



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

Rely on us.

TO: Commissioners Helgeson, Brown, Mital, Simpson and Carlson
FROM: Sue Fahey, Chief Financial Officer; Sarah Gorsegner, Purchasing & Warehouse Supervisor
DATE: May 26, 2017
SUBJECT: Update to EWEB's Public Contracting Rule 2-0150 and Board Policy EL2, Purchasing Controls
OBJECTIVE: Approval of Resolution No. 1706

Issue

On May 2, 2017 the Board reviewed proposed changes to EWEB's Public Contracting Rule 2-150 and Board Policy EL2. The Board requested clarification of the requirements for Board Appointed Consultants and the Quarterly Contract Report. Attached are the documents with the proposed revised language to clarify these items and Board Resolution No. 1706 to adopt the changes.

Discussion

Quarterly Contract Reports (Rule 2-0150(6)c, EL2.6.c)

In 2013, the Board approved revised thresholds for contract approval. At that time, contracts that previously would have been brought to the Board for approval were included on a Quarterly Contract Report at the thresholds below:

- Services and personal services between \$20,000 and \$150,000
- Materials and equipment between \$100,000 and \$150,000

The policies have been updated from May to require a Quarterly Contract Report that will include all contracts between \$40,000 and \$150,000. Contracts above \$150,000 that are for services and materials subject to public procurement laws will be approved by the Board. Staff anticipate that the number of services and personal services included in the quarterly contract report will decrease by approximately 20 contracts per year and that contracts for materials, equipment, and construction will increase by approximately 10 contracts per year.

Board Appointed Consultants (2-0150(5)a, EL2.5.a)

The proposed policy has been updated since May to clarify that Board Appointed professionals may include attorneys, auditors and other consultants appointed by and/or working directly for the Board. The policy also includes language stating that the Board will be asked to provide feedback on these consultants annually.

Exempt Contracts (2-0150(6)b, EL2.6.b)

A correction was made to remove "issuance of bonds" as an exempt contract and include "personal services for issuance of bonds."

No other changes were made to the proposed policies presented at the May meeting.

The attached documents are available for review:

Exhibit A: Redlined existing EWEB Contracting Rule 2-0150

Exhibit B: Proposed revised EWEB Contracting Rule 2-0150

Exhibit C: Redlined existing Board Approved EL2

Exhibit D: Proposed revised Board Approved EL2

Exhibit E: Resolution No. 1706

Recommendation/Requested Board Action

Approval of Resolution No. 1706 to reflect the changes to EWEB's Public Contracting Rules, 2-0150 and Board Policy, EL2.



Public Contracting Rules

GENERAL PROVISIONS

Adopted: 1/4/2005

Effective: 3/1/2005

Revised: 2/36/6/2017

Approved: _____

Division 2: Authority; General Provisions; Protests and Remedies

2-0150 Board Approval Thresholds

(1) The Board shall have the sole authority to approve award of all contracts for Goods, Services, Personal Services, Construction, and Equipment that meet or exceed \$150,000.~~the following thresholds:~~

~~— Purchase of all Goods, Services, Personal Services and Equipment: \$150,000 or greater~~
~~— Construction — \$100,000 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.

~~(3) The Board shall provide Authorization to Use Cooperative Procurement Contracts when purchases exceed \$150,000.~~

~~(34) The Board shall be notified of any proposed contract(s) with any known Leadership Team (LT) member's immediate Household Member or Relative, as defined in ORS 244.020 (11 and 16), 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 Leadership Team Manager,
The name of the proposed contractor,
That the Leadership Team 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.~~

(5) This rule does not apply to the following procurements:

a. ~~Contracts for Existing Board Appointed Consultants and Attorneys, professional services, which are retained beyond the initial contract term, shall be reported to the Board annually for their ratification. The initial contract with any new consultants and attorneys shall be submitted to Board for approval. Any contracts with those persons thereafter will be ratified by the Board annually; Any contracts with those persons thereafter will be ratified by the Board annually; Board appointed professionals may include attorneys, auditors, and other consultants appointed by and/or working directly for the Board. The Board will be asked for feedback on these consultants annually.~~

b. Required **sole-source/single seller** contracts, which includes the following:

- Governmentally required taxes, fees, permits and payments;
- Software licenses, upgrades, and fees;
- Equipment and software maintenance ~~agreements; and~~
- ~~Commonly used f~~Financial reporting and credit agencies selected because of their unique, reliable reporting capabilities, ~~and~~
- ~~Other sole-source contracts required to meet governmental requirements, required to maintain existing software and equipment, or in which EWEB has no choice, but to use to maintain business operations.~~

c. ~~Cooperative Procurement Contracts established for multiple-agency use by:~~

~~State of Oregon,~~

~~State of Washington~~

~~Western States Contracting Alliance (WSCA),~~

~~U.S. Communities,~~

~~The federal General Services Administration, or~~

~~Other governmental entity that is legally sufficient for EWEB's use.~~

d. ~~Board approved price agreements that specifically identify the contract as a price agreement and the purchases as being made on an "as needed" basis for the life of the contract (e.g. the purchase of stores items "as needed" to perform the utility's regular work).~~

This exception from Board approval does not apply to any contract(s) as set forth in section 34, above.

(6) Board Approval thresholds applicable under this EWEB Contracting Rule are for contracts subject to Oregon Public Contracting Code and EWEB Purchasing Rules.

a. Board approval will be required for the following exempted contracts when the contract amount exceeds \$150,000: real property, qualified rehabilitation facilities, grants, intergovernmental agreements for goods or services, and other agreements with significant community impacts as determined by Management.

b. The following exempt contracts or agreements will not require Board approval: Contracts under \$150,000; mutual aid; emergency declaration; personal services for issuance of bonds; investments; employee benefit plans; insurance policies; wholesale power contracts not requiring Board approval as per SD8; customer design, extension, and modification agreements; joint use agreements; settlement agreements; and power exchange contracts. Exempt contracts over \$150,000 will be included in the quarterly financial statements, annual approved budgets and/or reported to the Board as part of an after action report.

- c. Contracts over \$40,000 that are not approved by the Board or exempted by Oregon Public Contracting Code will be reported to the Board quarterly.

~~Application of exception 4 above is at the sole judgment and discretion of the Purchasing Manager and shall only be applied to required single seller/sole source contracts.~~

 Public Contracting Rules	Adopted: 1/4/2005 Effective: 3/1/2005
GENERAL PROVISIONS	Revised: 6/6/2017 Approved:

Division 2: Authority; General Provisions; Protests and Remedies

2-0150 Board Approval Thresholds

- (1) The Board shall have the sole authority to approve award of all contracts for Goods, Services, Personal Services, Construction, and Equipment that meet or exceed \$150,000.
- (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.
- (3) The Board shall provide Authorization to Use Cooperative Procurement Contracts when purchases exceed \$150,000.
- (4) The Board shall be notified of any proposed contract(s) with any known Leadership Team (LT) member's Household Member or Relative, as defined in ORS 244.020 (11 and 16), prior to that contract being placed on the Board's consent calendar for Board approval.
- (5) This rule does not apply to the following procurements:
 - a. Contracts for Board Appointed professional services, which are retained beyond the initial contract term, shall be reported to the Board annually for their ratification. Board appointed professionals may include attorneys, auditors, and other consultants appointed by and/or working directly for the Board. The Board will be asked for feedback on these consultants annually.
 - b. Required **sole-source/single seller** contracts, which includes the following:
 - Governmentally required taxes, fees, permits and payments;
 - Software licenses, upgrades, and fees;
 - Equipment and software maintenance; and
 - Financial reporting and credit agencies selected because of their unique, reliable reporting capabilities.

This exception from Board approval does not apply to any contract(s) as set forth in section 4, above.

- (6) Board Approval thresholds applicable under this EWEB Contracting Rule are for contracts subject to Oregon Public Contracting Code and EWEB Purchasing Rules.

- a. Board approval will be required for the following exempted contracts when the contract amount exceeds \$150,000: real property, qualified rehabilitation facilities, grants, intergovernmental agreements for goods or services, and other agreements with significant community impacts as determined by Management.
- b. The following exempt contracts or agreements will not require Board approval:
Contracts under \$150,000; mutual aid; emergency declaration; personal services for issuance of bonds; investments; employee benefit plans; insurance policies; wholesale power contracts not requiring Board approval as per SD8; customer design, extension, and modification agreements; joint use agreements; settlement agreements; and power exchange contracts. Exempt contracts over \$150,000 will be included in the quarterly financial statements, annual approved budgets and/or reported to the Board as part of an after action report.
- c. Contracts over \$40,000 that are not approved by the Board or exempted by Oregon Public Contracting Code will be reported to the Board quarterly.

Policy Number: EL2
Policy Type: Executive Limitations
Policy Title: Purchasing Controls
Effective Date: August 6, 2013; Revised June 6, 2017

Board Approval Thresholds

1. The Board shall have the sole authority to approve the award of all contracts for Goods, Services, Personal Services, Construction, and Equipment that meet or exceed \$150,000.
~~that meet or exceed the following thresholds:~~

~~Purchase of all Goods, Services, Personal Services and Equipment \$150,000 or greater
Construction \$ 100,000 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.

3. The Board shall provide Authorization to Use a Cooperative Procurement Contracts when purchases exceed \$150,000.

~~3.~~4. -The Board shall be notified of any proposed contract(s) with any known Leadership Team (LT) member's Household Member or Relative, as defined in ORS 244.020 (11 and 16) 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.~~

5. This rule does not apply to the following procurements:

a. ~~Contracts for Existing~~ Board appointed ~~consultants and attorneys~~ professional services, which are retained beyond the initial contract term, shall be reported to the Board annually for their ratification.

Board appointed professionals may include attorneys, auditors, and other consultants appointed by and/or working directly for the Board. The Board will be asked for feedback on these consultants annually.

~~The initial contract with any new consultants and attorneys shall be submitted to the Board for approval. Any contracts with those persons thereafter will be ratified by the Board annually;~~

b. Required sole-source/single seller contracts, which includes the following:

- Governmentally required taxes, fees, permits and payments;
- Software licenses, upgrades, and fees;
- Equipment and software maintenance ~~agreements~~; and
- ~~Commonly used f~~Financial reporting and credit agencies selected because of their unique, reliable reporting capabilities. ~~, and~~
~~Other sole source contracts required to meet governmental requirements, required to maintain existing software and equipment, or in which EWEB has no choice, but to use to maintain business operations.~~

~~e. Cooperative Procurement Contracts established for multiple agency use by:
State of Oregon,
State of Washington
Western States Contracting Alliance (WSCA),
U.S. Communities,
The federal General Services Administration, or
Other governmental entity that is legally sufficient for EWEB's use.~~

~~d. Board approved price agreements that specifically identify the contract as a price agreement and the purchases as being made on an "as needed" basis for the life of contract (e.g. the purchase of stores items "as needed" to perform the utility's regular work)~~

This exception from Board approval does not apply to any contract(s) as set forth in section (34), above.

6. Board Approval thresholds applicable under this Board Policy are for contracts subject to Oregon Public Contracting Code and EWEB Purchasing Rules.

- a. Board approval will be required for the following exempted contracts when the contract amount exceeds \$150,000: real property, qualified rehabilitation facilities, grants, intergovernmental agreements for goods or services, and other agreements with significant community impacts as determined by Management.

Proposed EL2 Language

- b. The following exempt contracts or agreements will not require Board approval: Contracts under \$150,000; mutual aid; emergency declaration; personal services for issuance of bonds; investments; employee benefit plans; insurance policies; wholesale power contracts not requiring Board approval as per SD8; customer design, extension, and modification agreements; joint use agreements; settlement agreements; and power exchange contracts. Exempt contracts over \$150,000 will be included in the quarterly financial statements, annual approved budgets and/or reported to the board as part of an after action report.

- c. Contracts over \$40,000 that are not approved by the Board or exempted by Oregon Public Contracting Code will be reported to the Board quarterly.

Source: EWEB Public Contracting Rules, Division 2, Section 2-0150 Approved 07/16/2013, Effective 07/17/2013, Ratified 08/06/2013, Revised June 6, 2017

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Policy Type: Executive Limitations
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Effective Date: August 6, 2013; Revised June 6, 2017

Board Approval Thresholds

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3. The Board shall provide Authorization to Use a Cooperative Procurement Contracts when purchases exceed \$150,000.
4. The Board shall be notified of any proposed contract(s) with any known Leadership Team (LT) member's Household Member or Relative, as defined in ORS 244.020 (11 and 16), prior to that contract being placed on the Board's consent calendar for Board approval.
5. This rule does not apply to the following procurements:
 - a. Contracts for Board appointed professional services, which are retained beyond the initial contract term, shall be reported to the Board annually for their ratification. Board appointed professionals may include attorneys, auditors, and other consultants appointed by and/or working directly for the Board. The Board will be asked for feedback on these consultants annually.
 - b. Required sole-source/single seller contracts, which includes the following:
 - Governmentally required taxes, fees, permits and payments;
 - Software licenses, upgrades, and fees;
 - Equipment and software maintenance; and

Financial reporting and credit agencies selected because of their unique, reliable reporting capabilities.

This exception from Board approval does not apply to any contract(s) as set forth in section (4), above.

6. Board Approval thresholds applicable under this Board Policy are for contracts subject to Oregon Public Contracting Code and EWEB Purchasing Rules.

Proposed EL2 Language

- a. Board approval will be required for the following exempted contracts when the contract amount exceeds \$150,000: real property, qualified rehabilitation facilities, grants, intergovernmental agreements for goods or services, and other agreements with significant community impacts as determined by Management.
- b. The following exempt contracts or agreements will not require Board approval: Contracts under \$150,000; mutual aid; emergency declaration; personal services for issuance of bonds; investments; employee benefit plans; insurance policies; wholesale power contracts not requiring Board approval as per SD8; customer design, extension, and modification agreements; joint use agreements; settlement agreements; and power exchange contracts. Exempt contracts over \$150,000 will be included in the quarterly financial statements, annual approved budgets and/or reported to the board as part of an after action report.
- c. Contracts over \$40,000 that are not approved by the Board or exempted by Oregon Public Contracting Code will be reported to the Board quarterly.

Source: EWEB Public Contracting Rules, Division 2, Section 2-0150 Approved 07/16/2013, Effective 07/17/2013, Ratified 08/06/2013, Revised June 6, 2017

**RESOLUTION NO. 1706
JUNE 2017**

**RESOLUTION APPROVING REVISIONS TO
EWEB PUBLIC CONTRACTING RULE 2-0150 AND
BOARD POLICY EL2 – PURCHASING CONTROLS**

WHEREAS, the Eugene Water & Electric Board (EWEB) is a state of Oregon local government; and maintains a Board Policy Manual that contains governing policies for the Board of Commissioners; and

WHEREAS, EWEB's Board of Commissioners is EWEB's governing body and Contract Review Board (ORS279A.60) with rulemaking authority to adopt its own rules of procedure for public contracts (ORS279A.065(5)(a)); and

WHEREAS, the Board of Commissioners periodically reviews said policies and determines that modifications or amendments are required to adequately document the work or intention of the Board with regard to governance, Board-staff linkage, strategic direction or executive limitations; and

WHEREAS, the Board of Commissioners has reviewed and discussed the provisions of proposed new EWEB Public Contracting Rule 2-0150 and Board Policy EL2 Purchasing Controls at the May 2, 2017 Board meeting; and

BE IT RESOLVED that the EWEB's Board of Commissioners hereby adopts the proposed revisions to its Public Contracting Rule 2-0150: Board Approval Thresholds and Board Policy EL2: Purchasing Controls.

DATED, this 6th day of June 2017.

THE CITY OF EUGENE, OREGON
Acting by and through the
Eugene Water & Electric Board

President

I, ANNE M KAH, 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 June 6, 2017 Regular Board Meeting.

Assistant Secretary