

## **H. Unreasonable or Unbalanced Pricing:**

### **1. Rejection:**

- a. Any bid or offer may be rejected if the Procurement Official determines in writing that it is unreasonable as to price. Unreasonableness of price includes not only the total price of the bid or offer, but also the prices for individual line items.
- b. Any bid or offer may be rejected if the prices for any line item or subline item are materially unbalanced. Unbalanced pricing may increase performance risk and could result in payment of unreasonably high prices. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. The greatest risks associated with unbalanced pricing occur when:
  - i. Startup work, mobilization, procurement item sample production or testing are separate line items;
  - ii. Base quantities and optional quantities are separate line items; or
  - iii. The evaluated price is the aggregate of estimated quantities to be ordered under separate line items of an indefinite-delivery contract.
- c. All bids or offers with separately priced line items or subline items may be analyzed to determine if the prices are unbalanced. If cost or price analysis techniques indicate that an offer is unbalanced, the District shall:
  - i. Consider the risks to the District associated with the unbalanced pricing in determining the competitive range and in making the source selection decision; and
  - ii. Consider whether award of the contract will result in paying unreasonably high prices for contract performance.
- d. A bid or offer may be rejected if the Procurement Official determines that the lack of balance poses an unacceptable risk to the District.

## **I. Rejection for Nonresponsibility or Nonresponsiveness:**

1. Nonresponsible Bidder or Offeror: Subject to Section 63G-6a-903 of the Act, the Procurement Official shall reject a bid or offer from a bidder or offeror that is determined to be nonresponsible. The requirements for a bidder or offeror to be “responsible” are defined in Section 63G-6a-103 of the Act. The unreasonable failure of a bidder or offeror to promptly supply information in response to an inquiry with respect to responsibility may be grounds for a determination of non-responsibility of that bidder or offeror.

2. Nonresponsive Offer: The Procurement Official may not accept a bid or proposal that is not “responsive” as defined in Section 63G-6a-103 of the Act.
3. Bid Security Failure: When bid security is required and a bidder fails to furnish the security in accordance with the requirements of the invitation for bids, the bid may be rejected.
4. Documentation: The originals of all rejected bids, offers, or other submissions, and all written findings with respect to such rejections, shall be made part of the procurement file and be available for public inspection.

**J. Rejection for Suspension/Debarment**: Bids, offers, or other submissions received from any vendor that is suspended, debarred, or otherwise ineligible as of the due date for receipt of bids, proposals, or other submissions shall be rejected.

## **IX. CANCELLATION REJECTION AND DEBARMENT**

### **A. General Provisions:**

1. Cancellation: An Invitation for Bids, a Request for Proposals, or other solicitation may be canceled prior to the deadline for receipt of bids, proposals, or other submissions, when it is in the best interest of the District as determined by the Procurement Official. In the event a solicitation is cancelled, the reasons for cancellation shall be made part of the procurement file and shall be available for public inspection and the District shall:
  - a. Re-solicit new bids or proposals using the same or revised specifications; or
  - b. Withdraw the requisition for the procurement item(s).
2. Rejection of Bids and Proposals: Any or all bids or competitive sealed proposals may be rejected in whole or in part when doing so is deemed to be in the best interest of the District, and the District may, in its discretion, re-invite bids or re-solicit competitive sealed proposals.
  - a. After a notice of award has been issued, but before a written contract between the successful vendor and the District has been signed, the District may cancel the notice of award based upon information which, if it had been known prior to the issuance of the notice of award, would have been cause for the rejection of the otherwise successful bid or proposal.
  - b. In particular, an offer that is determined to be nonresponsive or nonresponsive will be rejected, as will a bid or offer received from any person that is suspended, debarred or otherwise ineligible as of the deadline for receipt of solicitation responses.

**B. Re-solicitation:**

1. No Response: In the event there is no response to an initial solicitation, the Procurement Official may:
  - a. Contact the known supplier community to determine why there were no responses to the solicitation;
  - b. Research the potential vendor community; and,
  - c. Based upon the information obtained under (a) and (b), modify the solicitation documents.
2. Inadequate Supplemental Response: If the District has modified the solicitation documents and, after the re-issuance of a solicitation, there is still no competition or there is insufficient competition, the Procurement Official may:
  - a. Further modify the procurement documents; or,
  - b. Cancel the requisition for the procurement item(s).

**C. Cancellation Before Award:** When it is determined before award but after opening the bids or proposals that the specifications, scope of work or other requirements contained in the solicitation documents were not met by any bidder or offeror, and all solicitation responses have been determined to be nonresponsive or nonresponsible, the solicitation shall be cancelled.

1. Determination: Solicitations may be cancelled before award but after opening all bids or offers when the Procurement Official determines in writing that:
  - a. Inadequate, erroneous or ambiguous specifications were cited in the solicitation;
  - b. The specifications in the solicitation have been or must be revised;
  - c. The procurement item(s) being solicited are no longer required;
  - d. The solicitation did not provide for consideration of all factors of cost to the District, such as cost of transportation, warranties, service and maintenance;
  - e. Bids or offers received indicate that the needs of the District might be satisfied by a less expensive procurement item differing from that in the solicitation;

- f. All otherwise acceptable bids or offers received are at unreasonable prices, or only one bid or offer is received and the Procurement Official cannot determine the reasonableness of the bid price or cost proposal;
- g. The responses to the solicitation were not independently arrived at in open competition, were collusive, or were submitted in bad faith;
- h. No responsive bid or offer has been received from a responsible bidder or offeror;
- i. An infraction of the Utah Code, an applicable rule, or a policy has occurred; or
- j. Other circumstances or reasons that constitute reasonable cause as determined by the Procurement Official.

**D. Alternative to Cancellation:** In the event administrative difficulties are encountered, before award but after the deadline for receipt of submissions that may delay the award beyond the bidders', offerors' or other persons' acceptance periods, the bidders, offerors or persons should be requested, before the expiration of their solicitation responses, to extend in writing the acceptance period (with the consent of sureties, if any) to avoid the need for cancellation.

**E. Continuation of Need:** If the solicitation has been cancelled for the reasons specified in Subsection C.1. f., g or h above, the Procurement Official has made the determination required under Subsection C., and the District has an existing contract, the District may permit an extension of the existing contract under Section 63G-6a-802.7 of the Act.

**F. Award of a Contract After Cancellation for Cause or by Mutual Agreement:**

- 1. Controlling Interest of the District: If a contract awarded through a standard procurement process is cancelled for cause or by mutual agreement within the first 12 months of the contract term and the procurement item is still determined to be needed, the Procurement Official may make a determination concerning whether it is in the best interest of the District to award a contract for the balance of the scope of work set forth in the solicitation to a responsible vendor that responded to the original solicitation with a responsive solicitation response that meets all of the minimum score thresholds set forth in the solicitation:
  - a. Having the next lowest bid in response to an invitation for bids; or
  - b. With the next highest total score or the next authorized score to award a contract in accordance with the RFP, an approved vendor list, the design professional or other professional services procurement process; or
  - c. To issue a new solicitation for the procurement item.



2. Equitable Treatment of Participants: In making a determination under Subsection F.1, the Procurement Official shall consider the equitable treatment of all persons involved in the procurement process.
3. Cancellation for Convenience/Timing. A new contract may not be awarded under this Subsection F if the original contract is cancelled by the District for convenience, if to do so would extend a contract beyond the contract period identified in the solicitation, or if the contract is cancelled after the first 12 months of the original contract period.

## **X. EXCEPTIONS – PROCUREMENT WITHOUT COMPETITION**

- A. Contracts Awarded Without Competition:** The Procurement Official or the Board, through appropriate action, may determine that a specific contract for a supply, service or construction item should be awarded without receipt or review of competitive bids or proposals if one of the circumstances stated in 1 through 8 below exists. In the event a contract is awarded without competition for one of these reasons, a written determination of both the reason for purchasing or contracting without competition as well as the basis for the selection of the particular contractor and/or supplier will be recorded. When practical, the Procurement Official will conduct a price analysis before awarding a sole source contract. With these written determinations, a record containing the contractor's or supplier's name, the amount and type of the contract, the total dollar value of the procurement item including, when applicable, the actual or estimated full life-cycle cost of maintenance and of the service agreement, the duration of the proposed sole source contract, documentation that there is no other competing source for the procurement item (unless the procurement is under 1.ii or iii below), a description of the procurement item, and any other information desired by the Procurement Official will be maintained in the contract file.

### **1. Sole Source:**

- a. Sole source procurements shall be conducted in accordance with requirements set forth in Section 63G-6a-802 of the Procurement Code. A sole source procurement may be conducted if:
  - i. There is only one source for the procurement item;
  - ii. The award to a specific supplier, service provider, or contractor is a condition of a donation or grant that will fund the full cost of the supply, service or construction item;
  - iii. The procurement item is needed for trial use or testing pursuant to Section 63G-6a-802.3 of the Act to determine whether the procurement item will benefit the District;
  - iv. Transitional costs are a significant consideration in seeking the procurement item and a cost benefit analysis demonstrates that transitional costs are unreasonable or cost prohibitive and that the award of a contract without engaging in a standard procurement process is in the best interest of the District;

- v. The procurement item is a component or replacement part for which there is no commercially available substitute and which can be obtained only from the manufacturer;
  - vi. The procurement item is an exclusive maintenance service or warranty agreement;
  - vii. The procurement item is a utility service for which only one public service provider is available in the area;
  - viii. Compatibility is the overriding consideration in making the purchase;
  - ix. A used procurement item that presents a unique, specialized or time limited buying opportunity; or
  - x. The Procurement Official determines, after diligent inquiry, that awarding a contract through a standard procurement process is impractical and is not in the best interest of the District.
- 2. Continuation of Previous Purchases: When the purchase is a continuation of previous purchases, and there exists a clear potential economic benefit to the District to negotiate a contract directly with the firm that supplied the initial purchase.
- 3. No Response to Bid Invitation: When the District does not receive a responsive, responsible response to its announcement, request for proposals or invitation to bid.
- 4. Cooperative Contract: Without conducting a standard procurement process, the District may make purchases from state cooperative contracts as provided in Section 63G-6a-2105 of the Act without signing a participating addendum if the solicitation issued by the State's Chief Procurement Officer included a statement indicating that the resulting contract would be issued for the benefit of other public entities. Furthermore, nothing contained in this Policy shall prohibit or limit the ability of the District to contract with any other public agency for the exchange of supplies, material, services or equipment, which exchange shall be by the mutual agreement of the respective public agencies, or limit the ability of the District to participate in, sponsor, conduct or administer a cooperative procurement with another Utah procurement unit or public entity in accordance with the requirements of Section 63G-6a-2105(4) of the Act, which will require a participating addendum.
- 5. Emergency Procurement: Emergency procurements shall be conducted as provided below and in accordance with the requirements set forth in Section 63G-6a-803 of the Act. An emergency procurement may only be used when circumstances create harm or risk of harm to public health, welfare, safety, or property.
  - a. Urgent or unexpected circumstances or requirements alone may not justify an award for a contract without using a standard procurement process. Circumstances that may create harm or risk to health, welfare, safety, or

property may justify an emergency procurement without engaging in a standard procurement process include:

- i. Damage to a facility or infrastructure resulting from flood, fire, earthquake, storm, or explosion;
  - ii. Failure or imminent failure of a public building, equipment, road, bridge or utility;
  - iii. Terrorist activity;
  - iv. Epidemic;
  - v. Civil unrest;
  - vi. Events that impair the ability of the District to function or perform required services;
  - vii. Situations that may cause harm or injury to life or property; or
  - viii. Other conditions as determined in writing by the Procurement Official.
- b. Emergency procurements are limited to those procurement items necessary to mitigate the emergency.
- c. While a standard procurement process is not required under an emergency procurement, when practicable, the District may seek to obtain as much competition as possible through use of phone quotes, internet quotes, limited invitations to bid, or other selection methods while avoiding harm, or risk of harm, to the public health, safety, welfare, property, or impairment of the ability of the District to function or perform required services.
- d. When it is practical to do so, the Procurement Official should be notified of the emergency condition prior to the acquisition of any material or supplies, goods, wares or merchandise as provided above. In the event an emergency which requires immediate action should arise after business hours, on a weekend or holiday and/or when it is otherwise not possible or convenient to notify the Procurement Official, emergency purchases may be made by the department in charge without notifying the Procurement Official, but such purchases shall be reported to the Procurement Official on the first working day after the occurrence. Where circumstances permit, the Procurement Official may propose lists of approved vendors for emergency purchases.
- e. A written determination documenting the basis for the emergency and the selection of the procurement item shall be kept in the contract file. The required documentation may be prepared after the emergency condition has been alleviated.

6. Alternative Procurement Methods:

- a. The District may utilize alternative procurement methods to acquire procurement items such as those listed below when it is determined in writing by the Procurement Official to be more practicable or advantageous to the District:
    - i. Used vehicles;
    - ii. Hotel conference facilities and services;
    - iii. Speaker or trainer honorariums; and
    - iv. Any other procurement item for which a standard procurement method is not reasonably practicable.
  - b. When making this determination, the Procurement Official may take into consideration whether:
    - i. The potential cost of preparing, soliciting and evaluating bids or proposals is expected to exceed the benefits normally associated with such solicitations;
    - ii. The procurement item cannot be acquired through a standard procurement process; and
    - iii. The price of the procurement item is fair and reasonable.
  - c. In the event that it is so determined, the Procurement Official may elect to utilize an alternative procurement method which may include:
    - i. Informal price quotations;
    - ii. Direct negotiations; and,
    - iii. Direct award.
7. Unique Conference and Convention Facilities: Conference and convention facilities may be engaged without using a standard procurement process if they have unique special amenities, such as location and services.
8. Certain Promotional Activities: International, national or local promotion of the District expenses may be incurred without using a standard procurement process with Board approval.

**B. Transition Costs – Cost Benefit Analysis:**

- 1. Definitions: For purposes of this Section B, the following definitions shall apply:
  - a. “Competing type of procurement item” means a type of procurement item that is the same, equivalent to, or superior to the existing type of procurement item currently under contract in all material aspects including performance, specifications, scope of work, and provider qualifications, certification, and licensing.

- b. “Competing provider” means a provider other than the existing provider under a contract that provides a competing type of procurement item.
  - c. “Significant,” “unreasonable or cost-prohibitive” transitional costs are defined as costs associated with changing from an existing provider of a procurement item to another provider of that procurement item or from an existing type of procurement item to another type that constitutes a measurably larger amount that likely would have an influence on or affect the award of a contract if a competitive procurement were to be conducted for the procurement item being considered, and provides a compelling justification for not conducting a competitive standard procurement process.
- 2. Transitional Costs that Must Be Considered: The transitional costs that must be considered in a cost-benefit analysis include:
  - a. Costs that are directly associated with changing from an existing provider of a procurement item to a competing provider of that procurement item or from an existing type of procurement item to a competing type of procurement item; and
  - b. A full lifecycle cost analysis of the existing type of procurement item and competing type of procurement items to determine which procurement item is more cost-effective.
- 3. Transitional Costs that May Be Considered: Transitional costs that may be considered in a cost benefit analysis include:
  - a. Costs identified in Section 63G-6a-103(93) of the Act;
  - b. Costs offered by a competing provider for a competing type of procurement item in a competitive bid or RFQ process conducted within the last 12 months;
  - c. costs offered by a competing provider for a competing type of procurement item in a competitive bid or RFP process conducted before the most recent 12 months, updated using an applicable price index;
  - d. written cost estimates obtained by the District from a competing provider for a competing type of procurement item; and
  - e. other transitional costs determined to be applicable by the Procurement Official.
- 4. Information Not to Be Considered: Transitional costs or other information that may not be considered in a cost-benefit analysis include:
  - a. Costs that are prohibited in Section 63G-6a-103(93) of the Act;
  - b. Data provided by the existing provider for establishing the market value of the existing type of procurement item;

- c. A competing provider's price for a competing type of procurement item;
  - d. Costs associated with any other procurement item other than the existing type of procurement item or a competing type of procurement item;
  - e. Non-monetary factors, such as the provider's performance, District preference, and other data or information that is not specific to the transitional costs associated with the existing type of procurement item or a competing type of procurement item;
  - f. Factors other than monetary transitional costs directly associated with changing from an existing provider of a procurement item to a competing provider of that procurement item or from an existing type of procurement item to a competing type of procurement item; and
  - g. other transitional costs or information deemed inappropriate or unreliable by the Procurement Official.
5. Completion: When appropriate or required, the District, under the direction of the Procurement Official, will complete a written cost-benefit analysis. The cost-benefit analysis should not be overly time-consuming to complete or involve hiring costly consultants or financial analysts.
- C. **Trial Use or testing of procurement item including New Technology**: The trial use or testing of a procurement item, including new technology, shall be conducted as set forth in Section 63G-6a-802.3 of the Act.
- D. **Extension of a Contract without engaging in a standard procurement process**: The Procurement Official may extend an existing contract without engaging in standard procurement process if it is necessary to avoid a lapse in a critical service mitigating a circumstance that is likely to have a negative effect on public safety, safety, health and welfare, or property; and the district is engaged in a standard procurement process for the procurement item for a limited period as provided in in 63G-61-802.7 of the Act.
- E. **Notice of Intent to Award a Contract Without Engaging in a Standard Procurement Process**: The District may issue a notice of intent to award a contract without engaging in a standard procurement process as follows:
- 1. Content: At a minimum, the notice of intent to award a contract without engaging in a standard procurement process will include the following information:
    - a. A description of the procurement item or the proposed scope of work;
    - b. The total dollar value of the procurement item including, for the applicable procurement item, the actual or full life cycle cost, including maintenance and service agreements;
    - c. The duration of the contract; and



- d. A brief summary of research that resulted in the sole source determination respecting the unavailability of other sources, transitional costs or other circumstances that justify an award without using a standard procurement process and the determination that the procurement is in the best interest of the District.
2. Notice of Intent Form: The District may, but is not required to, use the “Notice of Intent to Award a Contract Without Engaging in a Standard Procurement Process” form developed by the Division Purchasing and General Services when a procurement is made without conducting a standard procurement process.
3. Threshold: A notice of intent to award a sole source procurement costing over \$50,000 shall be published, and less costly sole source procurements may be published in the discretion of the Procurement Official, in accordance with Section 63G-6a-112 of the Act.
4. Waiver of Requirement: The requirement to publish a notice for a sole source or other procurement without engaging in a standard procurement process is waived:
  - a. For public utility services;
  - b. If the award to a specific supplier, service provider, or contractor is a condition of a donation or grant that will fund all or virtually all of the cost of the supply, service, or construction item; and
  - c. For other circumstances as determined in writing by the Procurement Official.
5. Contest of Notice: A person may contest a sole source procurement prior to the award of the contract before the closing of the public notice period set forth in Section 63G-6a-112 of the Act by submitting the following information in writing to the Procurement Official:
  - a. The name of the contesting person;
  - b. A detailed explanation of the challenge, including documentation showing that there are other competing sources for the procurement item;
  - c. If transitional costs are a significant factor in the sole source procurement, evidence and arguments demonstrating that transitional costs are not significant, unreasonable, or cost-prohibitive; or
  - d. Reasons why a standard procurement process is in the best interest of the District.
6. Investigation and Determination: Upon receipt of information contesting a sole source procurement, the Procurement Official shall conduct an investigation to



determine the validity of the challenge and make a written determination either supporting or denying the challenge.

## **XI. PROCUREMENT OF CONSTRUCTION**

A. **State Law:** District construction projects generally are governed by Part 13 of the Act and by this Part XI.

1. **Alternative Approach:** To the extent allowed by law, and notwithstanding anything to the contrary in this Policy, the District may procure construction pursuant to the requirements of Title 11, Chapter 39 of the Utah Code, in which event the “bid limit” calculated as provided in Utah Code Ann. § 11-39-101(1) shall replace all construction cost estimate and/or bid requirements based upon cost provisions of this Policy, including small purchase provisions under Part V, and otherwise applicable requirements of this Policy shall be superseded and replaced by the provisions of Title 11, Chapter 39.

B. **Construction Cost Estimate:** The Manager or Procurement Official shall cause plans and specifications for construction projects, including the estimated cost of the improvements, to be prepared by the District’s engineer (in house or consulting) or other qualified person. The cost estimate shall be submitted to the Board either when the bid is submitted for formal approval or before the District undertakes the project using its own work crew or an invitation to bid or RFP is issued, or the Board will be provided an explanation of why plans and specifications and/or a cost estimate cannot be provided, as may be the case if a design-build contract is under consideration. If the estimated cost of the improvement is \$250,000 or less, the District may make the improvement using an independent contractor without calling for formal bids or proposals for a construction project costing up to \$2,500,000 by following requirements stated in Subsection V.C.

C. **Extra Work and Change Orders:** The Manager or Procurement Official is authorized to approve extra work or change orders in an amount not to exceed 10% of the contract when justified by contract specifications and deemed to be in the best interest of the District. At the conclusion of the contract, a final written report will be presented to the Board.

1. **Certification - Increases in Contract Amount:** Any change order which increases the contract amount shall be subject to prior written certification that the change order is within the determined project or contract budget. The certification may be made by the District's Treasurer or other official responsible for monitoring and reporting upon the status of the costs of the total project or contract budget.
2. **Availability of Funds or Adjustment in Scope of Work:** If the certification discloses a resulting increase in the total project or contract budget, the Manager or Procurement Official shall not execute or make the change order unless sufficient funds are available or the scope of the project or of the contract is adjusted to permit the degree of completion feasible within the total project or contract budget as it existed prior to the change order under consideration.

However, with respect to the validity, as to the contractor, of any executed change order upon which the contractor has reasonably relied, it shall be presumed that there has been compliance with the provisions of this Part XI.

**D. Modification of Specifications:** The Manager or Procurement Official shall have authority to waive or modify the District's construction specifications upon a determination that such waiver or modification does not significantly jeopardize the interests of the District and is reasonable and appropriate under the facts and circumstances presented. Such waivers and modifications may be based upon either requests from developers and other interested persons or District staff recommendations.

1. Permanent Modifications: Whenever the deletion or modification of the District's construction specifications is intended to be permanent and to apply to all or a significant number of future developments within the boundaries of the District, the Manager or Procurement Official shall so notify the Board within a reasonable time.
2. Appeal to the Board: At the Manager's or Procurement Official's discretion, specific requested waivers or modifications of the District's construction specifications may be presented to the Board for final resolution and any developer or other interested party may appeal the Manager's or Procurement Official's decision regarding the modification of construction specifications to the Board.
3. Status of Decision Prior to Board Action: Until the Manager's or Procurement Official's decision regarding a waiver or modification of the District's construction specifications has been modified or reversed by the Board, it shall be the decision and position of the District.

**E. Construction Contract Management:** The method of construction contracting management utilized for any given project shall be determined by the Manager or the Procurement Official in consultation with the District's engineer, if there is one. Any lawful method of construction contracting management that is determined to be feasible may be utilized.

1. Recommendations of Engineer: In determining which method of construction contracting management is to be used for a particular project, the recommendations of the District's engineer, if there is one, are to be given great weight. The method selected will be the method deemed to be most advantageous to the interests of the District.
2. Factors to Be Considered: It is intended that the Manager or Procurement Official have sufficient flexibility in formulating the construction contract management method for a particular project to fulfill the needs of the District. Before selecting a construction contracting management method, the Manager or Procurement Official, in consultation with the District's engineer (if there is one), shall carefully consider the following factors: (a) when the project improvements must

be ready for use; (b) the type of project; (c) the extent to which the requirements of the District, and the ways in which they are to be met, are known; (d) the location of the project; (e) the size, scope, complexity, and economics of the project; (f) the amount and source of funding and any resulting constraints or limitations necessitated by the funding source; (g) the availability, qualification and experience of District personnel to be assigned to the project and the amount of time the District personnel can devote to the project; (h) the availability, qualifications, and experience of outside consultants and contractors (including construction managers/general contractors) to complete the project under the various methods being considered; (i) the results achieved on similar projects in the past and the methods used; and (j) the comparative advantages and disadvantages of the construction contracting methods and how they might be adapted or combined to fulfill the needs of the District. The factors to be considered in achieving the purposes set forth herein are not to be construed as an exclusive list.

- a. The following descriptions are provided for the more common construction contracting management methods which may be used by the District. The methods described are not mutually exclusive, and may be combined on a project. These descriptions are not intended to be fixed in respect to all construction projects. These descriptions may be adapted to fit the circumstances of any given project.
  - i. Single Prime (General) Contractor. The single prime contractor method is typified by one business, acting as a general contractor, contracting with the District to timely complete an entire construction project in accordance with drawings and specifications provided by the District. Generally, the drawings and specifications are prepared by an architectural or engineering firm under contract with the District. Further, while the general contractor may take responsibility for successful completion of the project, much of the work may be performed by specialty contractors with which the prime contractor has entered into subcontracts.
  - ii. Multiple Prime Contractors. Under the multiple prime contractor method, the District will contract directly with a number of general contractors or specialty contractors to complete portions of the project in accordance with the District's drawings and specifications. The District may have primary responsibility for the successful completion of the entire project, or the contracts may provide that one or more of the multiple prime contractors has this responsibility.
  - iii. Design-Build. In a design-build project, an entity, often a team of a general contractor and a designer, contract directly with the District to meet the District's requirements as described in a set of performance specifications and/or a program. Design responsibility and construction responsibility both rest with the design-build

- contractor. This method can include instances where the design-build contractor supplies the site as part of the package.
- iv. Construction Manager Not at Risk. A construction manager is a person or firm experienced in construction who has the ability to evaluate and to implement drawings and specifications as they affect time, cost, and quality of construction and the ability to coordinate the construction of the project, including the administration of change orders as well as other responsibilities as described in the contract.
  - v. Construction Manager/General Contractor (Construction Manager at Risk). The District may contract with the construction manager early in a project to assist in the development of a cost effective design. In a Construction Manager/General Contractor (CM/GC) method, the CM/GC becomes the general contractor and is at risk for all of the responsibilities of a general contractor for the project, including meeting the specifications, complying with applicable laws, rules and regulations, completing the project on time and not exceeding a specified maximum price.
3. Written Statement: In making a decision concerning the method of construction contracting management to utilize for any given project, the Manager or Procurement Official is to execute and include in the contract file a written statement setting forth the facts which led to the selection of a particular method of construction contracting management for that project.
4. Design Build Contracts: The District may procure architect-engineer services and construction using a single contract with the design-build provider.
- a. The District will consult a professional engineer or a licensed architect with design-build experience as provided in Utah Code Ann. § 11-39-107(2)(c).
5. Construction Manager/General Contractor (CM/GC): The District may enter into a contract for the management of a construction project which allows the contractor to subcontract for additional labor and materials that were not included in the contractor's cost proposal submitted at the time of the procurement of the construction manager/general contractor's services. The term "construction manager/general contractor" shall not refer to a contractor whose only subcontract work not included in the original cost proposal is subcontracted portions of approved change orders. Should the District utilize the CM/GM method of construction contract management, the construction manager/general contractor will be selected using a "standard procurement process" as defined in Section 63G-6a-103 of the Act, or an exception allowed under Part 8 of the Procurement Code may be utilized. When entering into any subcontract that was not specifically included in the CM/GC's cost proposal submitted to the District, the CM/GC shall procure that subcontractor by using a standard procurement process

or an exception to the requirement to use a standard procurement process in the same manner as if the subcontract work was being procured by the District.

- a. As used herein, "management fee" includes only the following fees of the CM/GC:
  - i. Preconstruction phase services;
  - ii. Monthly supervision fees for the construction phase; and
  - iii. Overhead and profit for the construction phase.
- b. When selecting a CM/GC for a construction project, the evaluation committee:
  - i. May score a CM/GC based upon criteria contained in the solicitation, including qualifications, performance ratings, references, management plan, certifications, and other project specific criteria described in the solicitation;
  - ii. May, as described in the solicitation, weight and score the management fee as a fixed rate or as a fixed percentage of the estimated contract value;
  - iii. May, at any time after the opening of the responses to the request for proposals, have access to, and consider, the management fees proposed by the offerors; and
  - iv. Except as provided in Section 63G-6a-707 of the Act, may not know or have access to any other information relating to the cost of construction submitted by the offerors, until after the evaluation committee submits its final recommended scores on all other criteria.

**F. Contract Clauses:** Section 63G-6a-1202 of the Procurement Code encourages the District "to establish standard contract clauses to assist the [District] and to help contractors and potential contractors to understand applicable requirements." To that end, clauses providing for adjustments in prices and time of performance and covering the following subjects will generally be included in construction contracts: (a) the unilateral right of the District to order in writing changes in the work within the scope of the contract and changes in the time of performance of the contract that do not alter the scope of the contract work; (b) variations occurring between estimated quantities of work in a contract and actual quantities; (c) suspension of work ordered by the District; and (d) site conditions differing from those indicated in the construction contract, or ordinarily encountered, except that differing site conditions clauses need not be included in a construction contract when the contract is negotiated, when the contractor provides the site or design, or when the parties have otherwise agreed with respect to the risk of differing site conditions.

1. Prohibited Contract Terms:



- a. The District may not require that any contractor, subcontractor or material supplier engaged in the construction, maintenance, repair or improvement of public works pay its employees a predetermined amount of wages or wage rate or provide any particular type, amount or rate of employee benefits; provided, however, that any applicable federal or state minimum wage or benefit law may be enforced.
  - b. No contract shall contain any provision or requirement which is prohibited by applicable law or public policy, including Section 63G-6a-1203 of the Act, which prohibits any contract provision that would require a design professional to indemnify anyone from liability claims arising out of the design professional's services, "unless the liability claim arises from the design professional's negligent act, wrongful act, error or omission, or other liability imposed by law" or the person being indemnified is under the design professional's "direct or indirect control or responsibility".
  - c. A provision in a construction agreement requiring a dispute arising under the contract to be resolved in a forum outside of the state of Utah is void and unenforceable as against public policy if one of the parties to the agreement is domiciled in Utah and construction in Utah is involved, as provided in Utah Code Ann. § 13-8-3. Additional unenforceable, contract provisions are identified in Title 13, Chapter 8 of the Utah Code.
  - d. Should any prohibited provision or requirement be stated in any contract to which the District is a party, to the extent allowed by law, the contract shall be read and enforced as though the offending provision were not contained therein.
2. Remedy Clauses: Construction contracts may include clauses providing for appropriate remedies and covering the following subjects, among others: (a) liquidated damages; (b) specified excuses for delay or nonperformance; (c) termination of the contract for default; and (d) termination of the contract in whole or in part for the convenience of the District.

**G. State Construction Registry:**

1. Notice of Commencement: No later than 15 days after commencement of physical construction work at the project site, the District or its contractor shall file a notice of commencement with the State Construction Registry established by the Division of Occupational and Professional Licensing as required by Utah Code Ann. § 38-1b-201.
2. Notice of Intent to Complete: The District or the District's contractor shall file a notice of intent to obtain final completion with the State Construction Registry in accordance with Utah Code Ann. § 38-1a-506 if:

- a. Completion of performance time under the original contract is greater than 120 days;
  - b. The total original construction contract price exceeds \$500,000; and
  - c. A payment bond is not obtained in accordance with Utah Code Ann. § 14-2-1.
3. Notice of Completion: Upon final completion of a construction project (regardless of whether a notice of intent to obtain final completion has been filed), a notice of completion may be filed with the State Construction Registry, including the name, address, telephone number, and e-mail address of the person filing the notice of completion; the name of the County in which the project property is located; information identifying the District's construction project; the date on which final completion occurred, and the method used to determine final completion; all as allowed by Utah Code Ann. § 38-1a-507.

H. **Retainage**: Retention proceeds withheld and retained from any payment due under the terms of a construction contract may not exceed 5% of the payment, and total retention proceeds withheld may not exceed 5% of the total construction price, as provided in Utah Code Ann. § 13-8-5. Furthermore, all retention proceeds shall be placed in an interest bearing account and be accounted for separately from other amounts paid under the contract. Interest accrued on the account shall be for the benefit of the contractor and all subcontractors of every tier and will be paid after the construction project is complete and has been accepted by the District, unless the District assumes partial occupancy of the project prior to completion, in which event proportionate accrued interest will be released within 45 days after partial occupancy.

1. Withholding Based on Breach: Based upon a breach of the construction contract documents, the District may withhold payment, for as long as reasonably necessary, an amount which is necessary to cure the breach or default or, if the project, or portion of a project as applicable, has substantially been completed, the District may retain until final completion up to twice the fair market value of any work that has not been completed.

## XII. INSPECTIONS

- A. **Justification**: Circumstances under which the District may perform inspections include inspections of the contractor's manufacturing/production facility or place of business, or any location where the work is performed, to determine: whether the definition of "responsible", as defined in Section 63G-6a-103 of the Act and in the solicitation documents, has been met or is capable of being met; and if the contract is being performed in accordance with its terms.
- B. **Access to Contractor's Manufacturing/Production Facilities**: The District may enter a contractor's or subcontractor's manufacturing/production facility or place of business to:
- (a) inspect procurement items for acceptance by the District pursuant to the terms of a



contract; (b) audit cost or pricing data or audit the books and records of any contractor or subcontractor; and (c) investigate in connection with an action to debar or suspend a vendor from consideration for award of a contract.

**C. Inspection of Supplies and Services:**

1. Contract to Control: Contracts may provide that the District may inspect procurement items at the contractor's or subcontractor's facility and perform tests to determine whether any procurement item conforms to solicitation and contract requirements.

**D. Conduct of Inspections:** Inspections or tests shall be performed so as not to unduly delay the work of the contractor or subcontractor. No inspector may change any provision of the specifications or the contract without written authorization by the Procurement Official. The presence or absence of an inspector or an inspection shall not relieve the contractor or subcontractor from any requirement of the contract. When an inspection is made, the contractor or subcontractor will be expected to provide, without charge, all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.

### **XIII. PRICE AND COST**

**A. Price Adjustments:** A contract may allow price adjustments, but cost or pricing data shall be required in support of a proposal leading to the adjustment of any contract pricing. All accounting for contracts and contract price adjustments, including allowable incurred costs, shall be conducted in accordance with generally accepted accounting principles for government.

1. Exceptions: Cost or pricing data exceptions:
  - a. Cost or pricing data need not be submitted when the terms of the contract state established market indices, or catalog prices or other benchmarks are to be used as the basis for contract price adjustments, or when prices are set by law or rule;
  - b. If a contractor submits a price adjustment that is higher than established market indices, catalog prices or other benchmarks established in the contract, the Procurement Official may request additional cost or pricing data; or
  - c. The Procurement Official may waive the requirement for cost or pricing data, provided a written determination is made supporting the reasons for the waiver. A copy of the determination shall be kept in the contract file.
2. Computation: Adjustments in price shall be computed in one or more of the following ways: (a) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable; (b) by unit prices specified in the contract or subsequently agreed upon; (c) by the

costs attributable to the events or situations under the clauses with adjustment of profit or fee, all as specified in the contract or as subsequently agreed upon; (d) in any other manner as the contracting parties may mutually agree; or (e) in the absence of agreement by the parties, by a unilateral determination by the District of the costs attributable to the events or situations under the clauses with adjustment of profit or fee, all as computed by the District in accordance with applicable provisions of Part XIII, which are issued as allowed by Utah Code Ann. § 63G-6a-1206, and subject to other applicable provisions of the Act.

3. Defective Costs or Pricing Data: If defective cost or pricing data was used to adjust a contract price, the vendor and the District may enter into discussions to negotiate a settlement. If a settlement cannot be negotiated, either party may seek relief through the courts.
4. Price Analysis:
  - a. Price analysis may be used to determine if a price is reasonable and competitive, such as when:
    - i. There are a limited number of bidders or offerors;
    - ii. Awarding a sole source contract before engaging in a standard procurement process; or
    - iii. Identifying price outliers that are significantly lower or higher than the other bids or offers.
  - b. Price analysis involves a comparison of prices for the same or similar procurement items, including quality, warranties, service agreements, delivery, contractual provisions, terms and conditions, etc.
  - c. Examples of a price analysis include:
    - i. Prices submitted by other prospective bidders or offerors;
    - ii. Price quotations;
    - iii. Previous contract prices;
    - iv. Comparisons to the existing contracts of other public entities; and
    - v. Prices published in catalogs or price lists.
5. Cost Analysis: Cost analysis includes the verification of cost data. Cost analysis may be used to evaluate:
  - a. Specific elements of costs;
  - b. Total cost of ownership and life-cycle cost;
  - c. Supplemental cost schedules;

- d. Market basket cost of similar items;
  - e. The necessity for certain costs;
  - f. The reasonableness of allowances for contingencies;
  - g. The basis used for allocation of indirect costs; and,
  - h. The reasonableness of the total cost or price.
6. Audit: The District may, at reasonable times and places, audit or cause to be audited by an independent third party firm, by another procurement unit, or by an agent of the District, the books, records, and performance of a contractor, prospective contractor, subcontractor, or prospective subcontractor.
7. Retention of Books and Records: Contractors shall maintain all records related to the contract for at least six years after the final payment, unless a longer period is required by law.
8. Applicable Credits: Applicable credits are receipts or price reductions which offset or reduce expenditures allocable to contracts as direct or indirect costs. Examples include a purchase discount, rebate, allowance, recovery or indemnification for losses, sale of scrap and surplus equipment and materials, adjustments for overpayments or erroneous charges, and income from employee recreational or incidental services and food sales.
9. Use of Federal Cost Principles:
- a. In dealing with contractors operating according to federal cost principles, the Procurement Official may use federal cost principles, including the determination of allowable, allocable, and reasonable costs, as guidance.
  - b. In contracts not awarded under a program which is funded by federal assistance funds, the Procurement Official may explicitly incorporate federal cost principles into a solicitation, and thus into any contract awarded pursuant to that solicitation. The Procurement Official and the contractor, by mutual agreement, may incorporate federal cost principles into a contract during negotiation or after award.
  - c. In contracts awarded under a program which is financed in whole or in part by federal assistance funds, all requirements set forth in the assistance document, including specified federal cost principles, must be satisfied. To the extent that the cost principles specified in the grant document conflict with the cost principles issued pursuant to Section 63G-6a-1206 of the Act, the cost principles specified in the grant shall control.

10. Authority to Deviate from Cost Principles: Before the District may deviate from the cost principles set forth in this Policy, a written determination must be made by the Procurement Official specifying the reasons for the deviation. The written determination shall be made part of the contract file.
11. Failure by Vendor: The District may consider a vendor to be in breach of its contract and may initiate debarment or suspension proceedings against a vendor or pursue any other legal action, based on any of the following:
  - a. Failure to maintain or provide records in accordance with the contract;
  - b. Failure to respond to an audit;
  - c. Failure to correct errors or repay overcharges or acts of fraud documented in an audit; or
  - d. Other valid reasons as determined by the Procurement Official.

#### **XIV. MULTIPLE AWARD CONTRACTS – INDEFINITE QUANTITY CONTRACT**

As authorized under Section 63G-6a-1204.5 of the Act, the District may enter into multiple award contracts.

- A. Multiple Award: A multiple award contract is a procurement process where two or more bidders or offerors are awarded a contract under a single solicitation. Purchases are made through an order placed with one of the contractors pursuant to the procedures established in the solicitation and the contract. Contractors receiving a contract award are not guaranteed that procurement items will be purchased from them under their contracts.
  1. Use: A multiple award contract may be awarded under a single solicitation to two or more bidders or offerors when similar procurement items are needed for:
    - a. Coverage on a regional basis or based on other criteria specified by the District in the solicitation such as:
      - i. Delivery;
      - ii. Service;
      - iii. Product availability; or
      - iv. Compatibility with existing equipment or infrastructure.
  2. Solicitation: In addition to the requirements set forth in Sections 63G-6a-603 and 63G-6a-703 of the Act, when it is anticipated that a procurement will result in multiple contract awards, the solicitation shall include a statement that:
    - a. Indicates that contracts may be awarded to more than one bidder or offeror;

- b. Specifies whether contracts will be awarded on a regional basis or based on a specified requirement of the District; and
  - c. Describes specific methodology or a formula that will be used to determine the number of contract awards.
- 3. Invitation for Bids: Multiple award contracts in an invitation for bids shall be issued in accordance with Part 6 of the Act to the lowest responsive and responsible bidders meeting the objective criteria described in the invitation for bids and may be awarded to provide adequate regional coverage, meet a specified requirement of the District, or satisfy delivery or product availability needs of the District using the following methods:
  - a. Lowest bid for all solicited procurement items provided:
    - i. The solicitation indicates that multiple contracts will be awarded to the lowest bidders for all procurement items being solicited as determined by a break in prices specifically stated in the solicitation, such as any price within a specific percentage (for example 5%) of the lowest responsive and responsible bid price, or other methodology described in the solicitation;
  - b. Lowest bid by Category provided:
    - i. The solicitation indicates that contracts will be awarded based on the lowest bid in a category; and
    - ii. Only one bidder may be awarded a contract per category if so specified in the solicitation;
  - c. Lowest bid by line item provided:
    - i. The solicitation indicates that contracts will be awarded based on the lowest bid per line item; and
    - ii. Only one bidder may be awarded a contract per line item if so specified in the solicitation;
  - d. Any combination of (a), (b) and/or (c) above, or
  - e. Any other methodology described in the solicitation.
  - f. All responsive and responsible bidders may be awarded a contract, provided the contracts specifically direct that orders must be placed first with the low bidder unless the lowest cost bidder cannot provide the needed procurement item, then with the second lowest bidder unless the second lowest cost bidder cannot provide the needed procurement item, then with the third lowest bidder unless the third lowest cost bidder cannot provide the needed procurement item, and so on in order from the lowest

cost responsive and responsible bidder to the highest cost responsive and responsible bidder until the order is filled or the list of responsive and responsible bidders has been exhausted.

4. Request for Proposals: The award of multiple contracts in a request for proposals shall be made in accordance with Part 7 of the Act and may be awarded on a regional basis or based on other criteria set forth in the solicitation and in accordance with point thresholds and other methodology set forth in the RFP describing how multiple award contracts will be awarded with enough specificity to avoid the appearance of favoritism affecting the decision of whether to award multiple contracts and who should receive a multiple award contract.
5. Multiple Award Contracts for Unidentified Procurement Items:
  - a. An unidentified procurement item is defined as a procurement item that, at the time the solicitation is issued:
    - i. Has not been specifically identified but will be identified at some time in the future, such as an approved vendor list or approved consultant list.
    - ii. Does not have a clearly defined project or procurement specific scope of work; and
    - iii. Does not have a clearly defined project or procurement specific budget.
  - b. Unidentified procurement items may be procured under approved vendor list thresholds established by the Board.
  - c. An RFP, Request for Statements of Qualifications or other solicitation issued for a multiple award contract for unidentified procurement items must specify the methodology that will be used to determine which vendor under the multiple award contract will be selected to receive an order.
    - i. The methodology must include a procedure to document that the District is obtaining best value, including an analysis of cost and other evaluation criteria outlined in the solicitation.
    - ii. The methodology must also ensure the fair and equitable treatment of each multiple award contract vendor, including using methods to select a vendor such as:
      - (1) Using a rotation system, organized alphabetically, numerically, or randomly;
      - (2) Assigning a potential contractor to a specified geographical area;
      - (3) Classifying each potential contractor based on the potential contractor's field or area of expertise; or
      - (4) Obtaining quotes or bids from two or more contractors.

6. Ordering From Multiple Award Contracts:

- a. When buying procurement items under a multiple award contract that was awarded through an invitation for bids, the District shall obtain a minimum of two quotes for the procurement item(s) being purchased and place the order with the contractor with the lowest quoted price.
  - i. The requirement to obtain two or more quotes is waived when only one bidder was awarded a contract for the particular procurement item or geographical area.
  - ii. The order need not be placed with the lowest cost contract bidder if that bidder cannot provide the needed procurement item, in which event the order may be placed with the second lowest cost bidder unless the second lowest cost bidder cannot provide the needed procurement item, and so on, in order, until a contract bidder is selected or the list of contract bidders is exhausted.
  - iii. If the methodology described in the solicitation is based on criteria other than the lowest quoted price, the designated methodology shall control.
- b. When buying a procurement item under a multiple award contract that was awarded through an RFP, the District may place orders based on the District's determination as to which contractor or procurement item best meets the needs of the District. Contracts awarded through the RFP process are awarded based on the best value to the District, taking into consideration price and the other specific non-price criteria set forth in the RFP. Consequently, all contractors and procurement items under contract issued through an RFP have been determined to provide best value to the District.
- c. A multiple award contract may not be used to steer purchases to a favored contractor or use any other means or methods that do not result in fair consideration being given to all contractors that have been awarded a contract under a multiple award.

7. Primary and Secondary Contracts:

- a. Designations of multiple award contracts as primary and secondary may be made if a statement to that effect is contained in the solicitation documents.
- b. When the Procurement Official or designee determines that the need for a procurement item will exceed the capacity of any single primary contractor, secondary contracts may be awarded to additional contractors.



- c. Purchases under primary and secondary contracts will be made, initially from the primary contractor offering the lowest contract price until the primary contractor's capacity has been reached or the items are not available from the primary contractor, then from secondary contractors in progressive order from lowest price or best availability to the next lowest price or best availability, and so on.
- 8. Intent to Use: If a multiple award is anticipated prior to issuing a solicitation, the method of award shall be stated in the solicitation.
- B. **Contract Types**: The District may use contract types as authorized by Section 63G-6a-1205 of the Act.
- C. **Prepayments and Installment Payments**: Prepayments and installment payments are subject to the restrictions contained in Section 63G-6a-1208 of the Act.
- D. **Leases of Personal Property**:
  - 1. Requirements: Leases of personal property are subject to the following:
    - a. A lease (including a lease with a purchase option) may be entered into provided that the District complies with Section 63G-6a-1209 of the Act and:
      - i. The lease is in the best interest of the District;
      - ii. All conditions for renewal and costs of termination are set forth in the lease; and
      - iii. The lease is not used to avoid a competitive procurement.
  - 2. Completion Requirement: Lease contracts will be conducted with as much competition as practicable under the circumstances.
  - 3. Modification of Contract Terms: Contract clauses may be as set forth in standard documents approved from time to time by the Board maintained at the office of the District. However, the Manager, the Procurement Official or the Board may modify the clauses for inclusion in any particular contract. Any variation may be supported by a written determination that describes the circumstances justifying the variation, and a notice of any material variation may be included in the invitation for bids or requests for proposals.

## XV. **PROCUREMENT OF DESIGN PROFESSIONAL SERVICES**

- A. **Hiring a Professional Architect, Engineer, Master Planner and Programmer, or Commercial Interior Designer**: The District generally will consider, as a minimum, in the selection process to secure architecture, engineering, master planning and programming, or commercial interior design services ("design professional services") (a) the qualifications, experience and background of each firm (or individual if the

professional is not part of a firm) submitting a proposal; (b) the specific individual(s) assigned or to be assigned to the project and the time commitments of each to the project; and (c) the project schedule and approach to the project that each firm (or individual) will take. The District may engage the services of a design professional based on the above and/or other identified criteria rather than based solely on the lowest cost. The provisions of Part 15 of the Procurement Code apply to the procurement of design professional services.

1. Evaluation Committee: The Procurement Official shall designate members of the Evaluation Committee. The evaluation committee must consist of at least three members who are qualified under Section 63G-6a-1503 of the Act.
2. Request for Statements of Qualifications:
  - a. The District will issue a public notice for a request for statements of qualifications to be used in ranking design professionals.
  - b. A request for statement of qualifications will state:
    - i. The type of procurement item to which the request for statements of qualifications relates;
    - ii. The scope of the work to be performed;
    - iii. The instructions and the deadline for providing information in response to the request for statements of qualifications; and
    - iv. Criteria to be used to evaluate statements of qualifications including:
      - (1) Basic information about the person or firm;
      - (2) Experience and work history;
      - (3) Management and staff;
      - (4) Qualifications;
      - (5) Licenses and certifications;
      - (6) Applicable performance ratings;
      - (7) Financial statements; and
      - (8) Other pertinent information.
  - c. Key personnel identified in a statement of qualifications may not be changed without the advance written approval of the Procurement Official.
  - d. Design professionals shall not include cost information in a response to a request for statements of qualifications.
3. Evaluation of Statements of Qualifications: The evaluation committee shall evaluate statements of qualifications in accordance with Section 63G-6a-1503.5 of the Act to rank (score) design professionals.

4. Negotiation and Award of Contract: The Procurement Official or designee shall negotiate a contract with the most qualified firm or individual for the required services at compensation determined to be fair and reasonable.
5. Failure to Negotiate Contract With the Highest Ranked Firm or Individual:
  - a. If fair and reasonable compensation, contract requirements, and contract documents cannot be agreed upon with the highest ranked firm or individual, the Procurement Official shall advise the firm or individual in writing of the termination of negotiations.
  - b. Upon failure to negotiate a contract with the highest ranked firm or individual, the Procurement Official shall proceed in accordance with Section 63G-6a-1505 of the Procurement Code.
6. Notice of Award:
  - a. The District may award a contract to the highest ranked firm or individual with which the fee negotiation was successful.
  - b. Notice of the award shall be made available to the public.

**B. Contract Extensions:** Subject to Section IV.A. of this Policy and to the extent allowed by law, contracts with consultants providing design professional services may be extended from year-to-year in the discretion of the Procurement Official.

**C. Other Professional Services:** A contract with a consultant providing other professional or technical services, such as accounting or legal services, may be entered into as a small purchase under Part V or using the Request for Statements of Qualifications procedure applicable to design professionals or the Request for Proposals procedure.

## **XVI. BONDS**

Performance, payment and other bonds in such amounts as shall be reasonably necessary to protect the interests of the District may be required. The nature, form and amount of such bonds are to be described in the notice inviting bids or in the request for competitive sealed proposals, regardless of the procurement type (construction, equipment, etc.).

### **A. Bid Security Requirements:**

1. Construction: Invitations for Bids and Requests for Proposals for construction contracts estimated to cost more than \$50,000 generally will require the submission of a bid bond in an amount equal to at least 5% of the bid, at the time the bid is submitted, and the Procurement Official may require a bid bond for a construction contract that is estimated to cost \$50,000 or less.

2. Other Procurements: Invitations for Bids and Requests for Proposals for other procurements may require the submission of a bid security, including specifications for the form and type of bid security, when the Procurement Official determines it to be in the best interest of the District.
  3. Acceptable Bid Security Not Furnished: If a bid security is required and acceptable bid security is not furnished, the bid shall be rejected as nonresponsive, unless the failure to comply is determined by the Procurement Official to be nonsubstantial. Failure to submit an acceptable bid security may be deemed nonsubstantial if:
    - a. The bid security is submitted on a form other than the required bid bond form and the bid security meets all other requirements of this Policy and the contractor provides acceptable bid security by the close of business of the next succeeding business day after being notified of the defective bid security;
    - b. Only one bid is received, and there is not sufficient time to re-solicit;
    - c. The amount of the bid security submitted, though less than the amount required by the Invitation for Bids or RFP, is equal to or greater than the difference in the price stated in the next higher acceptable bid; or
    - d. The bid security becomes inadequate as a result of the correction of a mistake in the bid or bid modification which is allowed by this Policy, if the bidder increases the amount of the guarantee to required limits within 2 business days after the bid opening.
  4. Forfeiture: If the successful bidder fails or refuses to enter into the contract or furnish the additional bonds required as provided above, the bidder's bid security may be forfeited.
- B. Performance Bonds for Construction Contracts:** A performance bond is required for all construction contracts estimated to cost in excess of \$50,000, in the amount of 100% of the contract price. The performance bond shall be delivered by the contractor to the District within fourteen days of the contractor receiving notice of the award of the construction contract. If a contractor fails to deliver the required performance bond, the contractor's bid/offer shall be rejected, its bid security may be enforced, and award of the contract may be made to the responsible bidder or offeror with the next lowest responsive bid or the next highest ranked offer.
- C. Surety or Performance Bonds for Non-construction Procurement Items:**
1. Permissive: A surety or performance bond may be required on any non-construction contract as the Procurement Official deems necessary to guarantee the satisfactory completion of a contract, provided the Invitation for Bids or

Request for Proposals contains a statement that a surety or performance bond is required in an amount:

- a. Equal to the amount of the bid or offer;
  - b. Equal to the project budget or estimated project cost, if the budget or estimated project cost is published in the solicitation documents;
  - c. Equal to the previous contract cost, if the previous contract cost is published in the solicitation documents; or
  - d. The Invitation for Bids or Request for Proposals contains a statement that a surety or performance bond, in an amount less than the amount determined under (a), is required; and
  - e. The Invitation for Bids or Request for Proposals contains a detailed description of the work to be performed or item(s) to be provided for which the surety or performance bond is required.
2. Limitation: Surety or Performance Bonds should not be used to unreasonably eliminate competition or be of such unreasonable value as to eliminate competition.

**D. Payment Bonds:** A payment bond is required for all construction contracts estimated to cost in excess of \$50,000, in the amount of 100% of the contract price. If a contractor fails to timely deliver the required payment bond, the contractor's bid or offer shall be rejected, its bid security may be enforced, and award of the contract shall be made to the responsible bidder or offeror with the next lowest responsive bid or the next highest ranked offer.

1. Waiver: The Procurement Official may waive any bonding requirement if it is determined in writing by the Procurement Official that:
  - a. Bonds cannot reasonably be obtained for the work;
  - b. The cost of the bond exceeds the risk to the District; or
  - c. Bonds are not necessary to protect the interests of the District.
2. Failure to Obtain: If the District fails to obtain a payment bond for a construction project, there may be liability to anyone furnishing labor or supplying materials for the construction project as provided in Utah Code Ann. § 14-1-19.

## **XVII. PROHIBITED ACTS/ETHICS**

**A. Supremacy of Law:** Nothing contained in this Policy shall be construed to authorize conduct that would constitute a crime under any applicable law or ordinance. The

requirements of Part XVII shall apply *in addition* to other legal requirements, including, but not limited to, Utah Code Ann. §§ 67-16-1 *et. seq.* (the Utah Public Officers' and Employees' Ethics Act which, among other things, prohibits the improper disclosure or use of private, controlled or protected information) and applicable sections of Chapter 8 of Title 76 of the Utah Code (dealing with offenses against the administration of government such as bribery). It is the general policy of the District that employees and members of the Board not receive compensation for assisting any person or entity in a transaction involving the District. For any departure from that general policy to be countenanced, the employee or Board Member must sign and file the sworn, written statement required by Utah Code Ann. § 67-16-6.

- B. Conflict of Interest:** No member of the Board or employee of the District may have a direct or indirect interest in any contract entered into by the District unless such interest is disclosed to the Board before the contract is approved. A Board member or employee will be presumed to have an indirect interest in any contract in which a relative of the Board member or employee, as "relative" is defined in Utah Code Ann. § 52-3-1(1) (a father, mother, husband, wife, son, daughter, sister, brother, grandfather, grandmother, uncle, aunt, nephew, niece, grandson, granddaughter, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law), holds a direct interest in the contract. Any Board member who is interested in a proposed contract with the District shall disclose that interest to the other Board members, shall not participate in any Board discussion of the contract, and shall abstain from voting on the contract. An interested Board member may, however, be counted toward the required quorum for any Board meeting attended by the interested Board member. Any employee who has an interest in a proposed contract with the District shall so notify the Manager and the Board in writing. Such employee may not participate in any evaluation of the proposed contract or of any competing bids or proposals. Before the Board may approve any contract in which a Board member or employee has a known interest, the Board must make a finding to the effect that the proposed contract is in the best interest of the District and is significantly better than any available alternative. A violation of the requirements of this Subsection, including the required advance notification of any conflict of interest, may subject the violator to discipline, including dismissal or termination. Approval of a contract in which a relative of a District Board member or employee holds a direct interest shall not be invalid, and the Board member or employee shall not be subject to sanctions, if the Board member or employee was not aware of the interest of the relative prior to the approval of the contract. The burden shall be on the Board member or employee to establish this lack of knowledge, should an issue be raised concerning the contract in which the relative holds a direct interest.
- C. Nepotism Prohibited:** Nothing contained in this Policy shall be construed to authorize a violation of Utah Code Ann. §§ 17B-1-110 and 52-3-1, which generally prohibit the employment of relatives.
- D. Improper Influence:** No employee or official of the District shall use his/her position with the District to pressure, coerce, or otherwise improperly induce any vendor or other person to provide a special benefit to the employee or official that would not generally be available to others. By way of illustration, no employee or Board member may threaten



or imply that a vendor's failure to provide a favorable price or other concession on a personal purchase will or may jeopardize the vendor's relationship with the District.

- E. **Collusion:** Any agreement or collusion among vendors or prospective vendors in restraint of competition and/or fairness shall render the bids/proposals of each such vendor void, if detected before the contract is awarded, or constitute grounds for the District to void any contract to a participant in the collusion if finally determined after the contract has been awarded, and may also result in the debarment of participating potential vendors.
- F. **Sales Taxes:** As a governmental entity, the District is not required to pay a sales tax on certain of its purchases.<sup>2</sup> No employee or official shall use the District's immunity from sales tax collection to avoid the payment of sales tax on personal purchases, except as otherwise provided in Subsection H.1 below.
- G. **Gifts and Gratuities:** No employee or official shall accept any gift or gratuity from any vendor who deals, or desires to deal, with the District that would violate any provision of state law, criminal or otherwise. This restriction is not intended to prohibit small promotional gifts, such as calendars, pens, candy, note pads, etc., of a relatively nominal value that are commonly utilized for public relations or advertising purposes and which do not otherwise violate state law under Utah Code Ann. § 67-16-5. Similarly, this restriction is not intended to prohibit business lunches and dinners *provided* they are in harmony with the District's rules and regulations and do not violate applicable state law.
- H. **Personal Purchases:** No District employee or official shall purchase goods or services for personal use and ownership using the District's name, any District account, or District funds without prior approval by the Board, which approval is to be granted sparingly, if at all. The District shall immediately be reimbursed, either directly or through payroll withholding, for the costs of all such goods and services that are purchased for individual use and ownership by a District employee or Board member.
1. **No Personal Use or Ownership - Exceptions:** Notwithstanding the foregoing prohibition, with the approval of the Manager, goods and services may be purchased in the name of the District, through a District account, and/or utilizing District funds, even though those goods and services will become the personal property of employees or officials of the District, *provided* that any such good or service is to be utilized by the employee or official in performing his or her duties for the District. For example, a monetary allowance may be provided by the district for work boots for members of a District work crew.
  2. **Personal Purchases - Validity:** Nothing contained in this Policy shall prohibit or prevent either employees or officials from purchasing from vendors who also provide goods or services to the District *provided* that such private purchases are clearly denoted as such and are made in the name of the employee or official. Furthermore, nothing contained in this Policy shall prohibit employees or officials

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<sup>2</sup> A sales tax will apply to construction materials that aren't installed by the District's own employees. See UTAH CODE ANN. § 59-12-104(2)(a).



from receiving discount or membership cards from District vendors *provided* that such cards and memberships are in the name of the individual employee or official, all purchases are billed to and paid for directly by the employee or official, and such cards and memberships are made available to members of the public as a whole, or to a subgroup of the public, and are not based upon the employee's or official's position with the District.

- I. **Favored Vendor:** District employees and officers are prohibited from taking any act, or refusal or failure to act, with the intention of unfairly, by means of deceit or in violation of law, favor one vendor over another in the process of awarding a contract or making a purchase or that otherwise results in an action or treatment that a reasonable person would consider to be unfair or have the appearance of being unfair. Any violation of this restriction shall be subject to discipline up to and including termination.
  
- J. **Personal Relationship, Favoritism, or Bias Prohibitions:** District employees and officials are prohibited from participating in precontract discussions or decisions relating to the procurement administration process if they have a relationship or a bias that would appear to a reasonable person to influence their independence in performing their assigned duties relating to the procurement process. This restriction shall not be construed as preventing an employee from having a bias in response to contents of the solicitation response or in regard to the solicitation criteria.
  - 1. **Written disclosure:** If an employee has a personal, relationship or bias for or against any individual, group, organization or vendor responding to the invitation to bid, RFP or other solicitation, the employee must make a written disclosure of the relationship or bias to the employee's supervisor and the supervisor may take appropriate action, which may include recusing the employee from discussions or decisions relating to the solicitation, contract or administration matter in question.
  - 2. **Allowable Relationships and Social Acquaintances:** It is not a violation for an employee or official to participate in discussions or decisions relating to the procurement, contract or administration process to have a professional relationship with a person, contractor or vendor responding to a solicitation or that is under contract with the District, provided that there is compliance with the Utah Public Officers' and Employees' Ethics Act and other applicable state laws and this Policy.
  
- K. **Procurement Professional**<sup>3</sup>: Should any employee of the District be classified as a "Procurement Professional" as defined in Section 63G-6a-2402 of the Act, the Procurement Professional shall be governed by Part 24 of the Procurement Code, in addition to other applicable laws.
  - 1. **Socialization With Vendors and Contractors:** A Procurement Professional shall not:

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<sup>3</sup> It is anticipated that very few special districts or special service districts will employ a "Procurement Professional" who effectively is dedicated to procurement activities, in which event Subsection K will not apply.

- a. Participate in social activities with vendors or contractors that will interfere with the proper performance of the Procurement Professional's duties;
  - b. Participate in social activities with vendors or contractors that will lead to unreasonably frequent disqualification of the Procurement Professional from the procurement process; or
  - c. Participate in social activities with vendors or contractors that would appear to a reasonable person to undermine the Procurement Professional's independence, integrity, or impartiality.
2. Duty to Notify Supervisor: If a Procurement Professional participates in a prohibited social activity, or has a close personal relationship with a vendor or contractor, the Procurement Professional shall promptly notify the appropriate supervisor and the supervisor shall take appropriate action, which may include removal of the Procurement Professional from the affected procurement or contract administration process.

## **XVIII. CONTROVERSIES AND PROTESTS**

### **A. Procurement Code Provisions:**

- 1. Part 16: Controversies and protests shall be conducted in accordance with the requirements set forth in Part 16 of the Act. Unless otherwise designated by the Board, the Procurement Official shall be the "Protest Officer".
  - a. An individual is not precluded from acting, disqualified, or required to recuse himself or herself from acting as the Protest Officer due to having acted in another capacity during the procurement process.
- 2. Part 19: Part 19 of the Procurement Code contains general provisions regarding a protest or an appeal including:
  - a. Limitations on challenges of:
    - i. A procurement;
    - ii. A procurement process;
    - iii. The award of a contract relating to a procurement;
    - iv. A debarment; or
    - v. A suspension; and
  - b. The effect of a timely protest or appeal;
  - c. Costs awarded to or against a protester;

- d. The effect of prior determinations by employees, agents, or other persons appointed by the District;
  - e. The effect of a violation found after award of a contract;
  - f. The effect of a violation found prior to the award of a contract;
  - g. Interest rates; and
  - h. A list of protest or appeal determinations that are final and conclusive unless they are arbitrary and capricious or clearly erroneous.
3. No District Legal Assistance: The District will not assist a vendor in writing or filing a procurement protest or appeal. Due to the complex nature of protests and appeals, any person involved in the process is encouraged to seek advice from the person's legal counsel.

**B. General:** Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Protest Officer.

1. Deadline. A protest with respect to the invitation for bids or a request for proposals is to be submitted in writing prior to the opening of bids or the closing date for proposals, unless the aggrieved person did not know and should not have known of the facts giving rise to the protest prior to the bid opening or the closing date for proposals. In any event, the protest shall be submitted in writing within 7 days after the aggrieved person knows or should have known of the facts giving rise thereto. Anyone failing to file a protest within the time prescribed may not:
- a. Protest to the Protest Officer a solicitation or award of a contract; or
  - b. File an action or appeal challenging a solicitation or award of a contract before an appeals panel, a court, or any other forum.
2. Protest Document. A person filing a protest shall include in the filing document:
- a. The person's address of record and e-mail address of record; and
  - b. A concise statement of the grounds upon which the protest is made.
3. Resolution/Correction of Errors: The Protest Officer or designee shall have the authority to settle and resolve a protest. Furthermore, if at any time during the protest process it is discovered that a procurement is out of compliance with any part of the Procurement Code or this Policy, including errors or discrepancies, the Protest Officer may take administrative action to correct or amend the procurement to bring it into compliance, correct errors or discrepancies, or cancel the procurement.

- C. **Verification of Legal Authority:** A person filing a protest in a representative capacity may be asked to verify that the person has legal authority to file the protest on behalf of the public or private corporation, governmental entity, sole proprietorship, partnership, or unincorporated association (the “intervenor”).
- D. **Intervention in a Protest:** After a timely protest is filed in accordance with the Utah Procurement Code, the Protest Officer shall notify awardees of the subject procurement, and may notify others, of the protest.
1. **Period of Time to File:** A motion to intervene must be filed with the Protest Officer no later than ten days from the date such notice is sent by the Protest Officer. Only those motions to intervene made within the time prescribed in this Part XVIII will be considered timely. The District and the intended beneficiaries of the procurement (the intended awardee of the procurement) are automatically considered to be parties of record and need not file a motion to intervene.
  2. **Contents of a Motion to Intervene:** A copy of any motion to intervene will be mailed or e-mailed to the party protesting the procurement.
    - a. Any motion to intervene must state, to the extent known, the position taken by the intervenor and the basis in fact and law for that position. A motion to intervene must also state the intervenor's interest in sufficient factual detail to demonstrate that:
      - i. The intervenor has a right to participate which is expressly conferred by statute or by applicable rule, order, or other action;
      - ii. The intervenor has or represents an interest which may be directly affected by the outcome of the proceeding, including an interest as a consumer; customer; competitor; security holder of a party; or the person’s participation is in the public interest.
  3. **Granting of Status:** If no written objection to a timely motion to intervene is filed with the Protest Officer within seven calendar days after the motion to intervene is received by the protesting person, the intervenor becomes a party at the end of this seven day period. If an objection is timely filed, the intervenor becomes a party only when the motion is expressly granted by the Protest Officer based on a determination that a basis for intervention exists as stated in this Part XVIII.
  4. **Late Motion:** If a Motion to Intervene is not timely filed, the Motion shall be denied by the Protest Officer.

E. **Delay in Award of Contract:** In the event of a timely protest under Subsection B. above, the District will not proceed further with the solicitation or with the award of the contract until all administrative and judicial remedies have been exhausted or until the Procurement Official, after consultation with the District's attorney, makes a written determination that the award of the contract without delay is in the best interest of the District.

F. **Proceedings to Debar/Suspend Potential Contractors:**

1. **Debarment:** After reasonable notice to the person/entity involved and a reasonable opportunity for that person/entity to be heard, the Procurement Official, after consulting with the District's attorney, shall have authority to debar a person/entity for cause from consideration of award of a contract for a period not exceeding three years.
2. **Suspension:** The Procurement Official, after consultation with the District's attorney, shall have authority to suspend a person/entity from consideration for the award of a contract if there is probable cause to believe that the person/entity has engaged in any activity which might lead to debarment. The suspension shall not be for a period exceeding three months unless an indictment has been issued for an offense which would be a cause for debarment as set forth in Utah Code Ann. § 63G-6a-904, in which event the suspension shall, at the request of the District's attorney, remain in effect until after the trial of the suspended person.

G. **Resolution of Controversies:** The Procurement Official is authorized to settle and resolve a controversy which arises between the District and a contractor under or by virtue of a contract. This includes, without limitation, controversies based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission.

H. **Written Decision:** The Procurement Official shall promptly issue a written decision regarding any protest, debarment or suspension or contract controversy if it is not settled by mutual agreement. The decision shall state the reasons for the action taken and inform the protestor, contractor, or prospective contractor of the right to administrative or judicial review as provided in Parts 17 and 18 of the Act.

I. **Timing and Finality of Decision:**

1. **Adverse Decision Presumed After 30 Days:** As provided in Section 63G-6a-1603(9) of the Act, if a final written decision regarding a protest is not issued within 30 calendar days after the day on which the protest was filed with the Protest Officer, or within such longer period as may be agreed upon by the parties, the protester, may proceed as if an adverse decision had been received.
2. **Finality:** Except as otherwise specifically provided in this Part XVIII, a decision of the Procurement Official shall be effective until stayed or reversed on appeal.

3. **Written Decision:** Once available, a copy of the decision shall be immediately mailed or otherwise furnished to the protester, prospective contractor, or contractor and any parties that have been allowed to intervene in the proceeding. The decision shall be final and conclusive unless the protester, prospective contractor, or contractor (a “vendor”) timely files and appeal to an appeals panel established by the Procurement Policy Board in accordance with Part 17 of the Act within the applicable 7 day statute of limitations period specified in Section 63G-6a-1702 of the Act.
- J. **Violation of Law:** If, before an award of a contract, it is finally determined administratively or upon administrative or judicial review that a solicitation or proposed award of a contract is in violation of law, the solicitation or proposed award shall be canceled or revised to comply with applicable law, unless different relief is mandated.
- K. **Options After Adverse Determination:** If, after an award of a contract, it is finally determined administratively or upon administrative or judicial review that a solicitation or award of a contract is in violation of law, provided that the recipient of the award has not acted fraudulently or in bad faith, unless different relief is ordered: (a) the contract may be ratified and affirmed by the District if it is determined by the Board that doing so is in the best interest of the District; or (b) the contract may be terminated and the person awarded the contract shall be compensated for the actual expenses reasonably incurred under the contract prior to termination, plus a reasonable profit.
- L. **Fraudulent Conduct by Contractor:** If, after an award of a contract, it is determined administratively or upon administrative or judicial review that a solicitation or award of a contract is in violation of law and if the recipient of the award has acted fraudulent or in bad faith, unless different relief is ordered: (a) the contract will be declared null and void; or (b) the contract may be ratified and affirmed if such action is in the best interest of the District, as determined by the Board, without prejudice to the District's rights to any appropriate damages.
- M. **Appeal to the Board:** Nothing provided in this Part XVIII shall limit the ability and authority of the Board to provide for a two-step appeal process at the District level provided that the entire proceeding is completed within the time limits stated in this Part XVIII and in Part 16 of the Procurement Code. Furthermore, the Board may designate itself as the Protest Officer at any time in the Board’s sole discretion.



Approved by the Board on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Title: \_\_\_\_\_

4855-0993-3966, v. 1

**RESOLUTION 108, APPENDIX A: PROCUREMENT ROLES:**

This Appendix may be modified at any time without board approval for the needs of designating the Procurement Official, or any Delegated Procurement Officials.

**Procurement Official:** Matthew Myers -DISTRICT

**Delegated Official:** Marty Marsing - COLLECTIONS

**Delegated Official:** Eric Nemcek - TREATMENT

**Delegated Official:** Lanese Hendrickson - PROFESSIONAL SERVICES/CONSTRUCTION

**Delegated Official:** Susanne Monsen - PROFESSIONAL SERVICES/ADMINISTRATION

**OFFICIAL INSTRUCTIONS:** Procurement officials should familiarize and understand Resolution 108. Procurement Officials must monitor the District Budget and if a purchase will cause the budget to be exceeded, coordinate with the General Manager/Chief Procurement Official. If the purchase is unique or there is uncertainty on which process to use, coordinate with the General Manager/Chief Procurement Official.

**STAFF INSTRUCTIONS:** Staff should understand that any purchases they make are under the supervision of the procurement officials listed above. Permission for routine purchases may likely be implied, but if there is doubt regarding a purchase, contact your supervisor and coordinate with a procurement official, if different than your supervisor.

LARGE PURCHASES	> \$ 50,000.00	Purchases greater than \$50,000 require that the District conduct an invitation for bids or another procurement process outlined in Resolution 108. Procurement processes may vary based on nature of item(s) purchased. The only exception to using an approved process is when the vendor has a State cooperative contract.
	\$ 50,000.00	The annual cumulative threshold for small purchases made from the same source is \$50,000.
SMALL PURCHASES	\$ 10,000.00	The single procurement aggregate threshold is \$10,000 for multiple individual procurement items purchased from one source at one time. Small Procurements between \$10,000 to \$50,000 require obtaining at least two (2) competitive quotes that meet specifications.
	\$ 5,000.00	The individual procurement item threshold is \$5,000. When purchasing an individual procurement item costing up to \$5,000, the District may select the best source by direct award without seeking competitive bids or quotes.
	NOTE: Rotation System: Whenever practicable, the District will use a rotation system or another system designed to allow for competition when using the small purchases process.	



# **Utah Sewer Rates Study**

## **Mechanical Treatment Plants and Collection System Costs**

**October 2025**

Wasatch Front Water Quality Council

Central Davis Sewer District

South Davis Sewer District



## October 2025 Sewer Rate Survey

This rate study was undertaken to provide entity management of POTW's information on how their rates compare with other medium to large mechanical treatment and collection entities around the State. The survey could also inform State policy makers on the impacts of changing regulatory requirements on sewer rates in the State and the impacts of increasing costs on citizens. During the past year, sewer rates in Utah have increased an average of 8.5% based on this and the September 2024 study. During this same time inflation using the Consumer Price Index was about 2.7% indicating that sewer rates continue to increase at a significantly higher rate than inflation.

### **Rates Volatility**

Rates volatility currently has three principal drivers causing the increases. These are

1. Significant increases in cost of supplies including specifically chemicals such as hypochlorite, alum and ferric.
2. Increased regulatory demands creating lower effluent limits and the need for construction of plant additions or in some cases entire replacement facilities.

### **Rates Analysis**

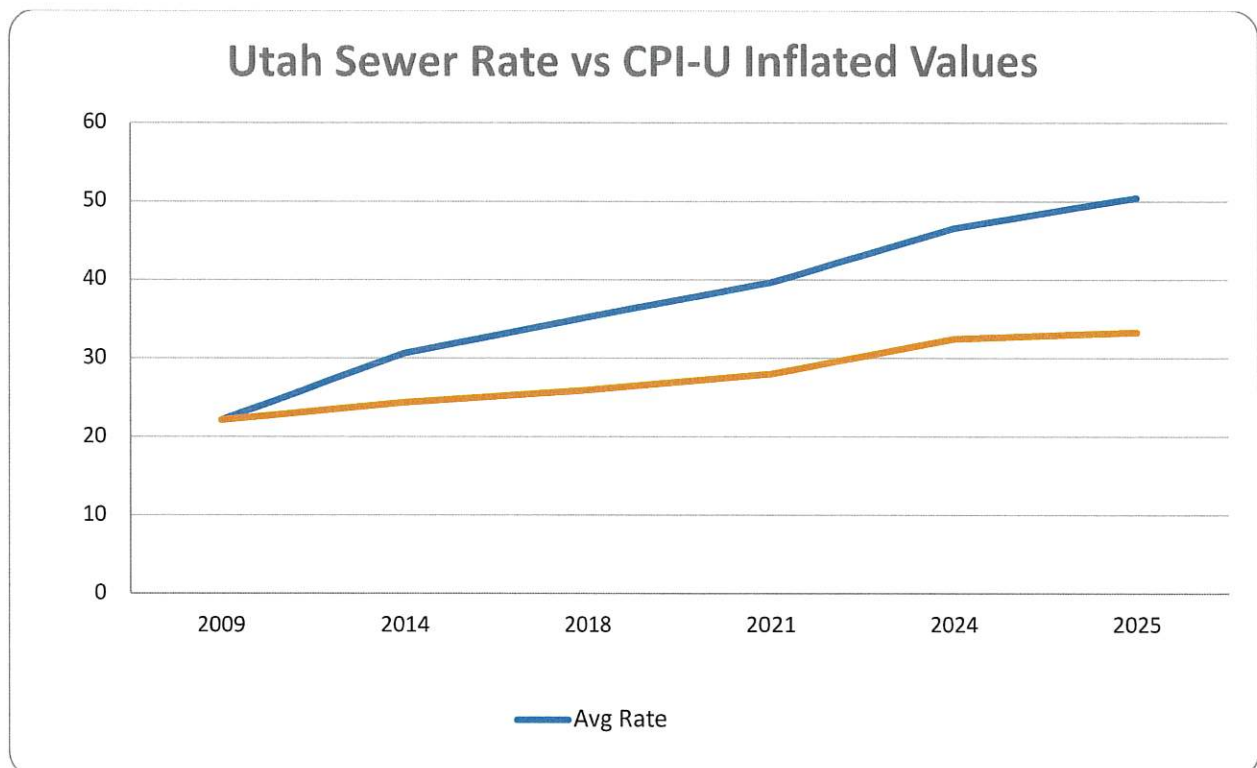
Using the property values for the service area when taxes are assessed and using the monthly per household flow of 8,000 gallons per month (based on a household size of 4 persons per household and using 65 gallons per person per day) the following average monthly service charges are calculated:

Monthly Service Charges		
MIN	\$	23.00
AVERAGE	\$	50.48
MEDIAN	\$	46.94
MAX	\$	96.00

If the tax rate revenue remains the same, but we adjust the monthly flow down to a minimum flow of 6,000 gallons per household (based on a household size of 3 persons per household and using 60 gallons per person per day the state average), the monthly service charges would go down to the following values.

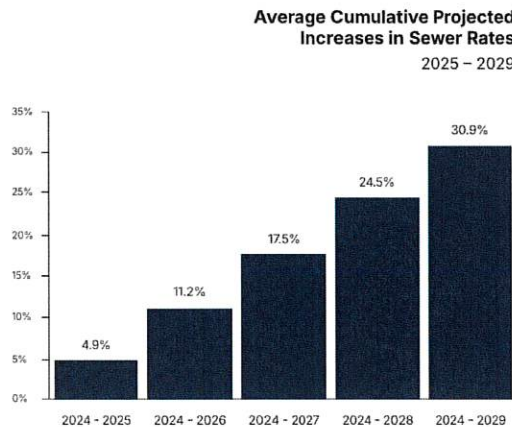
Monthly Service Charges	
MIN	\$ 23.00
AVERAGE	\$ 46.71
MEDIAN	\$ 44.99
MAX	\$ 86.17

Below is a graph showing the comparison of sewer rates to inflation. Starting at 2009, the lower, red line shows the inflated 2009 rate through 2025. The actual average sewer rates are shown in blue. From 2009 to 2025 the inflation was 150%, however sewer rates increased during the same time period by 228%.



### **Comparison to National Information**

As a comparison, the National Association of Clean Water Agencies conducts an annual survey of members to assess average charges. The most recent survey produced is based on 2024 rates and the average national annual sewer service charge is \$612.30 or \$51.03 per month. Utah has traditionally been well below the national average but now Utah is about even. Below is a graph produced by NACWA showing anticipated cumulative rate increases from the year 2024 to each year from 2025 to 2029.



As can be seen the projection for rate increases continue higher than anticipated inflation. On a national level as well as a Utah level much of the rapid increase is due to additional regulatory treatment requirements.

### **Affordability Evaluation**

The Wasatch Front Water Quality Council performed an analysis of the Modified Adjusted Gross Income (MAGI) for year-end 2024. Using that data and a simple average MAGI of \$62,715, the sewer rate is about 1% of the average income. For the lowest 15% of the households the average sewer rate is almost 2% of the MAGI which reaches a high impact for user affordability. Continued increases in sewer rates and associated reduced levels for effluent limits will challenge affordability for the most vulnerable population.



**Detailed Report**

The following pages contain a detail report for the actual taxes and 8,000 gallons per month per household rates. A detailed spreadsheet for all the examples is available upon request.

## Wasatch Front Sewer Rate Study - October 2025

<b>Name Entity</b>	<b>Tax Rate</b>	<b>House</b>	<b>Annual</b>	<b>Monthly</b>	<b>User Charge</b>	<b>Total Rate</b>
<b>Central Davis Sewer District</b>	0.000111	700,148	42.74	3.56	39.00	42.56
Farmington	0.000111	680,808	41.56	3.46	41.70	45.16
Kaysville	0.000111	670,362	40.93	3.41	40.25	43.66
Fruit Heights	0.000111	749,274	45.74	3.81	41.00	44.81
<b>Central Davis Average</b>						<b>44.05</b>
<b>Snyderville Basin Water</b>	-	-	-	-	61.25	61.25
<b>Synderville Average</b>						<b>61.25</b>
<b>Magna Water Co.</b>	0.000711	441,027	172.34	14.36	35.17	49.53
<b>Magna Average</b>						<b>49.53</b>
<b>South Davis Sewer District</b>	0.000456	566,079	141.97	11.83	27.00	38.83
<b>South Davis Average</b>						<b>38.83</b>
<b>North Davis Sewer District</b>	0.000449	479,473	118.41	9.87	24.00	33.87
Clearfield	0.000449	418,054	103.24	8.60	39.61	48.21
Clinton	0.000449	490,357	121.09	10.09	33.20	43.29
Layton	0.000449	518,783	128.11	10.68	37.00	47.68
Roy	0.000449	428,746	105.88	8.82	28.70	37.52
Sunset	0.000449	371,492	91.74	7.64	29.75	37.39
Syracuse	0.000449	579,431	143.09	11.92	31.68	43.60
West Point	0.000449	549,448	135.69	11.31	30.70	42.01
<b>North Davis Average</b>						<b>41.70</b>
<b>Central Valley WRF</b>						
Taylorville-Bennion	0.000038	486,834	10.17	0.85	51.40	52.25
Granger-Hunter Improvement	0.000263	463,253	66.88	5.57	45.68	51.25
Murray	-	-	-	-	62.95	62.95
Kearns Improvement District	0.000215	436,989	51.55	4.30	42.36	46.66
Cottonwood Improvement	0.000166	768,675	70.18	5.85	24.00	29.85
Mt. Olympus Imp. Dist.	0.000173	710,404	67.59	5.63	25.00	30.63
South Salt Lake	-	-	-	-	96.00	96.00
<b>Central Valley Average</b>						<b>52.80</b>
<b>South Valley WRF</b>						
West Jordan	-	-	-	-	47.73	47.73
Midvalley Improvement District	0.000414	573,645	130.62	10.88	33.80	44.68
Midvale	-	-	-	-	53.57	53.57
Sandy Suburban Improvement	0.000402	651,570	144.06	12.01	62.50	74.51
South Valley Sewer District-	0.000187	608,857	62.62	5.22	33.00	38.22
<b>South Valley Average</b>						<b>51.74</b>
<b>Salt Lake City</b>						
Salt Lake City	-	-	-	-	95.25	95.25
<b>Salt Lake Average</b>						<b>95.25</b>
<b>Utah County Cities</b>						
Orem	-	-	-	-	43.66	43.66
Provo	-	-	-	-	67.68	67.68
Springville	-	-	-	-	39.79	39.79

Wasatch Front Sewer Rate Study - October 2025

Spanish Fork	-	-	-	-	56.09	56.09
Payson	-	-	-	-	67.24	67.24
Santaquin	-	-	-	-	53.24	53.24

Utah County Cities Avg	54.62
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**Timpanogos SSD**

Highland	-	-	-	-	42.42	42.42
Alpine	-	-	-	-		38.04
Cedar Hills	-	-	-	-	61.95	61.95
American Fork	-	-	-	-	62.98	62.98
Lehi	-	-	-	-	46.95	46.95
Pleasant Grove	-	-	-	-	83.26	83.26
Vineyard	-	-	-	-	66.06	66.06
Saratoga Springs	-	-	-	-	65.28	65.28
Utah County Side of Draper	0.000187	623,332	64.11	5.34	38.00	43.34

Timpanogos Average	56.70
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Eagle Mountain	-	-	-	-	70.80	70.80
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**Central Weber Sewer**

	0.00055	517,980	156.69	13.06	28.97	42.03
Ogden City	0.00055	396,484	119.94	9.99	43.27	53.26
South Ogden City	0.00055	425,506	128.72	10.73	39.69	50.42
North Ogden City	0.00055	525,737	159.04	13.25	45.26	58.51
Farr West City	0.00055	629,785	190.51	15.88	31.00	46.88
Washington Terrace	0.00055	392,951	118.87	9.91	45.72	55.63
South Weber City	0.00055	593,826	179.63	14.97	37.04	52.01
West Haven	0.00055	537,680	162.65	13.55	41.00	54.55
Riverdale	0.00055	456,838	138.19	11.52	29.13	40.65
Hooper	0.00055	638,437	193.13	16.09	70.08	86.17
Pleasantview	0.00055	671,794	203.22	16.93	30.00	46.93
Roy City	0.00055	428,746	129.70	10.81	33.70	44.51

Central Weber Average	52.63
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Brigham City	-	-	-	-	35.00	35.00
Tremonton City	-	-	-	-	33.80	33.80
Logan City	-	-	-	-	37.26	37.26
Other Logan	-	-	-	-	48.40	48.40
Price River WID*	0.000165	308,151	50.84	4.24	38.00	42.24
Tooele	-	-	-	-	48.98	48.98
Cedar City	-	-	-	-	23.00	23.00
St George City	-	-	-	-	38.88	38.88

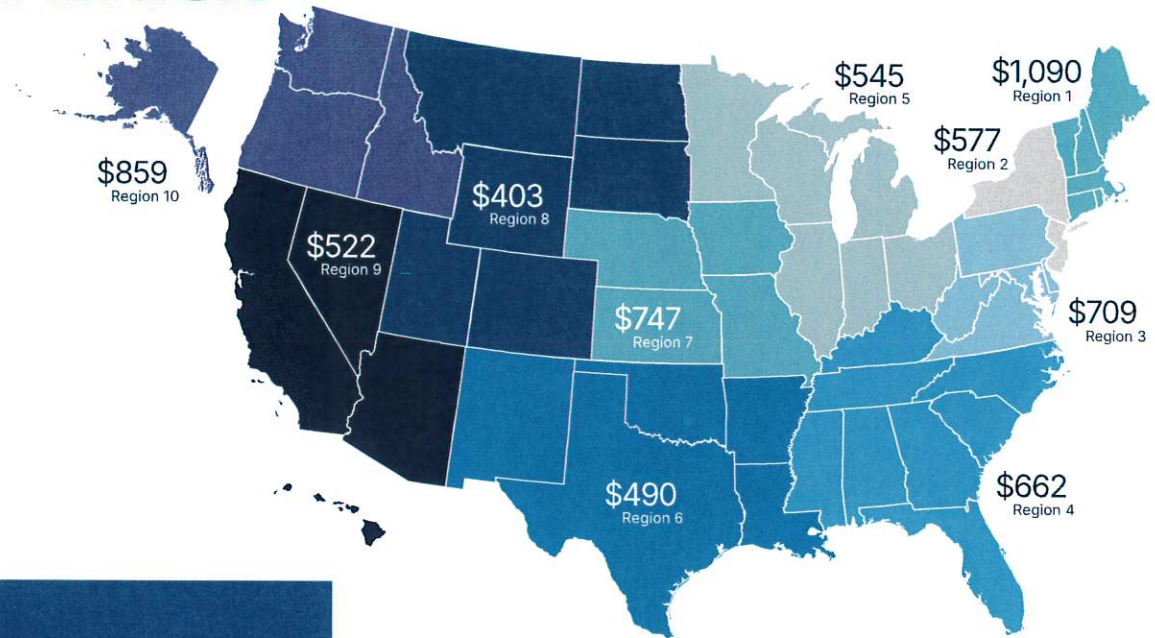
Notes:

8000 Gal/Mo Was Used as a Standard Household Usage  
Average House Value from Zillow.com  
Tax Rate for 2024 From taxrates.utah.gov

Wasatch Front Average		
MIN	\$	23.00
AVERAGE	\$	50.48
MEDIAN	\$	46.94
MAX	\$	96.00

2024

# Cost of Clean Water Index



**Regional Average Annual Charges, 2024**  
All Respondents

## 107 Million

POPULATION SERVED

## 170

UTILITY RESPONDENTS

## \$612

AVERAGE NATIONAL ANNUAL  
SEWER SERVICE CHARGE

## 3.7%

INCREASE IN SEWER CHARGES  
2023-2024

## 2.9%

INCREASE IN CONSUMER  
PRICE INDEX 2023-2024

## Average Charge for Wastewater Services Increased 3.7% in 2024

NACWA's Cost of Clean Water Index for calendar year 2024 indicates that the average cost of wastewater services rose 3.7 percent. The average increase was 0.8 percentage points above the rate of inflation as measured by the Consumer Price Index (CPI) (see *Annual Change in Cost of Clean Water Index vs. Inflation* chart). This reverses a three-year trend where national charges for wastewater collection and treatment services were outpaced by inflation.

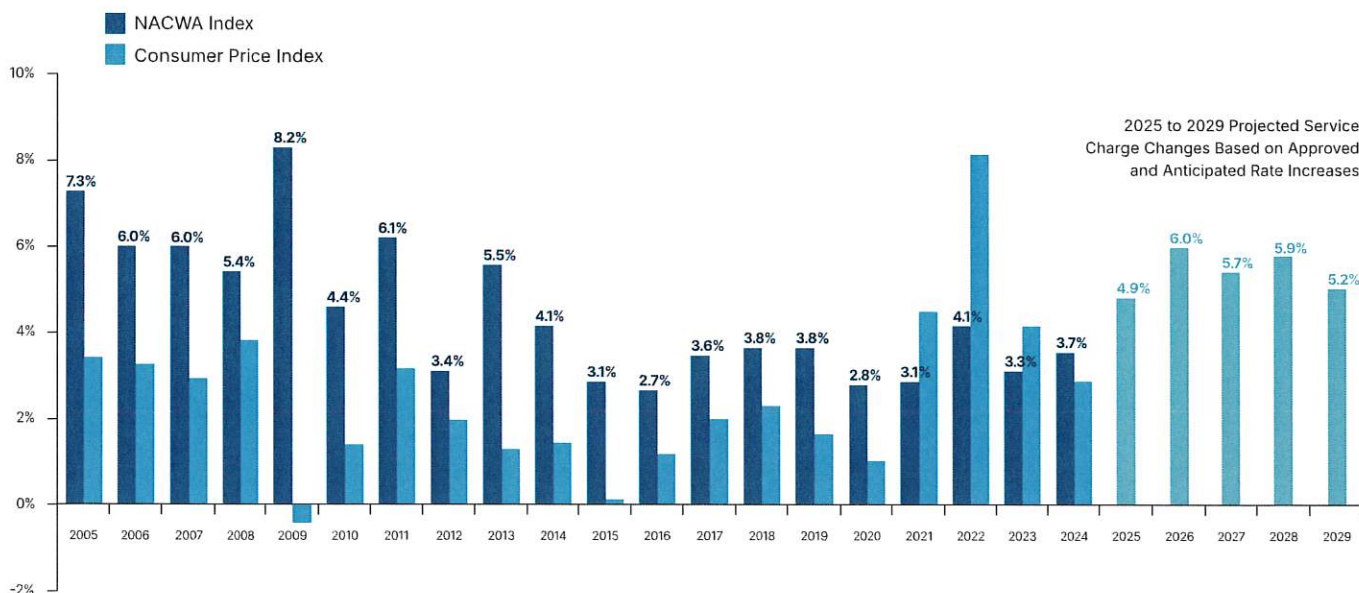
In 2024, the national average amount that a single-family residence paid for wastewater services was \$612. Wastewater service charges vary widely among EPA regions and states, and are affected by demographics, geography, system age, regulatory requirements, and a range of other issues. To illustrate these variations, the *Regional Average Annual Charge* map shows a breakdown of average charges by EPA region. The average service charge by Region varies from a low of \$403 in EPA Region 8 to a high of \$1,090 in EPA Region 1.





## Annual Change in Cost of Clean Water

Index vs. Inflation



The *Annual Change in Cost of Clean Water Index vs. Inflation* chart presents a national snapshot of the increase in service charges, as compared to inflation, since 2005. Table A-1 provides additional detail, including a breakdown of NACWA Index values and service charges back to 1985, the base year for the Index. The values for 2024 are based on the responses from 170 NACWA members serving nearly 107 million people.

Customers pay for sewer services in a variety of ways. Charges may be based on property values, gallons of water used, on a flat rate, or include some combination of these values. Because of this variability, the NACWA Index uses what the average single-family residence pays annually because it is a more consistent measure to track the cost of services over time. In 2024, the majority of clean water utilities implemented rate structures that resulted in increases in the average annual household service charge. However, in some communities, volume-based rates increased, but average service charges dropped due to reductions in actual or estimated residential water use or decreased revenues. Additional national and regional data are included in Tables A-1 and A-3.

## Average Annual Service Charge Still Hovering at Approximately 2.0% of Poverty Threshold

The *Average Annual Service Charge* chart presents a national snapshot of wastewater service charges since 2005 and provides a projection of average charges through 2029. In comparison to the Consumer Price Index (CPI), the annual sewer service charge has increased at nearly double the rate of the CPI since 2005 and has nearly doubled in value since 2007. The average annual sewer charge of \$612 represents nearly 2.0 percent (1.96 percent) of the 2024 federal poverty income threshold (\$31,200) for a family of four.



## Average Annual Service Charge

2005 – 2024 & Projected



## Average Sewer Rates Projected to Increase 31% from 2024 to 2029

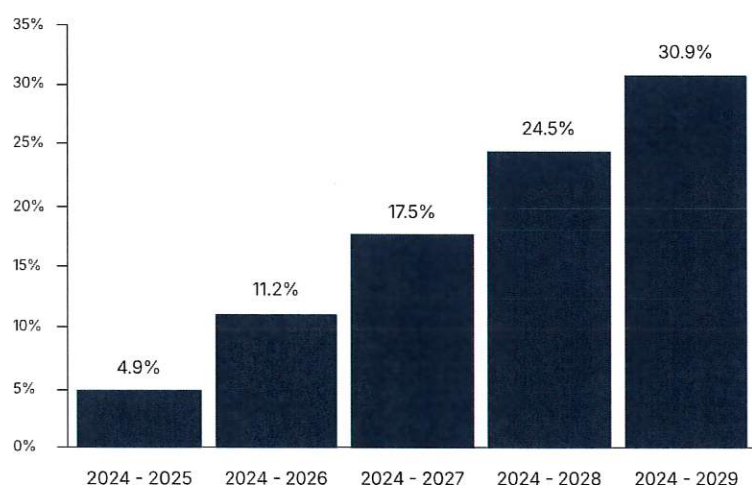
Infrastructure needs, as well as inflationary and regulatory cost pressures, are leading to a higher prevalence of approved and planned rate increases nationwide. Eighty-three percent (83%) of agencies indicated that approved or planned rate increases will be implemented in 2025 and 2026.

From 2025-2029, rates for wastewater services are expected to increase 5 to 6 percent per year (see Table A-2) with an average cumulative five-year increase of 31 percent (see *Average Cumulative Projected Increases in Sewer Charges* chart which shows the average of projected increases in charges among agency respondents in one, two, three, four and five-year increments).

Among the top reasons cited for increasing rates include: major costs of repair and replacement of aging infrastructure, plant upgrades to meet regulatory requirements, regulatory cost of addressing PFAS, costs of adding capacity due to growth, inflation of construction costs and materials, and consent decree compliance associated with wet weather.

## Average Cumulative Projected Increases in Sewer Rates

2025 – 2029



*Disclaimers: The NACWA Index strives to use the best available data each year when determining current and historical household charges and trends. These data are intended for comparison purposes only, and are subject to change from one year to the next. While this document presents the most up-to-date data available, if better data become available in the future, the data presented here may be modified.*

*Additional data and information on the NACWA Index, past years' surveys, and regional summaries are available on NACWA's website.*





**Table A-1: NACWA Service Charge Index, 1985 to 2024**

Year	NACWA Index <sup>(1)</sup>	Change from Previous Year <sup>(2)</sup>	Average Service Charge (\$)	Change from Previous Year (\$)	Change to Consumer Price Index	Total Responses	Population represented (in millions)	Total Responses in Both Previous and Current Year
1985	100.0		\$102.75			155	88.6	
1986	106.8	6.8%	\$109.69	\$6.95	1.9%	158	88.8	155
1987	112.4	5.3%	\$115.51	\$5.82	3.6%	157	88.8	157
1988	119.9	6.9%	\$123.17	\$7.99	4.1%	163	91.3	157
1989	130.1	8.4%	\$133.65	\$10.35	4.8%	166	92.0	163
1990	141.0	8.4%	\$144.84	\$11.25	5.4%	169	92.3	166
1991	153.7	8.9%	\$157.88	\$12.84	4.2%	171	92.5	169
1992	166.7	8.5%	\$171.33	\$13.84	3.0%	175	94.7	171
1993	183.1	8.3%	\$188.12	\$13.78	3.0%	184	100.5	170
1994	193.4	5.1%	\$198.68	\$10.32	2.6%	194	102.4	182
1995	197.8	2.2%	\$203.22	\$4.23	2.8%	199	99.6	189
1996	201.7	3.6%	\$207.28	\$6.44	3.0%	205	105.8	195
1997	203.9	1.3%	\$209.49	\$2.88	2.3%	208	107.9	202
1998	207.8	2.4%	\$213.52	\$4.89	1.6%	214	106.6	204
1999	209.8	0.7%	\$215.61	\$1.90	2.2%	224	109.4	210
2000	216.4	3.0%	\$222.31	\$6.41	3.4%	234	113.7	218
2001	223.5	2.2%	\$229.63	\$4.47	2.8%	238	113.5	227
2002	232.6	3.6%	\$238.99	\$8.45	1.6%	220	107.8	215
2003	243.0	3.1%	\$249.71	\$7.69	2.3%	232	108.4	198
2004	254.8	6.5%	\$261.79	\$16.10	2.7%	222	109.0	200
2005	276.3	7.3%	\$283.91	\$18.79	3.4%	213	108.7	188
2006	287.1	6.0%	\$295.03	\$17.23	3.2%	203	107.0	177
2007	299.4	6.0%	\$307.60	\$16.47	2.8%	196	104.6	173
2008	315.4	5.4%	\$324.11	\$18.00	3.8%	191	107.6	165
2009	347.3	8.2%	\$356.90	\$26.41	-0.4%	171	103.4	161
2010	371.2	4.4%	\$381.45	\$16.82	1.6%	181	100.7	143
2011	387.7	6.1%	\$398.57	\$23.78	3.2%	176	104.0	158
2012	401.6	3.3%	\$412.17	\$13.97	2.1%	179	108.1	148
2013	424.3	5.5%	\$435.26	\$22.53	1.5%	183	107.8	155
2014	436.0	4.1%	\$447.99	\$17.45	1.6%	184	112.8	164
2015	439.8	3.1%	\$451.93	\$13.53	0.1%	176	110.6	160
2016	466.3	2.7%	\$479.07	\$11.85	1.3%	173	104.4	156
2017	487.8	3.6%	\$501.21	\$11.49	2.1%	180	105.4	144
2018	489.5	3.8%	\$503.01	\$19.77	2.4%	178	109.6	154
2019	498.3	3.8%	\$512.01	\$6.30	1.8%	178	110.3	149
2020	512.3	2.8%	\$526.44	\$14.57	1.2%	175	104.4	154
2021	536.1	3.1%	\$550.81	\$15.73	4.7%	171	105.5	144
2022	552.4	4.1%	\$567.56	\$23.09	8.0%	173	104.9	143
2023	572.2	3.3%	\$587.94	\$19.98	4.1%	165	99.4	141
2024	595.9	3.7%	\$612.30	\$21.60	2.9%	170	106.5	142

**Note 1:** The value of the Service Charge Index is based on all responses received. The base year, 1985, has been indexed to a value of 100 at the national level.

**Note 2:** The annual percent change in the Index is based on the responses of those agencies that responded in both the previous year and current year using the same calculation method.





**Table A-2: Projected Annual Service Charge Increases, 2025-2029**

	2025	2026	2027	2028	2029
Average Annual Increase (%)	4.9%	6.0%	5.7%	5.9%	5.2%
Average Service Charge (Projected \$)	644.51	686.36	728.19	776.78	822.10
Change from Previous Year (\$)	32.22	41.85	41.83	48.59	45.33
# of Total Responses	144	133	133	131	124
# of Responses with Numeric Estimates	123	87	75	67	61
Approved	58%	26%	16%	12%	7%
Planned	29%	57%	59%	56%	59%
No Change	8%	4%	3%	4%	3%
Uncertain	5%	13%	23%	27%	31%

**Table A-3: Regional Annual Average Sewer Service Charges, 2024 Summary**

	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8	Region 9	Region 10	National
# of Agencies	9	9	20	23	30	13	13	13	23	17	170
Population	3.3	12.4	13.2	11.0	19.2	8.4	4.6	3.5	24.9	6.0	106.5
2023 Charge											
Average	\$1,090.50	\$577.70	\$709.42	\$662.07	\$545.04	\$490.08	\$747.89	\$403.68	\$522.91	\$859.32	\$612.30
Median	\$600.00	\$492.64	\$539.10	\$519.00	\$468.40	\$454.50	\$482.28	\$381.55	\$507.50	\$643.75	\$504.42
Minimum	\$414.00	\$242.01	\$272.28	\$298.80	\$234.54	\$307.92	\$57.08	\$227.58	\$253.20	\$521.40	\$57.08
Maximum	\$1,253.26	\$726.40	\$1,153.74	\$1,042.11	\$759.28	\$914.40	\$946.69	\$708.12	\$1,325.04	\$1,105.44	\$1,325.04
% Change <sup>(3)</sup>											
1-year (2023-24)	3.0%	4.1%	2.2%	6.9%	1.8%	-0.3%	4.4%	19.3%	1.6%	4.4%	3.3%
3-year (2021-24)	12.5%	13.4%	13.5%	11.2%	5.5%	8.5%	11.8%	30.9%	11.0%	16.4%	11.5%
5-year (2019-24)	19.3%	16.5%	25.9%	16.0%	14.3%	9.1%	19.9%	41.0%	15.3%	23.2%	17.1%

**Note 3:** The percent change values in Table A-3 are based on the responses of those agencies that responded in both the previous year and current year using the same calculation method.

