



## **Purchasing Policy for Public Works Contracts Policy 21.2.0**

### **1.1 Purpose**

The purpose of this Public Works Contracts policy is to summarize IVGID policy requirements for competitively bidding and awarding of contracts solely for the purpose of constructing public works.

### **1.2 Enabling Statute(s)**

This section of the Purchasing Policy is adopted pursuant to Chapter 338 of the Nevada Revised Statutes (NRS 338), cited as Public Works. All contracts awarded for the construction of public works shall be made in compliance with NRS 338 or more restrictive requirements as may be adopted by the Incline Village General Improvement District Board of Trustees.

### **1.3 Public Works Defined**

Any project for the new construction, repair, or reconstruction of a project financed with public money in whole or in part for public:

- Buildings,
- Highways, roads, streets and alleys,
- Utilities, water mains and sewers,
- Parks and playgrounds,
- Convention facilities, and

All other publicly owned works and property.

### **1.4 Applicability of Purchasing Policy Provisions**

The following sections of the District's Purchasing Policy (21.1.0) shall apply to this Purchasing Policy for Public Works Construction Contracts:

- Applicable definitions contained in Section 1.3, Definitions.
- Referenced provisions in Section 1.4, Procurement Responsibilities.
- Section 1.5, Contract Award Authority.



## **Purchasing Policy for Public Works Contracts Policy 21.2.0**

### **1.5 General Provisions**

In addition to any other requirements established in NRS 338, the following general provisions apply to procurements related to public works construction.

#### **1.5.1 Inapplicability of Policy to Contracts for Maintenance or Emergencies**

The requirements of this section and NRS 338 do not apply to the following procurements:

- A. Contracts awarded in compliance with NRS 332 that are directly related to the normal operation of the District or the normal maintenance of IVGID property.
- B. Contracts awarded to meet an emergency which results from a natural or artificially created disaster that threatens the health, safety, or welfare of the public.

If the Board or its authorized representative determines that an emergency exists, a contract or contracts necessary to address the emergency may be let without complying with the competitive bidding requirements of NRS 338 unless otherwise required for federal or state reimbursement funding.

If such emergency action is taken by the authorized representative, the authorized representative shall report the contract or contracts to the Board at its next regularly scheduled meeting.

#### **1.5.2 Prevailing Wage Required**

The payment of prevailing wages, in the manner specified in NRS 338, is required for all contracts for public works construction that exceed \$100,000.

#### **1.5.3 Use of Recycled Materials**

Public works projects associated with the construction, reconstruction, improvement, maintenance or repair of a public road or public highway must provide for the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires. Such provision shall be included in the project bidding documents.



## **Purchasing Policy for Public Works Contracts Policy 21.2.0**

The District must ensure that such recycled products are specified in the construction contract unless use of such products is scientifically proven to compromise the soundness of the project.

### **1.6 General Requirements by Dollar Threshold**

The following requirements apply to all public works construction projects and contracts, unless otherwise specified.

#### **1.6.1 Construction Projects Greater Than \$100,000**

Construction projects estimated to be greater than \$100,000 shall adhere to all applicable provisions of NRS 338 and as specified below.

- A. Projects shall not be divided into segments to avoid competitive bidding or contract award requirements.
- B. Solicitations must be advertised in a newspaper of general circulation.
- C. Plans and specifications must be on file by the date of advertisement and available to all interested parties.
- D. The advertisement must indicate how to obtain the plans and specifications, and the date, place and time bids will due/opened.
- E. The advertisement must include a provision that sets forth contractor qualification requirements.
- F. Contracts up to \$250,000 must be awarded to the lowest responsive and responsible bidder.
- G. Contracts greater than \$250,000 shall be awarded to the contractor that submits the best bid.
- H. Contractors and subcontractors must be appropriately licensed by the State of Nevada.
- I. Bids shall be submitted with a 10% bid bond.
- J. Contracts shall be awarded by the Board of Trustees.
- K. NRS 338 quarterly reporting requirements must be followed.

#### **1.6.2 Construction Projects \$100,000 or Less**

Construction projects estimated to be \$100,000 or less shall adhere to all applicable provisions of NRS 338 and as specified below.

- A. Bids may be advertised in accordance with required procedures.



## **Purchasing Policy for Public Works Contracts Policy 21.2.0**

- B. Bids must be solicited from at least three properly licensed contractors for projects estimated to be greater than \$25,000.
- C. If the estimated cost is \$25,000 or less, at least one bid from a properly licensed contractor must be solicited.
- D. Contracts must be awarded to the lowest responsive and responsible bidder.
- E. Contractors and subcontractors must be appropriately licensed by the State of Nevada.
- F. Bids shall be submitted with a 10% bid bond.
- G. Contracts shall be awarded by the General Manager.
- H. NRS 338 quarterly reporting requirements must be followed.

### **1.6.2.1 Construction Projects Performed by District Forces**

Construction projects estimated to \$100,000 or less may be performed by District staff members under the following conditions:

- A. If bids were submitted and then rejected in accordance with Section 1.6.3 below, the District may proceed with constructing a public work itself.
- B. If constructing a public work itself, the District must adhere to the attestation requirements contained in NRS 338.

### **1.6.3 Bid Rejection**

Any bids received in response to an advertisement or direct solicitation may be rejected by the Board of Trustees or its authorized representative if it is determined that:

- A bidder is not qualified pursuant to NRS 338.
- A bid is non-responsive.
- A bidder is not responsible.
- The quality of the services, materials, equipment, or labor offered does not conform to the approved plans or specifications.
- The public interest would be served by such a rejection.



## **Purchasing Policy for Public Works Contracts Policy 21.2.0**

### **1.6.4 Bid Protests**

A contractor that submits a bid in response to a solicitation may file a notice of protest of contract award in accordance with this section and applicable provisions of NRS 338.

#### **1.6.4.1 Protest Submittal Requirements**

A contractor that submits a bid in response to a solicitation who wishes to file a notice of protest must do so within five business days after the date of District issuance of the intent to award a contract.

The notice of protest must include a written statement setting forth the specific reasons for the protest, including the relevant provisions of NRS 338 or other provisions in law purported to be violated.

#### **1.6.4.2 Authorized Representative to Consider Initial Bid Protest**

The General Manager, as the authorized representative of the Board of Trustees, shall receive and evaluate a properly filed protest submitted by a bidding contractor.

To ensure the efficient and effective business operation of the District, the General Manager may delegate the authority to receive and evaluate bid protests to other IVGID staff members in accordance with the delegation procedures specified in Subsection 1.6.2.2 of the Purchasing Policy (Delegation by the General Manager to District Staff Members).

#### **1.6.4.3 Final Determination of Bid Protest**

The authorized representative shall evaluate the protest and make a recommendation to the awarding body to uphold or deny the protest. A contract cannot be awarded until the awarding body makes its determination.



## **Purchasing Policy for Public Works Contracts Policy 21.2.0**

### **1.7 Contractor Qualification and Preference Requirements**

In constructing any public work, the District must comply with all applicable contractor qualification and contractor preference requirements specified in NRS 338.

### **1.8 Alternative Bidding Methods**

Pursuant to NRS 338, the District may use bidding methods to award construction contracts to qualified contractors based on best value rather than lowest responsive and responsible bid, including Construction Managers at Risk and Design-Build methods. These bidding methods are used for large construction projects that present unique and complex construction challenges.

#### **1.8.1 Construction Managers At Risk**

Use of the construction managers at risk method requires entering into separate contracts with the selected contractor for preconstruction services and for constructing the public work.

A construction manager at risk must meet the qualification requirements specified in NRS 338

##### **1.8.1.1 Competitive Solicitation, Selection and Contracting Methods**

Construction managers at risk contracts require the use of a request for proposals (RFP) process in strict accordance with the solicitation, evaluation, selection and contract award provisions specified in NRS 338.

#### **1.8.2 Design-Build Teams**

Contracts for construction projects where the estimated cost of design *and* construction exceeds \$5,000,000 may be let using the design-build method. Use of the design-build method requires a two-step RFP process in strict accordance with the solicitation, evaluation, selection and contract award provisions specified in NRS 338.