



## Legislation Text

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**File #:** 2018-988, **Version:** 1

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### **GLWA Procurement Policy**

**Agenda of:** November 14, 2018  
**Item No.:** **2018-988**  
**Amount:** N/A

**TO:** The Honorable  
Board of Directors  
Great Lakes Water Authority

**FROM:** Sue F. McCormick  
Chief Executive Officer  
Great Lakes Water Authority

**DATE:** November 14, 2018

**RE:** **GLWA Procurement Policy**

### **MOTION**

Upon recommendation of Nicolette Bateson, Chief Financial Officer & Treasurer, The Board of Directors (Board) of the Great Lakes Water Authority (GLWA), **approves the GLWA Procurement Policy with an immediate effective date;** and authorizes the CEO to take such other action as may be necessary to accomplish the intent of this vote.

### **BACKGROUND**

The Board approved its first Procurement Policy in October 23, 2015, pursuant to the By-Laws, Article XIII, Section 2. The approved Policy, Section 1.5, calls for a review of the Policy every two years.

A presentation of the Proposed, Amended Procurement Policy was made to the Board of Directors on October 10, 2018 for their review. Board members then commented on the Proposed, Amended Policy either in writing or in discussions with staff before the Board as a whole at its regular meeting held on October 24, 2018. Three key issues were discussed at the October 24<sup>th</sup> meeting.

- 1) Section 4.5 (Intergovernmental Agreements and Cooperative Procurements): A question was raised regarding whether GLWA Board approval is required for all intergovernmental agreements. Based on state law, approval of intergovernmental agreement depends on the purpose of the agreement. For example, the Intergovernmental Transfers of Functions and Responsibilities Act requires the governing body approve the intergovernmental agreement. MCL 124.531. Since federal or state law prevails if there was a conflict with the Policy, it is recommended that the policy be silent on the matter with the evaluation of each intergovernmental arrangement be evaluated on its own merits. For example, a cooperative purchase of equipment for \$25,000 would not rise to Board approval, but combining operations with another utility likely would rise to Board engagement which is deemed to be more in line

with the intent of MCL 124.531.

- 2) Section 5.1 (Solicitation Development and Advertisement): Language has been added to provide opportunities, when economically feasible, to foster GLWA's engagement of the small business community consistent with the Articles of Incorporation.
  
- 3) Section 8.3 (Protest): The Board questioned if there was a better option to the first level of a bid protest whereby the Chief Procurement Officer (CPO) makes the decision to either accept or reject the protest. After staff subsequently researched the matter, it was concluded that the language remains unchanged but staff does offer a procedural alternative. The rationale for keeping the existing language is a) it is consistent with best practice from the National Institute of Government Procurement, b) GLWA focus group responses did not raise the concern, and c) the practice is consistent with other local and country procurement policies/procedures. It should be noted that the policy does include a provision for the Board to be notified of vendor protests.

In preparing the updated version of the policy for the Board's consideration, there were some final, but minor, edits made as well as one additional edit noted below. Both a "clean" copy and a "blackline" copy are attached to this Board letter.

The additional edit relates to Section 1.5 (Review and Revisions). If approved, this section allows for the Policy to undergo a comprehensive review every five (5) years, instead of the current two (2) years. This Section also accounts for the fact that the Board could amend the Policy before the five (5) years if necessary. If the current language was not changed, another comprehensive review would have to take place before December 2019. Administration is confident that all major changes have been reflected in the Policy and that it is a substantial improvement from the current Policy. In addition, this Policy is a foundation for the Procurement Procedures that are being written.

### **JUSTIFICATION**

The Board is being asked to approve the Procurement Policy, in accordance with Section 1.5 of the Procurement Policy, first approved in 2015. Section 1.5 calls for the Audit Committee to review and approve amendments. However, in accordance with Board member requests, the Board as a whole is being asked to approve the amended Policy.

### **DOCUMENTS**

The following documents are attached to this report.

- 1) Blackline Version of Procurement Policy with revisions as noted above.
- 2) Clean version of the Procurement Policy for approval.

### **COMMITTEE REVIEW**

This item was presented to the Board as a Committee of the Whole.

### **SHARED SERVICES IMPACT**

This item does not impact the shared services agreement between GLWA and the Detroit Water and Sewerage Department.