

DRAFT PROCUREMENT MANUAL AMENDMENT

Procurement Policy Section: Vendor Prequalification Procedures

Sources: [Public Contract Code section 20101](#)
[2 CFR 200.319 \(e\)](#)
[LABOR COMMISSIONER'S MODEL QUESTIONNAIRE MARCH 2019](#)
[FY 2026 CORTAP Manual](#)
[Procurement System Review Contractor Manual FY2026](#)

7.0 METHODS OF SOURCE SELECTION

7.1 GENERAL POLICY

As stated previously, open and fair competition is a basic tenet of MTD procurement policy. In the exercise of this policy it is recognized that the District purchases many types of goods and services.

Since the marketplace differs for these various items, it is necessary to employ a variety of source selection techniques to ensure the best competition for each procurement.

Accordingly, MTD recognizes and authorizes three basic methods for the conduct of District procurement: 1) sealed bid; 2) competitive proposal, and; 3) small purchase procedures. In addition, MTD also authorizes the use of sole source and emergency procurements as exceptions to the basic methods only if necessary, under conditions existing at the time.

The material presented in this section establishes the conditions under which each type of procurement may be used. Administrative procedures applicable to each procurement also are detailed. **At MTD's discretion, establishing prequalification for solicitation may be deemed necessary.**

7.1.1 VENDOR PREQUALIFICATION

MTD may use prequalification to ensure that only "responsible" vendors with the technical, financial, and safety capacity to perform specific work are invited to a solicitation. Prequalification is most appropriate for:

- (a) Complex construction projects (e.g., facility upgrades).
- (b) High-specialty maintenance (e.g., zero-emission bus infrastructure).
- (c) Public works requiring high-risk safety certifications (e.g., Underground Storage Tank (UST) remediation).

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MTD shall ensure that all prequalified lists of persons, firms, or products used in procurement transactions are current and include enough qualified sources to ensure maximum open competition. MTD shall advertise the prequalification opportunity on its website and through appropriate industry portals. When establishing or amending prequalified lists, MTD shall consider objective factors that evaluate price and cost to maximize competition. When FTA-funded, to comply with 2 CFR § 200.319, MTD shall not preclude potential vendors from qualifying during the solicitation period. Prequalification should not be confused with reviews of technical qualifications that are an essential process in two-step and qualifications-based procurements.

Prequalification Criteria (The Questionnaire): Prequalification shall be through the use of a standardized questionnaire and financial statement in a form specified by MTD and may require a complete statement of the prospective vendor's experience in performing public works. Evaluations shall be based on a "Pass/Fail" and/or "Point System" covering the following categories:

- (a) Financial Capacity (e.g. audited financial statements, bonding capacity, and insurance limits).
- (b) Technical Experience (e.g. A minimum number of years in business and work references of at least three similar projects completed for transit agencies or public entities of similar size and scope).
- (c) Safety Record (e.g. EMR (Experience Modification Rate) requirements and OSHA citation history).
- (d) Licensing & Compliance (e.g. Active California Contractor's License and current DIR registration).
- (e) Debarment Status: (e.g. Verification through California Secretary of State, SAM.gov that the vendor is not excluded from federal contracts).

MTD reserves the right to conduct interviews with the managers of project previously completed by the contractor wishing to prequalify. Pursuant to paragraph (1) of subdivision (d) of Section 14837 of the Government Code, when the bid is no more than 25 percent of the qualifying amount provided in paragraph (1) of subdivision (d) of Section 14837 of the Government Code, financial statement shall not be required from a vendor who has qualified as a Small Business Administration entity.

Establishment and Maintenance of the List: Prequalification remains valid for one calendar year following the date of initial prequalification. Prequalified vendors are required to notify MTD of any material change in their status (e.g., loss of license, bankruptcy). Every 12 months, vendors must submit a simplified "Affidavit of No Change" or a new application to remain on the active list.

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Public Records: The questionnaires and financial statements shall not be public records and shall not be open to public inspection; however, records of the names of vendors applying for prequalification status shall be public records subject to disclosure under Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

Appeals Process: If a vendor is denied prequalification, MTD shall provide a written explanation. Until the closing time of the solicitation (e.g. receipt of bids) the vendor may submit a written appeal to the designated Procurement Officer outlining why the denial should be reconsidered. Upon request of the prospective vendor, MTD shall provide supporting evidence that has been received from others or adduced as a result of an investigation by the public entity. The prospective vendor shall be given the opportunity to rebut any evidence used as a basis for disqualification and to present evidence to as to why the prospective bidder should be found qualified. **Any further escalation challenging a prequalification status shall follow the established policy identified in Section 9.4 Pre-Award Protests, specifically steps #4–10.** If the prospective vendor chooses not to avail itself of this process, the proposed prequalification rating may be adopted without further proceedings.

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9.4 PRE-AWARD PROTESTS

4. Procurement activity shall be suspended pending resolution of a protest unless one or more of the following conditions exist:

- (a) The goods or services being procured are urgently required;
- (b) Delivery or performance will be unduly delayed by failure to make an award promptly;
- (c) Failure to make prompt award will result in termination of a critical MTD function or activity or otherwise cause undue harm to the District, or;
- (d) The General Manager prepares a written finding that such protest is clearly frivolous in nature and therefore does not warrant a disruption of the procurement process.

The Procurement Officer shall be responsible for making a written determination that circumstances require MTD to proceed with a procurement during a pending protest.

Unless such determination is made the procurement shall be suspended pending resolution of the protest. All parties known to have received solicitation documents shall be notified in writing of such suspension by the Procurement Officer.

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5. All protests received within the specified period shall be examined by the Procurement Officer who shall evaluate the matter and, within five (5) days, forward a recommendation concerning its disposition to the General Manager.

No additional material shall be accepted for consideration during the protest review unless specifically requested in writing by MTD.

6. The General Manager may attempt to resolve the protest with the affected party. If: a) within five (5) days after receipt of recommendations from the Procurement Officer the General Manager elects not to attempt such resolution, or; b) if resolution is attempted but not achieved within twenty (20) days after receipt of the aforementioned recommendations, the General Manager shall forward the matter to the MTD Board of Directors (hereinafter “Board”) for resolution.

For these purposes “resolution” shall mean the written withdrawal of a protest by the originating party.

7. The MTD Board shall formally consider the protests at a public meeting within fourteen (14) calendar days after the date on which the matter is forwarded by the General Manager. Protesting parties shall be notified in writing of the date on which their matters shall be considered by the MTD Board. Such parties shall be afforded an opportunity to present their case at the Board meeting.

8. The MTD Board shall then make a formal decision on such protests at a public meeting. The decision of the Board, along with a formal record of the protest, shall become a matter of public record, and shall be considered final. The Procurement Officer shall notify protesting parties in writing of any protest decision made by the Board.

Except for the conditions described in #4 above, such decision by the MTD Board shall be made prior to award of any contract related to the subject procurement.

9. Should the Board deny the protest, MTD shall proceed with the procurement process. In the case of FTA funded procurements no contract shall be awarded within five (5) days following the Board’s decision unless such award is necessary due to circumstances described in #4 above. If the decision of the Board is to uphold the protest, then MTD shall proceed pursuant to Board direction.

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