

RESOLUTION NO. 708

BE IT RESOLVED THAT THE FOLLOWING ARE THE RULES FOR THE ADMINISTRATION OF PUBLIC CONTRACTING FOR THE CITY OF PRINEVILLE PUBLIC CONTRACT REVIEW BOARD.

NOW, THEREFORE, be it resolved:

Section 1. Purpose. These rules are promulgated by the local contract review board, as designated by Ordinance No. 955, pursuant to the authority granted to that board by ORS chapter 279, for the purpose of establishing the rules and procedures for contracts entered into by the city of Prineville.

Section 2. Definitions. For the purposes of these rules, the following mean:

Board. The local contract review board established in section 1 of Ordinance No. 955.

Public contract. A purchase, lease, or sale by the city of personal property, public improvements, or services other than agreements that are for personal service.

Public improvement. A project for construction, reconstruction, or major renovation on real property by or for the city. "Public improvement" does not include emergency work, minor alteration, ordinary repair or maintenance necessary in order to preserve a public improvement.

Section 3. Competitive Bids. All public contracts shall be based on competitive bidding except:

- (1) Contracts made with other public agencies or the federal government;
- (2) Contracts made with qualified nonprofit agencies providing employment opportunities for the handicapped;
- (3) Contracts for the purchase or sale when the amount does not exceed \$10,000. However:

(a) If contracts are for more than \$5,000, at least three competitive quotes shall be obtained where practicable. A written record shall be made containing the source and amount of the quotes received.

(b) If contracts are for more than \$500, but less than \$5,000, competitive quotes may be obtained where practicable.

(c) No contractor may be awarded, in the aggregate, within the fiscal year, contracts in excess of \$20,000 under this subsection without competitive bidding. In computing the aggregate under this subsection, awards under \$500 need not be included.

(4) Contracts for the purchase of goods or services if the rate or price for the goods or services being purchased is established by federal, state, or local regulatory authority.

(5) Contracts for the purchase of products if the purchase is required to be made from a particular supplier as a result of a federal allocation, or if purchase from other than an established supplier could jeopardize an allocation or future supply of the products.

(6) Contracts for the purchase of copyrighted materials, if there is only one supplier available for such goods.

(7) Contracts for purchase if there is only one seller or price of a product of the quality required available within a reasonable purchase area.

(8) Contracts for employee benefit insurance and liability insurance covering the city of Prineville.

(9) Contracts for the purchase of materials when competitive bids for the same materials have been obtained by the state of Oregon, and the contract is awarded to the same party that the state dealt with, and the price of the materials is the same or lower than that paid by the state.

(10) Competitive bidding shall not be required on contracts of the City of Prineville Railway for purchases in an amount less than \$50,000.

(11) Personal property may be disposed of without competitive bidding under any of the following conditions:

(a) There are specific statutory or ordinance procedures for the disposal of the type of property involved, and the property is disposed of according to those procedures.

(b) The property has a value of less than \$500, unless otherwise provided by statute or ordinance.

(c) The public contracting officer finds that competitive bids would be inappropriate for the type of property involved. A report of all sales made under this subsection shall be made to the board and shall include the reasons that competitive bids were considered inappropriate.

(12) A public contract exempt under sections 4 and 5 of these rules.

Section 4. Exemptions.

(1) The board may exempt other public contracts from competitive bidding if it finds:

(a) It is unlikely that the exemption will encourage favoritism or substantially diminish competition in awarding the contract; and

(b) The exemption will result in a substantial cost saving to the city.

(2) In making the findings required in subsection (1) of this section, the board may consider the type, cost, and dollar amount of the contract, the num-

ber of persons available to bid, and other factors the board considers appropriate.

(3) For contracts not based on competitive bidding, the city administrator should, when possible, obtain competitive quotes.

Section 5. Emergency Contracts. A public contract may be exempted from competitive bidding if the council, by majority vote, determines that an emergency exists and that conditions require the prompt execution of a contract. The council shall, by resolution, indicate the nature of the emergency and state with particularity the emergency conditions necessitating the prompt execution of the contract. A contract exempted by such a resolution must be awarded within 60 days unless the board grants an exemption.

Section 6. Contract Amendments. A contract amendment, including change orders, extra work, field orders, or other change in the original specifications that changes the original contract price or alters the work to be performed may be made with the contractor, subject to the following conditions:

- (a) The original contract imposes a binding obligation on the parties covering the terms and conditions regarding changes in the work;
- (b) The amended contract does not substantially alter the scope or nature of the project; or
- (c) If the amendment has the effect of substantially altering the scope or nature of the project, the amount of the aggregate cost change resulting from all amendments creating such new obligations shall not exceed 10 percent of the initial contract.

Section 7. Brand Name Specifications for Contracts.

(1) Specifications for public contracts shall not require any product by brand name or mark, nor the product of any particular manufacturer or seller, unless the product is exempted from these requirements by the board under this section.

(2) The board may, by resolution, exempt certain products or classes of products from subsections (1) of this section on any of the following findings:

- (a) It is unlikely that the exemption will encourage favoritism in the award of the contract or substantially diminish competition;
- (b) The specification of a product by brand name or mark, or the product or a particular manufacturer or seller, would result in substantial cost saving to the city;
- (c) There is only one manufacturer or seller of the product of the quality required; or
- (d) Efficient utilization of existing equipment or supplies requires the acquisition of compatible equipment or supplies.

Section 8. Exemption Hearings. When the board is considering an exemption to the competitive bidding requirements or brand name specification prohibition, it shall provide notice to the public and an opportunity for a public hearing on whether the exemption shall be allowed.

Section 9. Rejection of Bids. The council may reject any bid not in compliance with all prescribed public bidding procedures and requirements, and may, for good cause, reject any or all bids upon a finding of the council that it is in the public interest to do so. If all bids are rejected and the proposed contract is not abandoned, new bids may be called for.

Section 10. Bidder Disqualification. The council or its designee may disqualify a person as a bidder on a contract if:

- (1) The person does not have sufficient financial ability to perform the contract. If a bond is required to ensure performance of the contract, evidence that the person can acquire a surety bond in the amount and type required shall be sufficient to establish financial ability;
- (2) The person does not have equipment available to perform the contract;
- (3) The person does not have available key personnel of sufficient experience to perform the contract; or
- (4) The person has repeatedly breached previous contractual obligations to contracting agencies.

Section 11. Appeal of Disqualification. A person who has been disqualified as a bidder may appeal the disqualification to the board as follows:

- (1) The person shall, within three business days after receipt of notice of the disqualification, file a written notice of appeal with the city administrator. The notice of appeal shall specify in detail why the appellant believes that the disqualification was in error.
- (2) Immediately upon receipt of the appeal, the city administrator shall inform the board of the filing of the appeal.
- (3) Upon receipt of notice from the administrator, the board shall notify the appellant of the time and place of an appeal hearing. The hearing shall be held and the appeal decided within 10 days from the date of filing the appeal.
- (4) The board shall conduct the hearing according to rules of procedure adopted by the board and shall declare in writing the reasons for its decision.

Section 12. Rules of Procedure for Board Hearings.

- (1) A majority of the incumbent members of the board constitute a quorum for the purpose of conducting business of the board.

(2) Exercise of the board's authority shall be by majority vote of the board members present.

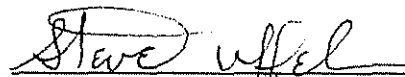
(3) The state law on public meetings governs the notice and conduct of meetings and hearings of the board.

(4) When the board conducts a hearing on appeal of a bidder disqualification, the board shall consider the notice of disqualification, the investigation made by the council, and any evidence provided by the parties.

(5) The board may adopt additional rules of procedure that it considers necessary.


Passed by the council this 12th day of March, 19 91.

Approved by the mayor this 12th day of March, 19 91.



Mayor, Steve Uffelman

ATTEST:



Recorder, Henry Hartley