



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

Rely on us.

TO: Commissioners Carlson, Barofsky, McRae, Schlossberg, and Brown

FROM: Deborah Hart, Chief Financial Officer; Quentin Furrow, Purchasing and Warehouse Supervisor

DATE: November 7, 2023

SUBJECT: Procurement Processes and Requirements for Board Approval

OBJECTIVE: Information

Issue

EWEB's Board has adopted rules of procedure for contracts subject to Oregon Revised Statutes (ORS) 279A, 279B, and 279C, also known as the Public Contracting Code. EWEB Rules Division 1-6 govern these procurements.

Background

Public contracting processes are established to be professional, fair, mitigate risk, obtain the greatest value for the utility, and to foster competition for contracting opportunities whenever feasible. It is important that EWEB's customers as well as contractors and our business partners trust the integrity of our processes. With few exceptions, and/or unless permitted by the Oregon Public Contracting Code and EWEB Purchasing Rules, the Board approves contracts where the value meets or exceeds \$150,000 or when a prior approval will be exceeded by 25%. The Board is tasked with approving a large variety of purchases, therefore; the following information is provided to describe in more detail some of the terminology, requirements, sourcing, selection processes, and other information listed on EWEB Board Consent Calendar Request items.

Discussion

For those contracts between \$40,000 and \$150,000, a Quarterly Contracts report is provided for the Board's review and comment as part of quarterly reporting. Most items brought before the Board are the result of a formal solicitation process, primarily either a Formal Invitation to Bid (ITB) or Formal Request for Proposal (RFP). When a solicitation is referred to as "Formal", it indicates the estimated dollar amount of the offers/proposals is expected to exceed board thresholds:

- over \$100,000 for Public Works/Construction
- over \$150,000 for a traditional ITB or RFP
- over \$250,000 for a Qualifications-Based Selection (QBS) RFP

A “Formal” solicitation process generally calls for additional advertising and requirements that are dictated by statute. The following discussion outlines various solicitation forms and resulting contract types common to Board process.

Solicitation Types

Invitation To Bid (ITB)

- The only criteria for selection are price and ability to meet specifications/requirements
- Provides standardized information about the materials or services needed, such as specifications, scope of work, duration, and conditions
- Can be for goods or services or a mix of both

Construction or Public Works Construction (ITB)

- A type of ITB, generally used for public works projects requiring construction services
- includes, but is not limited to, roads, highways, buildings, structures, and improvements of all types (construction, reconstruction, major renovation, or painting)
- Contains additional requirements not included in goods or services solicitations

Request For Proposals (RFP)

- Utilizes additional evaluation criteria such as company experience, key staff experience, and/or project approach, and adds scoring to determine the highest ranked proposer(s)
- Used when EWEB requires more control over total value offered vs. lowest price
- Cannot be used for construction, per ORS

Request for Proposals (RFP) using Qualifications-Based Selection (QBS)

- Similar to the traditional RFP and must be used when procuring engineering, architectural, or land surveying services
- Key difference in the QBS RFP is price cannot be reviewed until proposers are first evaluated and ranked for quality of services. Pricing for finalists is then reviewed and included in the final scores

Contract Types

Goods (Product, Material, Equipment – ITB or RFP process)

A solicitation for goods will generally result in a one-time purchase or the award of a price agreement for product purchases “as needed, when needed”. Contracts for goods are usually based on fixed prices for a particular quality and quantity of product. Specifications are written to define the product’s minimum acceptable quality, features, and functionality.

Personal Services Contract (PSC – RFP or QBS RFP process)

A Personal Services Contract (PSC) is a contract used for specialized skills, knowledge, and resources in the application of technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment. Some examples include the services of an

engineer or services related to engineering, information technology consultant, architect, attorney, designer, or consulting specialists for fields such as HR, Finance, Safety etc.

Trade Services/Services Contract (ITB or RFP process)

Trade services include contracts for specific service tasks needed on a regular or requested basis. Examples of trade services are janitorial, court recording, transportation services, office machine maintenance, cellular, annual inspections, building system maintenance, and various other services.

Cooperative Procurement (Cooperative or Coop)

A “Coop” is a contract executed by a public agency, or a cooperative entity in the business of soliciting for and creating cooperative contracts to be used by public agencies, where EWEB or other authorized parties can piggyback terms and pricing of the contract without the need for a solicitation. The cooperative agency must use the same rules EWEB is required to abide by if EWEB desires to use the contract. Cooperative procurements benefit EWEB by leveraging the expertise and buying power of multiple agencies and participants to provide a value better than a single agency working alone. Unless EWEB is initiating the Cooperative Procurement as the lead agency, the Board is only asked to authorize the use of the Coop since the contracts have already been approved by another contracting authority.

Price Agreement or Requirements Contract

This is a Goods and/or Services contract used when EWEB needs a list of commodities and/or services available at pre-agreed upon prices and only purchases when needed.

Master Services Agreement (MSA)

Often thought of as an “on-call” contract for services, including professional services such as engineering and legal consulting. This is a price agreement or requirements contract for personal services.

Intergovernmental Agreement (IGA ORS 190.010)

Oregon law gives government units the ability to enter into written agreements with another unit or units of local government for the performance of any or all functions and activities that are party to the agreement, its officers, or agencies, have authority to perform.

Sole-Source Procurements (ORS 279B.075 and EWEB Rule 3-0275)

Sole-source exemptions allow EWEB to award contracts for goods or services without competition when, after reviewing findings of fact, EWEB determines that the goods or services are available from only one source. The findings must document reasons such as EWEB’s need, the project's requirements, EWEB’s attempt to find similar products, the urgency, the reason why the purchase will not encourage favoritism, and other criteria outlined in ORS and EWEB Rules.

Emergency Contracts (EWEB Rule 3-0280)

EWEB, with the concurrence of the Purchasing Supervisor, responsible Executive Team member, and the General Manager, may award a public contract for goods or services as an emergency procurement without a competitive solicitation if an emergency exists. The emergency is defined

as circumstances that could not have been reasonably foreseen; create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and require prompt execution of a contract to remedy the condition.

Qualified Rehabilitation Facilities/Oregon Forward Program

ORS commands public agencies to acquire products and services from qualified rehabilitation facilities (QRFs) when those products or services have been placed on the QRF procurement list by the Department of Administrative Services (DAS). The Oregon Forward Program, formerly known as the QRF Program, fulfills the state laws supporting meaningful work opportunities for Oregonians living with physical, mental, and developmental disabilities. DAS works cooperatively with Oregon Forward Contractors and public agencies to develop and maintain contracting opportunities for Oregonians with disabilities.

Requested Board Action

This item is for information only and accordingly there is no requested Board action.