

COUNTY OF RIVERSIDE, CALIFORNIA
BOARD OF SUPERVISORS POLICY

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Policy:

This policy provides specific guidance for the approval/award of public works contracts, certain improvements for a county facility. Public works projects, as herein defined, are works which involve the erection, construction, alteration, painting, repair or improvement of any county structure, building or facility that will be used, occupied, or owned by a county entity.

This policy applies to departments, agencies, districts and authorities governed by the Board of Supervisors unless specifically exempted by the Board. This policy is not intended for capital projects carried out in the normal course of business by the Riverside County Flood and Water Conservation District, Regional Parks and Open Space District, Transportation and Land Management Agency (TLMA), Housing Authority, and the Waste Management Department. These agencies and districts must adhere to specific government statutes for their public works projects.

It is the intent of this policy to implement or otherwise to be consistent with provisions of Board Policy A-69 "Best Practices in Contract Management", Board Policy B-22 "Capital Improvement Program", Board Policy H-7 "Selection of Architectural, Engineering and Real Estate Services", California Government Code Sections 25502.5(a) and 4525-4529.5 (Mini-Brooks Act), the California Public Contract Code, Uniform Public Construction Cost Accounting Act (UPCCA) procedures, other applicable state codes, and ordinances, resolutions or policies of the county which may govern the approval of projects and contracts for erection, construction, alteration, repair or improvement of county structures, buildings, or facilities.

A Capital Improvement Program (CIP) team consisting of members from the Executive Office, Facilities Management, and the Riverside County Information Technology Department has been created to oversee the stewardship of the county's capital improvement plan (Board Policy B-22).

I. Definitions

- A. With respect to this Policy, a public works contract "Contract", as herein defined, is the legally binding agreement that prescribes the work or services for a public works project pertaining to a county facility.
- B. A public works project "Project" shall mean the sum of the public works contracts which prescribe the work or services pertaining to a county facility. Services include, but are not limited to: architectural, engineering, geotechnical services, demolition services, water quality management, construction project

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management, real estate, environmental assessment and regulatory compliance services.

- C. A public works project pertaining to a county facility that exceeds \$100,000 shall have the same meaning as a capital improvement project as defined in Board Policy B-22 "Capital Improvement Program".
- D. "Authorized Entity" means the designated department providing project management responsibilities for the project and having the authorization to construct public works projects as it relates to their specialized County mission. The Sheriff's department has been approved to be an authorized entity.

II. Award of Contracts

- A. Public works projects of twenty-five thousand dollars (\$25,000) or less may be performed by the Authorized Entity on a purchase order let by the county purchasing agent (or designee) as set forth in Section 22032 of the California Public Contract Code.
- B. Public works projects of one hundred thousand dollars (\$100,000) or less may be let to contract on behalf of the Authorized Entity by the county purchasing agent (or designee) following "informal bidding procedures" as set forth in Section 22034 of the California Public Contract Code and as set forth in County Ordinance 757.2. Public works projects of \$100,000 or less do not require specific Board approval. However, the following provisions do apply:
 - 1. The program, plans, specifications and project budget must be approved by the Authorized Entity with concurrence from the requesting county department, agency, district, or authority.
 - 2. The project budget must include a contingency allowance equal to at least 5% but not more than 10% of the construction cost estimate.
 - 3. The plans must incorporate the county's design standards for materials and equipment.
 - 4. Where additional general fund support, herein called "new net county cost", is identified as the proposed source of funds for any portion of the professional services contract or public works improvements, Board Policy B-22 shall apply.
 - 5. Public works contracts may not be split or separated into smaller work orders or projects for the purpose of evading the provisions of Board Policy B-22.

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- C. Public works projects of more than one hundred thousand dollars (\$100,000) are subject to the requirements of Board Policy B-22 and must be approved by the Board of Supervisors and will, except as otherwise provided in this policy, be let to contract utilizing “formal bidding procedures” as specified in Section 22032(c), et seq of the California Public Contract Code. The selection process shall comply with California Government Code Sections 25502.5(a) and 4525-4529.5 (Mini-Brooks Act).
1. Where a public works project is to be performed, a notice inviting formal bids shall be mailed by the Clerk of the Board to all construction trade journals. The notice shall be published at least fourteen (14) calendar days before the date of opening the bids in a newspaper of general circulation, printed and published in Riverside County. The notice will state the time and place for the receiving and opening of sealed bids and distinctly describe the capital facilities project. In addition to notice specified, the Clerk may also give such other notice as it is directed by the Board.
 2. The plans and specifications for all projects must be presented to the Board of Supervisors prior to the initiation of the formal bidding process. Board approval of the plans, specifications and project budget will constitute authority for the Clerk of the Board to advertise for bids and for the Chairman to sign a construction contract with the successful low bidder, provided that the lowest bid from a responsible bidder is within the total approved project budget approved by the Board, and the bid is fully responsive to the bidding documents. All contract documents are to be approved as to form by County Counsel.
 3. The project plans and specifications, approved by the Board, will be made available for general public and bidder review.
 4. All formal process bids are to be opened by the Clerk of the Board. If the low bid is within the total approved project budget, a contract with the low bidder, approved as to form by County Counsel, will be submitted to the Chairman of the Board for signature on the county's behalf. However, the Authorized Entity must submit the contract via a Form 11 to the Board for action when:
 - The low bid exceeds the estimated construction cost thus causing the total project cost to exceed the total approved project budget.
 - There is a formal protest by an unsuccessful bidder(s).
 - The low bidder is disqualified.

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- If two or more bids are the same and they are the lowest.
 - Whenever a bidder requests relief from a bid due to an error.
 - Anytime the Chairman decides that further Board action is warranted.
5. If no bids are received through the formal procedure, the Authorized Entity will review the process and determine if modifications can be made that will most likely result in a successful bid process if repeated. If the Authorized Entity determines that no modifications can be made and/or the second try is unsuccessful, the Authorized Entity will report this outcome to the Board via a Form 11 and request authorization to have the project performed by employees of the county, or to negotiate a contract consistent with the project budget without further bidding.
6. The Authorized Entity may submit to the Board of Supervisors recommendations for rejection of any capital project bids presented with a recommendation to either:
- Abandon the capital project or re-notice an invitation for bids in the manner described by this policy;
 - Adopt a resolution (requiring a four-fifths vote of the Board), which declares that the project can be performed more economically by employees of the county, thus having the project carried out by force account.

III.Changes and Additions

- A. Change orders are generally costly and require an inordinate amount of management effort. Therefore, it is the intent of this policy that change orders be held to a minimum and normally used to deal with unforeseen circumstances and constructability problems. Change orders are not normally to be used for elective changes that are not critical to function or costs.
- B. Whenever the Board enters into a contract for the erection, construction, alteration, or repair of any county structure, building or facility that will be used, occupied or owned by a county entity, the contract is not to be altered or changed in any manner except:

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1. By order adopted by four-fifths vote of the Board, and the consent of the contractor;
 2. As provided for in the contract itself, or specifications; or
 3. By adoption of an ordinance, resolution, or board order, authorizing the Authorized Entity, to order changes or additions in the work being performed under construction contracts.
- C. When so authorized by the Board, changes or additions in the work may be ordered in writing by the Authorized Entity (or designated party). Any changes or additions will be in accordance with written contract procedures for changed work and be an integral part of the contract work, which cannot be accomplished feasibly and economically by separate contract. Delegated change order authority to the Authorized Entity shall be in accordance with Public Contract Code 20142 as follows:
1. Up to 10 percent of the amount of any original contract that does not exceed two hundred fifty thousand dollars (\$250,000).
 2. For contracts whose original cost exceeds two hundred fifty thousand dollars (\$250,000), the extra cost for any change or addition to the work so ordered will not exceed: Twenty-five thousand dollars (\$25,000), plus five (5) percent of the amount of the original contract cost in excess of two hundred fifty thousand dollars (\$250,000) to a maximum of \$210,000.

IV. Emergency Action

In the case of an emergency (as defined by Public Contract Code Section 1102, "... [which] means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services"), the Board of Supervisors may by four-fifths vote (in accordance with Public Contract Code Section 22050) repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes. The Board by four-fifths vote may elect to delegate by resolution or ordinance, to an appropriate non-elected county officer, authority to order the preceding actions on its behalf.

Through Resolution No. 2003-23, the Board delegated to the Director of Facilities Management, authority for emergency repairs and replacement within the county facilities without giving notice for bids to let contracts

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subject to the requirements and reporting procedures described in Chapter 2.5 of the California Public Contract Code, commencing with Section 22050.

Upon utilization of this authority a report will be made to the Board for ratification of all actions which exceed contractual authority of the director of Facilities Management or the county purchasing agent.

Reference:

Minute Order 3.20 of 09/03/85
Minute Order 3.17 of 05/02/89
Minute Order 3.17 of 09/11/90
Minute Order 3.34 of 05/12/92
Minute Order 3.21 of 04/06/93
Minute Order 3.13 of 11/04/03
Minute Order 3.3 of 04/10/07
Minute Order 3-5 of 07/02/13
Minute Order 3.4 of 03/10/2020