

Los Cerritos Wetlands Authority

Date: February 10, 2010
To: Governing Board Members
From: Belinda V. Faustinos, Executive Officer
Subject: Agenda Item 13: Adoption of a resolution approving amendments to the LCWA fiscal procedures.

RECOMMENDATION: Adoption of a resolution approving amendments to the LCWA fiscal procedures.

BACKGROUND: The current LCWA fiscal procedures have been reviewed in coordination with the staff from the City of Long Beach, the Treasurer of the Authority, to facilitate the process for submitting invoices, payments, deposits, letting of contracts and other related fiscal procedures. The fiscal procedures as proposed are consistent with Section 9 Fiscal Controls as set forth in the joint powers agreement.

The primary purpose of these revisions is to set the approval limits for the Executive Officer, a contract bidding process and procurement practices that are consistent with the policies established by the City of Long Beach.

Therefore, staff is recommending adopting the attached Los Cerritos Wetlands Authority Procedures Governing the Purchase of Goods and Services, Leasing of Equipment, Letting of Contracts for Professional Services, Construction and Improvement Contracts and Maintenance Contracts.

FISCAL: No fiscal impacts.

**Los Cerritos Wetlands Authority (LCWA)
Procedures Governing the Purchase of Goods and Services, Leasing of Equipment, Letting of
Contracts for Professional Services, Construction and Improvement Contracts and Maintenance
Contracts**

Section 1: General

- 1.0 The Los Cerritos Wetlands Authority (LCWA) is a joint exercise of powers agency established pursuant to Government Code Section 6500 *et seq.* The member entities of the LCWA are the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC), State Coastal Conservancy (SCC), City of Long Beach (LBC) and City of Seal Beach (SBC). The LCWA provides for a comprehensive program of acquisition, protection, conservation, restoration, maintenance and operation and environmental enhancement of the Los Cerritos Wetlands area consistent with the goals of flood protection, habitat protection and restoration, and improved water supply, water quality, groundwater recharge and water conservation.
- 1.1 The following procedures shall be known as the “Los Cerritos Wetlands Authority Procedures Governing the Purchase of Goods and Services, Leasing of Equipment, Letting of Contracts for Professional Services, Construction and Improvement Contracts and Maintenance Contracts” (Purchasing and Contracting Procedures) and shall constitute the procedures, including bidding procedures, as required by Government Code Section 54201 *et seq.*
- 1.2 The Executive Officer, or his or her designee, is hereby Purchasing Agent for the LCWA for amounts not to exceed \$5,000 on an annual budget year.
- 1.3 These procedures shall be applied consistent with the adopted LCWA JPA which provides in part that prior to entering into any contract for services; the Executive Officer shall consult with the participating entities to ensure that the proposed service to be rendered to the LCWA is not one that could be staffed and performed by the participating entities. Where resources of the RMC or the City of Long Beach cannot be used, the Executive Officer shall ensure competitive bidding in the award of all contracts to the extent possible.
- 1.4 Responsibility for Funds and Disbursements: The LCWA shall be strictly accountable for all funds, receipts and disbursements. The LCWA shall adopt an annual budget, in a form approved by the entities, which budget shall be submitted to the Board approval. Public funds may not be disbursed by the LCWA except pursuant to a budget which has been adopted by the Board and all receipts and disbursements shall be in strict conformance with the adopted and approved budget.
- 1.5 Designation of Treasurer-Depository of Authority Funds: Consistent with the LCWA Joint Powers Agreement, the Treasurer of the City of Long Beach shall act as the treasurer of the LCWA (hereinafter, the "Treasurer") and shall be the designated depository of the LCWA's funds and have custody of all the money of the LCWA, from whatever source.

Section 2: Definitions

- 2.0 General Operating Expense or Project. A general operating expense or project is defined as the expenditure for day-to-day materials, supplies items or services necessary in the normal course of business. These expenditures include, but are not limited to: office supplies, telephone service, cellular telephone service, high speed internet service, paging services, gasoline, computers, uniforms, fire equipment, printing, graphics, law enforcement supplies, gardening supplies and equipment, and building park maintenance materials and supplies.
- 2.1 Maintenance Project. A maintenance project is defined as the routine maintenance, repair, alteration or upgrade of an existing facility or property.
- 2.2 Construction Project. A construction or an improvement project is defined as the new development or construction of a new facility or property or an improvement to an existing facility or property.
- 2.3 Responsive Bidder. The term “responsive bidder” means a bidder who meets the instructions set forth in the request for bid, request for qualifications, or request for proposals. Construction or projects on public property have requirements under the Public Contracts Code (state and local) which requires advertising and awarding lowest bidder for \$65,000 or more.
- 2.4 Responsible Bidder. The term “responsible bidder” means a bidder who has demonstrated the attributes of trustworthiness, as well as quality, fitness and capacity and experience to satisfactorily perform the work.
- 2.5 Three-bid Procedure. A procedure requiring the solicitation by advertisement, verbal solicitation or other appropriate means from a minimum of three potential bidders or professionals responding to a request for qualifications or a request for proposals.
- 2.6 Short List. A list consisting of trade persons and businesses and/or professionals established after solicitation of minimum of three-bids and/or advertisement of request for bids, request for qualifications, or request for proposals.

Section 3: Purchase of Goods and Services, Leasing of Equipment, Letting of Contracts for Professional Services, Construction and Improvement Contracts and Maintenance Contracts

- 3.0 General Operating Expense or Projects. The approval of the LCWA annual budget by the LCWA governing board will serve as the approval process for the purchase on the open market of all budgeted general operating expenses and projects. Contracts in excess of \$10,000 dollars for supplies and materials not related to new construction, alterations, maintenance, or repairs shall be let after the three-bid procedure.

Expenditure(s) for a general operating expense or project that is not included in the LCWA annual budget and which exceeds \$10,000 per one-time expense requires the use of the three-bid procedure and approval by the LCWA Board.

- 3.1 Maintenance Projects. The Short List for Maintenance Projects may include, at the discretion of the Purchasing Agent or Executive Officer, trade persons and businesses including but not limited to licensed plumbers, electricians, pest control services, roofers, tree trimmers, HV/AC repair services, painters, glass replacement services, and asphalt and concrete repair services. All maintenance projects may also be completed by force account.

- a. Maintenance Projects Less Than \$10,000. A maintenance project under \$10,000 does not require the use of the established Short List or of the three-bid procedure and advertisement of bids. The Purchasing Agent or Executive Director may at his or her discretion obtain bids by verbal solicitation or other appropriate means which are to be documented by the Purchasing Agent.
- b. Maintenance Projects between \$10,000 and \$25,000. A maintenance project between \$10,000 and \$25,000 will require the use of the established short list, but does not require the use of the three-bid procedure.
- c. Maintenance Projects in Excess of \$95,000. A maintenance project over \$95,000 requires the use of the three-bid procedure and approvals from the LCWA Board and Purchasing Agent.

3.2 Construction Projects. All construction projects may also be completed by force account.

- a. Construction Projects Less Than \$10,000. A construction project under \$10,000 does not require the use of the established Short List or of the three-bid procedure and advertisement of bids. Purchasing Agent or Executive Director may at his or her discretion obtain bids by verbal solicitation or other appropriate means which are to be documented by the Purchasing Agent.
- b. Construction Projects between \$10,000 and \$25,000. A construction between \$10,000 and \$25,000 requires the use of the established short list, but does not require the use of the three-bid procedure.
- c. Construction Projects in Excess of \$25,000. All construction or improvement projects in excess of twenty-five thousand dollars (\$25,000) require the use of the three-bid procedure. All construction and improvement projects in excess of \$25,000 must be approved by the Governing Board of the LCWA and Purchasing Agent. Construction Projects over \$95,000 requires the use of the three-bid procedure and approvals from the LCWA Board and Purchasing Agent.

3.3 Professional Services. Contracts for private architectural, landscape architectural, engineering, environmental, land surveying, or construction management services are currently governed by Government Code section 4525 *et seq.* The Purchasing Agent shall before letting a contract for professional services make a determination as to the professional's demonstrated competence and qualifications for the type of services to be performed and at fair and reasonable prices to the LCWA. The Purchasing Agent shall determine demonstrated competence and qualifications of the services at fair and reasonable prices by reviewing the following documents to be submitted by the professional: 1) a list of the names and contact information for clients for which services were performed in the last five years; 2) samples of the services performed including the scope and cost; 3) a disclosure of any actions taken against the professional; and, 4) a statement of change order(s) to plans or specifications or projects for which services were provided and the reason for the change order(s).

- a. Professional Services Contracts Less Than \$10,000. A professional services contract under \$10,000 does not require the use of the established Short List or of the three-bid procedure and advertisement of bids. The Purchasing Agent or Executive Director may at his or her discretion obtain bids by verbal solicitation or other appropriate means which are to be documented by the Purchasing Agent.

- b. Professional Services contract between \$10,000 and \$25,000. A professional services between \$10,000 and \$25,000 requires the use of the established short list, but does not require the use of the three-bid procedure.
 - c. Contracts in Excess of \$25,000 requires the use of the three-bid procedure and approvals from the LCWA Board and Purchasing Agent.
- 3.4 Exception to Policy. The Purchasing Agent may let contracts for under \$95,000 in accordance with established policies and procedures and after approval by the Governing Board.
- 3.5 Notice inviting bids for contracts for which competitive bidding is required shall be published at least one time in a newspaper of general circulation in the LCWA's jurisdiction at least one week before the time specified for receiving bids.

Section 4: Bids and Awards

- 4.0 Where bids are solicited, the following procedures shall apply. The Purchasing Agent is authorized to establish such additional bidding procedures as are not inconsistent with the following procedures.
- 4.1 Responsive, Responsible Bidder. An award will be made to the lowest responsive, responsible bidder.
- a. A non-responsive bid may be entirely rejected.
 - b. The LCWA has the discretion to determine which bidders are responsible. In considering whether a bidder is the lowest "responsible" bidder, the following considerations may be made:
 - 1. The ability, capacity, and skill of the bidder to perform the contract or provide the supplies or services required.
 - 2. The ability of the bidder to provide the supplies or services promptly or within the time specified, without delay or interference.
 - 3. The character, integrity, reputation, judgment, experience and efficiency of the bidder.
 - 4. The quality of bidder's performance on previous purchases or contracts.
 - 5. The ability of the bidder to provide future maintenance, repair parts and services for the use of the subject of the contract.
 - 6. The previous and existing compliance by the bidder with the laws and provision relating to the contract.
- 4.2 The LCWA shall have the right to reject all bids, to accept one part of a bid and reject another in accordance with bid specifications, to waive technical defects and to consider alternative bids if to do so best serves the interests of the LCWA.
- 4.3 Should a discrepancy exist in prices, the bid price shown for the unit price or lump sum item shall take precedence over the bid price shown for the total.
- 4.4 Late Bids. Any bid received after a bid closing date and hour at the place designated for the opening is non-responsive.
- 4.5 Contractor must supply such bidders' security, payment bonds and/or performance bonds as are required by law or as are determined to be appropriate.

- 4.6 Confidentiality. All bids received by the LCWA shall remain confidential until the time for bid opening.
- 4.7 Bid Award. A Notice of Intent to Award Bid must be delivered by fax, overnight courier, internet transmission, or personal delivery to all of the bidders stating the LCWA's intent to award the bid within five calendar days to the lowest responsive and responsible bidder (name the bidder in the notice).
- a. In the event the LCWA determines that the contract will be awarded to a party other than the apparent lowest responsive and responsible bidder because LCWA has determined the bidder is either non-responsive or non-responsive, LCWA will notify that bidder only, at the time it delivers the Notice of Intent to Award Bid of the following:
1. The LCWA has determined the bidder is non-responsive or non-responsive and therefore the contract will be awarded to another party;
 2. That non-responsive bidders may not refute the decision of LCWA;
 3. That any and all bid protests from non-responsive bidders must be in writing, accompanied with written evidence and argument refuting LCWA's decision, and sent by fax or hand delivery to a designated LCWA Project Manager on or before 4 p.m. on the fifth calendar day from the date appearing on the Notice of Intent to Award Bid;
 4. The LCWA will not consider a bid protest that fails to include written evidence and argument refuting LCWA's decision;
 5. That any bid protests received after 4:00 p.m. on the fifth calendar day from the date appearing on the Notice of Intent to Award Bid will not be considered.

Section 5: Contract Requirements

- 5.0 The LCWA shall enter into a contract with all contractors using the standard LCWA contract agreement form. The contract will indicate the scope of work, the term of the agreement and any other details pertaining to the specific project. The LCWA shall provide the contractor with a notice to proceed. Contractors shall be obligated to provide the LCWA with necessary insurance per the LCWA contract agreement. The LCWA shall retain copies of all ads, award of bids, notices to proceeds and contracts.

Section 6: Purchasing and Approval Limits

- 6.0 LCWA employees and officers are delegated the following purchasing and approval limits:
- a. Executive Officer may authorize spending for budgeted and non-budgeted items: \$0-\$10,000.
 - b. LCWA Chairperson may authorize spending for budgeted and non-budgeted items: \$10,000-\$25,000

Section 7 Grants:

- 10.0 Grants from non-profit 501(c)(3) organizations do not require competitive bidding.

Duties of the Officers

Chairperson: The Chairperson shall perform such functions as assigned by the Joint Powers Agreement, and shall execute such documents as may be required by these polices or by resolution of the LCWA Board. The Chairperson shall not serve simultaneously as the Chair of the RMC.

Vice Chairperson: The Vice Chairperson shall perform the duties of the Chairperson upon the inability or unwillingness of the Chairperson to do so. The Vice Chairperson shall not serve simultaneously as the Chair or Vice Chair of the RMC.

Executive Officer: In addition to those duties set forth in the Joint Powers Agreement, the Executive Officer shall execute and authenticate all documents of the LCWA, including resolutions, minutes, contracts, and the requests to the Auditor for the issuance of warrants upon the treasury of the LCWA except those documents wherein the RMC has made a grant or authorized a contract with the LCWA. Those documents shall be referred to the Treasurer.

Treasure: In addition to those duties set forth in the Joint Powers Agreement, the Treasurer or designee of the City of Long Beach shall execute and authenticate all documents of the LCWA, including resolutions, minutes, contracts, and requests to the Auditor for the issuance of warrants upon the treasury of the LCWA from funds allocated to the LCWA by the RMC.

Budget Administration: Upon adoption of the budget and approval by the Governing Board the LCWA as provided in the Joint Powers Agreement, the Executive Officer may authorize the expenditure of funds provided in any item of the budget, and, subject to the provisions of the Joint Powers Agreement, may award contracts binding the LCWA up to an amount specified in the budget for each item, provided that the budget provides for the performance of such function or service by contract.

Competitive Bidding and Use of Participating Entities and Conservancy Resources: The LCWA and the Executive Officer acting on behalf thereof shall use the resources of the participating entities and the RMC to the maximum extent permitted by law and the provisions of the Joint Powers Agreement. Prior to entering into any contract for services, the Executive Officer shall consult with the participating entities to ensure that the proposed service to be rendered to the LCWA is not one that could be performed by the participating entities. Where resources of the RMC or the participating entities cannot be used, the Executive Officer shall ensure competitive bidding in the award of all contracts to the extent possible.

Personal Property and Equipment: The Executive Officer may acquire on behalf of the LCWA such personal property and equipment as may be authorized in the budget and necessary for the functioning of the LCWA. Resources of the participating entities and/or the RMC shall be used to the extent possible.

Gifts and Donations: The Executive Officer may accept, on behalf of the LCWA, gifts and donations of real and personal property. Any gift or donation of property, real or personal, in excess of \$10,000 in value shall be confirmed by the Board at its next meeting.

February 10, 2010 Agenda Item 13

RESOLUTION 2010 – 05

RESOLUTION OF THE LOS CERRITOS WETLANDS AUTHORITY (LCWA) ADOPTION OF
RESOLUTION APPROVING AMENDMENTS TO THE LCWA FISCAL PROCEDURE.

WHEREAS, the Los Cerritos Wetlands Authority has been established between the Coastal Conservancy, the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, the City of Seal Beach and the City of Long Beach to facilitate the acquisition, protection, conservation, restoration, maintenance and operation an environmental enhancement of the Los Cerritos Wetlands; and

WHEREAS, the LCWA has acquired certain Phase I parcels which will require active stewardship; and

WHEREAS, the LCWA had adopted a Interim Stewardship and Management Program; and

WHEREAS, this action is exempt from the environmental impact report requirements of the California Environmental Quality Act (CEQA); NOW

Therefore be it resolved, that the LCWA hereby:

1. FINDS that this action is consistent with the purposes and objectives of the LCWA.
2. FINDS that the actions contemplated by this resolution are exempt from the environmental impact report requirements of the California Environmental Quality Act.
3. ADOPTS staff report dated February 10, 2010.
4. AUTHORIZES the adoption of approving amendments to the LCWA fiscal procedure.

~ End of Resolution ~

Passed and Adopted by the Board of the LOS CERRITOS WETLANDS AUTHORITY on February 10, 2010.

Gary De Long, Chair

ATTEST:

Terry Fujimoto
Deputy Attorney General

