



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 (this Policy) is to document the Commission's policies and procedures related to its purchasing of and/or contracting for administrative and programmatic goods and services. This Policy defines various methods of procuring goods and services, establishes when competitive procurement is required, sets forth exemptions and exceptions from the competitive procurement requirements, and specifies applicable procurement processes and required documentation.

Fresno County Ordinance **99-009**, Section **2.38.020**, item (I) states "The [C]ommission 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.

By adoption of this Policy, the Commission is empowering the Executive Director and designated Commission Representatives, where and when necessary, with certain duties and responsibilities that are essential for the day-to-day operation of the Commission.

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 (Non-Construction Projects)

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. For informal and formal competitive procurements alike, the Commission reserves the right to reject any or all proposals, waive informalities, and award procurement contracts that are in the best interests of 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 \$5,000.00	N/A - Routine Purchase	N/A	Executive Director or designee

\$5,000.01 to \$50,000.00	Informal	Three (3)	a. Executive Director approval up to \$20,000.00 b. Full Commission approval \$20,000.01 and greater
\$50,000.01 and greater	Formal	No Minimum	Full Commission

Purchases \$5,000.00 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 \$20,000.01 without prior Commission approval. The Executive Director shall inform the Commission during the regular Commission meeting immediately following the execution of such 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 – Up to \$50,000.

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. This includes the use of Purchase Orders (POs) for administrative or operational purposes, which shall be signed by the Executive Director. 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 using reasonable efforts, Commission 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 \$50,000.00 or less, especially if there is uncertainty about the types of goods or services the Commission is seeking to obtain. If informal quotations for goods or services were collected and it was found that the cost would be beyond \$50,000.01, the quotes will be rejected, and the formal procurement process shall take place. All agreements resulting from the informal selection process require Legal Counsel review prior to execution.

3. Formal Procurement Process for Administrative Goods or Services – \$50,000.01 or More.

For formal procurements, the Commission will use a Request for Bids (RFB), 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 and 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 RFB, modified here for the Commission, is used when the Commission desires a specific type of good or service that is subject to, and generally includes, a defined set of plans and/or specifications. The Commission, unless specified otherwise, will issue a written notice to bidders, inclusive of a stated bid opening date, specifications, and the requirement that all bids are to be sealed until opened at specific bid opening or they will not be accepted. All submitted bids shall include all costs, including appropriate taxes. Unless any or all bids are rejected, the Commission may select the lowest responsible and responsive bidder.

- (b) An RFP is used when the Commission cannot precisely set forth its needs. Rather than including specifications, the Commission shall provide vendors 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, including prospective service providers and vendors, and/or technical superiority of the proposal as compared to the other proposals submitted to the Commission. The RFP award is not always solely based on the lowest price. Proposals in response to an RFP are subject to negotiation after they have been submitted to the Commission.
- (c) An RFQ is used when the Commission cannot precisely set forth its needs and cannot draft a statement of work predictive of the services needed. The RFQ shall contain all items contained in the RFP, except that vendors may not be asked to include the precise cost of their proposals. Rather, vendors shall be asked to submit a Statement of Qualifications (“SOQ”) that may include their general hourly rates or service charges or an estimate based on an assumed set of circumstances, but shall detail their experiences, capability, capacity and performance in the area requested by the Commission. The Commission shall determine whether or not the vendor meets the required qualifications. Proposals in response to an RFQ are subject to negotiation after they have been submitted to the Commission.

4. Formal Procurement Process for Programmatic Services

For formal procurements for programmatic services, the Commission will use a 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 a 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 prospective grantees a statement of work and the prospective grantees are then asked to propose solutions. The RFP will detail what items the prospective 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. The RFP award is not always solely based on the lowest price. Proposals in response to an 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 cannot precisely set forth its needs and cannot draft a statement of work predictive of the services needed. The RFQ shall contain all items contained in the RFP, except that vendors may not be asked to include the precise cost of their proposals. Rather, vendors shall be asked to submit an SOQ that may include their

general hourly rates or service charges or an estimate based on an assumed set of circumstances, but shall detail their experiences, capability, capacity and performance in the area requested by the Commission. The Commission shall determine whether or not the vendor meets the required qualifications. Proposals in response to an RFQ are subject to negotiation after they have been submitted to the Commission.

- (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 will 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 Policy.

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 Commission 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 an informal or formal selection process, as the case may be. Commission staff shall keep evidence of posting of such notices as part of the project.

D. Contacts During Procurement Period

As of the issue date of the RFB/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 RFB/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 RFB/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 the disqualification of the proposer and the 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 RFB/RFP/RFQ/RFA for the same project. This prohibition does not include those who may have engaged in generalized 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 Commission staff person has a material financial interest may submit a proposal to the Commission.

Additionally, any Commissioner or designated Commission 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 Commission 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 Commission staff person shall immediately disclose the existence of this relationship to the Executive Director and/or the Commission. Moreover, that Commission 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 the preparation and/or submission of 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, shall be no less than ten (10) calendar days after release of RFB/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 at any time. 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 RFB/RFP/RFQ/RFA allows for electronic submission, Commission staff shall keep evidence of the date and time such electronic correspondence is received. The Commission will make a 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 RFB/RFP/RFQ/RFA. The Commission shall make a reasonable effort to provide all vendors who received an RFB/RFP/RFQ/RFA with written notice of such action. Any oral interpretations of contract specifications by any Commissioner or Commission staff to the vendor regarding terms or conditions shall not be binding on the Commission. All procurement amendments shall also be posted on the Commission's website and be part of the original RFB/RFP/RFQ/RFA.

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 RFB/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 Commission 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 resulting 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, subject to the Commission's discretion, 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 Commission may, in its sole discretion, waive any irregularities or exceptions in each proposal received.

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 with 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 (48) 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 B.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. The Commission shall consider timely protest(s) at its next public meeting after the Executive Director has received the protest(s). The Commission's determination on a protest shall be final.
2. **Informal Procurement within Executive Director's Signing Authority -Under \$20,000.01:** Upon notice by the Commission of a proposed award of a procurement not going before the Commission in a regular item, 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 on a protest to an informal procurement. A proposer may file an appeal of such a determination with the Commission. Commission staff shall keep record, according to its record retention practices, of any and all protests made by proposers. The Commission's determination on the appeal shall be final.

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 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. For all emergency purchases, the Executive Director shall use his or her best efforts to consult with the Commission Chair prior to making any such purchases. 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, the vendor accepts the same terms as those contained in the leveraged purchase agreement, and the scope of work is a reasonable extension of the previously awarded contract.
4. **External Grant Opportunity:** From time to time, the Commission may apply, as a grantee, for competitive or non-competitive grant opportunities and submit such applications within a short window of time. The opportunity must align with the Commission's Strategic Plan in order to enhance the Commission's impact. 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 opportunities where the Commission would be considered a grantee. 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 RFB/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.

S. **Authority**

The Executive Director has been delegated authority by the Commission to execute program contracts and amendments so long as there are no material changes in the scope of work or the dollar amount does not exceed the original approved contract amount. The Executive Director has been delegated the authority by the Commission to execute operating contracts that are administrative in nature and affect the day-to-day operations of the Commission (no dollar limit).

R. **No Personal Benefits.**

Commissioners and Commission staff shall avoid actual and perceived conflicts of interest throughout the entire procurement and contract management process. Commissioners and Commission staff shall not use their official positions to obtain benefits, directly or indirectly, for themselves or anyone else.