



- **Board of Directors**
Legal and Claims Committee

2/10/2026 Board Meeting

Revised 8-4

Subject

Amend the Metropolitan Administrative Code regarding contracting provisions and reporting requirements; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

Executive Summary

The proposed amendments to the Metropolitan Administrative Code (Administrative Code) concern contracting provisions and reporting requirements, clarifying processes as they relate to general goods and services, and professional services contracting. Specifically, the proposed changes designate that the General Manager (rather than the Board) resolve protest appeals for procurements under \$250,000 in alignment with the General Manager's contracting authority, update the committees for submittal of staff reports on consulting agreements, revise the General Manager's authority to procure equipment, materials, supplies, and routine services, and clarify competitive procurement requirements ~~including additional controls and guidance for non-competitive procurements such as sole source contracts.~~

The proposed amendments are to Division II (Procedures Pertaining to Board, Committees, and Directors) and Division VIII (Contracts/District Property).

Proposed Action(s)/Recommendation(s) and Options

Staff Recommendation: Option #1

Option #1

Amend the Metropolitan Administrative Code regarding contracting provisions and reporting requirements.

Fiscal Impact: None

Business Analysis: The Administrative Code will be amended regarding contracting provisions and reporting requirements.

Option #2

Do not approve amendments to the Metropolitan Administrative Code regarding contracting provisions and reporting requirements.

Fiscal Impact: None

Business Analysis: The Administrative Code will not be amended.

Alternatives Considered

Not applicable

Applicable Policy

Metropolitan Water District Administrative Code Section 2400: Standing Committees

Metropolitan Water District Administrative Code Section 2410: Duties and Functions [Executive Committee]

Metropolitan Water District Administrative Code Section 2451: Duties and Functions [Legal and Claims Committee]

Metropolitan Water District Administrative Code Section 2700: Periodic Staff Reports to Board and Committees

Metropolitan Water District Administrative Code Section 8100: Contracts

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

Related Board Action(s)/Future Action(s)

Not applicable

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves organizational, maintenance, or administrative activities; personnel-related actions; and/or general policy and procedure making that will not result in direct or indirect physical changes in the environment. (Public Resources Code Section 21065; State CEQA Guidelines Section 15378(b)(2) and (5).)

CEQA determination for Option #2:

None required

Details and Background

Background

This letter proposes amendments to the Administrative Code regarding contracting provisions and reporting requirements. It proposes to revise and clarify contracting authority, to clarify reports, competitive procurement exemptions, and the use of cooperative agreements, and to make clear protest resolutions. The proposed amendments are set forth in **Attachment 1**, with overstrikes reflecting deletions and underlining reflecting additions. **Attachment 2** sets forth the sections as they will appear in the Administrative Code if the changes are approved. The Administrative Code is proposed to be amended, as follows:

Amendments to Division II. Procedures Pertaining to Board, Committees, and Directors

- Section 2416(f)(3) is changed to clarify that the Executive Committee hears protest appeals pertaining to Purchasing Contracts and Professional and Technical Services contracts that are above General Manager authority. This revision is an alignment with the language in Section 8121(b) stating, “*If the amount payable or expected to be paid by the District under the terms of a contract is \$250,000 or less the contract may be executed by the General Manager...*” Thus, for protest appeals of solicitations or awards within General Manager authority, the General Manager will adjudicate the protest. For protests above General Manager authority, the Board will make the final determination. The current practice of the Board hearing all appeals regardless of dollar value causes significant delays in obtaining critical supplies and services and exacts a heavy burden in administrative and labor costs for Metropolitan.
- Sections 2441(ee) and 2720(d) are added to reflect transferring the duty to receive and review quarterly reports by the General Manager concerning consulting, travel, and other contracts, as specified, from the Organization, Personnel and Effectiveness Committee to the Finance, Affordability, Asset Management, and Efficiency Committee (FAAME). Associated amendments renumber subsections of Section 2720 from (d) and (e) to (e) and (f).

- Renumbered subsection (f) of Section 2720 is amended to delete the duty to receive and review quarterly reports by the General Manager concerning consulting, travel, and other contracts, as specified, from the Engineering, Operations and Technology Committee (EOT) thus reflecting the transfer of this duty, as provided, to FAAME in new subsection (d) of Section 2720. Associated amendments include the renumbering of former subsection (e)(1) to new subsection (f) to retain reviewing the status of information technology projects with ~~EOT~~the Engineering, Operations and Technology Committee.

Amendments to Division VIII. Contracts/District Property

- Section 8122(g)(2) is amended to authorize the General Manager to award contracts for the purchase of routine maintenance items and services that extend beyond the approved two-year budget, regardless of dollar value. In its current form, Section 8122(g)(2) authorizes the General Manager to enter these types of contracts so long as funds are available in the adopted budget. This revision allows Metropolitan to quickly and efficiently award multi-year contracts that sometimes stretch beyond the adopted budget for core items and services (e.g., chlorine supplies, IT platforms, etc.) that are repetitively needed and purchased in support of critical programs that sustain ongoing operations. Multi-year contracts allow vendors to offer significant discounts not available under other pricing models, thus creating considerable savings for Metropolitan. This revision optimizes Board functionality by designating these common and routine purchases to the General Manager thereby reducing the volume of items presented to the Board. Multi-year contracts oftentimes contain provisions for early termination if needed due to budget constraints. Contracts awarded under this provision are reported quarterly to FAAME pursuant to new Section 2720(d).
- ~~Subsection 1. of Section 8140 is amended to clarify the application of competitive procurement to all contracts (excluding sealed bidding/alternative project delivery public works contracts) not just to Purchasing Contracts and Professional and Technical Services contracts.~~
- ~~Subsection 1. (h) of Section 8140 is amended to clarify exemptions for unique professional services:~~
 - ~~(i) by deleting and moving insurance contracts to new subsection 1. (o) because they do not fit into the context of unique professional services and;~~
 - ~~(ii) by removing the overly broad classification of “professional” contracts as exempted from competition to ensure they are reviewed and exempted on a case-by-case basis.~~

~~The remaining exemptions in subsection 1. (h) for unique professional services (“artistic, scientific or technical”) will continue to be considered on a case-by-case basis with further guidance on their procurement to be provided in the Contracting Procedures Manual.~~
- New subsection ~~1.~~(m) of subpart 1. of Section 8140 is added to clarify Metropolitan’s authority to engage an approved vendor under competitively procured cooperative agreements secured by another public corporation. This section also allows Metropolitan to negotiate additional discounts with an approved vendor. An associated amendment includes the renumbering of former subsection ~~1.~~(m) of subpart 1 to subsection ~~1.~~ (n) of subpart 1. of Section 8140.
- Section 8151 is amended to clarify that protest hearings on Purchasing Contracts and Professional and Technical Services contracts are limited to those that exceed the \$250,000 contract authority of the General Manager.

Project Milestone

Not applicable because the proposed amendments to the Administrative Code concern contracting provisions and reporting requirements.



Katano Kasaine 2/3/2026
Assistant General Manager/Chief Financial Date
Officer



Shivaji Deshmukh 2/3/2026
General Manager Date

Attachment 1 – The Administrative Code of The Metropolitan Water District of Southern California (with changes marked) (Revised)

Attachment 2 – The Administrative Code of The Metropolitan Water District of Southern California (clean copy) (Revised)

Ref# cfo12707839

Division II

**PROCEDURES PERTAINING TO BOARD, COMMITTEES
AND DIRECTORS**

Chapter 4

STANDING COMMITTEES

Article 2

EXECUTIVE COMMITTEE

§ 2416. Duties and Functions. [Executive Committee]

(a) The Executive Committee shall study, advise, and make recommendations with regard to:

(1) Public information for governmental and other entities and officials, and for the citizens of California regarding matters affecting the District's interests;

(2) Official dealings with the United States Government, the State of California or other states, member public agencies or their sub-agencies, foreign governments and other entities or persons in matters of public policy or other activities as deemed appropriate;

(3) Policies and procedures to be considered by the Board or committees thereof, except for policy matters within the jurisdiction of a specific standing committee;

(4) Matters relating to the Colorado River Board of California;

(5) Major policy issues to be considered by the Board, including proposed amendments to the Metropolitan Water District Act;

(6) Questions raised by the officers and staff in intervals between meetings of the Board and in unexpected situations and emergencies.

(7) The terms and conditions of employment of all consultants and advisors not within the jurisdiction of other committees;

(8) Resolution of conflicting committee recommendations pursuant to Section 2314;

(9) The progress of, and propose modifications to, the Board's goals in light of then existing and projected future conditions; and

(10) Such other matters as may be required by Division II of this Code.

(b) The Executive Committee shall:

(1) Review and approve board and committee agendas and, notwithstanding the jurisdiction of the other standing committees in the Code, have the authority to direct which committee shall consider an item;

(2) Review and approve the scheduling of board and committee meetings;

(3) Be responsible for the oversight and management of the organization including, but not limited to, the form of the District's organization and the flow of the authority and responsibility. This includes monitoring and overseeing the duties and responsibilities of management; and

(4) Consider the effectiveness of the District's internal control system, including information technology security and control.

(c) The Executive Committee shall retain ultimate responsibility for those duties as are specifically assigned to the subcommittees of the Executive Committee.

(d) The Executive Committee shall be responsible for reviewing and approving the annual business plan containing the General Manager's key priorities for the coming year.

(e) As part of the Department Head annual evaluation process, the Executive Committee shall be responsible for engaging in periodic performance expectations discussions, including progress checks, with the General Manager.

(f) The Executive Committee shall also:

(1) Act on behalf of the Board in unexpected situations and emergencies, subject to subsequent approval or ratification of the actions taken whenever such approval or ratification is required by law.

(2) Provide policy guidance where appropriate to those directors and District staff members who are associated with organizations in which the District has membership.

(3) Conduct hearings on appeals of protest denials involving Purchasing Contracts and Professional and Technical Services Contracts above General Manager authority pursuant to Section 8150(b).

(i) Hearings shall be held by the committee at its next regular meeting to be held at least 72 hours after the filing of the notice of appeal of the General

Manager's determination under Section 8150(b). The decision of the committee shall be final unless the committee chooses to refer the notice of protest to the Board.

(ii) The Chair of the Executive Committee may re-delegate duties provided for under subparagraph (i) above to a minimum of three members of the Executive Committee who shall act in place of the committee.

(4) Resolve disputes over inspection dates and monitor conduct of inspection trips to assure maximum effectiveness.

(5) Address substantiated allegations of discrimination, harassment, and retaliation against directors, the General Manager, General Counsel, General Auditor, and Ethics Officer:

(i) The Executive Committee shall create an EEO ad hoc subcommittee of three members and two alternates that will serve for a period of one year to address substantiated findings of violations determined as a result of Equal Employment Opportunity (EEO) investigations conducted for alleged violations of Section 2131 made against a director and for alleged violations of Section 6305 made against the General Manager, General Counsel, General Auditor, or Ethics Officer. All matters related to EEO investigations, the development of recommendations, and confidential communications with the EEO ad hoc subcommittee shall be conducted in an attorney-client privileged manner to the extent practical. If any director serving on the three-member subcommittee is an involved party to an EEO investigation, or has a conflict of interest with any involved party, the conflicted director shall recuse themselves from the matter. The Chief EEO Officer (EEO Officer) will select an alternate director to fulfill all subcommittee duties related to the particular matter. If the EEO Officer has a conflict of interest in the same matter, the Ethics Officer and/or General Counsel will select an alternate director. Directors serving as alternates will not participate in ad hoc committee matters unless or until called to serve.

(ii) The EEO ad hoc subcommittee shall delegate to the EEO Officer the responsibility to designate an external investigator to conduct a fact-finding EEO investigation pursuant to this section. The external investigator shall issue findings of fact and will include an assessment of whether applicable Metropolitan policies were violated. All EEO investigations will be fair, impartial, timely, and promptly initiated and completed by qualified personnel. Detailed EEO investigative procedures, pursuant to this section can be found in *EEO Investigative Procedures for the Board and its Direct Reports*. A redacted investigative report of substantiated EEO findings will be provided to the EEO ad hoc subcommittee for its review and determination or recommended post investigative action.

(iii) Following receipt of a substantiated finding, the EEO ad hoc subcommittee shall:

(a) Timely review the redacted EEO investigative report.

(b) Consult with the EEO Officer and the assigned internal counsel to the EEO ad hoc subcommittee to develop proposed recommendations for remedial or disciplinary actions consistent with the severity of the substantiated violation(s);

(c) Direct the dissemination of the redacted external investigator's confidential, attorney-client privileged report to the full Board, consistent with applicable laws and protections of privilege and privacy. A redacted version of the report shall be transmitted to the full Board by the General Counsel's Office. A separate presentation of ad hoc subcommittee's proposed recommended actions shall be prepared by the General Counsel's Office, in consultation with the EEO Officer.

(iv) Appropriate remedial or disciplinary actions for directors may include, but are not limited to, counseling, training, a private warning letter, public censure, temporary or permanent removal from committee assignments, or referral to the director's appointing authority for further action.

(v) Appropriate remedial or disciplinary actions for the General Manager, General Counsel, General Auditor, or Ethics Officer may include, but are not limited to, counseling, training, performance evaluation review, employment agreement modification, employment agreement termination, or employee discipline consistent with applicable laws, contractual provisions, and policies.

(vi) When in the judgment of the EEO Officer that matter should be handled differently to avoid real or perceived conflicts of interest, or to avoid potential bias or threats to impartiality, the EEO Officer shall delegate to the Ethics Officer the responsibility to retain an external investigator to conduct a fact-finding EEO investigation pursuant to this section. If the Ethics Officer has a conflict of interest in the particular case, the EEO Officer would delegate to the General Counsel the responsibility to retain an external investigator to conduct a fact-finding investigation pursuant to this section. Substantiated EEO findings under this subsection shall be referred directly to the EEO ad hoc subcommittee to determine recommended appropriate action for the Board's consideration.

(vii) A deviation of this investigation protocol by the EEO Officer may occur, in certain circumstances, with a written justification and approval of the EEO ad hoc subcommittee responsible for EEO investigations of directors and department heads.

(viii) On a quarterly basis, the Chief EEO Officer will report to the Executive Committee EEO case statistics regarding EEO complaints filed against the Board and its direct reports.

Article 5**FINANCE, AFFORDABILITY, ASSET
MANAGEMENT, AND EFFICIENCY COMMITTEE****§ 2441. Duties and Functions.**

The Finance and Asset Management Committee shall study, advise and make recommendations with regard to:

- (a) Preparation of budgets;
- (b) Policies and procedures related to budget development and cost containment;
- (c) Sale of bonds and borrowing and repayment of money;
- (d) Disposition and investment of funds;
- (e) Authorization of appropriations, except appropriations for capital projects;
- (f) The determination of revenues to be obtained through water transactions, including, but not limited to, sales, exchanges, and wheeling of water, water standby or availability of service charges, and the levying of taxes;
- (g) The financial impact and requirements of policies concerning annexation;
- (h) The financial aspects of the District's risk management program;
- (i) Questions pertaining to insurance coverage and self-insurance;
- (j) The selection of financial and insurance consultants and the determination of the scope of their assignments;
- (k) Form and contents of accounts, financial reports, and financial statements;
- (l) Proposed amendments to the Metropolitan Water District Act affecting the finance and asset management functions of the District;
- (m) Goals and objectives related to financial planning for Metropolitan, including but not limited to revenues, operating expenses, reserve policies, internally funded construction, debt management, investments and capital financing strategies;
- (n) The prices and conditions governing water transactions, including, but not limited to, sales, exchanges, and wheeling sales of water;
- (o) Costs and accounting procedures relating to the District's and other state water service contracts;
- (p) Policies regarding water transactions, including, but not limited to, the sale,

exchange, and wheeling of water for various uses;

(q) Policies regarding allocation of water standby or availability of service revenue requirements among member public agencies;

(r) Water standby or availability of service charges within the District;

(s) Determinations by the General Manager with respect to appeals concerning charges for water service, including readiness-to-serve charges and capacity charges, and report its recommendations, as appropriate, to affirm or reverse the General Manager's determinations;

(t) Appeals from determinations by the General Manager to deny or qualify an application for exemption from the water standby charge, and report its recommendations, as appropriate, to affirm or reverse the General Manager's determinations;

(u) The purchase, management and disposition of personal property assets such as equipment and vehicles;

(v) Facility master plans, including budgeting for capital improvements and long-term facilities commitments;

(w) Proposed rules and proposals regarding business development opportunities for real property;

(x) Policies for the acquisition of rights-of-way;

(y) The purchase, sale, and leasing of land and buildings, including the District's various office and garage space needs;

(z) The incidental use of land in farming operations and otherwise;

(aa) The operation and maintenance of buildings;

(bb) The development, oversight, and coordination of recreational facilities at Diamond Valley Lake and Lake Skinner;

(cc) The use of proceeds from the sale or disposition of surplus property related to Diamond Valley Lake and Lake Skinner for recreational purposes;

(dd) Annexations and annexation policies including the requirements, procedures, terms and conditions for annexation.

(ee) Receive and review quarterly reports from the General Manager on any engagement of professional and technical consultants, travel contracts, and contracts for equipment, materials, supplies, and routine services per Section 2720(d).

Chapter 7

PERIODIC STAFF REPORTS TO BOARD AND COMMITTEES

§ 2700. General Manager's Annual Reports.

The General Manager shall annually make the following reports:

(a) To the Board:

(1) On financial matters generally;

(2) After consulting with the General Counsel, on the results of their review made pursuant to Section 5204 of District compliance with minimum fund requirements outlined in Sections 5201-5204 and with the articles and covenants contained in resolutions of issuance;

(3) On the status of appropriations pursuant to Section 5108(c).

(4) On annexation matters pursuant to Sections 3107 and 3300(b).

(5) On payment of dues to organizations pursuant to Section 11102.

(6) On all consulting agreements in effect during the preceding year and the exercise of authority under Section 8121(c). Each such report shall indicate when a consultant is a former employee of the District.

(b) To the Executive Committee:

(1) On the business plan containing the General Manager's key priorities for the coming year as required by Sections 2416 and 6416.

(2) On the effectiveness of the District's internal control system, including information technology security and control.

(c) To the Equity, Inclusion and Affordability Committee on the status of the equal employment opportunity policy and affirmative action program as required by Section 6304.

~~(d) To the Ethics, Organization and Personnel Committee on all consulting agreements in effect during the preceding year and the exercise of authority under Section 8121(c). Each such report shall indicate when a consultant is a former employee of the District.~~

§ 2720. General Manager's Quarterly Reports.

The General Manager shall quarterly make the following reports:

(a) To the Engineering, Operations and Technology Committee: a report on the Capital Investment Plan, including service connections approved by the General Manager pursuant to Sections 4700-4708 with the estimated cost and approximate location of each and the execution of any relocation agreements involving an amount in excess of \$100,000 under authority of Section 8122(c);

(b) To the Finance and Asset Management Committee:

A summary of financial performance including Comparative Statements of Operations and Comparative Balance Sheets and variances thereof from estimates;

(c) To the Finance and Asset Management Committee:

(1) Deeds or grants accepted during the preceding quarter;

(2) Easements, or similar rights, granted during the preceding quarter under the authority of Section 8220, and shall also include in such report any relocation or protection agreement made in connection therewith;

(3) All leases made during the preceding quarter under the authority of Sections 8222, 8223, 8230 and 8232;

(4) The details of any transactions during the preceding quarter in which an improvement was disposed of in such a manner as to make the improvement available for subsequent use by a party other than the District; and

(5) Property sold pursuant to the authority granted by Section 8240 et seq.

(d) To the Finance, Affordability, Asset Management, and Efficiency Committee: the employment of any professional and technical consultant, the extension of any professional and technical consulting agreement, on the exercise of authority under Sections 8121(c) and 8122(h) and the execution of any contract authorized pursuant to Section 8122(g) during the preceding calendar quarter. The report covering the last calendar quarter of the year may be combined with and included in the annual report. Each such report shall indicate when a consultant is a former employee of the District.

~~(d)~~(e) To the Legal and Claims Committee, jointly with the General Counsel, the exercise of any power delegated to them by Sections 6431, 6433 and 6434, and, in addition any and all other personnel-related settlements that invoke confidentiality or have any financial impact – including paid and reinstated leave – regardless of settlement type. The reporting on personnel-related settlements should include whether equal employment opportunity issues were

implicated, whether the employee is still employed by the District, the existence and type of any financial or confidentiality terms, and whether the District has taken any corrective action in response to the alleged issues.

~~(e)(f)~~ To the Engineering, Operations and Technology Committee: ~~t~~The status of all ~~(1)~~ of all information technology projects throughout the organization.

~~(2) The employment of any professional and technical consultant, the extension of any professional and technical consulting agreement, on the exercise of authority under Section 8121(c) and 8122(h) and the execution of any contract authorized pursuant to Section 8122(g) during the preceding calendar quarter. The report covering the last calendar quarter of the year may be combined with and included in the annual report. Each such report shall indicate when a consultant is a former employee of the District.~~

Division VIII

CONTRACTS/DISTRICT PROPERTY

Chapter 1

CONTRACTS

Article 2

AUTHORITY TO CONTRACT

§ 8122. General Manager's Contracting Authority in Specified Circumstances.

(a) Grants and Receipt of Funds. – The General Manager is authorized to negotiate and execute contracts in which the District receives funds of any amount, provided Board approval is not otherwise required.

(b) Emergency Contracts. – In cases of an emergency the General Manager is delegated the authority to waive competitive bid requirements and, notwithstanding Section 8121(a), execute contract over the amount of \$250,000 for the construction of works or structures, for the purchase of equipment, materials or supplies, or performance of labor or services and take any directly related and immediate action required by that emergency when such construction, purchase of equipment, materials or supplies is determined by the General Manager to be for an emergency, subject to the following requirements:

(1) The General Manager shall report to the Board not later than 7 days after the emergency action or at its next regularly scheduled meeting if that meeting will occur not

later than 14 days after the action, the details of the emergency and reasons justifying the actions taken.

(2) For contracts exceeding the General Manager's authority under Section 8121, at each regularly scheduled meeting following the emergency action, the Board shall determine by four-fifths vote whether there is a need to continue the action or terminate action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed through competitive bid procedures.

(3) Such contracts shall not be binding on the District in an amount exceeding \$250,000 unless the General Manager obtains ratification of such contract by a four-fifths vote of the Board.

(4) An "emergency," as used herein, means a sudden, unexpected occurrence that requires immediate action to prevent or mitigate the loss or substantial impairment of life, health, property, or essential public services.

(c) Relocation Agreements

(1) The General Manager is authorized to execute any agreement involving an amount not exceeding \$500,000 under which the District is to pay the cost of relocation or protection, or both, of facilities owned by others whenever the General Manager deems that such action is necessary to the construction of District facilities.

(2) The General Manager is authorized to issue all appropriate orders necessary to implement any such agreement, and, in the General Manager's discretion, to advance funds therefore.

(3) The General Manager is authorized to execute and to perform any agreement involving an amount not exceeding \$500,000 for the relocation or protection, or both, of District-owned facilities to accommodate the improvement of facilities owned by others and to determine whether a deposit shall be made prior to the commencement of work, and if so, in what amount.

(4) The General Manager shall report quarterly to the Engineering, Operations and Technology Committee the General Manager's execution under the authority of this Section of any agreements involving an amount in excess of \$100,000.

(5) All such agreements shall be subject to the approval of the General Counsel.

(d) Contracts for Utility Services. - The General Manager is authorized to negotiate and execute contracts for utility services, other than electrical energy for the pumping of Colorado River water, to facilities owned or operated by the District without limitation as to amount.

(e) Power and Transmission Contracts.

(1) General Authorization. - The General Manager is authorized to negotiate and execute contracts of up to 24 months duration from the end of the current month to furnish power or transmission capability to the District or dispose of power or transmission capability available to the District. Such contracts for power or transmission capability may not exceed a total payment obligation of \$50 million within any 24-month period unless authorized by the Board.

(2) Reporting. - The General Manager shall report at the next regular meeting of the Board the execution of any contract authorized by this Section 8122(e).

(3) Risk management. – The General Manager shall maintain a risk management policy to provide guidance and management oversight for the purchase of supplemental energy for the Colorado River Aqueduct operations. The risk management policy shall address market and credit risks associated with the purchase of supplemental energy.

(f) Insurance Pertaining to Employees

The General Manager is authorized to negotiate, renegotiate and enter into contracts with various insurance carriers for current plans of coverage or replacement plans of coverage consistent with the system of insurance for various types of employee group insurance plans heretofore approved or to be approved in the future by the Board.

(g) Contracts for Equipment, Materials, Supplies, and Routine Services.

(1) The General Manager may execute contracts for the purchase or lease of operating equipment, regardless of dollar value, which is specifically identified in the budget provided that the amount of any contract does not exceed 110 percent of the amount identified in the budget for that operating equipment and that sufficient funds are available within the adopted budget.

(2) The General Manager may execute contracts for the purchase of materials, supplies, other consumable items such as fuels, water treatment chemicals, materials for construction projects and other bulk items, and for routine maintenance and services ~~such as waste disposal and maintenance services,~~ including but not limited to software subscriptions, licenses, and maintenance agreements, which are generally identified in the budget, regardless of dollar value, ~~provided that sufficient funds are available within the adopted budget for such materials, supplies and routine services.~~

(3) All contracts under this section shall be awarded after competitive procurement unless otherwise exempted by this Code.

(h) Travel – The General Manager may execute contracts for the handling of District airline ticketing, lodging, automobile rental reservations, and miscellaneous travel-related services.

Article 3

AWARD OF CONTRACTS

§ 8140. Competitive Procurement

1. All Purchasing Contracts and Professional and Technical Services Contracts in the amount of \$75,000 or more excluding shall be made upon a competitive procurement method of either competitive sealed bidding or best value procurement as provided in this Chapter, except:

(a) Contracts for miscellaneous services, such as telephone, telegraph, light, power and water, where rates or prices are fixed by legislation or by federal, state, county or municipal regulations.

(b) Contracts deemed to be for an emergency under the procedures set forth in §8122(b) and in accordance with Public Contract Code Section 21567.

(c) Contracts executed in lieu of bringing an action in eminent domain, to reimburse an owner for the owner's costs of relocating or protecting facilities affected by District construction projects.

(d) If competitive procurement could not produce an advantage, or it is impracticable to obtain what is required subject to the competitive procurement provisions because of the unique, exploratory, or experimental nature of the work. Prior to award of contract, the General Manager's designee proposing such contract shall certify that the contract is exempt from competitive procurement and shall set forth in the certificate reasons for that determination.

(e) If, within six months previous to the date of execution of a proposed contract, advertising or posting for identical articles, or articles of the same general character, has failed to secure responsive proposals and, in the opinion of the General Manager, further advertising or posting will not alter this result.

(f) If the purchase is of used equipment which, in the opinion of the General Manager, is satisfactory for the work of the District.

(g) If the contract is with any governmental agency.

(h) Contracts for insurance or for services of a professional, artistic, scientific, or technical character.

(i) Change orders.

(j) Contracts for the handling of District airline ticketing, lodging, automobile rental reservations, and miscellaneous travel-related services.

(k) Contracts to buy or sell non-firm power on an hour-to- hour basis and other contracts of durations up to one year to furnish power or transmission capability to the District or dispose of power or transmission capability available to the District.

(l) Transactions pursuant to contracts secured by other public corporations which, in the opinion of the General Counsel, substantially comply with the competitive procurement requirements of this Chapter.

(m) Transactions with a vendor that has been designated an approved vendor by a competitively procured cooperative agreement secured by another public corporation.

~~(mn)~~ Procurement of equipment or materials by a design-build entity or construction manager/general contractor pursuant to Section 8148(d)(1).

2. A designated product, material, thing, or service by a specific brand or trade name may be exclusively requested, either as a sole source or for competitive procurement, for any of the following purposes:

(a) If the articles wanted are patented, copyrighted, or otherwise unique.

(b) In order that a field test or experiment may be made to determine the designated product's suitability for future use.

(c) For replacement parts or for equipment where replacement parts or components from another supplier could compromise the safety or reliability of the product, or would void or invalidate a manufacturer's warranty or guarantee, as set forth in the certificate provided below.

(d) For replacement parts or components of equipment, where parts or components obtained from another supplier, if available, will not perform the same function in the equipment as the part or component to be replaced, as set forth in the certificate provided below.

(e) For upgrades, enhancement or additions to hardware or for enhancements or additions to software, where equipment or software from different manufacturers or developers will not be as compatible as equipment or software from the original manufacturer(s) or developer(s), as set forth in the certificate provided below.

When such an article is to be purchased, the General Manager's designee preparing the request for bids or proposals shall certify that the particular article will best serve the purpose of the District, and reasons for such conclusion shall be set forth.

§ 8151. Protests.

(a) Public Works Contracts. – Within five days after service of the General Manager's determination under Section 8142(d) or 8148(f), or within five days of a bid opening or determination made pursuant to a request for qualification or request for proposals, a bidder or respondent may file a protest with the General Manager pursuant to procedures developed and

administered by the Chief Engineer. If the General Manager denies the protest, in whole or in part, the bidder may file a notice of appeal of the protest denial with the Board Executive Secretary within five days of such denial. A hearing on the appeal by the Engineering, Operations and Technology Committee shall be conducted in accordance with Section 2431(b).

(b) Purchasing and Professional and Technical Services Contracts – Within five days after the occurrence of an event subject to a protest under procedures developed and administered by the Contracting Services Manager, a respondent, or potential respondent, to a solicitation may file a protest with the General Manager pursuant to those procedures. Upon the General Manager's final determination on the protest, the respondent, or potential respondent, may file a notice of appeal of the determination with the Board Executive Secretary within five days of such determination on contracts above General Manager authority. A hearing on the appeal by the Executive Committee shall be conducted in accordance with Section 2416(f)(3).

(c) Any hearing body that conducts a protest hearing pursuant to this section shall give proper notice thereof, receive evidence and rule upon its admissibility, prepare a record of the proceedings, submit a written decision setting forth the bases for the decision, and cause a copy of the decision to be served upon the appellant.

(d) In the event that a decision on a protest is made less than 20 days before the date set for bid opening or submittal of a proposal or statement of qualifications, such opening or submittal shall be postponed to a date not less than 20 days after the date of decision.

(e) There shall be no right to protest an approval or ratification of a contract by the Executive Committee pursuant to Section 2416(f)(1).

(f) Any power delegated to the General Manager pursuant to this section may be re-delegated by the General Manager to any officer or employee of the District.

Division II

**PROCEDURES PERTAINING TO BOARD, COMMITTEES
AND DIRECTORS**

Chapter 4

STANDING COMMITTEES

Article 2

EXECUTIVE COMMITTEE

§ 2416. Duties and Functions. [Executive Committee]

(a) The Executive Committee shall study, advise, and make recommendations with regard to:

(1) Public information for governmental and other entities and officials, and for the citizens of California regarding matters affecting the District's interests;

(2) Official dealings with the United States Government, the State of California or other states, member public agencies or their sub-agencies, foreign governments and other entities or persons in matters of public policy or other activities as deemed appropriate;

(3) Policies and procedures to be considered by the Board or committees thereof, except for policy matters within the jurisdiction of a specific standing committee;

(4) Matters relating to the Colorado River Board of California;

(5) Major policy issues to be considered by the Board, including proposed amendments to the Metropolitan Water District Act;

(6) Questions raised by the officers and staff in intervals between meetings of the Board and in unexpected situations and emergencies.

(7) The terms and conditions of employment of all consultants and advisors not within the jurisdiction of other committees;

(8) Resolution of conflicting committee recommendations pursuant to Section 2314;

(9) The progress of, and propose modifications to, the Board's goals in light of then existing and projected future conditions; and

(10) Such other matters as may be required by Division II of this Code.

(b) The Executive Committee shall:

(1) Review and approve board and committee agendas and, notwithstanding the jurisdiction of the other standing committees in the Code, have the authority to direct which committee shall consider an item;

(2) Review and approve the scheduling of board and committee meetings;

(3) Be responsible for the oversight and management of the organization including, but not limited to, the form of the District's organization and the flow of the authority and responsibility. This includes monitoring and overseeing the duties and responsibilities of management; and

(4) Consider the effectiveness of the District's internal control system, including information technology security and control.

(c) The Executive Committee shall retain ultimate responsibility for those duties as are specifically assigned to the subcommittees of the Executive Committee.

(d) The Executive Committee shall be responsible for reviewing and approving the annual business plan containing the General Manager's key priorities for the coming year.

(e) As part of the Department Head annual evaluation process, the Executive Committee shall be responsible for engaging in periodic performance expectations discussions, including progress checks, with the General Manager.

(f) The Executive Committee shall also:

(1) Act on behalf of the Board in unexpected situations and emergencies, subject to subsequent approval or ratification of the actions taken whenever such approval or ratification is required by law.

(2) Provide policy guidance where appropriate to those directors and District staff members who are associated with organizations in which the District has membership.

(3) Conduct hearings on appeals of protest denials involving Purchasing Contracts and Professional and Technical Services Contracts above General Manager authority pursuant to Section 8150(b).

(i) Hearings shall be held by the committee at its next regular meeting to be held at least 72 hours after the filing of the notice of appeal of the General

Manager's determination under Section 8150(b). The decision of the committee shall be final unless the committee chooses to refer the notice of protest to the Board.

(ii) The Chair of the Executive Committee may re-delegate duties provided for under subparagraph (i) above to a minimum of three members of the Executive Committee who shall act in place of the committee.

(4) Resolve disputes over inspection dates and monitor conduct of inspection trips to assure maximum effectiveness.

(5) Address substantiated allegations of discrimination, harassment, and retaliation against directors, the General Manager, General Counsel, General Auditor, and Ethics Officer:

(i) The Executive Committee shall create an EEO ad hoc subcommittee of three members and two alternates that will serve for a period of one year to address substantiated findings of violations determined as a result of Equal Employment Opportunity (EEO) investigations conducted for alleged violations of Section 2131 made against a director and for alleged violations of Section 6305 made against the General Manager, General Counsel, General Auditor, or Ethics Officer. All matters related to EEO investigations, the development of recommendations, and confidential communications with the EEO ad hoc subcommittee shall be conducted in an attorney-client privileged manner to the extent practical. If any director serving on the three-member subcommittee is an involved party to an EEO investigation, or has a conflict of interest with any involved party, the conflicted director shall recuse themselves from the matter. The Chief EEO Officer (EEO Officer) will select an alternate director to fulfill all subcommittee duties related to the particular matter. If the EEO Officer has a conflict of interest in the same matter, the Ethics Officer and/or General Counsel will select an alternate director. Directors serving as alternates will not participate in ad hoc committee matters unless or until called to serve.

(ii) The EEO ad hoc subcommittee shall delegate to the EEO Officer the responsibility to designate an external investigator to conduct a fact-finding EEO investigation pursuant to this section. The external investigator shall issue findings of fact and will include an assessment of whether applicable Metropolitan policies were violated. All EEO investigations will be fair, impartial, timely, and promptly initiated and completed by qualified personnel. Detailed EEO investigative procedures, pursuant to this section can be found in *EEO Investigative Procedures for the Board and its Direct Reports*. A redacted investigative report of substantiated EEO findings will be provided to the EEO ad hoc subcommittee for its review and determination or recommended post investigative action.

(iii) Following receipt of a substantiated finding, the EEO ad hoc subcommittee shall:

(a) Timely review the redacted EEO investigative report.

(b) Consult with the EEO Officer and the assigned internal counsel to the EEO ad hoc subcommittee to develop proposed recommendations for remedial or disciplinary actions consistent with the severity of the substantiated violation(s);

(c) Direct the dissemination of the redacted external investigator's confidential, attorney-client privileged report to the full Board, consistent with applicable laws and protections of privilege and privacy. A redacted version of the report shall be transmitted to the full Board by the General Counsel's Office. A separate presentation of ad hoc subcommittee's proposed recommended actions shall be prepared by the General Counsel's Office, in consultation with the EEO Officer.

(iv) Appropriate remedial or disciplinary actions for directors may include, but are not limited to, counseling, training, a private warning letter, public censure, temporary or permanent removal from committee assignments, or referral to the director's appointing authority for further action.

(v) Appropriate remedial or disciplinary actions for the General Manager, General Counsel, General Auditor, or Ethics Officer may include, but are not limited to, counseling, training, performance evaluation review, employment agreement modification, employment agreement termination, or employee discipline consistent with applicable laws, contractual provisions, and policies.

(vi) When in the judgment of the EEO Officer that matter should be handled differently to avoid real or perceived conflicts of interest, or to avoid potential bias or threats to impartiality, the EEO Officer shall delegate to the Ethics Officer the responsibility to retain an external investigator to conduct a fact-finding EEO investigation pursuant to this section. If the Ethics Officer has a conflict of interest in the particular case, the EEO Officer would delegate to the General Counsel the responsibility to retain an external investigator to conduct a fact-finding investigation pursuant to this section. Substantiated EEO findings under this subsection shall be referred directly to the EEO ad hoc subcommittee to determine recommended appropriate action for the Board's consideration.

(vii) A deviation of this investigation protocol by the EEO Officer may occur, in certain circumstances, with a written justification and approval of the EEO ad hoc subcommittee responsible for EEO investigations of directors and department heads.

(viii) On a quarterly basis, the Chief EEO Officer will report to the Executive Committee EEO case statistics regarding EEO complaints filed against the Board and its direct reports.

Article 5**FINANCE, AFFORDABILITY, ASSET
MANAGEMENT, AND EFFICIENCY COMMITTEE****§ 2441. Duties and Functions.**

The Finance and Asset Management Committee shall study, advise and make recommendations with regard to:

- (a) Preparation of budgets;
- (b) Policies and procedures related to budget development and cost containment;
- (c) Sale of bonds and borrowing and repayment of money;
- (d) Disposition and investment of funds;
- (e) Authorization of appropriations, except appropriations for capital projects;
- (f) The determination of revenues to be obtained through water transactions, including, but not limited to, sales, exchanges, and wheeling of water, water standby or availability of service charges, and the levying of taxes;
- (g) The financial impact and requirements of policies concerning annexation;
- (h) The financial aspects of the District's risk management program;
- (i) Questions pertaining to insurance coverage and self-insurance;
- (j) The selection of financial and insurance consultants and the determination of the scope of their assignments;
- (k) Form and contents of accounts, financial reports, and financial statements;
- (l) Proposed amendments to the Metropolitan Water District Act affecting the finance and asset management functions of the District;
- (m) Goals and objectives related to financial planning for Metropolitan, including but not limited to revenues, operating expenses, reserve policies, internally funded construction, debt management, investments and capital financing strategies;
- (n) The prices and conditions governing water transactions, including, but not limited to, sales, exchanges, and wheeling sales of water;
- (o) Costs and accounting procedures relating to the District's and other state water service contracts;
- (p) Policies regarding water transactions, including, but not limited to, the sale,

exchange, and wheeling of water for various uses;

(q) Policies regarding allocation of water standby or availability of service revenue requirements among member public agencies;

(r) Water standby or availability of service charges within the District;

(s) Determinations by the General Manager with respect to appeals concerning charges for water service, including readiness-to-serve charges and capacity charges, and report its recommendations, as appropriate, to affirm or reverse the General Manager's determinations;

(t) Appeals from determinations by the General Manager to deny or qualify an application for exemption from the water standby charge, and report its recommendations, as appropriate, to affirm or reverse the General Manager's determinations;

(u) The purchase, management and disposition of personal property assets such as equipment and vehicles;

(v) Facility master plans, including budgeting for capital improvements and long-term facilities commitments;

(w) Proposed rules and proposals regarding business development opportunities for real property;

(x) Policies for the acquisition of rights-of-way;

(y) The purchase, sale, and leasing of land and buildings, including the District's various office and garage space needs;

(z) The incidental use of land in farming operations and otherwise;

(aa) The operation and maintenance of buildings;

(bb) The development, oversight, and coordination of recreational facilities at Diamond Valley Lake and Lake Skinner;

(cc) The use of proceeds from the sale or disposition of surplus property related to Diamond Valley Lake and Lake Skinner for recreational purposes;

(dd) Annexations and annexation policies including the requirements, procedures, terms and conditions for annexation.

(ee) Receive and review quarterly reports from the General Manager on any engagement of professional and technical consultants, travel contracts, and contracts for equipment, materials, supplies, and routine services per Section 2720(d).

Chapter 7

PERIODIC STAFF REPORTS TO BOARD AND COMMITTEES

§ 2700. General Manager's Annual Reports.

The General Manager shall annually make the following reports:

(a) To the Board:

(1) On financial matters generally;

(2) After consulting with the General Counsel, on the results of their review made pursuant to Section 5204 of District compliance with minimum fund requirements outlined in Sections 5201-5204 and with the articles and covenants contained in resolutions of issuance;

(3) On the status of appropriations pursuant to Section 5108(c).

(4) On annexation matters pursuant to Sections 3107 and 3300(b).

(5) On payment of dues to organizations pursuant to Section 11102.

(6) On all consulting agreements in effect during the preceding year and the exercise of authority under Section 8121(c). Each such report shall indicate when a consultant is a former employee of the District.

(b) To the Executive Committee:

(1) On the business plan containing the General Manager's key priorities for the coming year as required by Sections 2416 and 6416.

(2) On the effectiveness of the District's internal control system, including information technology security and control.

(c) To the Equity, Inclusion and Affordability Committee on the status of the equal employment opportunity policy and affirmative action program as required by Section 6304.

§ 2720. General Manager's Quarterly Reports.

The General Manager shall quarterly make the following reports:

(a) To the Engineering, Operations and Technology Committee: a report on the Capital Investment Plan, including service connections approved by the General Manager pursuant to Sections 4700-4708 with the estimated cost and approximate location of each and the execution of any relocation agreements involving an amount in excess of \$100,000 under authority of Section 8122(c);

(b) To the Finance and Asset Management Committee:

A summary of financial performance including Comparative Statements of Operations and Comparative Balance Sheets and variances thereof from estimates;

(c) To the Finance and Asset Management Committee:

(1) Deeds or grants accepted during the preceding quarter;

(2) Easements, or similar rights, granted during the preceding quarter under the authority of Section 8220, and shall also include in such report any relocation or protection agreement made in connection therewith;

(3) All leases made during the preceding quarter under the authority of Sections 8222, 8223, 8230 and 8232;

(4) The details of any transactions during the preceding quarter in which an improvement was disposed of in such a manner as to make the improvement available for subsequent use by a party other than the District; and

(5) Property sold pursuant to the authority granted by Section 8240 et seq.

(d) To the Finance, Affordability, Asset Management, and Efficiency Committee: the employment of any professional and technical consultant, the extension of any professional and technical consulting agreement, on the exercise of authority under Sections 8121(c) and 8122(h) and the execution of any contract authorized pursuant to Section 8122(g) during the preceding calendar quarter. The report covering the last calendar quarter of the year may be combined with and included in the annual report. Each such report shall indicate when a consultant is a former employee of the District.

(e) To the Legal and Claims Committee, jointly with the General Counsel, the exercise of any power delegated to them by Sections 6431, 6433 and 6434, and, in addition any and all other personnel-related settlements that invoke confidentiality or have any financial impact – including paid and reinstated leave – regardless of settlement type. The reporting on personnel-related settlements should include whether equal employment opportunity issues were implicated, whether the employee is still employed by the District, the existence and type of any financial or confidentiality terms, and whether the District has taken any corrective action in response to the alleged issues.

(f) To the Engineering, Operations and Technology Committee: the status of all of all information technology projects throughout the organization.

Division VIII

CONTRACTS/DISTRICT PROPERTY

Chapter 1

CONTRACTS

Article 2

AUTHORITY TO CONTRACT

§ 8122. General Manager’s Contracting Authority in Specified Circumstances.

(a) Grants and Receipt of Funds. – The General Manager is authorized to negotiate and execute contracts in which the District receives funds of any amount, provided Board approval is not otherwise required.

(b) Emergency Contracts. – In cases of an emergency the General Manager is delegated the authority to waive competitive bid requirements and, notwithstanding Section 8121(a), execute contract over the amount of \$250,000 for the construction of works or structures, for the purchase of equipment, materials or supplies, or performance of labor or services and take any directly related and immediate action required by that emergency when such construction, purchase of equipment, materials or supplies is determined by the General Manager to be for an emergency, subject to the following requirements:

(1) The General Manager shall report to the Board not later than 7 days after the emergency action or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action, the details of the emergency and reasons justifying the actions taken.

(2) For contracts exceeding the General Manager’s authority under Section 8121, at each regularly scheduled meeting following the emergency action, the Board shall determine by four-fifths vote whether there is a need to continue the action or terminate action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed through competitive bid procedures.

(3) Such contracts shall not be binding on the District in an amount exceeding \$250,000 unless the General Manager obtains ratification of such contract by a four-fifths vote of the Board.

(4) An “emergency,” as used herein, means a sudden, unexpected occurrence that requires immediate action to prevent or mitigate the loss or substantial impairment of life, health, property, or essential public services.

(c) Relocation Agreements

(1) The General Manager is authorized to execute any agreement involving an amount not exceeding \$500,000 under which the District is to pay the cost of relocation or protection, or both, of facilities owned by others whenever the General Manager deems that such action is necessary to the construction of District facilities.

(2) The General Manager is authorized to issue all appropriate orders necessary to implement any such agreement, and, in the General Manager's discretion, to advance funds therefore.

(3) The General Manager is authorized to execute and to perform any agreement involving an amount not exceeding \$500,000 for the relocation or protection, or both, of District-owned facilities to accommodate the improvement of facilities owned by others and to determine whether a deposit shall be made prior to the commencement of work, and if so, in what amount.

(4) The General Manager shall report quarterly to the Engineering, Operations and Technology Committee the General Manager's execution under the authority of this Section of any agreements involving an amount in excess of \$100,000.

(5) All such agreements shall be subject to the approval of the General Counsel.

(d) Contracts for Utility Services. - The General Manager is authorized to negotiate and execute contracts for utility services, other than electrical energy for the pumping of Colorado River water, to facilities owned or operated by the District without limitation as to amount.

(e) Power and Transmission Contracts.

(1) General Authorization. - The General Manager is authorized to negotiate and execute contracts of up to 24 months duration from the end of the current month to furnish power or transmission capability to the District or dispose of power or transmission capability available to the District. Such contracts for power or transmission capability may not exceed a total payment obligation of \$50 million within any 24-month period unless authorized by the Board.

(2) Reporting. - The General Manager shall report at the next regular meeting of the Board the execution of any contract authorized by this Section 8122(e).

(3) Risk management. – The General Manager shall maintain a risk management policy to provide guidance and management oversight for the purchase of supplemental energy for the Colorado River Aqueduct operations. The risk management policy shall address market and credit risks associated with the purchase of supplemental energy.

(f) Insurance Pertaining to Employees

The General Manager is authorized to negotiate, renegotiate and enter into contracts with various insurance carriers for current plans of coverage or replacement plans of coverage consistent with the system of insurance for various types of employee group insurance plans heretofore approved or to be approved in the future by the Board.

(g) Contracts for Equipment, Materials, Supplies, and Routine Services.

(1) The General Manager may execute contracts for the purchase or lease of operating equipment, regardless of dollar value, which is specifically identified in the budget provided that the amount of any contract does not exceed 110 percent of the amount identified in the budget for that operating equipment and that sufficient funds are available within the adopted budget.

(2) The General Manager may execute contracts for the purchase of materials, supplies, other consumable items such as fuels, water treatment chemicals, materials for construction projects and other bulk items, and for routine maintenance and services, including but not limited to software subscriptions, licenses, and maintenance agreements, which are generally identified in the budget, regardless of dollar value.

(3) All contracts under this section shall be awarded after competitive procurement unless otherwise exempted by this Code.

(h) Travel – The General Manager may execute contracts for the handling of District airline ticketing, lodging, automobile rental reservations, and miscellaneous travel-related services.

Article 3

AWARD OF CONTRACTS

§ 8140. Competitive Procurement

1. All Purchasing Contracts and Professional and Technical Services Contracts in the amount of \$75,000 or more excluding shall be made upon a competitive procurement method of either competitive sealed bidding or best value procurement as provided in this Chapter, except:

(a) Contracts for miscellaneous services, such as telephone, telegraph, light, power and water, where rates or prices are fixed by legislation or by federal, state, county or municipal regulations.

(b) Contracts deemed to be for an emergency under the procedures set forth in §8122(b) and in accordance with Public Contract Code Section 21567.

(c) Contracts executed in lieu of bringing an action in eminent domain, to reimburse an owner for the owner's costs of relocating or protecting facilities affected by District construction projects.

(d) If competitive procurement could not produce an advantage, or it is impracticable to obtain what is required subject to the competitive procurement provisions because of the unique, exploratory, or experimental nature of the work. Prior to award of contract, the General Manager's designee proposing such contract shall certify that the contract is exempt from competitive procurement and shall set forth in the certificate reasons for that determination.

(e) If, within six months previous to the date of execution of a proposed contract, advertising or posting for identical articles, or articles of the same general character, has failed to secure responsive proposals and, in the opinion of the General Manager, further advertising or posting will not alter this result.

(f) If the purchase is of used equipment which, in the opinion of the General Manager, is satisfactory for the work of the District.

(g) If the contract is with any governmental agency.

(h) Contracts for insurance or for services of a professional, artistic, scientific, or technical character.

(i) Change orders.

(j) Contracts for the handling of District airline ticketing, lodging, automobile rental reservations, and miscellaneous travel-related services.

(k) Contracts to buy or sell non-firm power on an hour-to- hour basis and other contracts of durations up to one year to furnish power or transmission capability to the District or dispose of power or transmission capability available to the District.

(l) Transactions pursuant to contracts secured by other public corporations which, in the opinion of the General Counsel, substantially comply with the competitive procurement requirements of this Chapter.

(m) Transactions with a vendor that has been designated an approved vendor by a competitively procured cooperative agreement secured by another public corporation.

(n) Procurement of equipment or materials by a design-build entity or construction manager/general contractor pursuant to Section 8148(d)(1).

2. A designated product, material, thing, or service by a specific brand or trade name may be exclusively requested, either as a sole source or for competitive procurement, for any of the following purposes:

(a) If the articles wanted are patented, copyrighted, or otherwise unique.

(b) In order that a field test or experiment may be made to determine the designated product's suitability for future use.

(c) For replacement parts or for equipment where replacement parts or components from another supplier could compromise the safety or reliability of the product, or would void or invalidate a manufacturer's warranty or guarantee, as set forth in the certificate provided below.

(d) For replacement parts or components of equipment, where parts or components obtained from another supplier, if available, will not perform the same function in the equipment as the part or component to be replaced, as set forth in the certificate provided below.

(e) For upgrades, enhancement or additions to hardware or for enhancements or additions to software, where equipment or software from different manufacturers or developers will not be as compatible as equipment or software from the original manufacturer(s) or developer(s), as set forth in the certificate provided below.

When such an article is to be purchased, the General Manager's designee preparing the request for bids or proposals shall certify that the particular article will best serve the purpose of the District, and reasons for such conclusion shall be set forth.

§ 8151. Protests.

(a) **Public Works Contracts.** – Within five days after service of the General Manager's determination under Section 8142(d) or 8148(f), or within five days of a bid opening or determination made pursuant to a request for qualification or request for proposals, a bidder or respondent may file a protest with the General Manager pursuant to procedures developed and administered by the Chief Engineer. If the General Manager denies the protest, in whole or in part, the bidder may file a notice of appeal of the protest denial with the Board Executive Secretary within five days of such denial. A hearing on the appeal by the Engineering, Operations and Technology Committee shall be conducted in accordance with Section 2431(b).

(b) **Purchasing and Professional and Technical Services Contracts** – Within five days after the occurrence of an event subject to a protest under procedures developed and administered by the Contracting Services Manager, a respondent, or potential respondent, to a solicitation may file a protest with the General Manager pursuant to those procedures. Upon the General Manager's final determination on the protest, the respondent, or potential respondent, may file a notice of appeal of the determination with the Board Executive Secretary within five

days of such determination on contracts above General Manager authority. A hearing on the appeal by the Executive Committee shall be conducted in accordance with Section 2416(f)(3).

(c) Any hearing body that conducts a protest hearing pursuant to this section shall give proper notice thereof, receive evidence and rule upon its admissibility, prepare a record of the proceedings, submit a written decision setting forth the bases for the decision, and cause a copy of the decision to be served upon the appellant.

(d) In the event that a decision on a protest is made less than 20 days before the date set for bid opening or submittal of a proposal or statement of qualifications, such opening or submittal shall be postponed to a date not less than 20 days after the date of decision.

(e) There shall be no right to protest an approval or ratification of a contract by the Executive Committee pursuant to Section 2416(f)(1).

(f) Any power delegated to the General Manager pursuant to this section may be re-delegated by the General Manager to any officer or employee of the District.