

# MIDDLE RIO GRANDE WATER ASSEMBLY

## POLICIES AND PROCEDURES SYSTEM

POLICY NUMBER: EC004

DATE: January 11, 2002

TITLE: Policy for Water Assembly Participants to Submit Proposals for Water Plan Subcontracts Funded by the Water Assembly

1. **Background.** Policy E003 responded to concerns regarding the propriety for individuals participating in the Water Assembly to submit bids or offers for subcontracts funded by the New Mexico Interstate Stream Commission (ISC) and local governments and awarded by the Middle Rio Grande Council of Governments (MRGCOG). Inasmuch as the funds for the subcontracts have been appropriated by the State of New Mexico and local governments and administered by MRGCOG, Policy EC003 established provisions for Water Assembly participants that required compliance with State regulations.

However, in the case of subcontracts or purchase orders funded by the Water Assembly, compliance with State regulations is not required. Nevertheless, concern regarding the propriety of Water Assembly participants submitting offers for contracts or accepting purchase orders funded by the Water Assembly remain.

2. **Discussion.** Just as the state regulations were adopted to assure fairness and avoid favoritism in the contracting process, the Water Assembly must take a similar - albeit less restrictive - position in its contracting process. To ensure fairness in contracting for materials or services with Water Assembly funds, certain restrictions must be established.

Although some latitude may be extended to an individual participating on a Working Team when the scope of work or specifications are being discussed or are being prepared, such an individual should not be a member of the committee reviewing and selecting proposals.

Moreover, because the Executive Committee and the Action Committee consider and render decisions about matters having a significant impact on contractual actions, an individual who intends to submit a bid or offer should recuse himself or herself from participating in any action being taken by the Executive Committee or the Action Committee involving a proposed contract or purchase order in which the individual may have an interest.

That being said, it is not necessarily in the best interest of the Water Assembly or the water planning process to exclude from discussions regarding a scope of work or a specification an individual who may have particular capabilities or talents which will contribute significantly to the water planning effort, provided the individual is not involved in the actual preparation of the scope of work or specification.

In order to ensure fair interpretation and application of this policy while avoiding delay in the water planning process, the Executive Committee must be relied upon to provide the necessary interpretation and determine appropriate application. In addition, the Executive Committee should determine when a proposed contract

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or purchase order is of such a small size that any perceived conflict of interest would be of no consequence. Furthermore, the Executive Committee should assure that the total number of contracts or purchase orders awarded to a single individual or firm are not of such magnitude as to unfairly favor such individual or firm.

3. **Policy.** Effective immediately no individual participating in the Water Assembly, the Executive Committee, or the Action Committee who has also participated in the preparation of - but not discussions of - a scope of work or specification for a subcontract or purchase order funded by the Water Assembly shall submit a bid or offer for such subcontract or purchase order.

In addition, no individual who has an interest in any existing or proposed contract or purchase order funded by the Water Assembly shall take part in any action being taken by the Executive Committee or Action Committee involving such existing or proposed contract or purchase order.

The Executive Committee shall provide interpretation of this policy and shall determine the appropriate application of this policy in regard to possible conflict of interest; to when a proposed contract or purchase order is of such a small size that any perceived conflict of interest would be of no consequence; and to when the total number of contracts or purchase orders awarded to a single individual or firm would be of such magnitude as to unfairly favor such individual or firm.

This Policy has been established by action of the Executive Committee on:

\_\_\_\_\_  
Date

Signed \_\_\_\_\_  
Secretary