



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

AGENDA NO. 29

MAY 20, 2010 – Finance
Smith (Chair), Dear
JUNE 1, 2010 – Board Meeting
Prepared by: Steve O'Neill
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 critical repairs and public works contracts that encourages prime contractors to sub-contract with local business enterprises. These matters were originally brought to the Finance Committee on February 10 and April 14, 2010. After additional discussion, staff was further directed to develop a policy that would encourage greater LBE participation in larger public works contracts.

Local Business Enterprise (LBE)

Presently, the Procurement Policy does not incorporate local business enterprise (LBE) consideration for public works contracts (any construction or repair work over \$35,000) as these contracts are required by law to be awarded to the lowest responsible bidder. Legal counsel has researched how West Basin Municipal Water District (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 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 requiring the prime contractor to sign an affidavit stating whether they intend to employ a subcontractor to complete any portion of the proposed work.

If a prime contractor intends to employ subcontractors, and the amount of the contract, as determined by West Basin's engineer's estimate, is less than three million dollars, the prime contractor will be required to: 1) attend the pre-bid meeting; and 2) advertise for subcontractor bids from LBEs in one or more daily or weekly newspapers, trade association publications, trade journals, or other relevant media.

If the amount of the contract exceeds three million dollars, as determined by West Basin's engineer's estimate, the prime contractor must take the additional steps of: 1) providing written notice of its interest in receiving subcontractor proposals to those LBEs having an interest in participating in the work. These notices of interest must be provided not less than 10 calendar days prior to the date the proposals are required to be submitted to West Basin; and 2) the proposer must follow-up the initial solicitations by contacting the interested LBEs to determine whether the LBEs were interested in performing specific portions of the project not less than three calendar days prior to the date the proposals are required to be submitted.

Any prime contractor who anticipates the use of subcontractors must comply with the preceding criteria; otherwise, the prime contractor's bid will be considered non-responsive and 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 for compliance. 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:

If a prime contractor intends to employ subcontractors, and the amount of the contract is less than three million dollars, as determined by West Basin's engineer's estimate, the prime contractor will be required to: 1) attend the pre-bid meeting; and 2) advertise for subcontractor bids from LBEs in one or more daily or weekly newspapers, trade association publications, trade journals, or other relevant media.

If a prime contractor intends to employ subcontractors, and the amount of the contract is three million dollars or more, as determined by West Basin's engineer's estimate, the prime contractor must, in addition to the requirements set forth above: 1) provide written notice of its interest in receiving subcontractor proposals to those LBEs having an interest in participating in the work. These notices of interest must be provided not less than 10 calendar days prior to the date the proposals are required to be submitted to West Basin; and 2) the prime contractor must follow-up the initial solicitations by contacting the interested LBEs to determine whether the LBEs were interested in performing specific portions of the project. Such follow-up contact must be made not less than three calendar days prior to the date the proposals are required to be submitted.

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").

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 May 20, 2010 and recommended for approval at the June 1, 2010 Board meeting.

RECOMMENDED MOTION:

That the Board and approves, adopts, and authorizes the President to sign Resolution 6-10-927 "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", as shown in Exhibit "A".

LIST OF EXHIBITS:

Exhibit "A" – Procurement Policy
Exhibit "B" – Resolution 6-10-927

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