or an agreement, is reached. IEHP will endeavor to achieve the best possible outcome. However, the principles of fairness, seeking mutual benefit and maintaining a relationship are the keys to a successful outcome. Whenever appropriate, written or oral discussions may be held with bidders to resolve uncertainties in their proposals, or to provide an opportunity to reduce the overall cost to IEHP.
- B. The PCS is responsible for the conduct of the discussions, with the assistance or participation of technical, accounting, or legal specialists as necessary or appropriate. The content, form, and extent of the discussions are a matter of the PCS's judgment.

- C. The discussions should be conducted to:
  - 1) Advise the bidders of deficiencies in its proposal, in terms of IEHP requirements, but not deficiencies relative to other proposals, nor deficiencies resulting from the bidder's lack of diligence or competence.
  - 2) Attempt to resolve uncertainties concerning aspects of the proposal.
  - Resolve any suspected mistakes by calling them to the bidder's attention as specifically as possible without disclosing information concerning other bidder proposals or the evaluation process.
  - 4) Provide the bidder a reasonable opportunity to submit any cost or price, technical, or revisions to its proposal that may result from the discussions.
  - 5) Ensure that no one involved in the discussions, engages in leveling, transfusion or auction techniques.

#### 6.8 Best and Final Offer

- A. Upon completion of the discussions, the PCS may issue to all bidders still in the competitive range a written request for Best and Final Offer (BAFO).
- B. BAFO requests should include:
  - 1) Notice that the discussions are concluded;
  - 2) Notice of the opportunity to submit BAFO in the form of revisions to any aspect of the Solicitation or original proposal; and
  - 3) A common cutoff date and time that allows a reasonable opportunity for submission of written BAFO.
- C. Following evaluation of BAFO and consolidation into the scoring matrix, the PCS shall present the final scores to the Evaluation Committee members for award recommendation.

#### 6.9 Debrief Session

- A. Upon Execution of Award, and at the written request of an individual or third party, bid responses become public record. In accordance with the California Public Records Act, proposals are to be made available to the public for viewing.
- B. Confidential/Proprietary Information Prior to a debriefing session, the PCS is to coordinate with the Legal Department the review of all responses to the bid for any sections marked "Confidential" or "Proprietary." It is the vendor's responsibility to clearly identify and mark all documents as "Confidential" or "Proprietary" as defined by California law and justify its position. The Legal Department may consult with vendors to determine if any such documents are required to be disclosed pursuant to the California Public Records Act.
- C. Conduct of the Debrief Session Bidders may take notes from the proposals presented and can ask questions that may assist them in responding to future bidding opportunities. The PCS/Legal Department may answer questions in general as long as the answers do not disclose any information discussed by the Evaluation Committee, or contained in the evaluation materials.
- D. Copies of Bid Responses Bidders may request copies of the other proposals by writing a letter to the Legal Department. In the event that IEHP receives a request for information pursuant to the California Public Records Act, IEHP will contact the

vendor(s) whose information will be disclosed of the request and allow vendor(s) a reasonable opportunity to review any and all of vendor(s)'s documents within IEHP's possession and control, which are responsive to the request. The vendor(s), in its/their sole discretion, shall work with the IEHP Legal Department to identify any Proprietary Information, as that term is defined by the California Public Records Act, and IEHP may redact or withhold such information at vendor(s)'s request. If the vendor(s) fail(s) to identify Proprietary Information to be redacted or withheld from disclosure, IEHP shall not be responsible for the disclosure of such information. In the event that vendor(s) direct(s) IEHP to redact or withhold information on the grounds that it is Proprietary Information, vendor(s) shall defend and indemnify IEHP in any State or federal court for the non-disclosure of that information. Pursuant to the California Public Records Act, IEHP shall have ten (10) calendar days to respond to the request. Responses should include an approximate cost for the copies. Cost covers the expense of the copies, binders, postage, etc. Copies are not to be mailed or made available to the party requesting records pursuant to the California Public Records Act until payment has been received.

#### **6.10 Governing Board Reports**

- A. Purchases requiring Governing Board approval shall be presented according to the following format guidelines:
  - 1) All requests must be submitted by the Business Unit in the approved Board item format and include:
    - i. Requested Action that identifies legal vendor name and dba if applicable and the type of document (PSA, Amendment, Master License Agreement, etc.) or needed action (spending increase)
  - 2) Background of the request:
    - i. Justification of the need for the item: justify the need and why the purchase addresses the need.
    - ii. Reference any previous/current business with vendor if applicable that can be associated with purchased service
  - 3) Discussion of the request: This includes a statement identifying and quantifying the purchased item: explain what the item is, what it does, how many and for how long are being requested for approval.
    - i. List of the candidate vendors that submitted a response to the Solicitation, include:
      - a. Name of the business
      - b. Location of the office (city, state)
    - ii. Criteria (category description) for evaluating proposals to make the vendor and product selection.
    - iii. List the proposal/quote results including:
      - a. Name of company
      - b. Overall Scores
    - iv. Comments (optional)
    - v. Indicate whether a purchase from this vendor obligates IEHP to purchase more items from this vendor. Some vendors (phone manufacturer and computer vendors, for example) require that proprietary parts and service be supplied only through their own suppliers. If parts and service are available from many other vendors, so indicate.

- vi. Recommendations to Governing Board: name the selected product, vendor, and basis for selection. In the event the lowest bid is not the recommended vendor, provide a comment supporting the recommendation.
- 4) Fiscal Impact including the cost, length of the agreement, future related costs, and effective date.
- 5) All documents must be reviewed as to form by Legal Department.
- B. Include with the Board Item (unless the request to the Board is a delegation of authority, spending authority increase, etc.):
  - 1) Vendor signed and dated Professional Services Agreement (PSA)
  - 2) Vendor signed and dated Amendment(s) (Ensure the correct Amendment number is referenced)
  - 3) Ensure that the PSA or Amendment references the correct legal entity name

# SECTION 7 PUBLIC WORKS

#### 7. Department of Industrial Relations (DIR)

California law Public Works reform (SB 854) was signed into law on June 20, 2014. The reforms made several significant changes to the administration and enforcement of prevailing wage requirements by the Department of Industrial Relations (DIR). Among other things, SB 854 established a Public Works contractor registration program to replace prior Compliance Monitoring Unit (CMU) and Labor Compliance Program (LCP) requirements for bond-funded and other specified Public Works projects.

#### 7.1 Compliance Dates:

- A. January 1, 2015: The call for bids and contract documents must include the following information:
  - 1) No contractor or subcontractor may be listed on a bid proposal for a Public Works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to <u>Lab. Code Section 1725.5</u> [with limited exceptions from this requirement for bid purposes only under <u>Lab. Code Section 1771.1(a)</u>].
  - 2) No contractor or subcontractor may be awarded a contract for public work on a Public Works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Lab.Code Section 1725.5.
  - 3) The prime contractor shall post such notice at job site.
  - 4) This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
  - 5) March 1, 2015: The registration requirement becomes mandatory.
  - 6) April 1, 2015: An awarding body may not accept a bid or enter into a contract for public work with an unregistered contractor.

#### 7.2 Department of Industrial Relations (DIR) PWC System Public Works Projects

A. California law (SB854) requires Public Works contractors subject to prevailing wage requirements to register annually with the Department of Industrial Relations and pay an annual fee. IEHP will accept Public Works bids from only those contractors and subcontractors who have complied with this requirement. Please refer to the DIR website: http://www.dir.ca.gov/Public-Works/PublicWorks.html

#### B. Essentials of Public Works contractor registration program:

- Contractors are subject to the DIR registration and annual renewal fee. The fee applies to all contractors and subcontractors who intend to bid or perform work on Public Works projects (as defined <u>Lab. Code Section 1720</u>).
- 2) Contractors apply and pay the fee online and must meet minimum qualifications to be registered as eligible to bid and work on Public Works projects:
  - i. Must have workers' compensation coverage for any employees and only use subcontractors who are registered Public Works contractors.
  - ii. Must have Contractors State License Board license if applicable to trade
  - iii. Must not have any delinquent unpaid wage or penalty assessments owed to any employee or enforcement agency.

- iv. Must not be under federal or state debarment.
- v. Must not be in prior violation of this registration requirement once it becomes effective. However, for the first violation in a 12-month period, a contractor may still qualify for registration by paying an additional penalty.
- vi. Contractors and subcontractors register online.
- vii. The requirement to list only registered contractors and subcontractors on bids became effective on March 1, 2015. The requirement requires only registered contractors and subcontractors on Public Works projects applies to all projects awarded on or after April 1, 2015.

#### 7.3 Definition

A. Public Works refers to construction, alteration, demolition, installation, or repair work (including maintenance) performed under contract and paid by public funds. Public Works projects do not include those performed by a public agency with its own employees (see Lab. Code Section 1720).

With minor exceptions (see Lab. Code Section 1771), all workers employed on Public Works projects must be paid the prevailing wage determined by the Director of the Department of Industrial Relations according to the type of work and location. The prevailing wage rates are usually based on rates specified in collective bargaining agreements (see Lab. Code Section 1773).

#### 7.4 IEHP PCS and Facilities Registration Verification

- A. The PCS will verify the contractor and subcontractor registration on DIR web site in accordance with SB854, including appropriate contract language and perform database search to ensure contractors and subcontractors have registered.
- B. IEHP must register a project with the DIR within five days of awarding the contract. This requirement applies to all Public Works projects that are subject to the prevailing wage requirements of the Labor Code, regardless of size or funding source. The IEHP Business Unit owner / Facilities must provide Purchasing with a completed DIR Project Information Checklist within three days of awarding the contract for projects that are contracted outside of the Purchasing department bid process.

#### C. **Procedure:**

- 1) PCS shall ensure language requiring compliance with SB854 and DIR registration is included in bid language.
- 2) As part of an RFB, bid evaluation, purchase order, or contract award, the PCS shall confirm that contractor and subcontractors are listed on the DIR website listing of registered contractors. (<a href="http://www.dir.ca.gov/Public-Works/PublicWorks.html">http://www.dir.ca.gov/Public-Works/PublicWorks.html</a>)
  - i. Select "Awarding Bodies, public agencies or project owners"
  - ii. From there, select, "Public Works Contractor Registration Search."
  - iii. Enter Contractor Registration Number, Legal Name / License Number and "Search"
  - iv. Contractors and subcontractors are required to register annually. The

- /PCS will verify that registration is current.
- v. Print a copy of the screen as verification that registration was checked for the contractor and each sub-contractor.
- vi. Attach a copy to the purchase order and place in project folder on the shared drive.
- D. **Note:** An inadvertent error in listing a subcontractor who is not registered pursuant to <u>Lab. Code Section 1725.5</u> in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:
  - 1) The subcontractor is registered prior to the bid opening.
  - 2) Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in subparagraph E of paragraph (2) of subdivision (a) of <u>Lab. Code Section 1725.5</u>
  - The subcontractor is replaced by another registered subcontractor, pursuant to <u>Pub. Cont. Code Section 4107.</u>

#### **7.5** Public Works \$200,000 or less

- A. The California Uniform Construction Cost Accounting Act (CUCCAA), gives IEHP authority up to \$200,000 for those jobs performed under specific guidelines of the Act. Pub. Cont. Code Section 22000 et seq. provides for the authority levels to be reviewed every 5 years and may be adjusted by the State Controller and further states "any adjustment shall be effective beginning with the fiscal year which commences not less than 60 days following the Controller's notification letter to affected Public Agencies." Such a letter was issued by the Controller John Chiang on April 25, 2011, thus increasing IEHP's authority to \$200,000.
  - Public Works \$60,000 \$200,000 Pub. Cont. Code Section 22032 (b) requires all non-UCAA Public Works projects over \$60,000 to be competitively bid and publicly advertised, and awarded only to contractors holding the proper state licenses, proper insurance and paying the prevailing wage. Facilities shall provide plans and specifications, and have the approval of assigned project manager from management prior to submittal to Purchasing.
  - 2) Public Works contracts over \$200,000 Pub. Cont. Code Section 22032 (c) Public projects of more than \$200,000 shall, except as otherwise provided in this article, be let to contract by formal bidding procedure.
- B. Public Works law requires private construction contractors to pay prevailing wages to their workers and requires the construction contractor to follow Public Works law when working on a project funded by a public entity. A public entity can be the State of California, or any public agency such as a county, city, school or a special district. Prevailing wages are due, in most instances, if the project costs are over \$999.99, and involve the following construction work: new construction, alteration, demolition, installation, repair and maintenance. Contractors must make an attempt to hire apprentices when the total project costs exceed \$30,000.

#### 7.6 Cooperative Purchasing Programs

Procurement may be made through a Cooperative Purchasing Program, such as the National Joint Powers Authority (NJPA). It will provide IEHP with the flexibility to utilize general contractors for up to \$4.3 million per year, per contractor for construction projects. A solicitation process is not required, as long as the Cooperative Purchasing Program maintains a prequalified list of general contractors meeting all bonding and licensing requirements. The Cooperative Purchasing Program shall be responsible for the quotation and verification of line items proposed by the General Contractor.

#### 7.7 Splitting of Public Works Projects

Splitting of Public Works projects is prohibited by law and guilty of a misdemeanor, pursuant to <u>Pub. Cont. Code Section 20150.11</u>. It is unlawful to split or separate any public project for the purpose of evading the provisions of this article requiring public projects to be done by the contract after bidding.

#### 7.8 IEHP Facility Responsibilities

- A. Develop plans and specifications Facilities manager may work with a consultant to develop the plans and specifications according to code, and suitable for distribution in the bid packets.
- B. Obtain approval of plans and specifications from management prior to Purchasing involvement.
- C. Notice of Completion/Acceptance Upon completion and acceptance of a Public Works project, Facilities shall notify the PCS of acceptance in order to close the project out. Notation will be made to destroy the performance and payment bonds on file unless otherwise requested by the bidder.

#### 7.9 Purchasing Department Responsibilities

Bid Development: Bids on Public Works projects require the use of the following forms and associated documents:

- A. Notice Inviting Bids Form
- B. Instructions to Bidder Form
- C. Contractor's Proposal Form
- D. Agreement Form
- E. Bid Bond Form
- F. Payment Bond Form
- G. Performance Bond Form
- H. General Conditions
- I. Appendix A Plans & Specifications

#### 7.10 Liability Insurance

A contractor who performs work on IEHP property must possess liability insurance. The Legal Department and Purchasing Department shall determine the amount of coverage based on the scope of the project.

#### 7.11 Contractor Requirements

- A. Contractors must meet the following requirements to contract with IEHP for Public Works projects:
  - 1) Be selected through the proper bid process.
  - 2) Properly licensed by the State of California.
  - 3) Provide copy of current Tax ID.
  - 4) If a project exceeds \$999.99, or if a contractor performs work in excess of \$999.99 in one year, the contractor must pay its employees the Prevailing Wage Rate and the contractor must be registered under the State of California Department of Industrial Relations website. If the contractor is not registered, they cannot receive a bid notice nor be awarded a Public Works contract.
  - 5) Must have valid and current Worker's Comp and Liability Insurance.
  - 6) Must sign IEHP's Public Work form, which states that the contractor will adhere to all of the requirements.
  - 7) May be required to provide Bid, Payment and Performance Bonds for projects over \$25,000.
  - 8) Upon completion of Public Works project, Contractor shall notify the Department of industrial Relations: Department of Industrial Relations web link: <a href="http://www.dir.ca.gov/Public-Works/PublicWorks.html">http://www.dir.ca.gov/Public-Works/PublicWorks.html</a>

#### 7.12 Bid Bonds

All bonds and insurances must be issued against California admitted companies with a minimum A.M. Best rating of A:VIII or approved by the Legal Department. Bid bonds or a certified check in the amount of 10% of the bidder's proposal is required on all Public Works projects over \$25,000.

#### 7.13 Performance/Warranty and Payment Bonds

- A. Bonds are issued for a pre-determined percentage of the project cost and are held by the Purchasing Department until completion and full acceptance of the project, or upon inspection and full acceptance of product, as specified. A copy shall be placed in the file on the shared drive.
- B. Should the contractor fail, the performance bond provides funding up to the full cost of the contract for any cost incurred by IEHP in completing the contract through other means.
- C. Upon completion and acceptance of the project, or upon inspection and acceptance of product, this bond becomes void and is filed with the purchase order folder, unless otherwise requested by the bidder.

#### 7.14 Posting of Notice

The first publication or posting of the notice shall be at least 10 days before the date of opening the bids.

#### **7.15** Advertising/Plan Rooms – IEHP must send the Solicitation to the following plan rooms:

Southern California Builders Association

7740 Painter Avenue, #205

Whittier, CA 90602 Phone: 562-320-3600 Fax: 562-320-3603

E-mail: scba@socalbuilders.org

Imperial, Los Angeles, Orange, Riverside, San Bernardino, and San Diego

Bid America Online Plan room

41085 Elm Street Murrieta, CA 92562 Phone: 951-677-4819 Fax: 951-600-0615

Email: support@bidamerica.com; sales@bidamerica.com

Website: www.bidamerica.com

Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis

Obispo, Santa Barbara, and Ventura

Associated General Contractors of America

San Diego Chapter, Inc. 6212 Ferris Square, 2<sup>nd</sup> Floor San Diego, CA 92121

Phone: (858) 558-7444 Fax: (858) 558-8444 Email: info@agcsd.org

Orange, Riverside, San Bernardino, and San Diego

#### 7.16 Mandatory job walks

A mandatory job walk is required for all Public Works projects.

#### 7.17 Bid Opening

All RFBs will be opened publicly.

#### 7.18 Bid Evaluations

The PCS will prepare a spreadsheet that will indicate: the bid prices, contractor's license numbers, certificates of insurance listing IEHP as additionally insured are on file in the Purchasing Department, and required bonds are complete and properly executed.

#### 7.19 Contract Award

Contract will be awarded to the lowest responsible/responsive bidder. The CEO or designee will sign all Public Works contracts.

#### **7.20** Public Works \$200,000 or more

Must follow the Public Contract Code in its entirety.

#### 7.21 Real Property

- A. All facility purchase or lease contracts shall be approved by the IEHP Governing Board.
- B. Operations shall continually monitor space and facility capacity in relation to budgeted staffing requirements and anticipated facility needs.
- C. As necessary, an annual review of facility capacity in relation to anticipated requirements shall be presented to the CEO prior to the final budget approval by the IEHP Governing Board for the coming fiscal year.
- D. In the event existing facility capacity, contractual status, or configuration warrant acquisition of new facilities, the following protocol shall apply:
  - 1) Operations shall present a facility recommendation to the CEO. The recommendation will include justification for approximate square footage required (by department), preferred geographic areas, and the estimated implementation timeframe.
  - 2) Upon approval by the CEO, Operations shall prepare a detailed Solicitation specification that should include the following:
    - i. Building configuration (Class A, B, warehouse, combination)
    - ii. Square footage(s) (range/breakdown)
    - iii. Geographic boundaries for acceptable locations
    - iv. Parking requirements
    - v. Site geological characteristics (elevation, fault zone considerations)
    - vii. Security expectations
    - viii. Special considerations (electrical capacity, loading dock, visibility, ceiling height, raised flooring, generator, etc.)
  - 3) Notice of the Solicitation shall be advertised in the two major Inland Empire newspapers for 2 weeks.
  - 4) Prospective bidders shall be directed to the Buyer/PCS and Facilities Manager to submit questions and proposals.
  - 5) Proposed properties shall be codified in a matrix and ranked according to preference based on site criteria identified in Section 2 (above) and cost considerations.
  - 6) If, after the 3-week advertising period, no viable proposals are received, IEHP will proactively search for available buildings. IEHP will solicit proposals from brokers/owners representing buildings that meet criteria identified in Section 2 (above).
  - 7) Site visits shall be performed for all properties considered feasible in order to confirm building viability and establish negotiating priorities.
  - 8) IEHP's CEO (and/or designee) and the Legal Department (and/or designee) shall represent IEHP in purchase/lease negotiations.

#### **7.22 Job Order Contracts (JOC)**

#### A. Requirements

IEHP shall issue a Request for Qualifications (RFQu), evaluating firms using best-value, performance-based criteria, or an invitation to bid awarding to the lowest responsive and responsible bidder. JOC contractors are selected on qualifications and performance at a best value, lowest responsive and responsible bidder, or a combination of both depending on local, state or federal statutes. The JOC contractor provides "on call" construction services from concept to close-out. JOC work is straightforward, simple, and requires a detailed Scope of Work, which is always substantially less than a full set of bid documents. The Technical Specifications are already prepared, and even though some projects require architectural or engineering involvement, documenting the design in JOC is less formal and much less costly. In JOC, only the master JOC contract follows this process. Thereafter, hundreds of Job Orders can be issued from the master JOC contract.

#### B. Procurement and Overhead Costs

To establish a JOC, Facilities shall provide the detailed scope of work, and trade license required and send to the Purchasing Department. Purchasing shall:

- 1) Prepare the RFQu, the bid documents are approved by the Legal Department;
- 2) Bid documents are copied and readied for distribution;
- The advertisement is posted on the purchasing website and distributed to the plan rooms, and submitted to one or more publications;
- 4) Pre-bid meeting is held;
- 5) Written questions are received from potential bidders and analyzed;
- 6) Addenda are prepared, approved, and distributed to the potential bidders;
- 7) Bids are collected and publicly opened;
- 8) The apparent winner(s) is determined;
- 9) Bonds, insurance and other documents are received from the apparent winner(s) and reviewed by various departments;
- 10) The contract is distributed for signature;
- 11) The JOC is sent for registration on the DIR;
- 12) A notice to proceed is issued.
- C. The JOC contractor does not have to compete for each JOC project and does not have to spend time and money preparing bids for projects that it may not win.
- D. **No Contingencies**. The intent in JOC is to pay the contractors for the work they perform. Risks are reduced in the way the detailed Scopes of Work are written and because the contractor actively participates in the Joint Scope Meeting where the site is inspected and questions about the work can be obtained. As a result, contractors do not include cost contingencies in their bids.

#### E. **Bidding procedures to the Awarded JOC:**

For each project, IEHP and the contractor follow the same five steps:

- 1) Conduct a joint scope meeting at the site to review and discuss the work and the construction schedule;
- 2) Prepare a detailed scope of work, release an RFB to the awarded JOC vendors;

- 3) Contractor prepares a price proposal using unit prices from the Unit Price Book (UPB), quantities, and coefficient, and submits a proposed construction schedule, list of subcontractors and other documents required by IEHP;
- 4) IEHP reviews price proposal to make sure the right tasks and quantities were used;
- 5) Upon IEHP approval, contractor may proceed with the job upon issuance of a PO.

# SECTION 8 BID FOLDER DOCUMENTATION

#### 8. Bid Folder Documentation

Each Solicitation shall be maintained in a shared drive that includes the electronic data for bid folders, PCSs need to keep the following information in the bid folders:

- A. The Bid Solicitation
- B. Addendum(s) if applicable
- C. Bidders List List of vendors and addresses or email addresses that were notified
- D. Pre-bid or Pre-proposal Conference Sign-in sheets If applicable (scan and upload)
- E. The original vendor responses (proposals/quotations)
- F. Evaluation spreadsheet (responsiveness comparison)
- G. Reference any award/contract that results from Solicitation
- H. Evaluation scorecards
- I. Signed Code of Conduct form from each evaluator
- J. Signed Weighted Criteria form from each evaluator
- K. Evaluation summary and recommendation The technical and price evaluators must be presented in sufficient depth to support the intelligent weighing of alternatives and the making of trade-off judgments by the evaluation committee.
- L. Signed Recommendation for Award form from each evaluator.
- M. Supporting documentation- Supporting documentation must show the relative differences among proposals and their strengths, weaknesses, and risks in terms of the evaluation factors. The supporting documentation must include the basis and reason for the decision.
- N. Negotiation documentation
- O. Reference checks
- P. Original signed agreement, and amendments
- Q. Insurance certificates
- R. Communications with vendor, including emails, requests for clarifications, BAFO, etc.
- S. Records Retention: All bid folders must be kept for a minimum of seven (7) years after the last activity on the bid. A contract/purchase order or final payment against the contract would be the last activity.

# SECTION 9 AWARD PROTESTS

#### 9. Award Protests

As the CEO's designee, General Counsel or designee shall be responsible for the review and disposition of any protest of a bid Solicitation conducted under the authority of the CEO. Through the procurement process, a vendor has the right to protest if bypassed for an award; however, the protest must be a legitimate request.

#### 9.1 Review of Solicitation Requirements and Specifications

A vendor may seek a review of the Solicitation requirements and/or specifications by written request to IEHP via the Purchasing and Legal Department conducting the Solicitation provided that the written request is received prior to the timeline specified in the Solicitation deadlines. If a potential bidder finds issues contained in the Solicitation that may result in a protest it is incumbent upon the potential bidder to contact the Purchasing Department for the Solicitation as soon as possible to express their concerns.

**Note:** The California Public Records Request does not apply to contracts or bids that may still be in the evaluation process, and no recommendation for award has been determined.

#### 9.2 Bid Protest Procedure

- A. "Notice of Intent to Award" shall be posted on the Purchasing website. Non-selected vendors will have **five (5) business days** from the date the award notice is posted to file a formal bid protest with IEHP via email to the Legal Department.
- B. This appeal shall be delivered by the vendor in writing through e-mail: <a href="Legal@iehp.org"><u>Legal@iehp.org</u></a> and followed up with hard copy and must include the specific facts, circumstances, reasons, and/or basis for the protest.
  - 1) Bid protests must be filed prior to Board approval, award of a contract or purchase order issued. Upon execution of the contract or purchase order to the selected vendor, IEHP will not take action on a bid protest if not received during the Solicitation period.
  - If a vendor bid protest is appropriately filed (i.e., prior to the award), IEHP may delay the award of a contract or purchase order until the matter is resolved. There are, however, situations where the delay of an award may not be in the best interest of IEHP due to emergency and/or time critical acquisitions such as at the end of IEHP's fiscal year or grant funding requirements. In these instances, IEHP has no obligation to delay or otherwise postpone an award of a purchase order or contract based on a vendor protest. In all cases, IEHP reserves the right to make an award when it is determined to be in its best interest.
  - 3) IEHP may refer a protest of a technical nature to the requisitioning department for further clarification, and will prepare a response to the protesting vendor, advising the vendor of the pending action(s), and when a formal response can be expected.

#### 9.3 Protest Form and Content

A. All protests shall be in writing and state that the bidder is submitting a formal protest, and the protesting vendor is responsible to assure the protest is received within the protest deadlines. If IEHP does not receive the protest within the specified deadline, the protest may be rejected. The mailing address for all protests:

Physical Address: Inland Empire Health Plan Attn: Legal Department 10801 6th Street Rancho Cucamonga, CA 91730

Mailing Address:
Inland Empire Health Plan
Attn: Legal Department
P.O. Box 1800
Rancho Cucamonga, CA 91729-1800

- B. Failure to provide the following information could result in rejection of vendor's protest:
  - 1) Company name, mailing address, phone number, and name of company individual responsible for submission of the protest.
  - 2) Email address for communication, clarification, and disposition of the pending protest.
  - 3) The IEHP Bid Number, bid title, closing date and proposed award date of the Solicitation.
  - 4) The specific action or decision protested.
  - 5) The basis for the protest.
  - 6) Indicate what relief or corrective action you believe IEHP should make.
  - 7) Demonstrate that every reasonable effort was made within the schedule provided for you to resolve the basis of the protest during the process, including asking questions, seeking clarification, requesting addenda, and otherwise alerting IEHP to any perceived problems.
  - 8) Protest letters must be signed by an authorized agent of the company.
- **9.4** Grounds for Protest A formal protest must contain the following to be considered:

- A. A specific identification of the statutory or regulatory provision(s), if applicable, that the alleged action is in violation.
- B. A specific description of each act alleged to have violated the statutory or regulatory provision(s), in applicable.
- C. A precise statement of the relevant facts and identification of the issue or issues needing addressed.
- D. Complaints about events or decisions made before the Solicitation deadline.
- E. Complaints that the Solicitation unduly constrains competition through improper minimum qualifications or specifications.
- F. Complaints that the pre-bid conference was not fair or accessible. Please note that bidders must attend in person all mandatory pre-bid conferences.
- G. Complaints that Solicitation questions were not fully or properly addressed by IEHP.
- H. Complaints that the Request for Proposal/Quote/Qualification did not provide adequate information or contained improper criteria.

#### 9.5 Protest after Bid Deadline

After the bid closing deadline, only vendors that submitted a bid are eligible to protest.

#### **9.6** Intention to Protest

Notice of an intention to protest does not substitute for filing of a protest following the form and content required within the deadlines stated. Further, casual inquiry or complaint that does not specifically identify the purpose as a protest, and does not comply with the form, content and deadlines herein, are also not considered or acted upon as a protest action.

#### 9.7 Protest Deadlines

Protests must be received by IEHP, Legal Department via email: Legal@iehp.org (with a follow up hard copy) with a formal letter no later than 4:00 p.m. Pacific Time **five (5) business days** after the date the Solicitation award notice is posted on IEHP's eProcurement website under "Bid Results." Protests received after the time specified are untimely and may be denied on that basis unless IEHP concludes that the issue/s raised by the protest involve fraud, gross abuse of the procurement process, or indicates substantial prejudice to the integrity of the procurement process. IEHP shall make efforts to distribute the announcement to the affected bidder(s), such as posting on IEHP's website. However, it is the Bidder's responsibility to seek out and obtain the announcement from IEHP's website. IEHP is not responsible for assuring that the Bidders have learned of the announcement in time to file a protest.

#### 9.8 Protest Appeal Process

IEHP's Legal will review the protest and all available facts will be considered and the Chief Financial Officer shall issue a decision. This decision shall be delivered in writing by e-mail (will be followed up with a hard copy), or mail the notice to the protesting bidder within thirty (30) business days of confirmed receipt.

Nothing herein shall diminish the authority of IEHP to enter into a contract, whether a protest action or intention to protest has been issued.

# SECTION 10 PUBLIC RECORDS REQUESTS

#### 10. Public Records Requests

- A. Pursuant to the California Public Records Act (<u>Gov't Code Sections 6250 et seq.</u>), the public has a right to access public information maintained by government agencies, such as the Purchasing Department.
- B. IEHP will make any public record or any reasonably distinguishable portion of a public record available for inspection or copying.
- C. "Records" as defined by <u>Gov't. Code Section 6252</u>, subdivision (e), include any writing owned, used, or maintained by the department in the conduct of its official business. Writings include information recorded or stored on paper, computers, email, or audio or visual tapes.
- D. The requestor must provide specific information about the records they seek. Information should be as specific as possible -- this includes, but is not limited to:
  - 2) Solicitation number and title
  - 2) Contract or purchase order number
  - 3) Vendor(s) name and location
  - 4) PCSs name
  - 5) Fiscal year(s)
  - 6) Type of procurement/commodity
- E. Upon receipt of a request for IEHP Purchasing records, IEHP shall determine if the records are accessible and available within the department's records system and notify the requestor of such determination (Gov't. Code Section 6253).
- F. Requests for records must be in writing. A written request for records can be submitted electronically at <u>Legal@iehp.org</u>, mail, or delivered in person to:

Physical Address: Inland Empire Health Plan Attn: Legal Department 10801 6th Street Rancho Cucamonga, CA 91730

Mailing Address:
Inland Empire Health Plan
Attn: Legal Department
P.O. Box 1800
Rancho Cucamonga, CA 91729-1800

G. Requests must be for clearly identifiable records in the possession of, prepared, owned, used, or retained by the Purchasing Department. IEHP is not required by law to create a record or list from an existing record. Additionally, IEHP is not required to provide custom data files or formats if they do not exist. Copies will not be provided if the disclosure is exempt in accordance with State law. For example, trade secret information is exempt from disclosure pursuant to California law.

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- H. The standard charge for copies of records is \$0.10 per page for black and white copies and \$0.25 per page for color copies. Records copied to CD are \$5.00 per CD. Records stored by IEHP in electronic format will be provided in the same electronic format when requested. IEHP is not required to produce records in an electronic format when the requested records are not available in electronic format at the time of the request. Mailing charges may apply, if necessary.
- I. IEHP will provide an invoice for charges due. These charges are due and payable upon receipt of the invoice. Upon remittance of the invoice amount, the records requested will be copied and sent to the requestor. If arrangements for payment and production are not made within ten (10) business days of the date of IEHP's response, a new request may have to be submitted.

#### 10.1 Not Subject to Public Records Requests

- A. During a procurement process where an award has not been made, information pertaining to the ongoing bid regarding bid responses and participating bidders is not subject to disclosure pursuant to the Public Records Act, until a public award is announced.
- B. A public records request cannot be accommodated during a bid evaluation or prior to a formal award of a Solicitation.