



WEST BASIN MUNICIPAL WATER DISTRICT
17140 S. Avalon Blvd., Suite 210
Carson, CA 90746

AGENDA NO. 23

FEBRUARY 10, 2010 – Finance
Smith (Chair), Dear
FEBRUARY 22, 2010 – Board Meeting
Prepared by: Margaret Moggia
Submitted by: Margaret Moggia
Approved by: Rich Nagel

ACTION CALENDAR

PROCUREMENT POLICY RECOMMENDATIONS

SUMMARY:

The Board requested that staff review the Procurement Policy for consideration of language for public works contracts that encourages prime contractors to sub-contract with local business enterprises.

Local Business Enterprise (LBE)

Presently, the Procurement Policy does not incorporate LBE consideration for public works contracts (any construction or repair work over \$35,000) as these contracts are required by law to take the lowest responsible bidder. Legal counsel has researched how West Basin may apply the LBE consideration and has determined that West Basin can lawfully require prime contractors to make good faith efforts to encourage local business enterprises (LBEs) to act as subcontractors on the prime contractor's bid. The issue West Basin staff must address is how to measure whether a prime contractor's efforts were actually "good faith" efforts. Staff recommends asking the prime contractor to document their good faith efforts made by asking the contractor to sign an affidavit whether they intend to employ a subcontractor to complete any portion of the proposed work. If a prime contractor intends to employ subcontractors, the prime contractor will be required to attend the pre-bid meeting and advertise for subcontractor bids from LBEs in one or more daily or weekly newspaper, trade association publication, trade journal, or other relevant media. Any prime contractor who anticipates the use of subcontractors must respond favorably to each of the preceding criteria; otherwise, the prime contractor will be eliminated for consideration.

Staff intends to include a checklist in the "Request for Bids" stating the above criteria so the contractor can submit an affidavit with the bid packet. In addition, the bidding documents will include language reserving West Basin's right to verify any representations made by the contractor that good faith efforts were made, and also reserve the right to request any documents to verify those efforts. To assist the prime contractor in identifying LBEs, West Basin will also include in the bid documents: (1) a description of West Basin's service area; (2) the definition of LBE found in the Administrative Code; and (3) a reference/link to West Basin's online network of registered contractors.

Staff is recommending adding language for the LBE consideration in public works contracts as shown in Exhibit "A" under section 5-1.106 as follows:

"Contractors must make good faith efforts to encourage local business enterprises to act as subcontractors on a contractor's bid for a public works project. Contractors intending to employ

subcontractors for such work are required to: 1) attend any pre-bid meetings; 2) advertise for subcontractor bids from local business enterprises in newspapers, trade association publications, trade journals, and other relevant media; and 3) review the District's on-line network of registered contractors. All construction projects will also include a community outreach component as part of the basic project structure. "

If the Board chooses to make changes to the procurement policy section of the Administrative Code, the Board is required to adopt a resolution amending the Administrative Code (Exhibit "B").

Critical Repairs

A recent critical repair, the pump well at the C. Marvin Brewer Desalter, has brought attention to the Critical Repair language of West Basin's Procurement Policy. Because staff is currently required to receive three informal quotes with a maximum threshold limit of \$100,000 for a critical repair, often these requirements limit staff's ability to get a critical facility back on-line.

In response to the Board's request, staff has reviewed the current language and recommends language that ensures that the spirit of West Basin's procurement policy is maintained while not hindering staff from having facilities back on-line as quickly as possible. In consultation with legal counsel, staff is recommending changes to the Administrative Code section 5-1.109 (within the Procurement Policy) as shown in Exhibit 'A' as follows:

When expenditures are made for critical repairs and critical acquisitions, staff shall use its best efforts to conform to the informal solicitation process set forth in section 5-1.102(A); and shall not exceed \$250,000 per each critical repair or critical acquisition.

Other Considerations

The Board also inquired about expanding the application of LBE in the solicitation process. The current Procurement Policy only applies the LBE consideration of three additional evaluation points for professional and non-professional services above \$25,000 or 3% consideration on cost for the solicitation of goods above \$25,000. There is no consideration for contracts following the informal process (contracts between \$5,000 and \$25,000). During the development of the Procurement Policy, the Board specifically decided not to include the LBE consideration because the informal process is intended to provide the General Manager flexibility to quickly execute smaller contracts. Since the process is "informal", it does not include the 3rd party review input, and the evaluation procedure (100 point score, etc.) required in the formal process. Integrating the LBE policy into the "informal" process would thus be problematic, and inconsistent with the policy behind the informal process. Staff requests Board direction, if they desire to modify the policy.

STRATEGIC BUSINESS PLAN IMPLEMENTATION:

Goal 4: Sound Financial and Resources Management – West Basin is committed to efficient business operations, financial planning, and asset management.

FISCAL IMPACTS:

Not applicable.

ENVIRONMENTAL COMPLIANCE:

Not applicable.

COMMITTEE STATUS:

This item was reviewed by the Finance Committee on February 10, 2010 and agendized to the February 22, 2010 Board meeting for consideration without a Committee recommendation.

RECOMMENDED MOTION:

That the Board approves the changes to the Procurement Policy as shown in Exhibit "A" and approves, adopts, and authorizes the President to sign Resolution 2-10-916 "A RESOLUTION OF THE BOARD OF DIRECTORS OF WEST BASIN MUNICIPAL WATER DISTRICT AMENDING RESOLUTION NO. 06-07-859 (THE ADMINISTRATIVE CODE) AS IT RELATES TO PART 5 PROPERTY".

LIST OF EXHIBITS:

Exhibit "A" – Procurement Policy
Exhibit "B" – Resolution 2-10-916