

## Proposal to the Executive Committee to Revise the Procurement Policy

The Estuary Partnership staff recommends that the Executive Committee amend the Finance Policies with the revised version of the Procurement Policy proposed below.

With consideration for our primary funders, the proposed policy is informed by federal and state of Washington and Oregon rules and regulations and serves to clarify the procurement requirements and processes of the organization.

These are the key changes to the policy:

- Moved the Estuary Partnership Compliance section to the top: Unchanged.
- Changed Federal Compliance to Funder Compliance: The new section clarifies that all contracts and purchases made (federal, state & private) must adhere to the requirements of the funder.
- Recipient Match: Now includes clarification that procurement must meet regulations of both the corresponding funder and the funder that requires the match.
- Changed Purchasing with Federal Awards to Estuary Partnership General Procurement Procedures: This new section lays out the guidelines for procurement from all funding sources.
- Removed the Cost and Price Analysis section: This is still noted in the requirements under the EP Compliance section, as it is integral in the Procurement Processes section.
- Disadvantaged Business Enterprises expanded: This section now includes guidelines for how to incorporate this priority into solicitations.
- Changed Award Process to Procurement Processes: This section has been rewritten to identify the various methods for which property or services may be acquired.
  - Added micro-purchases section for purchases under \$30,000. This limit was selected to be consistent with the state of Washington Direct Buy Level 1 Policy.
  - Expanded the informal procurement section to \$30,000 - \$250,000. The \$250,000 limit is consistent with federal regulations. Also, added documentation requirements.
  - Expanded the formal procurement process. Added clarifying language around the processes for RFPs and RFQs.
- Changed Exemptions to Noncompetitive Procurement:
  - Outlines the possible ways to award funds without competition.
  - Added documentation requirements.
  - Removed all references to 'uniquely qualified' to be consistent with regulations.
- Revised the Amendments section: Includes clarification of amendment limits based on procurement process originally used.
- Removed Goods section: This is considered a micro-purchase in the new policy.
- Removed Government Advance or "Drawdown": This section is included in the Accounting Procedures in Section 1.

Sources:

[eCFR :: 2 CFR Part 200 Subpart D - Procurement Standards](#)  
[DES Direct Buy Policy DES-125-03 \(wa.gov\)](#)

# Proposed Procurement Policy Revision 2023

## 4. Procurement Policy

### A. Estuary Partnership Compliance

All procurement regardless of the amount shall be for the express purposes of Estuary Partnership business for goods, services, or activities that are included in an approved biennial budget and project budget and shall be property of the Estuary Partnership. The Executive Director will review all purchases to avoid unnecessary purchases or purchases beyond the minimum necessary quantity; to consider lease opportunities; and to perform or document the completion of a cost or price analysis for all procurements.

All projects for which funds are awarded shall be contained in biennial workplans and budgets and shall implement actions in the Six-Year Implementation Strategy and be consistent with the Comprehensive Conservation and Management Plan.

### B. Funder Compliance

Contracts let or purchases made when procuring property or services through an award must adhere to the regulations and rules of the corresponding funder.

When a funder requires or permits the use of internal procurement procedures, the Estuary Partnership will follow the General Procurement Procedures and Procurement Processes outlined below.

### C. Recipient Match

For funding sources that require match or cost share, Estuary Partnership shall identify, value, document, and report cost-sharing, matching and in-kind contributions. Contracts let or purchases made that will be reported as match or cost-share must adhere to the regulations and rules of both the corresponding funder and the funder that requires the match.

### D. Estuary Partnership General Procurement Procedures

Estuary Partnership will follow the following guidelines for the procurement of any goods or services:

- Ensure there is no conflict of interest, per the Conflict-of-Interest policy.
- Review the funding source to ensure that the goods or services to be purchased or contracted are allowable.
- Avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- Consider opportunities to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.
- Consider opportunities to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

- Award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
- Maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- Use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Estuary Partnership shall assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.
- Maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- Provide full and open competition.
- Solicitations shall:
  - Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured.
  - Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
  - Incorporate affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. (See Disadvantaged Business Enterprises below).
- Include provisions for contract termination.
- If applicable, verify the contractor's eligibility to receive federal funds and verify they are not vendors that are suspended and debarred via search of the SAM.gov website.

#### **E. Disadvantaged Business Enterprises (DBE)**

Positive, good faith efforts should be made to utilize and solicit small businesses, veteran-owned businesses, women-owned businesses, minority-owned businesses, or labor surplus areas when procuring construction, equipment, services, and supplies. Estuary Partnership shall include the following in solicitations:

- Place qualified small and minority businesses and women's business enterprises on solicitation lists;
- Assure that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- Establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- Require subcontractors to take the affirmative steps listed above.

## F. Procurement Processes

Property or services may be acquired in one of four ways:

### Micro-Purchases – Under \$30,000

Micro-purchases under \$30,000 may be awarded, at the discretion of the Executive Director, without soliciting competitive price or rate quotations if the price is considered to be reasonable based on documented research, experience, purchase history or other information and documents. To the maximum extent practicable, Estuary Partnership shall distribute micro-purchases equitably among qualified suppliers.

### Informal Procurement– \$30,000 to \$250,000

For the procurement of property or services between \$30,000 and \$250,000, Estuary Partnership may use the informal method to expedite the completion of its transactions and minimize the associated administrative burden and cost.

- Estuary Partnership may acquire property or services by obtaining and documenting price or rate quotations from an adequate number of qualified sources as determined appropriate.
- Estuary Partnership may also elect to use the Formal Procurement process for acquisitions under \$250,000.

### Formal Procurement – Over \$250,000

Estuary Partnership shall conduct a formal Request for Proposal process or contract with an entity selected under a formal Request for Qualifications process for the acquisition of property or services over \$250,000.

- Requests for Proposal Process:
  - Must be publicized and identify all evaluation factors and their relative importance. Must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical.
  - Document written methods for conducting technical evaluations of the proposals received and making selections.
  - Contracts must be awarded to the responsible offeror whose proposal is most advantageous, with price and other factors considered.
- Request for Qualification Process:
  - Must be publicized and identify all evaluation factors and their relative importance. Must be solicited from an adequate number of qualified offerors. Any response to publicized requests for qualifications must be considered to the maximum extent practical.
  - Document written methods for conducting technical evaluations of the statement of qualifications received and making selections for an “On-Call” list.
  - Maintain an “On-Call” list of qualified entities.
  - Contracts must be awarded to the most advantageous entity from an “On-Call” list, with price and other factors considered. Document the justification for how the entity is selected from an “On-Call” list.

## Noncompetitive Procurement

Estuary Partnership may award funds through noncompetitive procurement under one or more of the following circumstances:

- The acquisition of property or services under \$30,000;
- The item is available only from a sole source;
- The awarding entity expressly authorizes a noncompetitive procurement; or
- After solicitation of a number of sources, competition is determined inadequate.

When an item or service is only available from a sole source, Estuary Partnership shall document the justification approved by the Executive Director.

## G. Amendments to Existing Contracts

Amendments to any existing contract may be let up to the limit for the contracting process under which it was acquired.

- Micro: Aggregate dollar amount of contract with amendments up to \$30,000.
- Informal: Aggregate dollar amount of contract with amendments up to \$250,000, and
- Formal: Amendments permitted without limit for contracts obtained under a formal bid process and the contractor has established a relationship of trust and reliability with the staff and Board and that the relationship advances the work product or a break in the relationship would impede the progress or timeliness of a product or project.