



**LANSING BOARD OF WATER AND LIGHT
PROCUREMENT POLICY**

December 1, 2015

Approved by the BWL Board of Commissioners on July 27, 2010
Revised and Approved on November 17, 2015

1. PURPOSE

This policy is intended to support the procurement of materials and services and the disposition of personal property used in the operation of the Board of Water and Light ("BWL") by applying business practices that provide for public confidence in the purchasing system and to maintain a high quality purchasing program by using means of fairness, ethical practices, open competition, impartiality, and supplier diversity to achieve best value in the purchase and disposal processes.

2. ADMINISTRATION

In carrying out this policy, the General Manager and all employees with delegated purchasing authority shall comply with the BWL Procurement Policy, the Lansing City Charter, applicable City of Lansing Ordinances, and applicable State and Federal laws.

Except as otherwise provided by BWL policy, the BWL Board of Commissioners have the sole authority to approve expenditures requiring Board approval pursuant to Lansing City Charter, codified ordinance, or other BWL policy.

The BWL Commissioners delegate to the General Manager the authority to: (1) make all other purchase and sale contracts necessary for the business of the BWL, (2) define procurement procedures, and (3) administer the BWL Procurement Policy and Procurement Procedures.

The General Manager may delegate purchasing and disposal of surplus property authority to specified BWL staff. The General Manager may also permit those designees to further delegate authority to other employees. All delegations of authority and controls required to ensure compliance with this Policy and the Procurement Procedures shall be documented. Only authorized employees may bind the BWL regarding the purchase of materials and services and the disposal of personal property.

All purchasing records shall be created, retained, and disposed of in accordance with applicable Federal, State and Local Law, as well as, BWL document retention policies.

Violation of this Procurement Policy may subject an employee to disciplinary action in accordance with the BWL Rules of Conduct.

3. REPORTING

The General Manager shall report the following items to the BWL Commissioners annually:

- A. Litigation pertaining to any particular contract covered by the Procurement Policy;
- B. Sole source contracts in an amount equal to or greater than \$15,000;
- C. Emergency procurements in an amount equal to or greater than \$15,000;
- D. Contracts with a term exceeding thirty-six consecutive months without being competitively re-bid.

4. EXCLUSIONS

Payments as delineated below are necessarily excluded from the Procurement Policy by the nature of the material or service purchased:

- A. Advertisements
- B. Utility Bills, including gas, electric, water, sewage, local/cell phone service, and internet service
- C. Charitable Sponsorships
- D. Collective Bargaining Agreements
- E. Conferences, Seminars, Tuition, and Training
- F. Employment Contracts
- G. Federal Express, UPS, US Postal Service, and other similar shipping
- H. Intergovernmental or Inter-utility Agreements, including permits
- I. Legal Services
- J. Financial Services
- K. Real Property, including Easements

- L. Subscriptions, Publications, and Membership Dues
- M. Travel Expenses
- N. Workers Compensation Medical Payments and Medical Services
- O. Purchases made pursuant to the Energy Risk Management Policy
- P. Software Licensing and Maintenance Agreements after the original purchase was competitively bid
- Q. OEM (Original Equipment Manufacturer) parts and services only available from the OEM or exclusive distributor specified by the OEM after the original purchase was competitively bid
- R. Materials where the BWL has standardized on one manufacturer, where the manufacturer or exclusive distributor specified by the manufacturer is the only source
- S. Damage Claims, Government Fees, Penalties, Licenses, and Taxes

5. SAFETY CONSIDERATIONS

The BWL recognizes its obligation to provide a safe work environment for its employees and the general public. The BWL will meet this obligation, in part, by (1) purchasing safety engineered tools and equipment, (2) purchasing quality materials and (3) engaging suppliers with high-quality safety records.

6. ETHICS

Because all suppliers are entitled to impartial consideration and equal service, all BWL purchases and the disposition of surplus personal property must comply with both the letter and spirit of the City of Lansing's Ethics Policy. Employees who violate this policy are subject to discipline and criminal penalties.

7. INCLUSION

The BWL recognizes the importance of ensuring fairness, open competition, and best value when making purchases from its suppliers, and in the community that it serves. Therefore, the BWL shall pro-actively support and use a diverse pool of suppliers.

8. ENVIRONMENTAL CONSIDERATIONS

The BWL recognizes that the purchase and use of products and services can have an impact on the environment. Where practicable, materials and services shall be purchased that are environmentally preferable.

9. LOCAL PREFERENCE

The BWL shall grant preference to businesses located in the BWL's service area in accordance with a procedure established by the General Manager.

10. RISK MANAGEMENT

The BWL shall mitigate risks in contracts through actions such as: limitations of liability, retainage, indemnities, warranties, terms of payment, incentive fee programs, termination, and insurance and bonding requirements. There are some risks that the BWL will not accept without additional approval of the General Manager. These risks are:

- A. Full payment in advance of the receipt of products and services, except insurance payments; various licenses, including software licenses; and equipment maintenance agreements;
- B. Agreements under which the BWL assumes liability other than for its own acts or omissions; or
- C. Acquisition of material or service which expressly excludes a warranty.

11. PURCHASE OF MATERIALS AND SERVICES

Purchasing Methods and Procedures General

The BWL shall use generally accepted methods of public and utility procurement, which may be adjusted from time to

time in the best interest of the BWL, to reflect current practices and technology changes.

The amount of a purchase is determined by the total contract or purchase order dollar value, regardless of contract length. No purchase shall be subdivided to avoid this Procurement Policy.

Competitive Purchases

The BWL has determined that maximum competition secures the best value in purchases of materials and services. Therefore, unless otherwise specifically exempted by this policy, all purchases of materials and services shall be through competitive methods with at least three suppliers where practicable. The BWL shall award the contract to the best-evaluated bid, proposal, or quotation.

Purchases valued at \$100,000 or More

All materials and services with an estimated value of \$100,000 or more shall be purchased from the best-evaluated bidder after public notice on the BWL internet website or other public media. Notice may be waived at the discretion of the General Manager. The BWL and the selected supplier shall enter into a written contract to consummate the purchase.

The Procurement procedures detail the process for competitive sealed bids and proposals, including the appropriate method to determine the best-evaluated bid or proposal. Bid security may be requested but is not required.

Purchases valued at \$15,000 or More but Less Than \$100,000:

All materials and services with an estimated cost of \$15,000 or more but less than \$100,000 shall be purchased from the best evaluated supplier after the evaluation of competitive sealed bids, competitive sealed proposals, or competitive quotations. Quotations need not be sealed and no notice is necessary. The BWL and selected supplier shall enter into a written contract to consummate the purchase.

The Procurement procedures detail the process for competitive sealed bids, competitive sealed proposals, and competitive quotations, including the appropriate method to determine the best-evaluated bid or proposal. Bid security may be requested but is not required.

Special requirements for Construction Contracts:

- (a) **Performance and payment bonds** are required on all construction contracts exceeding \$50,000 in an amount equal to 100 percent of the contract price. In addition, bid security may be required in an amount equal to five percent of the amount quoted for the contract. All bonds shall be issued and executed by a surety company authorized to do business in Michigan or otherwise secured in a manner satisfactory to the BWL. Noncompliance with bonding or security requirements shall require that the bid or proposal be rejected. Nothing contained in this policy shall be construed to limit the authority to require additional bonds or security.
- (b) **Prevailing wages and fringe benefits** shall be paid on all construction contracts, as determined by statistics compiled by the United States Department of Labor and related to the greater Lansing area by that Department. Any person or business entity violating this requirement shall have thirty days to rectify the deficiency or will be deemed to be in material breach of contract.

Non-Competitive Purchases

The BWL Commissioners have determined that the following circumstances warrant an exemption from the general competition requirement and therefore, do not require competitive bidding or proposals:

- A. Emergencies posing an apparent threat to public health, safety, or welfare;
- B. Circumstances where the BWL has concluded and documented that only one source is available to supply the requested material or service item;
- C. Excluded purchases that cannot be bid, such as those previously listed in the "Exclusions" section; and
- D. Purchases under \$15,000. The Board has determined that the benefits of competition are outweighed by the administrative cost of the competitive bid process for these purchases.

Purchases exempted from the competition requirement shall, whenever possible, be made in a manner to ensure the BWL receives the best value.

Cancellation of Solicitations

The BWL may cancel a solicitation prior to full execution of a contract. In addition, BWL may reject in whole or in part any or all bids or proposals, when it is for good cause and in the best interests of the BWL.

Right to Audit Records and to Inspect Plants; Maintenance of Records

The BWL may, at reasonable times, inspect the plant, place of business or worksite of a contractor or subcontractor, which is pertinent to the performance of any contract awarded or to be awarded by the BWL. The BWL shall be entitled to audit the books and records of a contractor or subcontractor under any BWL contract or subcontract to the extent that such books, documents, papers and records are pertinent to the performance of such contract or subcontract.

12. DISPOSITION OF PERSONAL PROPERTY

The BWL will attempt to achieve the best available return when disposing of surplus property or minimal cost when disposing of non-saleable items. The BWL shall dispose of saleable personal property by fair and open competition whenever practicable. The BWL shall dispose of non-saleable items by the best available method.

13. AWARD APPEALS

A responsive supplier may appeal to the BWL regarding the award or the proposed award of a contract. The appeal shall be in writing and addressed to the General Manager.

There shall be procedures for the processing and settlement of appeals, which includes an appeal to the Board of Commissioners.

A responsive supplier must comply with all appeal procedures before seeking BWL Commissioners' review.

The Board of Commissioners has final decision-making authority concerning appeals.

14. DEBARMENT

The BWL may bar a business from consideration for award if, within the past three (3) years, the supplier, an officer of the company, or an owner of a 25% or more share of the business has:

- A. Been convicted of a criminal offense incident to the application for or performance of a contract or subcontract or which reflects on the supplier's business integrity, such as embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or violation of state or federal antitrust statutes;
- B. Failed to substantially perform a BWL contract or subcontract according to its terms, conditions, or specifications within specified time limits;
- C. Failed to comply with the solicitation process or violated the terms of a solicitation after bid or proposal submission; or
- D. Is, or has been, in default in the payment of any amount due the BWL or the City of Lansing.

15. CREDIT CARDS

The General Manager may authorize the use of BWL-issued credit cards (P-cards) for material and service (see clarification below) purchases in accordance with this provision and applicable law. No employee may use a P-card without delegated credit card authority from the General Manager.

The total combined authorized credit limit of all P-cards shall not exceed 5%, or some other amount established by state law, of the total budget of the BWL for the current fiscal year.

The General Manager shall be responsible for the BWL's credit card issuance, accounting, monitoring, and retrieval and generally for overseeing compliance with the P-card policy.

Employees with delegated credit card authority shall comply with BWL procedures for documentation described in the P-card procedure.

P-CARDS MAY NOT BE USED FOR (1) PRODUCT LICENSING, (2) EQUIPMENT OR SOFTWARE MAINTENANCE AGREEMENTS OR (3) SERVICES PERFORMED ON BWL OR CUSTOMER PROPERTY.