



Procurement Policies and Procedures Manual

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PURPOSE

The purpose of the Children and Families Commission of Fresno County (the Commission), also referred to as First 5 Fresno County, Procurement Policies and Procedures Manual is to document the Commission's policies and procedures related to its purchasing of and/or contracting for administrative and programmatic goods and services. Fresno County Ordinance **99-009**, Section **2.38.020**, item (E) states "The Commission shall develop purchasing and contracting policies and procedures consistent with applicable Federal and State laws and regulations." Similarly, the Commission is required by law to abide by section *130140(d)(4)(B)* of the Health and Safety Code, which requires county commissions to adopt, in a public hearing, contracting and procurement policies consistent with State law. This includes, but is not limited to, Government Code sections *54201-54205*, Public Contract Code sections *2000-2002*, *3410* and *22150-22154*, and California Labor Code section *1771, et seq.*

STATEMENT

The Commission recognizes the importance of diversity of vendors/contractors that reflects the communities the Commission serves and, as such, is committed to ensuring that its procurement opportunities are implemented in an equitable way.

PROCUREMENT

A. Public Works Projects

In the event that the Commission desires to enter into a Public Works Contract, as defined in Public Contract Code section 1101, the Commission shall comply with those provisions described in Article 3.5 of the Public Contract Code (§20120 *et. seq.*). The Commission shall be the final decision-maker with respect to all Public Works Contracts.

B. Informal and Formal Competitive Purchases for Goods and Services

1. **Thresholds & Executive Director Signing Authority**

Purchases for goods and services for the operations of the Commission are authorized by the Executive Director and/or the Commission. The competitive procurement process shall be used to acquire goods and services based upon the following dollar thresholds:

For Purchases	Type of Procurement	Required # of Proposals/Quotes	Minimum Approval Required
\$0.01 to \$3,000.00	N/A - Routine Purchase	N/A	Executive Director or designee
\$3,000.01 to \$50,000.00	Informal	Three (3)	a. Executive Director approval up to \$10,000.00 b. Full Commission approval \$10,000.01 and greater
\$50,000.01 and greater	Formal	No Minimum	Full Commission

Purchases of \$3,000.00 or less are considered routine (day-to-day) and do not require proposals or quotes. These purchases can be made by using a Commission credit card with the Executive Director's (or designee's) approval so long as they meet the requirements otherwise described in this policy and that of the Commission's Accounting Policies and Procedures Manual.

The Executive Director (or designee) shall have authority to execute contracts for amounts less than \$10,000.01 without prior Commission approval. The Executive Director shall inform the Commission during the regular Commission meeting immediately following the execution of a contract within the Executive Director's signing authority of (i) the subject matter of the contract; (ii) the amount and term of the contract; and (iii) the contracting parties. Neither the Commission nor its staff shall piecemeal contracts in an effort to make the contract amounts fall below any particular monetary threshold.

2. Informal Selection Process

The informal selection process allows the Commission staff to obtain a written price and scope of work via e-mail, or other writing by at least three vendors for goods or services valued at \$50,000.00 or less. The vendor that best fits the Commission's needs, using price, quality, and/or the ability to provide deliverables within the Commission's timeframe as the primary factors shall be selected. If the Commission is unable to obtain at least three written quotations, staff shall document accordingly and provide as much available information to the Commission regarding why it could not obtain the minimum number of quotations. The Commission reserves the right to use a formal procurement process for purchases of \$50,000.00 or less, especially if there is uncertainty about the types of goods or services the Commission is seeking to obtain. All agreements resulting from the informal selection process require Legal Counsel review prior to execution.

3. Formal Procurement Process for Administrative Goods or Services

For formal procurements, the Commission will use a Request for Proposals (RFP) or a Request for Quotations (or Qualifications) (RFQ), as best determined by the Commission or its staff. All contracts entered into as a result of the formal procurement process shall be approved by the Commission, receive Legal Counsel's review and sign-off prior to obtaining the signature from the Executive Director and the Commission Chair (or designee).

(a) An RFP is used when the Commission cannot precisely set forth its needs. Rather than including specifications, the Commission shall provide vendors with a statement of work and the vendors are then asked to propose solutions. The RFP will detail what items the vendors are to submit, the desired qualifications of the vendor, the cost of their proposals, how the Commission will evaluate the proposals, select the vendor, and develop the contract. The RFP award is based upon various factors, including the lowest price, expertise of the proposer, and/or technical superiority of the proposal as compared to the other proposals submitted to the Commission. Proposals in response to the RFP are subject to negotiation after they have been submitted to the Commission.

(b) An RFQ is used when the Commission has determined precisely what goods and services it needs. Similar to an RFP, an RFQ award is not necessarily based upon the lowest price, but upon a service or good that best fits the requirements within a reasonable proximity to the other proposals submitted to the Commission. The terms contained in an RFQ are typically not negotiable.

4. Formal Procurement Process for Programmatic Services

For formal procurements, the Commission will use an RFP, RFQ, or Request for Applications (RFA) as best determined by the Commission or staff. All agreements resulting from the formal procurement process for programmatic services shall be approved by the Commission and receive Legal Counsel's review and sign-off prior to obtaining signature from the Executive Director and the Commission Chair (or designee).

- (a) The RFP is used when the Commission cannot precisely set forth its needs. Rather than including specifications, the Commission shall provide proposed grantees with a statement of work and the proposed grantees are then asked to propose solutions. The RFP will detail what items the proposed grantees are to submit, the desired qualifications of the proposer, the cost of their proposals, how the Commission will evaluate the proposals, select the proposed grantee, and develop the contract. The RFP award is based upon various factors, including the lowest price, expertise of the proposer, cultural responsiveness, innovation of approach, and/or demonstrated technical ability of the proposal as compared to the other proposals submitted to the Commission. Proposals in response to the RFP are subject to negotiation after they have been submitted to the Commission.
- (b) An RFA is a formal announcement by the Commission of an opportunity to apply for funds with specific strategies and parameters in order to achieve the Commission's strategic goals and outcomes. An RFA contains specific requirements regarding the application and evaluation processes, and how such funds shall be used. Proposals in response to an RFA are subject to negotiation after they have been submitted to the Commission.
- (c) An RFQ is used when the Commission has determined precisely what services it needs. Similar to an RFP, an RFQ award is not necessarily based upon the lowest price, but upon a service or good that best fits the requirements within a reasonable proximity to the other proposals submitted to the Commission. The terms contained in an RFQ are typically not negotiable.
- (d) Intent to Partner (ITP): With respect to programmatic RFPs or RFAs, the Commission may select certain service providers by engaging in community-based planning efforts in which stakeholders come together for the purpose of identifying specific needs and the providers best able to meet those needs. Funds should not be awarded during these meetings. The natural bias toward competitive procurement should apply and any exceptions should adhere to the guidelines outlined in this procedure.

C. Public Notice

It is the Commission's policy to provide notice to the public of all formal procurement opportunities. Such notices shall be posted publicly to ensure competition. Public notice will be on the Commission's website, and when determined by staff to achieve the greatest response, in a trade newspaper or business journal or other appropriate medium, and/or posted via the internet on public online exchanges. Print and electronic publication shall be no less than the day of the release of the procurement opportunity, when possible. The Commission may opt to create and maintain a vendor list for specific professional services so long as such vendor(s) have been selected through informal or formal selection process, as the case may be. Commission staff shall keep evidence of posting such notices as part of the project.

D. Contacts During Procurement Period

As of the issue date of the RFP/RFQ/RFA and continuing through the public notification of the award, all Commission staff and Commissioners are specifically directed not to hold any unscheduled meetings, conferences, or technical discussions regarding the RFP/RFQ/RFA with prospective service providers or vendors. "Off the record" contact can potentially taint the Commission's decision-making process.

Proposers may only contact the individual identified in the RFP/RFQ/RFA as the point of contact in response to any matter pertaining to that RFP/RFQ/RFA. Proposers are prohibited from directly contacting any other

Commission staff member or Commissioner regarding any matter directly or indirectly related to the RFP/RFQ/RFA. Such prohibited contact may result in disqualification of the potential contractor's proposal.

Proposers are encouraged to review the Commission's Conflict of Interest Policy found on the Commission's website.

E. Limitations on Those Who May Submit Proposals

1. No Subcontractors or Consultants

No consultant or subcontractor who provides advice to the Commission for a project may submit a proposal for an RFP/RFQ/RFA for the same project. This prohibition does not include those who may have engaged in general discussions with Commission staff or Commissioners regarding the Commission's Strategic Plan investments, outside of the direct development and release of procurement opportunity documents.

2. No Conflicts of Interest

Pursuant to the Commission's Conflict of Interest Policy and Conflict of Interest Code no Commissioner or Commission staff may make, participate in making, or use their official position to influence the making of any governmental decision which may have a direct or indirect foreseeable material financial effect on that respective Commissioner or staff person. Therefore, no entity in which a Commissioner or staff person has a material financial interest may submit a proposal to the Commission.

Additionally, any Commissioner or designated staff running for elected office must immediately disclose and recuse themselves from any Commission matter or action involving a contributor (whether direct or in-kind) to the campaign of that Commissioner or Commission staff. Under no circumstances may Commission staff accept a campaign contribution (whether direct or in-kind) from a Commission contractor in which that staff member has direct or indirect oversight over that contractor's service, contract, or activities. Commissioners and Commission staff are strongly encouraged to seek guidance from the Commission's Legal Counsel if there are any questions regarding the requirements contained in this paragraph. The violation of this provision may result in disciplinary action for Commission staff and dismissal for Commissioners.

3. Financial Dependents/Relatives

A financial dependent of a Commissioner or Commission staff, who has a material financial interest, may not respond to any Commission procurement. Relatives (which shall include, but not be limited to, spouses, parents, adult children, siblings, aunts and uncles) of Commissioners or Commission staff who are not dependents are discouraged from responding to any Commission procurement. If a Commission staff person becomes aware that his or her non-financially dependent relative has submitted or will submit a proposal, that staff person shall immediately disclose the existence of this relationship to the Executive Director and/or the Commission. Moreover, that staff person shall immediately be screened from the proposal process and such relationship shall be disclosed to the Commission prior to any approval by the Commission. If a Commissioner is aware that his or her non-financially dependent relative has submitted or will submit a proposal, that Commissioner shall disclose the relationship at a public meeting and may choose to recuse himself or herself from any part of the decision-making process on any Commission procurement.

F. Disallowed Costs

The Commission shall not reimburse any potential contractors for any expenses that potential contractor incurs in the preparation of a proposal to the Commission. A potential contractor is solely responsible for his/her/its own costs regarding preparation of and submitting any proposal.

G. Time and Due Date

The amount of time proposers may prepare their responses to formal procurement opportunities shall be determined by the Commission but, it shall be no less than ten (10) calendar days after release of RFP/RFQ/RFA and shall provide sufficient time for proposers to prepare and submit their proposals. The Commission reserves the right to amend the proposal due date. Such changes shall be issued in writing in the form of an addendum to all prospective proposers who received the original request documents and posted on the Commission's website. The Commission shall timestamp all proposals it receives, or if the RFP/RFQ/RFA allows for electronic submission, staff shall keep evidence of the date and time such electronic correspondence is received. The Commission will make reasonable effort to have multiple submission options available to help meet proposers' needs. The Commission IS NOT RESPONSIBLE IF IT DOES NOT RECEIVE A PROPOSER'S ELECTRONIC SUBMISSION.

H. Addendum of Procurement Opportunities

The Commission reserves the right to amend any RFP/RFQ/RFA. The Commission shall make a reasonable effort to provide all vendors who received an RFP/RFQ/RFA with written notice of such action. Any oral interpretations of contract specifications by any Commissioner or staff to the vendor regarding terms or conditions shall not be binding on the Commission.

I. Mistakes in Proposals Prior to Submission Deadline

Mistakes in proposals detected prior to the submission deadline may be corrected by the proposer by withdrawing the original and submitting a corrected proposal to the Commission *before* the due date. Alternatively, the proposer or an authorized representative may correct the mistake on the face of the original proposal, provided that such revision occurs prior to the due date and time, and, in the Commission's sole judgment, the revision is not ambiguous and resolves the mistake. A corrected proposal must follow the time and due date procedures in Section G above. The Commission will not accept corrections to proposals after the proposal time and due date unless otherwise outlined in the procurement document (e.g. a four-hour window to submit missing supportive documents).

J. Acceptance, Review, and Selection

Proposals shall be accepted without alteration or correction, except as authorized in this policy, and shall be evaluated based upon the requirements set forth in the RFP/RFQ/RFA, which may include certain criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the proposal's price and be considered in the evaluation for award, shall be objectively measurable, such as discounts, transportation costs and total or life cycle costs.

The Commission shall assign a staff person to facilitate the creation of a selection committee and/or process to review the proposals. Commission staff may participate in the selection committee as applicable to the procurement opportunity in order to provide contracting history, institutional insight, and guidance of the Commission's Strategic Plan. The contract file shall contain a written explanation of the selection decision.

Points may be assigned to portions of procurement documents to aid in the scoring of submissions. If a required component of a submission is not included in the submission or submitted as specified in the procurement document, the submission may not automatically be rejected. In such an event, the omitted/incorrectly submitted piece(s) may result in partial points being awarded to the proposal.

The Executive Director, or designee, shall make a final recommendation to the Commission based on the results of the selection committee. The Executive Director, or designee, shall notify all proposers of the recommendation no less than five (5) weekdays before the Commission approves the award. Final approval of the award shall be made by the Commission.

All contracts and purchases shall be based strictly upon the face value of the proposals received. The Commission shall not factor into its procurement selection any hidden rebates, discounts, and other price considerations not described in the proposals.

A formal award notification shall be issued to the selected vendor, specifying the amount awarded and indicating that funds will be released upon compliance of a signed contract establishing the terms and conditions of all parties. Non-selected vendors shall receive written notice of the Commission's action. Commission staff shall keep evidence of the sent award and non-selection letters as part of the project.

K. Notice of Cancellation or Rejection of Proposals

The Commission may, at its discretion, cancel or reject any or all proposals. In the event of such a cancellation or rejection, all proposers shall be notified in writing as soon as possible and the reason(s) shall be documented in the procurement file.

L. Determination of Non-Responsiveness

Failure of a proposer to promptly supply information requested by the Commission may be grounds for the Commission to determine that the proposer is non-responsive, in which case the proposal may be rejected.

M. Disclosure of Results

After the award by the Commission, all submissions received by the Commission shall be open to public inspection at the offices of the Commission during normal business hours or by electronic means, as agreed to by Commission staff. The Commission shall keep the non-selected proposals for a minimum of two (2) years after the completion of the project. **The Commission is subject to the California Public Records Act ("CPRA") and the submitters must assume that any submission it submits to the Commission is subject to disclosure under the CPRA. The Commission assumes no responsibility for the confidentiality of any information provided in the proposals.** The Commission shall not retain, during the normal course of its activities, the identity of any proposal reviewer. The Commission may retain blind scoring sheets and documents containing feedback of each proposal. The disclosure of such materials shall be in accordance with the CPRA. The Commission shall not disclose any records during a procurement, or the Commission reasonably anticipates that procurement opportunity will be released by the Commission within the next 60 days, that could result in an unfair advantage to any submitter.

N. Protests

1. **Formal Procurement or Commission Approved Informal Purchases:** Upon notice by the Commission of a proposed award, any proposer may file a formal written protest regarding a potential or recent procurement by the Commission. The protest shall be filed in writing with the Executive Director no later than forty-eight hours before the day of the meeting at which the

Commission is scheduled to (i) award the subject contract or (ii) approve or disapprove a purchase that requires approval pursuant to the informal selection process described in Section 2 above. The protest shall contain the exact basis for the protest, and proof that the protester is a viable and responsible provider of the supplies, equipment or services sought. The protest should provide evidence that the award violated the Commission's procurement procedures or State law. Mere disagreement with the decision of the Commission or Executive Director shall not be the basis for a successful protest. Commission staff shall keep record, according to its record retention practices, of any and all protests made by proposers.

2. **Informal Procurement Under \$10,000.01:** Upon notice by the Commission of a proposed award of a procurement not going before the Commission, any proposer may file a formal written protest regarding a potential procurement. The protest shall be filed in writing with the Executive Director no later than forty-eight hours after the notice of award. The protest shall contain the exact basis for the protest, and proof that the protester is a viable and responsible provider of the supplies, equipment or services sought. The protest should provide evidence that the award violated the Commission's procurement procedures or State law. Mere disagreement with the decision of the Commission or Executive Director shall not be the basis for a successful protest. The Executive Director shall make a determination as to a protest to an informal procurement. A proposer may file an appeal for such determination with the Commission. Commission staff shall keep record, according to its record retention practices, of any and all protests made by proposers.

O. **Exceptions to a Competitive Selection Process**

All goods and services shall be procured by an informal or formal competitive selection process unless the Commission or the Executive Director determines that one or more of the circumstances described below is satisfied. The Commission shall document, in writing, the justification for using such an exception.

1. **Sole Source Procurement:** The Commission may procure materials or services that are available from only one source. In order for the Commission to justify a sole source procurement, one or more of the following factors must be present:
 - a. The vendor's capabilities and experiences are so unique (including the vendor's possession of patents or trademarked materials) that no other vendor may comparably meet the Commission's needs.
 - b. Only one product is available to reasonably meet the Commission's needs: or
 - c. Only one vendor has the ability to provide goods or services to the Commission within the Commission's required time frame.
2. **Emergency:** Emergency purchases may be made by the Executive Director or designee when the materials or services so purchased are necessary to continue Commission operations or services. Such emergency purchases shall be submitted to the Commission for ratification at its next regular Commission meeting. The Commission expects the use of such emergency purchases to be seldom used.
3. **State or County Vendors:** The Commission may use a vendor under a leveraged purchase agreement without a competitive selection process if the leveraged purchase agreement itself was procured via a competitive selection and the vendor accepts the same terms as those contained in the leveraged purchase agreement.

4. **External Grant Opportunity:** From time to time, the Commission may apply for competitive or non-competitive grant opportunities and submit such applications within a short window of time. On such occasions, the Commission may, at its discretion, partner with contractors selected without a competitive process. While the Commission will make every effort to adhere to the requirements under this policy, there may be circumstances where Commission staff may, at its discretion, hold grant submission development conversations and/or select a subcontractor or designee in order to submit a strong application in a timely manner. This provision shall only apply to contractors providing services. It shall not apply to public works contracts.

P. Strategic Plan

All contractors must provide services in a manner consistent with the objectives in the Commission's current Strategic Plan. In order to carry out these objectives, the Commission may, from time to time and in its sole discretion, request that a contractor work with other Commission-affiliated service providers in order to integrate the services into other programs funded directly or indirectly by the Commission. All contractors must make reasonable efforts to comply with the Commission's request.

Q. Funded Partner Manual

With respect to RFPs/RFQs/RFAs, contractors must comply with all policies and procedures set forth in the Commission's Funded Partner Manual. The Commission may review and amend the Funded Partner Manual as the Commission considers necessary in its sole discretion. The Manual can be found on the Commission's website at <https://first5fresno.org/what-we-do/#contracting-documents>.

R. Commission Business Continuation

In the event of an emergency and the Commission is unable to convene to take action (i.e. natural disaster or a pandemic deemed by the applicable local, state or federal governmental entities), the Commission Chair and/or Vice Chair, in concert with the Executive Director, or designee, may approve contracts for the sole purposes of ensuring that agency business and services may continue during such times of emergency. Any such actions shall be brought to the Commission at the next regular Commission meeting after such an event. Any agreement executed under these circumstances shall contain a provision stating that, in the event the Commission fails to affirm the terms in the contract, the contract may be terminated by the Commission without penalty.