

# AGENDA

## MEETING OF THE BOARD OF COMMISSIONERS

Chair: Sheila Kuehl

Monday, May 17, 2021

3:00 PM Please click [HERE](#) for Public Zoom and Dial-In Information

### Meeting Location:

First 5 LA  
750 N. Alameda Street  
Los Angeles, CA 90012

(If you would like to speak to any item on the agenda, please complete a public comment form)

1. **ACTION**  
Call to Order / Roll Call
2. **INFORMATION**  
Standing Items
  - A. Annual Audit
  - B. Review of Annual Operating Budget
  - C. Review of Annual Report to the State Commission
  - D. Contract Compliance
  - E. Quality Assurance
  - F. Evaluation
  - G. Policy and Advocacy
  - H. Personnel and Compensation
3. **INFORMATION**  
Present Proposed First 5 LA Procurement Policy Reforms

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Presenters: Jasmine Frost, Interim Chief Operating Officer/Director of

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#### COMMISSIONERS

Los Angeles County Supervisor	Jane Boeckmann	Yvette Martinez
Sheila Kuehl	Bobby Cagle	Romalis J. Taylor
<i>Chair</i>	Barbara Ferrer, Ph.D., M.P.H., M.Ed.	Keesha Woods
Judy Abdo		Marlene Zepeda, Ph.D.
<i>Vice Chair</i>		

#### EX OFFICIO MEMBERS

Karla Pleitez Howell
Jonathan E. Sherin, M.D., Ph.D.
Wendy Smith, Ph.D., LCSW
Deanne Tilton

#### EXECUTIVE DIRECTOR

Kim Belshé

#### EXECUTIVE VICE PRESIDENT

John A. Wagner

#### A PUBLIC ENTITY

IT; Jennifer Eckhart, Director, Contract Administration & Purchasing;  
and George Harris, Calyptus Consulting Group

4. **INFORMATION**

Re-Procuring Legal Services for First 5 LA (Written only)

60

Presenters: Peter Barth, Chief of Staff and Jennifer Eckhart, Director,  
Contract Administration & Purchasing

5. **INFORMATION**

Public Comment (for items not on the agenda)

6. **ACTION**

Adjournment



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## **FIRST 5 LA**

**SUBJECT:** Proposed Procurement Policy Reforms

### **BACKGROUND:**

The Procurement Reform Project was launched in 2019 to address challenges attributed to the current procurement policy and processes that have resulted in inefficiencies and time intensive processes, operational issues, and outdated procurement strategies and methods. The project team assessed the current policy and existing processes to address the challenges and learnings from implementation. These recommendations are intended to better align with First 5 LA's strategic direction and values, maximize best use of the Board's important resource of time and attention, and enable more effective and efficient implementation of the Strategic Plan. This project contributes to First 5 LA's efforts to optimize our effectiveness, one of four strategic priorities in our Strategic Plan. The board last approved the Procurement Policy on Feb. 13, 2014. As required by California Health and Safety Code § 130140, First 5 LA is required to adopt contracting and procurement policies in a public hearing. Staff are recommending changes to the policy which is scheduled to be provided as information to the Board of Commissioners on July 8. The revised policy will return to the Board of Commissioners for approval on September 9. Upon approval of the revised policy, staff will develop processes to support implementation of the policy.

The project team commenced this work by establishing a set of guiding principles to inform policy and process recommendations.

#### Guiding Principles:

- Aligns with mission, values & Strategic Plan
- Improves efficiency
- Clarifies accountabilities
- Aligns with public procurement values
- Promotes consistency
- Complies with legal requirements
- Supports the highest and most strategic use of the Board's time

In the Fall of 2019, Calyptus Consulting Group, Inc. was selected through a competitive solicitation to provide their expertise, share industry best practices, conduct research, and provide project management support. With the support of Calyptus Consulting Group, the project team developed and used the approach described below to inform policy recommendations.

### **Approach**

First 5 LA conducted a spend analysis of all active agreements as of December 16, 2019 which totaled \$155M for 235 agreements. The intent of this evaluation was to determine First 5 LA's spend by method of procurement, procurement exceptions, agreement types, and activity by thresholds. This analysis informed discussions around threshold suitability, need for exceptions, and utilization of procurement methods. The data, broken out by percentage of dollars and agreements, were also used as a comparison to other benchmarked organizations to support the development of the recommendations.

Next, the consultants conducted staff interviews and focus groups. The interviews covered procurement practices, policy-related issues and other staff pain points. These feedback sessions helped the project team understand staff perceptions, feedback and areas of focus for improvement.

The next phase of the project involved benchmarking peer organizations. Peer organizations were identified from F5LA interviews and the project team. These include independent First 5 Commissions, other public sector agencies (City, County, State, academic institutions), and foundations. This analysis was also considered in developing final recommendations around thresholds, board approvals, exception types, and other policy components.

Finally, the project team conducted a review of best practices in public procurement. The team reviewed best practices advanced by the National Institute of Governmental Purchasing (NIGP), the National Association of State Procurement Officials (NASPO), and the guidelines provided by the First 5 Association's Financial Management Guide (FMG).

### **Diversity, Equity and Inclusion (DEI):**

With the support of Seed Collaborative, First 5 LA's DEI consultant, and the Office of Equity, Strategy and Learning (OESL), the policy incorporates First 5 LA's commitment to this value. The policy articulates First 5 LA's intent to establish accessible and fair procurement practices. This requires addressing barriers to participation in procurement to make contract opportunities more accessible to all businesses. The strategies and practices to support DEI in procurement will be developed in consultation with Seed Collaborative, OESL, and Calyptus Consulting Group. The project team will also explore Los Angeles County's Preference Program and consider ways to align to the County's practice to the extent practicable.

The guiding principles, combined with the approach described above, informed the recommendations provided to the Executive Committee for discussion and feedback. Please refer to Attachment D for a summary of all recommendations. The revised policy primarily addresses areas that are non-negotiable (i.e. required by law), change infrequently, have widespread application, and address major operational issues. First 5 LA's existing procedures manual will be revised to support the policy which will include detailed processes and activities, specific roles and responsibilities, and address how to operationalize the policy. First 5 LA's procedures manual will serve as the primary source for procurement and contracting related processes.

### **Attachments**

The documents listed below are included as attachments:

Attachment A: Revised Procurement Policy

Attachment B: Current Procurement Policy

Attachment C: Current Appeals Policy: The Appeals Policy has been incorporated into the revised Procurement Policy.

Attachment D: Summary of recommendations

### **NEXT STEPS**

Staff will present policy recommendations as information to the Board of Commissioners on July 8 and return to the board for approval on September 9.



# Procurement Reform Project

## Executive Committee Meeting

Project Sponsor: Jennifer Eckhart  
Executive Sponsor: Jasmine Frost



May 17, 2021

# Agenda

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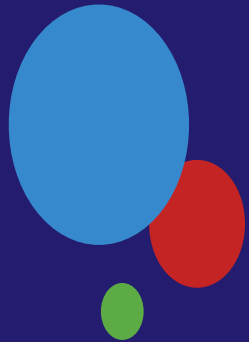
This presentation will cover:

- Project Overview
- Recommendations:
  - Procurement Thresholds/Board Approvals
  - Procurement Exceptions
  - Other Procurement Methods
  - Diversity, Equity, and Inclusion in Procurement
  - Other Policy Recommendations
- Next steps

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# Project Overview



# Project Overview

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- First 5 LA is required to adopt contracting and procurement policies consistent with state law in a public hearing
- Procurement policy last updated and approved by Board on Feb.13, 2014
- **Project objective:** Update the Procurement policy and related processes to better align with our current strategic direction to enable more effective and efficient implementation of the Strategic Plan

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# Challenges

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- The current policy does not reflect First 5 LA's priorities
- Procurement strategies have not been updated to reflect best practices
- Operational issues need to be addressed
- There are opportunities to streamline processes and increase efficiencies
- Incorporates learnings from the pandemic

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# Procurement Guiding Principles





 Aligns with mission, values & Strategic Plan


 Improves efficiency

 Clarifies accountabilities

 Aligns with public procurement values, as applicable

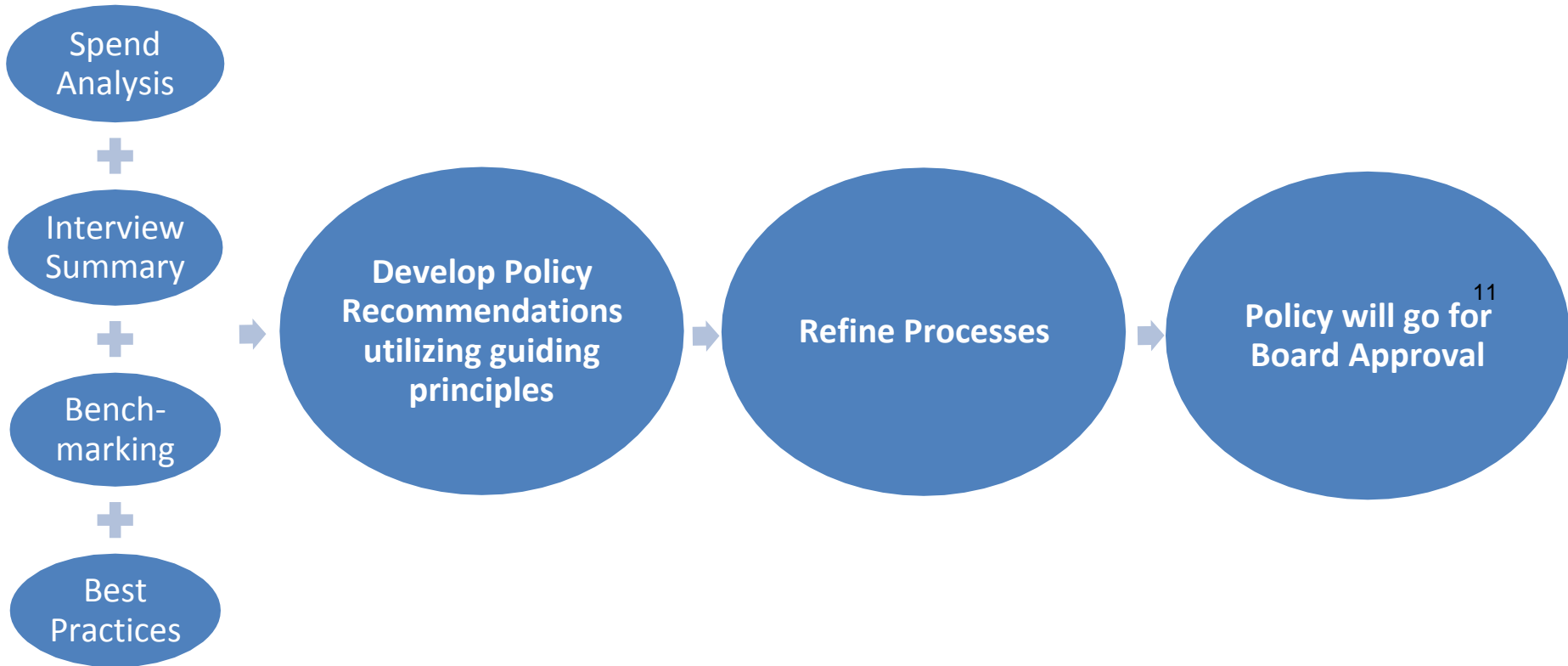
 Promotes consistency

 Compliant with legal requirements

 Supports the highest, most strategic use of the Board's time

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# Project Approach



# Policy vs. Process

Policy	Procedures
Have widespread application	Have a narrower focus
Are nonnegotiable, change infrequently	Are subject to change and continuous improvement
Are expressed in broad terms	Are a more detailed description of activities
Are statements of what and/or why	Are statements of how, when and/or who and sometimes what
Answer major operational issues	Detail a process

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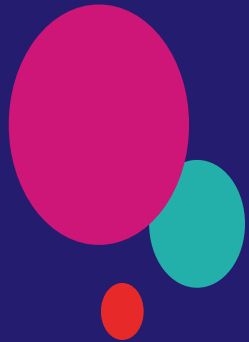
From the University of California

# Policy Components

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- Thresholds
- Exceptions
- Other Methods
- DEI in Procurement
- Other Recommendations

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# Procurement Thresholds

# Procurement Thresholds

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- Thresholds are used to align the level of effort in procurement to cost.
- Staff reported that current thresholds do not consider the internal level of effort
- F5LA thresholds are at or below some Commissions
- Thresholds need to be updated to reflect best practices.
- Grantees and Contractors reported higher than average time lapse from proposal submission to contracting.
- Needs to consider the best use of the board's time.

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# Procurement Thresholds

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- No Bid: Can purchase directly without bids
- Informal Bidding: Can purchase after receiving three or more bids
- Formal Bidding: Can purchase based on bids from all interested and eligible parties
- Executive Director Approval: Establishes a limit for ED approval of contracts
- Board Approval: Approval required by the board for contracts above the ED threshold

# Procurement Thresholds

## No Bid: Purchases in this range do not require bids

Current	Up to \$5,000
Recommended	Up to \$10,000
Rationale	Aligned to NIGP guidelines, interview results, and benchmarking
Impact	Currently: 9% of agreements and <1% of spend. Recommendation: There is low impact to overall volume of spend. An additional 4% of agreements and an additional .05% of spend will not be competed.

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# Procurement Thresholds

## Informal Bid: Purchases in this range require a min. of three bids

Current	\$5,000 - \$24,999
Recommended	\$10,001-\$100,000
Rationale	This fits within NIGP guidelines, responsive to staff feedback, and benchmarking. This change will reduce the procurement level of effort on lower <sup>18</sup> dollar procurements and maintains competition among three bidders.
Impact	Currently: 16% of agreements and <1% of spend. Recommendation: An additional 20% of agreements will fall under this threshold; roughly 2% of spend.

# Procurement Thresholds

**Formal Bid: Purchases in this range require an open solicitation process.**

Current	\$25,000 or more
Recommended	Over \$100,000
Rationale	Fits within NIGP guidelines and interview results. This recommendation aligns to the level of effort for this procurement method and ensures high <sup>19</sup> level of open competition over this threshold.
Impact	Currently: 75% of agreements and 99% of spend. Recommendation: Will decrease the number of open, competitive agreements by 23%, accounting for 2% of spend.

# Procurement Thresholds

## Board Approval: Threshold in which the board approves contracts

Current	Contracts of \$75K+ and amendments of \$75K+ or 10 percent of the contract, whichever is higher
Recommended	Contracts and amendments above \$150K
Rationale	Considers the highest and most strategic use of the Board's time; will optimize time for staff; aligning thresholds will streamline monitoring for staff. <span style="float: right;">20</span>
Impact	Currently: Board currently approves 57% of agreements (124), 98% of spend. Recommendation: Board will approve 42% of agreements (93) and 95% of spend.

# Procurement Thresholds

## ED Authority: Threshold establishes a limit for ED approval of contracts

Current	Contracts under \$75,000
Recommended	Contracts and amendments up to \$150K. Contracts under ED authority (\$10k-\$150,000) will be presented as information to the board. Recommend that the board delegate contract authority to the ED above this threshold when the board is not in session when essential to support First 5 LA's operations and programs and will be provided as information to the board.
Rationale	This will focus the Board's involvement on contracts over \$150,000. Providing a list of contracts approved under ED authority will provide transparency to the Board and the public.
Impact	Currently: ED has authority on 43% of agreements, 2% of spend. Recommendation: These contracts represent 58% of agreements and 5% of spend.

\*ED may delegate to his/her designee



# Procurement Exceptions

# Procurement Exceptions

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- Under certain circumstances, exceptions allow for direct contracting without a bidding process.
- Current policy allows for 4 different types of exceptions (unique or available from one source, emergencies, personal service contracts, and strategic partnerships)
- Current exception types are generally aligned to other public entities and best practices with the exception of strategic partnerships.
- Staff reported inconsistent approvals required and a need for clarity on exceptions.
- Greater flexibility needed during emergencies based on learnings from the pandemic.

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# Procurement Exceptions

## Exceptions Provided to the Board

Current	Process differs depending on type of exception; ED approves exceptions, except strategic partnerships
Recommended	Implement a consistent process for approval of exceptions. Authorize ED to approve all exceptions and publish a list of exceptions as information to the board.
Rationale	Ensure greater transparency to provide Board awareness that these exceptions have been allowed, and greater efficiency of staff time.
Impact	Reduces level of effort and promotes consistency

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# Procurement Exceptions

## Strategic Partnerships

Current	Four criteria for use
Recommended	Revise definition and remove criteria. Define as a partner that has an existing infrastructure or substantial investment in a program or project that either cannot be duplicated or would be duplicated at the expense of the Commission, and has the demonstrated resources, ability, program reach, or level of expertise to support <sup>25</sup> the Commission's systems change work. This also includes entities that administer jointly funded programs or entities with key relationships when these are critical to advancing the Commission's Strategic Plan.
Rationale	Optimize and expedite staff time for review and approvals.
Impact	Aligns more closely to the 2020-2028 Strategic Plan; clarity may speed up the procurement process

# Procurement Exceptions

## Emergency Procurements

Current	Included as an exception
Recommended	Define emergency exceptions that are tied to the health, safety, and welfare of personnel or for the protection of property, systems, and assets. ED will have authority to contract under these circumstances and amend or extend agreements to support contractors and grantees during a declared emergency. List of actions will be provided to the board for information.
Rationale	Ties to best practices (NASPO and NIGP) and to most peers.
Impact	This will allow for quick response to emergencies between board meetings or when board is in recess.

# Procurement Exceptions

## Unique supplies, equipment or services

Current	The supplies, equipment or services to be procured are unique because of their quality, durability, availability or fitness for a particular use or are available from only one source	27
Recommended	Refine exception. Same as above; add “exclusivity” of products or services	
Rationale	Minimal change needed	
Impact	None	

# Procurement Exceptions

## Personal Service Contracts (PSCs) for Professional Services

Current	PSCs are an exception based on firms/individuals having unique qualifications
Recommended	Refine exception. Focus on related experience, use of techniques, specialized capabilities or a combination of these factors that no other source can comparably perform
Rationale	Reduces confusion between this exception and strategic partnerships
Impact	None

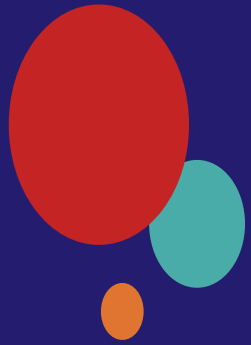
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# Procurement Exceptions

## Categorical Exemptions

Current	F5LA has a list of categorical exemptions in the procurement manual.
Recommended	Include categorical exemptions in policy. Define exemptions as purchases of a nature that do not lend themselves to the competitive procurement process.
Rationale	Based on benchmarks in public agencies and institutions. Eliminates the level of effort for certain purchases.
Impact	Expedites processing if procurement is not required.

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# Other Methods

# Cooperative Agreements & Piggybacks Method

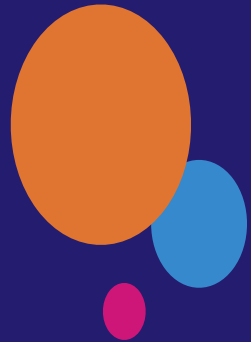
## Cooperative Agreements & Piggybacks

Current	F5LA is currently allowed to use State contracts
Recommended	Include the use of cooperative agreements and piggybacks in the policy
Rationale	Based on benchmarks including 60% of First 5s. <sup>31</sup> Ties to NIGP and NASPO. Takes advantage of competitive pricing, lower procurement lead times, reduces level of effort.
Impact	More expedient to use existing agreements and potentially results in lower costs due to economies of scale and sharing of administrative costs.

# Solicitation to the Pool Method

## Solicitation to the Pool

Current	F5LA has a detailed Solicitation to the Pool process included in its policy
Recommended	Leave in the policy as an option for F5LA if pools are needed in the future. <span style="float: right;">32</span>
Rationale	Although the pool is seldomly used, leave this in as an option since this procurement method is used in public agencies.
Impact	Affects 12% of agreements and 10% of spend. The higher thresholds will reduce use of the pool.



# DEI in Procurement

# DEI Statement

DEI Statement	
Current	F5LA has a diversity statement in its policy
Recommended	Strengthen diversity statement to articulate DEI goals that include establishing fair and accessible procurement practices, addressing barriers to participation, and collecting and monitoring data to track progress and use for continuous improvement.
Rationale	This ties to NIGP and NASPO best practices. The designated entities in policy ties to LA County's diversity program
Impact	Increased inclusion of diverse organizations in procurement activity and funding.

# Diversity Programs

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- Many public agencies have diversity programs
- Entities must qualify to receive a designation by a certifying agency.
- Examples of designated classes: SBE, LSBE, DVBE, WBE, MBE
- Designations are primarily for for-profit entities except Social Enterprises
- Public agencies in CA have race and gender-neutral policies/programs.

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# Developing DEI Strategies

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- Explore and leverage the County's program and other emerging practices
- Develop DEI strategies and approaches
- Develop approach to collecting and monitoring participation and utilization; use learnings to modify strategies and approaches

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# Other Policy Recommendations

# Other Policy Recommendations

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- **Repeal Policies:** Repeal related policies including Hiring Consultants, Hiring Contractors, and Selecting Grantees Policies.
- **Appeals Policy:** Incorporate the Appeals Policy into the Procurement Policy.
- **Regranting:** Include requirements of regranteeing when First 5 LA is the recipient of grant awards.
- **Public Works:** Public works requirements and the appropriate PCC section will be referenced in the policy.

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# Upcoming Board Engagement

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## July, Board of Commissioners Meeting

- Present policy for information

## September, Board of Commissioners Meeting

- Present policy for action

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Questions?

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# Los Angeles County Children and Families First Proposition 10 Commission

<b>SUBJECT:</b>  Procurement Policy	<b>Policy Number:</b>	A-2100
	<b>Effective Date:</b>	October 1, 2021
	<b>Supersedes:</b>	2/13/14, 11/14/13, 11/29/12, 4/12/12, 6/8/06, Appeals Policy 9/13/12
<b>Initiating Authority:</b> Contract Administration and Purchasing	<b>Page</b>	1 of 8

## I. PURPOSE

This document establishes a uniform policy for the procurement of goods and services, by the "Los Angeles County Children and Families First – Proposition 10 Commission ("Commission") aka "First 5LA".

## II. APPLICATION

This policy applies to all Commission employees and contractors authorized to do business on behalf of the Commission, hereinafter referred to as the "user." The Contract Administration and Purchasing Team ("CAP") will be responsible for policy implementation. The user team or office shall comply with this policy and the procedures developed by CAP.

## III. OVERVIEW

The Commission shall procure goods and services using an accessible, fair, and uniform process, allowing for free and open competition aligned with the Commission's value and investment guideline of diversity, equity and inclusion. Procurement shall be conducted in a manner that delivers quality materials and services from responsible entities<sup>1</sup>. The Commission shall promote competition for the procurement of goods and services and under certain circumstances, prioritize partnerships that are essential to advance the Strategic Plan. Purchases or procurements shall be consistent with and in support of the Commission's Strategic Plan and shall not be divided into smaller units to avoid the requirements of this policy.

## IV. PROCUREMENT METHODS

Determination of the procurement method shall consider total cost and project length or timeframe for goods and services needed by the Commission. Unless a specific exception to this policy applies, the Commission shall procure goods and services as follows:

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<sup>1</sup> Responsible and responsive entity is one that has responded appropriately and has the capability to comply with all aspects of the solicitation as defined in California Public Contract Code 1103. In order to be eligible to apply, current and former contractors and grantees must not remain in non-compliant status with any existing and past Commission contracts.

- 1) No bid: For goods and services up to \$10,000, the user may select the provider directly without the need for bids. This process shall not be used when it is reasonably foreseeable that the recurring purchases would exceed the no-bid threshold in the aggregate.
- 2) Informal bid: For goods and services between \$10,001 and \$100,000, the user shall comply with the informal bid process to procure goods and services. The user shall collect at least 3 bids from qualified providers, with the award to the responsible entity submitting the lowest bid or best value to F5LA. If less than three responses are received, the user must demonstrate that sufficient outreach and diligence were undertaken and document why the requirement for three bids was not met.
- 3) Formal bid or open solicitation: For goods and services over \$100,000, the user shall competitively procure goods and services from the lowest responsible bidder or the evaluation method set forth in the solicitation, or other method deemed appropriate for a formal bidding process.

There are two means of conducting a competitive, open solicitation:

- a. The first method is to conduct an open competitive solicitation process<sup>2</sup>. The solicitation shall be posted publicly on the Commission's website and publicized through other appropriate channels that extend the Commission's reach to prospective applicants in alignment with the Commission's diversity, equity and inclusion value and investment guideline. Simple or standard solicitations shall be posted for a minimum of 10 business days prior to the submission deadline; complex procurements shall be posted for a minimum of 15 days prior to the submission deadline. Any exceptions to the posting period shall be approved by the Director of the CAP (or designee). Open solicitations shall be written to include the scope of work, specifications, and terms and conditions of the proposed purchase or contract. The solicitation shall provide sufficient details to assist prospective applicants in calculating an accurate, unconditioned, and stable bid.
- b. The second method is to establish a pool of qualified providers through an open solicitation. Providers in the pool shall be selected by the evaluation method set forth in the solicitation. Admittance into the pool does not guarantee a contract. Pools shall be refreshed at least once every 2 years. When pools are refreshed, the Commission may, at its discretion, allow for existing members to remain in the pool without re-qualifying, if there have been no material changes in the qualifications of the pool member.

Each open solicitation shall provide explicitly that the Commission reserves the right to reject all bids and re-advertise for bids, and that failure to comply with bid specification may be grounds for disqualification of bids. Each bidder or proposer shall be required to honor the price and specifications quoted for a minimum of ninety (90) calendar days following submission of the bid, unless otherwise approved by the Commission. The CAP Director, in consultation with legal counsel, may waive any irregularity in bids or proposals if the irregularity does not provide an unfair competitive advantage over other bidders or

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<sup>2</sup> Includes joint solicitations defined as two or more agencies that aggregate their individual product and service needs into a single solicitation effort.

proposers. CAP shall make the final determination as to which method of solicitation is most effective in each given solicitation and shall approve all solicitation methods used prior to issuance.

- 4) Cooperative agreements<sup>3</sup> and piggybacking<sup>4</sup> for goods and services: Cooperative agreements and piggybacking are permissible when a public entity or cooperative purchasing program allows other entities to utilize all or a portion of the goods and services as originally advertised, competed, evaluated, and awarded. Additionally, the Commission may include assignability clauses to contracts procured by the Commission to allow other public agencies to piggyback on these opportunities. When applicable, the Commission may also leverage contracts awarded by the State of California without further competitive bidding (Public Contracts Code Section 10298 *et seq.*).

## V. PROCUREMENT EXCEPTIONS

It is acknowledged that in certain circumstances, there will be important business reasons why exceptions to an informal bid or competitive solicitation may be necessary. Those circumstances are described below. Exception requests must be supported by evidence that due diligence has been performed through a market analysis to arrive at the determination. Procurement exceptions described in subsections a-e below shall be justified and well-documented.

Justification for exceptions shall be documented by the user, approved in accordance with section VI(e) Approvals, and maintained in the project file. Lack of planning will not suffice as a justification for these exceptions.

The following circumstances shall allow the Commission to issue a sole source contract and the informal and formal bidding requirements of this policy shall not apply:

- a. The supplies, equipment or services to be procured are unique because of their quality, durability, availability, exclusivity, or fitness for a particular use, or are available from only one source.
- b. The offeror's related experience or expertise, techniques, specialized capabilities, or a combination of these are integral factors to the work that no other source can comparably perform.
- c. A strategic partner defined as having an existing infrastructure or substantial investment in a program or project that either cannot be duplicated or would be duplicated at the expense of the Commission, and has the demonstrated resources, ability, program reach, or level of expertise to support the Commission's systems change work. Strategic Partnerships also include entities that administer jointly funded programs or entities with key relationships when these are critical to advancing the

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<sup>3</sup>A cooperative agreement is a competitively bid agreement from a lead public agency established with multiple vendors in which those vendors agree to allow other public agencies to acquire specific goods or services in the future at established prices.

<sup>4</sup> Piggybacking is a method of procurement whereby an agency uses another agency's contract, even though it was not a party to the original solicitation and contract award.

Commission's Strategic Plan. In all instances, the Strategic Partnership must be aligned with the Commission's Strategic Plan.

- d. Emergency purchases defined as time-limited purchases that are essential to the health, safety, and welfare of personnel or for the protection of property, systems and assets and arises from a present, immediate, and existing emergency that could not reasonably be foreseen. These purchases may also include extreme events, as defined in the Fund Balance Policy A-2301.
- e. Circumstances in which competition is deemed to be inadequate after solicitation of a number of sources.
- f. Categorical exemptions defined as purchases that do not lend themselves to a competitive procurement process. CAP shall make a determination of categorical exemptions based on, but not limited to, the following:
  - i. The market for an item or service is regulated by a third party (bus tokens, postage, utilities), or
  - ii. The purchase is governed by another Commission policy (travel policy, conference, and event sponsorship), or
  - iii. An item or service is not possible to be competed (leasing of property, subscriptions, and memberships).

CAP will manage the list of categorical exemptions. A sole source justification is not required for purchases under categorical exemptions.

## VI. APPROVALS

- a. All Commission contracts and amendments over \$150,000 in the aggregate shall be presented to the Board of Commissioners as an item under Consent for approval prior to execution on behalf of the Commission. To comply with First 5 LA's Governance Guidelines, the annual budget shall serve as information for contracts presented to the Board for approval if the resources for those contracts are included in the board approved budget.
- b. The Executive Director (or designee) may approve any contract or amendment up to \$150,000 in the aggregate and will establish appropriate internal procedures and controls for those awards. Contracts that are executed under the Executive Director (or designee) between \$10,000-\$150,000 will be presented as information at the next Board of Commissioners meeting. The Executive Director (or designee) has authority to extend contracted timeframes without cost referred to as "no-cost contract extensions."
- c. The Executive Director (or designee) may approve contracts above his/her delegated authority during months when the Board of Commissioners is not scheduled to meet. These contracts must be presented to the Board of Commissioners at the next available meeting and exercised only when essential to support the Commission's operations and programs.
- d. In an emergency, as defined under Section V, the Executive Director (or designee) has

authority to enter into contracts in any amount. In addition, the Executive Director (or designee) has the authority to amend or extend agreements to support contractors and grantees during a declared emergency in any amount. These contracts must be provided to the Board of Commissioners as information at the next Board of Commissioners meeting.

- e. The CAP Director (or designee) shall determine if a proposed exception complies with Section V of this policy. The Executive Director (or designee) shall provide final approval of all exceptions. CAP shall publish a list of approved procurement exceptions as information at the next Board of Commissioners meeting.

## VII. DIVERSITY, EQUITY, AND INCLUSION

In alignment with the organization's value of diversity, equity and inclusion, the Commission is committed to accessible and fair procurement practices. The Commission shall address barriers to participation in procurement to make contract opportunities more accessible to all businesses, including but not limited to, local small business enterprises, social enterprises, and community business enterprises<sup>5</sup> (includes minority, women, disabled veterans, disadvantaged, and LGBTQ owned enterprises). Selection and final consideration of awards shall be determined by the evaluation criteria established by the Commission. The Commission shall not discriminate against or grant preferential treatment on the basis of race, sex, color, ethnicity, or national origin. Strategies and practices to support diversity, equity, and inclusion shall be documented in the Commission's procedures' manual. The Commission shall collect, monitor, and use data on diversity, equity, and inclusion to inform and adjust Commission's procedures to ensure continuous alignment with this policy.

## VIII. PUBLIC CONTRACTS CODE AND PUBLIC WORKS

- a. Pursuant to Public Contracts Code Section 3410, when purchasing food, the Commission shall give preference to United States-grown produce and United States processed foods when there is a choice and when it is economically feasible to do so, at the discretion of the Executive Director (or designee).
- b. The Commission shall purchase recycled products whenever recycled products are available at the same or lesser price and shall require contractors to comply with Public Contracts Code Sections 22150-22154 regarding the use and reporting of post-consumer materials.
- c. The Commission shall comply with the provisions of the California Public Contract Code for all applicable public works projects.

## IX. REGRANTING

If the Commission is the recipient of non-First 5 LA Proposition 10 funds and is required to regrant to specific organizations, these funds shall be regranted to the recipient organization without the application of the procurement policy. In the event that the Commission is required

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<sup>5</sup>The Community Business Enterprise (CBE) Program was established by Los Angeles County Consumer and Business Affairs and encourages minority, woman, disabled veteran or disadvantaged business owners to capitalize on opportunities in government and private-sector procurement programs.

to include specific subcontractors in its proposals and selected for award of funds, the requirements of this policy shall not apply. If the Commission receives unallocated funds or funds that are not dedicated to a specific sub-recipient, the requirements of the policy will apply for use of those funds.

#### X. CONFLICT OF INTERESTS

The Commission shall not contract with, or provide contract or grant funds to, a person or entity who has a conflict of interest, or with whom a Commissioner or staff member has a conflict of interest, except as permitted by applicable law. A conflict of interest exists when one has the opportunity to advance or protect one's own interest or private interest of others, with whom one has a relationship, detrimental to the interest, or potentially harmful for the integrity or fundamental mission of the Commission. No Commissioner, staff member, or consultant shall make, participate in making, or in any way use his or her official position to influence the making of a decision of hiring services for the Commission when he or she knows or has reason to know he or she has a financial interest. Decision-makers must recognize that even the perception or temptation of a conflict of interest may give rise to the disqualification of a proposer or the termination of an agreement. The Commission shall determine potential conflicts of interest at the earliest opportunity. Contractors and Grantees are expected to comply with these provisions as a material part of any Contract or Grant agreement. A Contractor's or Grantee's failure to promptly disclose known conflicts of interest shall be grounds for disqualification or termination. The Commission's "*Conflict of Interest*" policy applies to all methods of procurement.

#### XI. APPEALS

Unsuccessful bidders, proposers or applicants for Commission contracts or grants shall have the ability to appeal an unfavorable decision of the Commission on that matter subject to the limitations and procedures established in this policy. Such an appeal shall be permitted only on the grounds that the decision violated applicable law, Commission policies and procedures, or the terms of the solicitation. Appeals challenging the Commission's decisions on the merits or qualifications of bidders or proposers, or the scoring of proposals shall not be permitted. Appeals regarding the Commission's decisions on procedural or formatting errors, such as failure to include required documentation or failure to comply with page limits, shall not be permitted. This appeal policy does not apply to operational or monitoring decisions made during the course of awarded contracts and grants. The Executive Director (or designee) may establish further rules and procedures consistent with this policy to assist in the implementation of the appeals process. The Commission staff may offer debriefings, at their discretion, to unsuccessful proposers after the appeals period has passed and after the resolution of any appeal.

This appeal policy does not apply to operational or monitoring decisions made during the course of awarded contracts and grants.

#### PROCEDURE

- a. Any appeal of a decision by the Commission shall be in writing and filed within ten (10) business days following the date the notification of decision is made by the Commission. The appeal must be filed by email to the designated contact person on the solicitation or other method described in the solicitation. An appeal shall be deemed filed on the date it is received by the Commission. Any appeal received by the Commission after the close of business on the tenth (10th) business

day following the date the notification of decision is issued shall be rejected.

- b. The written appeal shall include the following information:
  - i. The specific contract, solicitation or other decision being appealed.
  - ii. The name, address, telephone numbers and email address of the appellant.
  - iii. A detailed description of the specific legal and factual grounds for the appeal, stating specifically the violation of applicable law, the Commission's policies and procedures, or the terms of the solicitation.
- c. New grounds for appeal raised by the appellant after the appeal is filed shall not be considered.
- d. In any appeal filed pursuant to this policy, the burden shall be on the appellant to demonstrate the violation of applicable law, Commission policies and procedures, or the terms of the solicitation.
- e. Upon receipt of a timely appeal, the Executive Director (or designee) shall review the appeal to determine if it is permitted by this policy. If the appeal is rejected as improper, the Executive Director (or designee) shall provide a prompt written notification to the appellant with an explanation for this decision.
- f. When a timely and proper appeal is submitted, the Commission shall not execute a contract with another party during the pendency of an appeal. The Commission reserves the right at its sole discretion to bifurcate solicitations.
- g. If the appeal is timely and proper, the Executive Director (or designee) shall investigate the appeal and render a decision within 20 business days upon receipt of the appeal. At the discretion of the Executive Director (or designee), a meeting may be held with the appellant and staff to investigate the grounds for the appeal.
- h. If the Executive Director (or designee) believes that he or she is unable to make an impartial decision on the appeal, the appeal shall be referred to an *ex officio* member of the Commission who has no interest in the matter for investigation and decision.
- i. The Executive Director (or designee) shall render a written decision to the appellant. The decision may direct any of the following actions:
  - i. Deny the appeal and proceed with award of the contract with the selected proposer.
  - ii. Refer the results of the appeal back to the Commission staff for further review and selection based on the results of the appeal.
  - iii. Overturn the results of the selection process and designate a new successful proposer if clearly dictated by the findings of the appeal.
  - iv. Refer the matter to the full Commission.
  - v. Cancel the procurement and resolicit.

The decision of the Executive Director (or designee) shall be final.

- j. The Executive Director (or designee) shall have authority to temporarily extend existing contracts where the goods and/or services provided under the existing contract are the subject of an ongoing procurement and the results of that procurement have been appealed in accordance with this policy until such time as the appeal has been decided.

XII. REFERENCES/LEGAL AUTHORITY

Health & Safety Code Sections 130140, 130150. Government Code Section 54201, et seq.

XIII. APPROVALS

\_\_\_\_\_  
Jennifer Eckhart, Director of Contract Administration and Purchasing, Initiating Authority      Date

\_\_\_\_\_  
Jasmine Frost, Interim Chief Operating Officer      Date

\_\_\_\_\_  
Kim Belshé, Executive Director      Date

# Attachment B

## Los Angeles County Children and Families First Proposition 10 Commission

SUBJECT: Procurement Policy	Policy Number: <b>A-2100</b>
	Effective Date: 02/13/14
	Supersedes: 11/14/13, 11/29/12, 4/12/12, 6/8/06
Initiating Authority: Contract Compliance Department	Page <b>1</b> Of <b>5</b>

### I. PURPOSE

This policy establishes a uniform policy and procedures for the procurement of services and materials by the “Los Angeles County Children and Families First – Proposition 10 Commission (“Commission”) aka “First 5 LA.”

### II. APPLICATION

These procedures apply to all Commission departments, employees and individuals/consultants authorized to do business on behalf of the Commission.

### III. POLICY

First 5 LA shall procure goods and services on the open market through a fair and uniform procurement policy, allowing for free and open competition and in a manner that delivers quality materials and services from responsible<sup>1</sup> entities in the most cost-effective manner. It is acknowledged that in limited circumstances, there will be important business reasons why exceptions to a competitive solicitation may be necessary. Those limited circumstances are addressed in the “Exceptions” section below. The procurement process for purchases made pursuant to an exception shall be well-documented.

### IV. PROCEDURES

Unless a specific exception to this policy applies, the Commission shall competitively procure goods and services with a value of \$25,000 or more per fiscal year, from the lowest responsible bidder or the evaluation method set forth in the Requests for Proposal (“RFP”), written solicitation, or other method deemed appropriate for a formal bidding process.

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<sup>1</sup> Responsible entity is one that has responded appropriately and has the capability to comply with all aspects of the solicitation. Current and former contractors, grantees and vendors must not be out-of-compliance with any existing and past Commission contracts in order to be eligible to apply.

Purchases or procurements shall be consistent with the Commission's Strategic Plan, and shall not be divided into smaller units to avoid the requirements of this policy. RFPs or other methods for bidding shall be written to include the scope of work, specifications and terms and conditions of the proposed purchase or contract. Each RFP or other appropriate method shall provide sufficient details to assist prospective applicants in calculating an accurate, unconditioned and stable bid. Each RFP or other method used shall provide explicitly that the Commission reserves the right to reject all bids and re-advertise for bids, and that failure to comply with bid specification may be grounds for disqualification of bids. Each bidder or proposer shall be required to honor the price and specifications quoted for a minimum of sixty (60) calendar days following submission of the bid. The Executive Director (or designee) or Commission may waive any irregularity in bids. The Executive Director (or designee) and user Department Director shall make the final determination as to which method of solicitation is most effective in each given solicitation and shall approve all RFPs or other method used prior to issuance.

1. Purchases or services of \$25,000 or more within a fiscal year require a competitive, open solicitation, unless meeting the requirements of an exception as stated below. There are two means of conducting a competitive, open solicitation:
  - A. First 5 LA can establish pools of qualified entities through an open solicitation known as a Request for Qualifications (RFQ). The RFQ will clearly delineate required area(s) of expertise or service. The pool of acceptable entities will be selected in adherence to the requirements as spelled out in the separate "*Selection of Grantees and Contractors*" policy. Entities that have successfully competed through the RFQ and have been selected into the pool are referred to as "pool registered entities." Being registered in the pool in no way guarantees a contract. It is the Commission's sole discretion to determine those areas in which pools will be established. That determination will be made in consultation with the Executive Director (or designee). Pools may be open and add successful entities on an ongoing basis. Pools may also be closed, accepting successful entities during a defined period of time. If a pool of registered entities is established and is closed, it will have to be reopened to allow the option for additional providers to submit their qualifications on a regular basis ("refreshed"), no less than every 24 months. When pools are refreshed, the Commission may at its discretion allow for existing members to remain in the pool without re-qualifying, if there have been no material changes in the qualifications of the pool member. Once a pool is established, the Commission may conduct a competitive solicitation from the appropriate pool and by areas of expertise. In so doing, the Commission is not required to undertake the 10-day posting requirement or the standard evaluation process, as spelled out in the "*Selection of Grantees/Contractors*" policy.
  - B. The second method of conducting an open, competitive solicitation is by conducting a general solicitation. The solicitation shall be posted publicly on the Commission's website and publicized through any other appropriate channels. The solicitation shall be posted for a minimum of 10 business days prior to the submission deadline and must adhere to all other requirements as spelled out in the "*Selection of Grantees/Contractors*" policy.

**The exceptions to the competitive bidding requirements of this Policy shall be as follows:**

Justification for using other than the competitive bid solicitation process, or the selection of other than the lowest competitive bidder for procurements of \$25,000 or more within a fiscal year shall be approved in writing by the Executive Director (or designee) and maintained in the project file. The Commission's "*Conflict of Interest*" policy applies to all methods of procurement.

The competitive bid requirement of this policy shall not apply under the following circumstances:

- a. The supplies, equipment or services to be procured are unique because of their quality, durability, availability or fitness for a particular use or are available from only one source;
- b. The Executive Director (or designee) has determined in writing that exigent or emergency circumstances require the immediate purchase of specific supplies, services or equipment, which determination shall be maintained in the Commission's files;
- c. Personal services contracts<sup>2</sup> if the Executive Director issues a written finding prior to the award of contract that the proposed contractor is so uniquely qualified for the particular project that competitive bidding would not be in the best interests of the Commission. Such findings must specifically define the nature of the personal services to be provided, should be infrequently made and shall remain in the Commission's file regarding the contract.
- d. In certain circumstances, the Commission may enter into Strategic Partnerships.<sup>3</sup> In all instances, the Strategic Partnership must be aligned with the approved Strategic Plan, and may be established only when any one of the following conditions is met:
  - i. The Strategic Partnership can provide specific resources needed by First 5 LA to implement an approved program or initiative in a manner or on a scale that makes the Strategic Partnership more cost-effective than resources provided through a competitive solicitation; or
  - ii. The Strategic Partnership can implement an approved program or initiative more expeditiously than resources provided through a

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<sup>2</sup> The term "personal services contract" shall mean a contract in which, by its express terms, the labor, or unique skills or talents, of a particular identified individual or group of individuals are material to the performance of the contract. "Personal services contracts" include, without limitation, contracts for temporary employees.

<sup>3</sup> A strategic partner is defined as an existing governmental, not-for-profit or for-profit entity which has specific resources needed by the Commission and which has the demonstrated resources, ability or level of expertise to implement specific activities in cooperation with the Commission that are consistent with the Commission's Strategic Plan and meet the conditions as stated above.

- competitive solicitation; or
- iii. The Strategic Partnership can provide a demonstrated level of ability or expertise that is only available in the community through the proposed Strategic Partnership; or
- iv. The Strategic Partnership provides an opportunity to leverage First 5 LA funds to produce additional funding for the program or initiative or service.

For Strategic Partnerships up to \$75,000 the Executive Director (or designee) shall determine in writing that establishing the Strategic Partnership is in the best interests of the Commission. For Strategic Partnerships of \$75,000 or more in any fiscal year, the determination must be presented to the Board at a public meeting and the Board shall determine, through specific written findings, whether establishing the Strategic Partnership is in the best interests of the Commission.

2. Unless a specific exception to this policy applies, the Commission shall solicit bids or proposals through a broad array of communication media, designated to attract a range of competitive bidders. At a minimum, each RFP or other solicitation shall be posted on the Commission's website for a minimum of 10 business days and transmitted by the responsible department(s) to identified potential bidders. Further requirements are addressed in the "*Selection of Grantees/Contractors*" policy.
3. The Commission shall promote diversity amongst its contractors/grantees and vendors, taking into account the diversity of the Los Angeles County population. To do so, the Commission shall adhere to requirements as spelled out in the "Selection of Grantees/Contractors" policy and may undertake additional efforts to ensure representation of disadvantaged businesses, minority, veteran, women -owned entities, as well as small-business enterprises.
4. Each RFP or other solicitation method issued by the Commission shall contain a sample of the Commission's standard applicable contract for goods or services including, without limitation, insurance requirements, with a statement notifying the bidder that the selected bidder shall be expected to execute the contract without substantive alteration.
5. All Commission contracts to contractors, grantees or vendors of \$75,000 or more in the aggregate in any fiscal year shall be presented to the Commission on a consent calendar for approval prior to execution on behalf of the Commission. The Executive Director (or designee) may approve any contract less than \$75,000 in the aggregate in a fiscal year, and will establish appropriate internal policies and controls for those awards. Copies of contracts executed in the amount of \$25,000 or more and up to \$75,000 within a fiscal year will be provided to the Commission during the course of its normal business and be provided as informational items. In addition, the Executive Director has authority to amend any contract by up to \$75,000 or up to 10% of the total contract amount within a fiscal year, whichever is greater. The Executive Director (or designee) also has authority to extend contracted timeframes without cost, referred to as "no-cost contract extensions."


6. Pursuant to Public Contracts Code Section 3410, when purchasing food, the Commission shall give preference to United States-grown produce and United States processed foods when there is a choice and when it is economically feasible to do so, at the discretion of the Executive Director or his/her designee.
7. The Commission shall purchase recycled products whenever recycled products are available at the same or lesser price, and shall require contractors to comply with Public Contracts Code Sections 22150-22154 regarding the use and reporting of post-consumer materials.

V. RESPONSIBILITIES

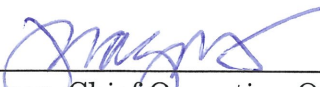
The Executive Department and Department Directors are responsible for implementing this policy, and formulating and complying with appropriate procedures and guidelines. The Executive Department is also responsible for monitoring the specified thresholds and make recommendations to the Commission with any recommended modifications.

VI. REFERENCES/LEGAL AUTHORITY


VII. APPROVALS

  
\_\_\_\_\_  
Jennifer Eekhart, Contracts Compliance Manager  
Initiating Authority

2/18/14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
John Wagner, Chief Operating Officer

2/18/14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Kim Belshé, Executive Director

2/18/14  
\_\_\_\_\_  
Date

*Approved by Board of Commissioners February 13, 2014*

# Los Angeles County Children and Families First Proposition 10 Commission

## Board of Commissioners Appeals Policy

### 1. PURPOSE

The purpose of this policy is to formalize First 5 LA's policy regarding appeals of specified decisions and to prescribe the rules for such appeals.

### 2. STATEMENT OF POLICY

Unsuccessful bidders, proposers or applicants for First 5 LA contracts or grants shall have the ability to appeal an adverse decision of the Commission or staff on that matter subject to the limitations and procedures established in this policy. Such an appeal shall be permitted only on the grounds that the decision violated applicable law, First 5 LA policies and procedures, or the terms of the bid, RFP or RFQ. Appeals challenging First 5 LA's decisions on the merits or qualifications of bidders or proposers, or the scoring of proposals shall not be permitted. Appeals regarding First 5 LA decisions on procedural or formatting errors, such as failure to include required documentation or failure to comply with page limits, shall not be permitted. This appeal policy does not apply to operational or monitoring decisions made during the course of awarded contracts and grants.

### 3. PROCEDURE

- A. Any appeal of a First 5 LA decision shall be in writing and filed with the office of the Executive Director or his/her designee within ten (10) business days following the date the notification of decision is made by First 5 LA. The appeal must be filed in person or by fax or email to the designated contact person on the solicitation. An appeal shall be deemed filed on the date it is received by First 5 LA. Any appeal received by First 5 LA after the tenth (10<sup>th</sup>) business day following the date the notification of decision is issued shall be rejected.
- B. The written appeal shall include the following information:
  1. The specific contract, RFP, RFQ or other decision being appealed.
  2. The name, address, telephone numbers and email address of the appellant.
  3. A detailed description of the specific legal and factual grounds for the appeal, stating specifically the alleged error of law, policy, procedure or term.
  4. Supporting documents, if applicable. New documents submitted, or new grounds for appeal raised, by the appellant after the appeal is filed shall not be considered.

## Appeals Policy

### Page 2

- C. In any appeal filed pursuant to this policy, the burden shall be on the appellant to demonstrate the error or failure to comply with applicable law, policy, procedure or term.
- D. Upon receipt of a timely appeal, the Executive Director or his/her designee shall review the appeal to determine if it is permitted by this policy. If the appeal is rejected as improper, the Executive Director shall provide a prompt written notification to the appellant.
- E. First 5 LA shall not take any action to prejudice the appeal, such as executing a contract with another party, during the pendency of a timely and proper appeal. First 5 LA reserves the right at its sole discretion to bifurcate solicitations.
- F. If the appeal is timely and proper, the Executive Director or his/her designee shall investigate the appeal and render a decision within a reasonable time. At the discretion of the Executive Director or his/her designee, an informal meeting may be held with the appellant and staff to investigate the grounds for the appeal.
- G. If the Executive Director or his/her designee believes that he or she is unable to make an impartial decision on the appeal, the appeal shall be referred to an *ex officio* member of the Commission who has no interest in the matter for investigation and decision.
- H. The person who reviews the appeal shall render a written decision within a reasonable time following the filing of the appeal. The decision may direct any of the following actions:
  - 1. Deny the appeal.
  - 2. Refer the results of the appeal back to the Commission staff for further review and selection based on the results of the appeal.
  - 3. Overturn the results of the selection process and designate a new successful proposer if clearly dictated by the findings of the appeal.
  - 4. Re-open the RFP, RFQ or bid process.
  - 5. Refer the matter to the full Commission.
- I. The decision of the Executive Director or his/her designee shall be final.
- J. The Executive Director may establish further rules and procedures consistent with this policy to assist in the implementation of the appeals process.

## Attachment D

### SUMMARY OF RECOMMENDATIONS

#### **Thresholds**

#	Current	Recommended
1	<p><b>No Bid</b></p> <p>Purchases up to \$5,000 do not require any bids</p>	Incorporate the no bid threshold into policy. Set up to \$10,000 as the no-bid threshold. Procedures will explore system functionalities (BBGM) and establish processes with Finance to monitor no-bid purchases.
2	<p><b>Informal Bid</b></p> <p>\$5,000 - \$25,000 requires 3 bids</p>	Incorporate the informal bid threshold into policy. Set range for informal bids as \$10,001-\$100,000. Strengthen the informal bidding process to require users to collect at least three (3) bids from qualified providers. If less than three responses are received, staff must demonstrate that sufficient outreach and diligence were undertaken and document why the requirement for three bids was not met.
3	<p><b>Competitive Purchase</b></p> <p>Over \$25,000 requires an open solicitation</p>	Set competitive purchase threshold at above \$100,000. Proposer is required to honor the price and specifications quoted for a minimum of ninety (90) calendar days following submission of the bid, unless otherwise approved by the Commission. This was previously sixty (60) days.
4	<p><b>Board Approval</b></p> <p>Contracts of \$75,000 or more and amendments greater than 10% or \$75K, whichever is higher</p>	<p>Set threshold for contracts and amendments above \$150K for board approval.</p> <p>Request Board to delegate contract authority to the ED above the threshold when the Board is not in session and provide as information to the Board at the next meeting; This will be exercised only when essential to support the Commission’s operations and programs. Added language to reflect our current practice which states that the annual budget shall serve as information for contracts presented to the Board for approval if the resources for those contracts are included in the board approved budget to comply with the sequencing of action items in the Governance Guidelines.</p>
5	<p><b>Contracts Under ED Authority</b></p>	Contracts that are under ED authority (\$10,000-\$150,000) will be presented as information at the next board meeting.

#### **Procurement Exceptions & Other Methods**

#	Current	Recommended
6	<p><b>Sole Source</b></p> <p>The supplies, equipment, or services to be procured are unique because of their quality, durability, availability or fitness for a particular use or are</p>	Refine definition to add “exclusivity” of products or services.

## Attachment D

### SUMMARY OF RECOMMENDATIONS

	available from only one source (from current policy)	
7	<p><b>Personal Service Contracts (PSCs)</b></p> <p>Defined as uniquely qualified based on labor, unique skills, or talents of a particular identified individual or group of individuals that are material to the performance of the contract.</p>	<p>Revise definition and eliminate reference to PSCs. This exception will focus on related experience, use of techniques, specialized capabilities, or a combination of these factors that no other source can comparably perform</p>
8	<p><b>Strategic Partnerships (SPs)</b></p> <p>Entity that has the demonstrated resources, ability, or level of expertise to implement specific activities in cooperation with the Commission that are consistent with the Strategic Plan. In addition, at least one of four criteria must be met.</p>	<p>Revise definition of a strategic partner and remove criteria: A strategic partner is defined as having an existing infrastructure or substantial investment in a program or project that either cannot be duplicated or would be duplicated at the expense of the Commission, and has the demonstrated resources, ability, program reach, and level of expertise to support the Commission’s systems change work. Strategic Partnerships also include entities that administer jointly funded programs or entities with key relationships when these are critical to advancing the Commission’s Strategic Plan. In all instances, the Strategic Partnership must be aligned with the approved Commission’s Strategic Plan.</p> <p>Align with the sole source approval process; recommend that SPs are no longer approved by the board. All procurement exceptions will be provided as information at the next board meeting</p>
9	<p><b>Emergency Purchases</b></p> <p>Exigent or Emergency circumstances that requires the immediate purchase of specific supplies, services, or equipment.</p>	<p>Revise definition as time-limited purchases that are essential to the health, safety, and welfare of personnel or for the protection of property, systems and assets and arises from a present, immediate, and existing emergency that could not reasonably be foreseen. These purchases may also include extreme events, as defined in the Fund Balance Policy A-2301.</p> <p>Authorize the Executive Director to approve emergency contracts (as defined above) and amend or extend agreements to support contractors and grantees during a declared emergency. These contracts will be provided to the board as information at the next board meeting.</p>
10	<p><b>Categorical Exemptions</b></p> <p>F5LA has a list of categorical exemptions in the Procurement Manual.</p>	<p>Incorporate categorical exemptions as an exception to procurement. Define as purchases that do not lend themselves to a competitive procurement process such as if:</p> <ol style="list-style-type: none"> <li>1) ) the market for an item or service is regulated by a third party (bus tokens, postage, utilities)</li> <li>2) purchase is governed by another First 5 LA policy (travel policy, conference and event sponsorship), or</li> <li>3) item or service is not possible to be competed (leasing of property, subscriptions and memberships).</li> </ol> <p>List of exemptions will be maintained and communicated by CAP.</p>

## Attachment D

### SUMMARY OF RECOMMENDATIONS

<b>11</b>	<p><b>Cooperative Agreement and Piggybacking</b></p> <p>F5LA is currently allowed to leverage State contracts and piggyback for CIP only.</p>	<p>Include the use of both cooperative agreements and piggybacks in the policy for purchase of general goods and services.</p>
<b>12</b>	<p><b>Solicitation to the Pool</b></p> <p>F5LA has a detailed Solicitation to the Pool process included in its policy</p>	<p>Keep this in the policy as an acceptable method of procurement. This will allow F5LA to establish pools in the future, if needed.</p>

### **Other Policy Elements & Priorities**

#	Current	Recommended	58
<b>13</b>	<p><b>Policy priorities</b></p> <p>Policy statement promotes competition</p>	<p>A policy statement will be included to clarify that F5LA will promote competition for the procurement of goods and services and, under certain circumstances, prioritize partnerships that are essential to advance the Strategic Plan.</p>	
<b>14</b>	<p><b>Diversity</b></p> <p>F5LA has diversity statement in the current policy.</p>	<p>Strengthen diversity statement to articulate DEI goals that include fair and accessible procurement practices, addressing barriers to participation, and collection and monitoring of data to track progress and use for continuous improvement. DEI strategies and approaches will be documented in the process manual.</p>	
<b>15</b>	<p><b>Regranting funds</b></p> <p>The policy does not address regranting of funds.</p>	<p>Include regranting requirements and allowances. If the Commission is the recipient of non-First 5 LA Proposition 10 funds and is required to regrant to specific organizations, these funds shall be regranted to the recipient organization without the application of the procurement policy. In the event that the Commission is required to include specific subcontractors in its proposals and selected for award of funds, the requirements of this policy shall not apply. If the Commission receives unallocated funds or funds that are not dedicated to a specific sub-recipient, the Commission shall comply with this policy for use of those funds.</p>	
<b>16</b>	<p><b>Public Works Procurement Requirements</b></p> <p>The policy does not address compliance to public works requirements.</p>	<p>Public works and the PCC will be referenced in the policy</p>	

## Attachment D

### SUMMARY OF RECOMMENDATIONS

#	Current	Recommended
17	<p><b>Posting of open solicitations</b></p> <p>Minimum posting period of 10 business days</p>	<p>The minimum posting should remain 10 business days as noted in the policy for simple or standard procurements; Add 15 business days for complex procurements. Procedures will define “simple or standard” and “complex” procurements. Exceptions shall be approved by the CAP Director.</p>
18	<p><b>Policy Elements</b></p> <p>Procure goods and services on the open market through a fair and uniform procurement policy, allowing for free and open competition.</p>	<p>Eliminate the use of the words "open market".</p>
19	<p><b>Roles and Responsibilities</b></p> <p>Executive Director and Department of Directors are responsible for implementing the Policy.</p>	<p>The Contract Administration and Purchasing Team will be responsible for policy implementation. Specific responsibilities will be included in the process manual.</p>
20	<p><b>Existing procurement related policies</b></p>	<p>Repeal procurement related policies, including Hiring Consultants, Hiring Contractors, Selecting Grantees Policies, and incorporate the Appeals Policy in the Procurement Policy. Recommend including that Commission staff may offer debriefings, at their discretion, to unsuccessful proposers after the appeals period has passed and after the resolution of any appeal. The procedure will require a decision on an appeal within 20 business days. The Executive Director (or designee) shall have authority to temporarily extend existing contracts where the goods and/or services provided under the existing contract are the subject of an ongoing procurement and the results of that procurement have been appealed in accordance with this policy until such time as the appeal has been decided.</p>
21	<p><b>Conflicts of Interest</b></p> <p>F5LA has an existing written policy and conflict of interest form.</p>	<p>Incorporate conflict of interest requirements specific to procurement in the policy.</p>

**First 5 LA**

**SUBJECT:**

Information regarding re-procurement of Legal Services for First 5 LA

**BACKGROUND:**

Since its inception, First 5 LA has contracted with outside counsel to provide legal services for the Board of Commissioners. First 5 LA's Legal Counsel reports directly to the Board, and provides legal services for the Board, Executive Director and staff.

On February 11, 2016, the Board approved staff's recommendation to contract with Richards, Watson & Gershon (RWG) to provide legal services after completing a competitive solicitation. The Board-approved contract terms allowed staff to enter into a contract with RWG for three years, renew the contract for an additional two years beyond the initial term, and to continue to work with RWG on a month-to-month basis until legal services are re-procured.

In accordance with the contract terms approved by the Board, First 5 LA executed the initial contract with RWG in 2016, renewed the contract in 2019, and as of March 1, 2021 continues to work with RWG for legal services on a month-to-month basis.

**NEXT STEPS:**

By the end of the current fiscal year (June 30), staff will release an updated Request for Qualifications (RFQ) to identify law firms interested in serving as Legal Counsel for First 5 LA. Staff will conduct outreach to promote the opportunity, including posting the solicitation online and directly connecting with law firms working in the Los Angeles area with experience providing legal services to public entities.

Once the solicitation closes and in accordance with First 5 LA's Board-approved procurement policy, staff will execute a multi-level review process consisting of the following steps:

1. Level 1 Minimum Requirement Review conducted by the Contracts Administration and Purchasing Team to ensure basic requirements of the solicitation are met, including timely receipt of application and all required documents.
2. Level 2 Internal Review conducted by staff with experience serving in a legal capacity and/or knowledge of First 5 LA's legal services needs, the legal services needs of public entities, and laws affecting public entities.
3. Level 3 Interview conducted by members of First 5 LA's Leadership Team and staff from the Executive Director's Office and Center for Operational Excellence.

An optional Level 4 Interview with the Executive Director and participants from the Level 3 Interview will be conducted as necessary to clarify responses and confirm scores from the Level 3 Interview.

Based on the up to four levels of review, staff will bring a recommended contract action to the Board on Consent by the November Board meeting. A written-only informational update about the process will be provided to the Board prior to request for Board action.