

DESERT COMMUNITY ENERGY
PROCUREMENT POLICY & PROCEDURES
POLICY NO. 22-01
UPDATED JUNE 17, 2024

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1. Purpose and Scope

Desert Community Energy (DCE) is committed to fair, open, and transparent procurement of goods and services. DCE will conduct procurement processes in a professional and ethical manner, without any conflict of interest, to obtain maximum value for every public dollar spent. Except for contracts entered prior to the effective date of this Policy, all purchases of materials, equipment, supplies, and services must adhere to the procedures, authority, and dollar limits set forth in this Policy – including subsequent versions of any cross-referenced policies and documents.

The primary activity of DCE's business is the procurement of electricity supplies and subsequent retail generation services to customers through its Community Choice Aggregation (CCA) program for cities in the Coachella Valley that elect to become participants. DCE has established an Energy Risk Management Policy to address the procurement of energy supplies and the associated risks. This Energy Risk Management Policy is referenced in section 9. *DCE Energy Procurement* and applies to all related procurement items.

DCE's Joint Powers Agreement provides that DCE may contract with the Coachella Valley Association of Governments (CVAG) for staff services and that CVAG staff time, as well as office expenses, direct and indirect overhead, shall all be charged to DCE. CVAG provides such staffing and administration via an executed Implementation and Management Services Agreement effective October 30, 2017 and subsequently amended on September 28, 2022 for an additional five years through October 30, 2027. As such, DCE has no employees or staff of its own; therefore, all references in this document to staff, departments, titles or other administrative references pertain to CVAG. Procurement by CVAG for goods and services that are shared with DCE pursuant to the Implementation and Management Services Agreement shall be carried out by CVAG pursuant to CVAG Policy No. 21-04.

2. Definitions

Addendum (sing.)/Addenda (pl.) – A written change, addition, alteration, correction, or revision to a solicitation or contract document. Commonly, the name given to the document used to revise a solicitation.

Amendment – An agreed addition to, deletion from, correction, or modification of a document or contract.

Architect or Engineer (A/E) Professional Services - Services that require performance by a registered architect or engineer. Professional services of an architectural or engineering nature that are associated with research, planning, development, and design for construction, alteration, or repair.

Awardee – A person or firm who is awarded a contract.

Coachella Valley Association of Governments (CVAG) – A public agency formed by a Joint Powers Agreement that contracts with DCE for staff services and administration. CVAG staff time, as well as office expenses, direct and indirect overhead, shall all be charged to DCE. CVAG provides such staffing and administration via an executed Implementation and Management Services Agreement effective October 30, 2017, and subsequently amended on September 28, 2022 for an additional five years through October 30, 2027.

Contractual Services – means all services, other than professional services, including, but not limited to, janitorial, repairs, maintenance work, software subscriptions, catering, security, and rental equipment.

Cooperative Procurement – The action taken when two or more entities combine their requirements to obtain advantages of volume purchases, including administrative savings and other benefits. A variety of arrangements, whereby two or more public procurement entities purchase from the same supplier or multiple suppliers using a single Invitation for Bids (IFB) or Request for Proposals (RFP). Cooperative procurement efforts may result in contracts that other entities may “piggyback.”

Desert Community Energy (DCE) – A public agency formed by a Joint Powers Agreement that contracts with CVAG for staff services via an executed Implementation and Management Services Agreement effective October 30, 2017 and subsequently amended on September 28, 2022 for an additional five years through October 30, 2027.

Designee – A duly authorized representative.

Electronic Procurement (eProcurement) – Conducting all or some of the procurement function over the Internet.

Energy Risk Management Policy - DCE has established a Wholesale Energy Procurement Risk Management Policy to address the wholesale procurement of energy supplies and the associated risks under Policy No. 24-01.

Ethical Procurement – Prohibits the breach of the public’s trust by discouraging a public employee from attempting to realize personal gain through conduct inconsistent with the proper discharge of the employee’s duties.

Executive Director – DCE retains CVAG, acting through its Executive Director to serve as the Executive Officer for DCE, and to serve as Secretary for DCE’s Board of Directors, and to provide staff for DCE, to fill the needs and requirements of DCE.

Formal Solicitation – A bid that must be submitted in a sealed envelope (or through an eProcurement site) and in conformance with a prescribed format to be opened in public or received electronically at a specified date and time.

Informal Solicitation – A competitive bid, price quotation, or proposal for supplies or services that is conveyed by a letter, fax, e-mail, or other manner that does not require a formal sealed bid or proposal, public opening, or other formalities. Generally relegated to requirements that may be considered low value or fall under a stipulated price/cost threshold.

Invitation for Bids (IFB) – A procurement method used to solicit competitive sealed bid responses, sometimes called a formal bid, when price is the basis for award.

Local Business – A person or business who has a valid physical business address located within the Coachella, Palo Verde or Imperial Valleys, at least six months prior to bid or RFP opening date, from which the person or business operates or performs business on a day-to-day basis and holds a valid business license by a city located in the Coachella, Palo Verde or Imperial Valleys or by the Counties of Riverside and Imperial. Post office boxes are not verifiable and shall not be used for the purpose of establishing such physical address. A business that has at least

25% of its total workforce who reside within the Coachella, Palo Verde or Imperial Valleys shall also be considered a Local Business.

Offeror – A generic term that refers to a person or business who submits an offer in response to a solicitation.

Piggyback – A form of intergovernmental cooperative purchasing in which an entity will be extended the pricing and terms of a contract entered into by another entity. Generally, an entity will competitively award a contract that will include language allowing for other entities to utilize the contract which may be to their advantage in terms of pricing, thereby gaining economies of scale that they normally would not receive if they competed on their own.

Procurement – Purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction; includes all functions that pertain to the acquisition, including description of requirements, selection, and solicitation of sources, preparation and award of contract, and all phases of contract administration. The combined functions of purchasing, inventory control, traffic and transportation, receiving, inspection, storekeeping, salvage, and disposal operations.

Procurement Representative – A person responsible for sourcing and buying products and services for the entity as designated by the Executive Director.

Professional Services – Services rendered by members of a recognized profession or possessing a special skill. Such services are generally acquired to obtain information, advice, training, or direct assistance (e.g., financial, legal, economic, accounting, engineering, information services, technical, architectural, or other administrative professional matters).

Project Lead– Designated individual to administer a specific task or contract.**Public Works Project** - Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by a public utility company pursuant to order of the Public Utilities Commission or other public authority. For purposes of this paragraph, “construction” includes work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction, including, but not limited to, inspection and land surveying work, regardless of whether any further construction work is conducted, and work performed during the postconstruction phases of construction, including, but not limited to, all cleanup work at the jobsite. For purposes of this paragraph, “installation” includes, but is not limited to, the assembly and disassembly of freestanding and affixed modular office systems.

Qualified Vendor List (QVL) – A list of qualified vendors maintained to enable informal and formal bidding opportunities and provide a ready pool of vendors for recurring and routine goods and services.

Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper – Such products that consist of at least thirty percent (30%), by fiber weight, postconsumer fiber, consistent with the requirements of Sections 22150 to 22154 and Sections 12200 and 12209 of the Public Contract Code, and as amended.

Request for Information (RFI) – A document used to obtain information necessary to complete a purchase or fulfill a contract. An RFI surveys the marketplace to understand what products or services may be available and to approximate the dollars that may be needed for procurement(s). A RFI may be used to validate information, project objectives, and functions for possible future solicitations.

Request for Proposals (RFP) – The document used to solicit proposals from potential providers (proposers) for goods and services. Price is usually not a primary evaluation factor. Provides for the negotiation of all terms, including price, prior to contract award. May include a provision for the negotiation of best and final offers. May be a single-step or multi-step process.

Request for Qualifications (RFQ) – A document, which is issued by a procurement entity to obtain statements of the qualifications of potential responders (development teams or consultants) to gauge potential competition in the marketplace, prior to issuing the solicitation.

Request for Quotation (RFQ) – A document which is issued to obtain from vendors price quotes typically, but not exclusively, for materials, supplies, equipment.

Responsible Bidder – A bidder that possesses the minimum qualifications, licensure, experience, financial stability, expertise and workforce to perform the work.

Responsive Bid/Proposer – A bid or proposal that fully conforms in all material respects to the Invitation for Bids (IFB)/Request for Proposals (RFP) and all of its requirements, including all form and substance.

Scope of Work (SOW) – A scope of work is developed at the beginning of the procurement cycle and is a written description of the entity’s needs and desired outcomes for the procurement and becomes the basis for any resulting solicitation. The scope of work helps to ensure that the product or service meets the stated outcome and establishes the parameters of the resulting contract.

Single Source Procurement – A non-competitive method of procurement used when, although two or more vendors supply the commodities or service(s), the department selects one for substantial reasons, eliminating the competitive bidding process. A written justification shall be required from staff explaining why only this vendor fulfils the requirement.

Sole Source Procurement – A non-competitive method of procurement used when only one vendor provides the needed public works project, contractual service, professional service or materials, supplies, and equipment or a product to ensure compatibility with other DCE products and equipment, DCE shall work to procure these items in the best interest of DCE, or possesses the unique ability or capability to meet the requirements of DCE or because only one vendor is practicably available. A written justification shall be required from staff explaining why only this vendor can fulfil the requirement.

Standard Specification - A specification that is to be used for all or most purchases of an item; describes all required physical and functional characteristics of goods, services, or construction.

Task Order – Task order contract means a contract for services that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of orders for the performance of tasks during the period of the contract.

3. Standards of Conduct

Transactions relating to the expenditure of public funds require the highest degree of public trust and impeccable standards of conduct. DCE’s contracting activity shall be conducted in a manner above reproach, with the highest of ethical standards and, except as authorized by law, with complete impartiality and without preferential treatment. It is DCE’s policy to strictly avoid any

conflict of interest or even the appearance of a conflict of interest in all its procurement and contracting practices.

All staff shall comply with all applicable laws regarding conflicts of interest, including, but not limited to, the California Political Reform Act, and the provisions of the California Government Code regarding Prohibited Interests in Contracts, as these laws may be amended from time to time.

The Coachella Valley Association of Government (CVAG) provides administrative support staffing through a contract with DCE. All staff are required to comply with CVAG's Personnel Rules and Benefits Manual, including the policies addressing conflicts of interest and ethical standards.

Contracts/Procurement shall have adequate internal controls to ensure all contracts and purchases processed are in accordance with the policies specified in that:

All internal requests contain proper approvals before being converted into a contract or purchase order;

Staff have a mechanism to report unauthorized activities as well as any suspicions of fraud, waste, or abuse; and

Any violation of these standards may be cause for disciplinary action, including dismissal, if appropriate.

4. Delegation of Authority

The Executive Director has authority to approve expenditures up to the dollar amounts shown in the following table:

TABLE 1		
PUBLIC WORKS PROJECTS	CONTRACTUAL AND PROFESSIONAL SERVICES	MATERIALS, SUPPLIES & EQUIPMENT
<u>\$100,000</u>	<u>\$100,000</u>	<u>\$100,000</u>

Consistent with Policy No. 18-02, the Executive Director is authorized to execute agreements up to the limits in Table 1 without prior Board approval when certain conditions are met. This authority may be exercised by the Executive Director provided that: 1) the expenditures authorized by these agreements are consistent with the Agency's approved budget; (2) the agreements are approved as to form by DCE's general counsel; and (3) agreements are reported at the next Board meeting. Limits established in Table 1 may be modified by the DCE Board. The Executive Director may issue a contract up to \$100,000 under his or her authority, which does not require approval by the DCE Board. All contracts greater than \$100,000 require the approval of the DCE Board.

Only the Executive Director (or designee) is authorized to sign contracts and agreements binding upon DCE. Contracts or agreements in excess of the thresholds established in Table 1 above shall require approval of the DCE governing board and the signature of the Chair, unless express authority is granted to the Executive Director by the DCE Board. The intent of this delegation of authority shall not be circumvented by breaking up an expenditure into smaller contract amounts

or breaking up expenditures across more than one fiscal year. Expenditures shall be considered on an individual project basis in the aggregate for each fiscal year as well as across more than one fiscal year. For example, four expenditures for contractual or professional services; or materials, supplies & equipment for DCE in the amount greater than \$25,000 each to a single vendor for the same project during the same fiscal year shall not be provided without governing body approval. Likewise, four expenditures for DCE in the amount greater than \$25,000 each to a single vendor for the same project spanning three fiscal years shall not be provided without governing body approval. The intent of this delegation of authority shall apply similarly to public works project expenditures. The Agency’s fiscal year is from July 1 to June 30. In the event the Executive Director or Chair is absent or unavailable to sign the contract, the designee shall sign on that person’s behalf.

5. Competitive Procurement Thresholds and Methods

To establish uniform thresholds and procedures for the acquisition of goods or services, subject to the exceptions set forth in Section 6.

5.1. Procurement Thresholds

Table 2 below provides thresholds for competitive purchasing for public works projects; contractual and professional services; and materials, supplies & equipment. These thresholds shall supersede and replace thresholds for the Qualified Vendor List established prior to the adoption of this policy as updated.

TABLE 2			
PROCUREMENT METHOD	PUBLIC WORKS PROJECTS	CONTRACTUAL OR PROFESSIONAL SERVICES	MATERIALS, SUPPLIES & EQUIPMENT
Informal, one (1) written quote	<u>\$0 - \$10,000</u>	<u>\$0 - \$10,000</u>	<u>\$0 - \$10,000</u>
Informal, three (3) written quotes	<u>\$10,001 - \$100,000</u>	<u>\$10,001 - \$100,000</u>	<u>\$10,001 - \$100,000</u>
Formal Solicitation	<u>Over \$100,000</u>	<u>Over \$100,000</u>	<u>Over \$100,000</u>

Splitting of purchases (“fragmenting”) in order to avoid competitive procurement requirements is prohibited.

The Executive Director (or designee) at his/her/their discretion shall have the authority to authorize a formal procurement method less than the limits established if it is deemed to be in the best interest of DCE.

5.2. Procurement Methods

Informal Procurement (\$0 - \$10,000): Staff shall make and document a reasonable effort to solicit and obtain the lowest quote/proposal for the goods or services that offer the best value to DCE, in DCE's sole and absolute discretion. Contracts for the acquisition of professional services shall be awarded to the best qualified vendor on the basis of demonstrated competence, professional qualifications, and at fair and reasonable prices to DCE. An informal procurement within the dollar threshold up to \$10,000 and receipt of one written quote would not require a Single Source or Sole Source Justification.

Informal Procurement (\$10,001 - \$100,000): Staff shall make a reasonable effort to solicit and obtain three (3) competitive quotes/proposals via email, mail, fax or any other reasonable solicitation method. When three (3) quotes/proposals are unable to be obtained, Staff must provide documentation as to how the quotes were requested and document its findings prior to the approval of any purchase.

Formal Procurement (over \$100,000): Staff in consultation with the Director of Finance/Administration (or designee) will determine the best method of solicitation (i.e., RFP, IFB, or RFQ) depending on the nature of the desired goods or services. The Director of Finance/Administration (or designee) shall be the main point of contact for any formal solicitation to avoid any unethical practices. All formal procurement methods shall be posted on DCE's website for a minimum of fourteen (14) days and opened or received electronically and reviewed as described in the bid documents. Purchases of supplies and equipment of an estimated value of greater than one hundred thousand dollars (\$100,000) shall be by written contract. DCE is not required to formally publish its competitive solicitations in a newspaper or similar publication.

5.3. Purchase of Materials, Supplies, and Equipment

Staff shall use the procurement methods per Section 5.2.

5.4. Contractual Services

Staff shall use the procurement methods per Section 5.2.

5.5. Professional Services – Government Code 4526

Contracts for professional services such as private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services shall be engaged based on demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to DCE, pursuant to California Government Code Section 4526.

Staff shall use the procurement methods per Section 5.2 and shall evaluate proposals received based on competence and qualifications. Cost shall be submitted and evaluated as described in the bid documents. The cost proposal shall be submitted separately from the balance of the proposal (in a sealed envelope) and opened for comparison only after evaluation and ranking of the proposals is complete. DCE shall have the option to negotiate the cost with the top-ranked firm. Should DCE and the top-rank firm fail to agree on a cost, DCE shall have the option to reject

the top-rank firm's proposal and start negotiations with the next highest ranked firm and so on until an agreement is made. The awarding authority shall have the right to reject any quote, bid, or proposal if doing so is determined to be in the best interest of DCE and to re-advertise for bids, and to waive any irregularity in any bid so long as doing so does not create an unfair advantage.

The above process may be utilized at the discretion of the Executive Director for the solicitation of professional services other than those enumerated above.

5.6. Recycle, Energy Efficient or Environmentally Friendly Supply Products Specification

It is the policy of DCE to require purchase of products and services that minimize environmental and health impacts, toxics, pollution, and hazards to worker and community safety and to the larger global community to the greatest extent practicable. If fitness, quality, and price of Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper are equal to that of non-recycled items, DCE shall purchase Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consist of at least thirty percent (30%), by fiber weight, postconsumer fiber. If the Executive Director (or designee) determines that: (1) a recycled, energy efficient or environmentally friendly product lacks performance capabilities or needed quality levels; or (2) a sufficient amount of said product is not currently available in the market, then a reduced percentage can be required, or the supply specification can be limited to non-recycled, non-energy efficient or non-environmentally friendly materials.

5.7. Supplier Diversity Program Compliance

As may be appropriate and consistent with applicable laws, regulations, and California Public Utilities Commission (CPUC) Orders and Decisions, for procurements that are solely for DCE, DCE will engage with the diverse business community in its service area and statewide, to inform businesses of the benefits of certification as a diverse business enterprise, as well as upcoming Requests for Proposals and other solicitations. While DCE cannot give any preference in the selection process to any business on the basis of race, sex, color, ethnicity, or national origin, DCE will strive to ensure that diverse business enterprises are aware of upcoming contract opportunities.

5.8. Local Preference

For procurements that are solely for DCE, it is the policy of DCE to promote employment and business opportunities for local residents and Local Businesses on all contracts and give preference to local residents, workers, businesses, contractors, and consultants to the extent consistent with the law and the interests of DCE and its customers.

5.9. Public Works Projects

The procurement thresholds and methods governing DCE public works projects are as follows:

One hundred thousand dollars or less. For public works projects in an amount less than one hundred thousand dollars (\$100,000), staff shall solicit three price quotes and award to the lowest responsible and responsive bidder. If unable to obtain a minimum of three price quotes, staff shall

document that reasonable efforts were made to obtain price quotes including, that a notice was posted for not less than seven business days; that there were no other vendors to solicit quotes from; or that they solicited other vendors and one or more declined to provide a quote. In lieu of soliciting three price quotes, staff may elect to procure by formal bidding procedures per Section 5.2.

Over one hundred thousand dollars. Public projects in an amount more than one hundred thousand dollars (\$100,000) shall be solicited pursuant to the formal bidding procedure (Section 5.2) and awarded to the lowest responsive and responsible bidder. The DCE Board may reject any or all bids received and may waive any irregularities in each bid received.

5.10. **Qualified Vendor List (QVL)**

As project delivery increases, establishing a bench of prequalified and vetted professional service vendors will reduce procurement and contracting time. Many public agencies, including some member jurisdictions, use this procurement method to streamline contracting for routine and project-related professional service needs.

A RFQ process was utilized to receive Statements of Qualifications (“SOQs”) from professional service vendors interested in providing a variety of professional services. The CVAG Executive Committee approved establishing a Qualified Professional Services Vendor List (“QVL”) on February 26, 2024. DCE can use the QVL for contracting recurring and routine professional services for capital project and non-capital needs. While establishing and using a vendor list certainly reduces the time for procurement and contracting, it will not be limited to only those listed vendors. DCE will remain able to conduct formal and informal procurements outside the vendor list as unique needs arise.

The QVL will remain in effect until June 30, 2027, and then be re-procured. The CVAG Executive Director is authorized to accept and approve SOQs on an ongoing basis with the CVAG Executive Committee ratifying updates on an annual basis.

6. **Exceptions to Competitive Procurement**

- Utility Expenses
- Cooperative Purchases
- Piggyback Purchases
- Emergency Expenditure (further defined below)
- Association Fees
- Insurance Premiums & Fees
- Subscriptions
- Government Permits & Fees, Advertisement
- Conferences & Seminars
- Office and Routine Program Supplies
- Environmental Permits & Fees
- Travel Expenses, Lodging, & Meals
- Application Fees
- Medical Services

- Membership Dues
- Leases or Purchase of Real Property
- Taxes, such as property or payroll taxes
- Memoranda of Understanding (MOUs)

This Section 6 sets forth exceptions to competitive procurement. The following is a list of services and expenditures that fall outside the requirements of the competitive process:

6.1. Procedures for Emergency Expenditures

An emergency exists when life or property is in immediate danger due to an Act of God or other catastrophic circumstance and prevention of loss requires a deviation from normal competitive procurement procedures.

The staff making the purchase must document (e-mail or memo) the specific reasons for the purchase.

The staff making the purchase must obtain approval from the Executive Director (or designee).

The use of the emergency purchase policy must not be considered a substitute for regular purchasing procedures, or a method of circumventing established purchasing controls.

Staff may request expenditure reimbursements by submitting a Payment Request Form. Original receipts are required as proof of purchase and must be attached to the payment request form, approved by the Department Director, and submitted to the Accounting Department.

6.2. Special Expertise Services

A contract for professional services agreement may be awarded without competition when it is determined that an unusual or unique situation exists, in that due to experience and expertise demonstrated in prior contracts for professional services with DCE is uniquely qualified for a particular task, that makes the application of all requirements of competitive sealed bidding or competitive sealed proposals contrary to the public interest. Any special procurement under this section shall be made with such competition as is practicable under the circumstances.

6.3. Matters with Time Constraints

Due to DCE Board meeting schedules, there could be instances where a good or service is needed in an exigent manner, and where a formal procurement method would not be in the best interest of DCE. The Executive Director, in consultation with the Chair, may authorize an informal bid process for matters that fall within his authorized expenditure in such instances. Staff shall make every effort to obtain proposals/quotes from a minimum of three (3) firms. The term of the contract shall not exceed one (1) year or the Executive Director's expenditure authority. If it is determined the service or good will be recurring, exceed the maximum one (1) year, or exceed the Executive Director's expenditure authority, DCE shall solicit with a formal procurement for said goods or service. Staff shall notify the Board of such an award at DCE's next meeting.

6.4. Cooperative Purchasing with Other Agencies

The bidding requirements of Section 5.2 shall not apply to the purchasing of any equipment or supplies which the end user decides to obtain through a cooperative competitive bidding procedure, being prepared by and processed through another local, tribal, state, or federal governmental agency. If staff determines it to be in the best interest of DCE, staff is authorized to “piggy-back” onto or join into an existing written purchase contract, which contract was obtained within the last 12 months through a competitive bidding process prepared by and awarded by another local, state or federal government agency. Approval of a “piggy-back” or cooperative purchase shall be obtained from the DCE Board for an award exceeding the Executive Director’s signing authority.

Multiple Awarded Bids. It is not uncommon to have multiple awarded bids. A competitive bidding process is conducted for a specified product. Several vendors whose product meets the specification are awarded the contract. Maximum item price and contract terms are established. If staff determine it to be in DCE’s best interest, the staff is authorized to use federal, state or other government agency multiple awarded contracts. Staff must obtain quotes from at least three vendors on the list and award the bid to the lowest responsible bidder. Approval shall be obtained from the DCE Board for purchases exceeding the Executive Director’s signing authority.

6.5. Single Source or Sole Source Justification

Procurement by single source or sole source for goods or services requires submission, vetting, and approval of a Single Source or Sole Source Justification form. Final approval of a single source or sole source procurement requires the signature of the Executive Director (or designee). A single source or sole source shall not be used to limit competition in any way. A letter or memo from the vendor explaining the product or service, or statement of geographic territory on a formal letter, shall be attached to the single/sole source justification form when applicable. An informal procurement within the dollar threshold up to \$10,000 and receipt of one written quote would not require a Single Source or Sole Source Justification.

7. Grant Funds

Procurement of services or goods paid for with grant funds will be subject to the guidelines specified in the funding agreement(s) which supersedes this policy in such instances.

8. Federal Funds

When money has first been secured from a federal source, DCE’s Project Lead for the project shall determine whether expenditures of said money are subject to any federal purchasing policies or procedures, which shall thereafter be adopted as restrictions on the administration of those funds.

9. DCE Energy Procurement

DCE has established an Energy Risk Management Policy to address the wholesale procurement of energy supplies and the associated risks under Policy No. 24-01. DCE’s Energy Risk Management Policy can be found on the DCE website at www.desertcommunityenergy.com currently under *Key Documents*.

10. Contracts (or Agreements) and Purchase Orders

Contracts (or Agreements) shall be used when an initial expenditure exceeds \$25,000 for goods and/or services. Prior to the issuance of any Contract (or Agreement), the Director of Finance/Administration (or designee) shall ensure the proper procurement methods established in this policy were followed.

When negotiating terms, it may be determined by the Director of Finance/Administration (or designee) that it is in the best interest of the agency to issue Purchase Orders for goods and services requested. Prior to the issuance of any Purchase Order, the department director shall ensure the proper procurement methods established in this policy are followed.

11. Subsequent Contract Awards, Amendments, Extensions or Renewals

Notwithstanding any extension clauses in a contract or anything herein to the contrary, the Executive Director (or designee) shall not award a subsequent contract to the same individual or entity for the same or similar services on the same project, or amend, extend or renew such a contract, without obtaining the next highest approval authority (i.e., the governing body), when the award, amendment, extension or renewal will result in DCE paying an aggregate amount in excess of the approval authority of the Executive Director to the individual or entity in any given fiscal year or the cumulative total of the project. For purposes of this section, the phrase "same project" shall include an on-call or as-needed contract.

12. Insurance

Prior to the execution of a contract, evidence of proper insurance coverage is required for any procurement involving services that puts DCE at risk. If a consultant request DCE to waive or alter any of its insurance requirements, the Executive Director may elect to waive certain insurance requirements, depending upon his/her/their assessment of the risks and liabilities posed to DCE.

13. Performance and Payment Bonds

Payment Bond. Per Civil Code §9550, a direct contractor that is awarded a public works contract involving an expenditure in excess of twenty-five thousand dollars (\$25,000) shall, before commencement of work, give a payment bond to and approved by the DCE by whom the contract was awarded.

Performance Bond. The Executive Director (or designee) shall have the authority to require, at his/her/their sole discretion, a performance bond for a direct contractor that is awarded a service contract involving in expenditure in excess of twenty-five thousand (\$25,000) before commencement of work. The performance bond shall be provided to and approved by the officer or public entity to whom the contract was awarded when applicable. A performance bond in an amount equal to 100 percent of the contract amount shall be required for all public works contracts.

14. Protests for Formal Solicitations

This protest process applies only to contracts awarded through a formal bidding process (e.g., RFP or IFB). This does not apply to DCE purchase orders.

Written protests must be filed with DCE's Executive Director within five (5) workdays after posting the Notice of Intent to Award on DCE's website. No verbal protest will be accepted. The protest

must be detailed, referencing the solicitation number, project name, and the name of the administrator or procurement representative listed on the bid documents. The protest must be submitted to DCE's Executive Director via certified mail using the following address:

Executive Director
Desert Community Energy
74-199 El Paseo, Suite 100 Palm Desert, CA 92260

Any entity that submits a bid or proposal may protest a DCE contract award.

There is no basis for protest if DCE rejects all proposals/bids based on the best interest of DCE.

The Executive Director shall respond to the offeror protesting the solicitation in writing and acknowledge receipt of the offeror's protest. The Executive Director shall notify Contracts/Procurement and the Project Lead of the protest received. The Executive Director, in consultation with Contracts/Procurement, the Project Lead, and legal counsel, if necessary, shall determine whether the basis of the protest has merit and is permissible. If so, the Executive Director shall notify all offerors, including the awardee, that the protest will be decided by reviewing submissions of written material to support each party's position and setting the date of submission thereof. If the protest is deemed to be insufficient and without merit, the awarding authority shall notify the offeror protesting the solicitation the protest is denied.

15. Pre-Bid/Pre-Proposal Meetings

The Project Lead in consultation with the Director of Finance/Administration (or designee) shall determine if a pre-bid/proposal meeting is necessary. A pre-bid/pre-proposal meeting shall not be mandatory, unless stated in the bid documents. The meeting is held after the RFP or IFB is released and before bids/proposals are due. The meeting will allow the project manager to further elaborate on the Scope of Work in more detail and to answer questions from prospective bidders/proposers. Except for questions raised during a pre-bid/pre-proposal meeting, prospective proposers shall submit all questions pertaining to the bid documents in writing.