



TO: Commissioners Farmer, Brown, Cassidy, Cunningham and Ernst
FROM: Ed Case
DATE: Friday, December 18, 2009
RE: EMT Family Member Contracts

At the November 3rd Board meeting, the Board discussed their contract approval thresholds. One of the items of particular interest to the Board was the approval of contracts to Executive Management Team (EMT) immediate family members. As a result, the Board directed staff to draft a new contracting provision that addresses this issue. A proposed revision has been drafted and is provided herein for the Board's review. The revision was placed under the Board's Division 2 contracting Rule 2-0150 *Board Approval Thresholds* and was reviewed by legal counsel for legal sufficiency.

If the Board approves this revision, the language will be incorporated in EWEB's Contracting Rules.

Background

In May 1999, the Board mandated the Board's review and approval of all services contracts over \$20,000 and all construction and goods contracts over \$100,000. That mandate was reduced to writing, and incorporated in EWEB's contracting rules (2-0150): The Board's reserved contract approval rights included the requirement that any contract that crossed those respective thresholds were to be sent to the Board for approval prior to staff amending that contract and executing that amendment. Those provisions read as follows:

2-0150 Board Approval Thresholds

- (1) *The Board shall have the sole authority to approve award of all contracts that meet or exceed the following thresholds:*
Purchase of all Goods, Equipment, and Construction:.....\$100,000 or greater
Services and Personal Services.....\$20,000 or greater
- (2) *The Board shall have the sole authority to approve all change orders to Board awarded contracts that cause the contract to exceed 25 percent of the last Board approved amount. The Board shall also have the sole authority to approve any change orders where the change order would cause the contract to exceed the Board approval thresholds, as provided in (1) of this rule.*

Proposed Language

After the November 3rd Board meeting, staff drafted a new proposed provision (3) under that rule that requires that the Board be notified of any and all contracts with EMT immediate family members prior to that contract being placed on the Board's consent calendar. Staff's proposed language reads as follows:

- (3) *The Board shall be notified of any proposed contract(s) with any known Executive Management Team (EMT) member's immediate family prior to that contract being placed on the Board's consent calendar for Board approval. Notification to the Board of the proposed contract(s) shall initially be given to the General Manager as soon as practical. At a minimum, the notification shall include:*
 - *The name of the Executive Manager,*
 - *The name of the proposed contractor,*
 - *That the Executive Manager and proposed contractor are immediate family members,*
 - *A description of the proposed work,*
 - *Staff's findings,*

- *The estimated potential cost of the contract, and*
- *The contract term.*

The General Manager will provide the information to the Board at his or her earliest convenience, by whatever means he or she determines to be most appropriate.

“Immediate Family Member,” as used in this rule, means any spouse, domestic partner, child, sibling (of any kind, including in-law), parent (including in-law), or grandchild.

Staff requested that counsel also provide legal references to define “Immediate family Member.” Staff is proposing the broadest range of that definition (above).

Options

1. If this language correctly reflects the Board’s expectations with regard to this matter, staff will ask the Board to approve a Resolution to adopt this language into EWEB’s Contracting Rules.
2. If this language requires Board revisions, staff will note those revisions and bring the Resolution back to the Board at their next regularly scheduled meeting, or
3. If the revisions are minor and the Board does not wish to review the language a second time, staff would ask that the Board approve the Resolution with the Board’s requested revisions and a clean draft of the Resolution incorporating the revisions will be provided for the Board President to sign at his earliest convenience.

Summary

The Board has requested that staff draft proposed language related to Board notification of any proposed contract to be awarded to any EMT immediate family member prior to that contract being placed on the Board’s consent calendar for approval. The draft language is provided above and if acceptable to the Board, will be incorporated in EWEB contracting rules (Board Resolution No. 1002).

RESOLUTION NO. 1002

WHEREAS, the Eugene Water & Electric Board (EWEB) is a state of Oregon local government; and

WHEREAS, EWEB's Board of Commissioners is EWEB's governing body and acts as its Contract Review Board (ORS279A.060) with rulemaking authority to adopt its own rules of procedure for public contracts (ORS279A.065(5)(a)); and

WHEREAS, the Board is exercising that authority;

NOW, THEREFORE, BE IT RESOLVED that the EWEB Board adopts the following revisions to its public contracting rule 2-0150(3): Board Approval Thresholds:

2-0150: Board Approval Thresholds

(3) The Board shall be notified of any proposed contract(s) with any known Executive Management Team (EMT) member's immediate family prior to that contract being placed on the Board's consent calendar for Board approval. Notification to the Board of the proposed contract(s) shall initially be given to the General Manager as soon as practical. At a minimum, the notification shall include:

- *The name of the Executive Manager,*
- *The name of the proposed contractor,*
- *That the Executive Manager and proposed contractor are immediate family members,*
- *A description of the proposed work,*
- *Staff's findings,*
- *The estimated potential cost of the contract, and*
- *The contract term.*

The General Manager will provide the information to the Board at his or her earliest convenience, by whatever means he or she determines to be most appropriate.

"Immediate Family Member," as used in this rule, means any spouse, domestic partner, child, sibling (of any kind, including in-law), parent (including in-law), or grandchild.

EFFECTIVE DATED this 5th day of January 2010.

THE EUGENE WATER & ELECTRIC BOARD

By _____

I, Debra J. Smith, the duly appointed, qualified and acting Assistant Secretary of the Eugene Water & Electric Board do hereby certify that the above is a true and exact copy of the Resolution adopted by the Board at its regular meeting of _____, 2010.

Assistant Secretary