

## **11) Public Improvement Contract.**

"Public Improvement" refers to the construction, reconstruction, major renovation or painting carried on or contracted for by a public agency. "Public Improvement" does not include emergency work and ordinary repair necessary in order to preserve a public improvement.

When the actual amount of the public improvement contract is more than 10,000 and less than \$100,000, the District shall, at a minimum, obtain three (3) competitive quotes from written specifications. A written record of the sources of the quotes or proposals received shall be kept. If three quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes.

When the actual contract amount exceeds \$100,000, the District shall proceed with a formal competitive bidding procedure, which includes budget authority, developing specifications, advertising, formal bid opening, bid analysis and bid award to the lowest responsive, responsible bidder.

### **Public Improvement Requirements**

- a. Performance and Payment Bonds - Public Improvement Contracts require the Contractor to execute and deliver to the agency a Performance and Payment Bond in a sum equal to the Contract Price, unless waived under ORS 279C.380{4}, or exempt from the required performance bond pursuant to ORS 279C.390.
- b. Prevailing Wages - Public Improvement Contracts in excess of \$50,000 require that the hourly rate of a wage paid by the contractor or subcontractor to a worker shall not be less than the prevailing rate of a wage for an hour's work in the same trade or occupation in the locality where the labor is performed.
- c. First-Tier Subcontractor Disclosure - Public improvements with a contract value of more than \$100,000, require that a bidder shall submit a disclosure of any first-tier subcontractors that will be furnishing labor or materials in connection with the public improvement (ORS 279C.370), within two working hours of the date and time of the deadline when bids are due.

### **Special Procurements**

The Board of Directors, acting as the Local Contract Review Board, may exempt certain public improvement contracts from competitive bidding requirements.

### **Procedures**

1. **Obtaining Competitive Quotes** (For contracts under \$100,000)
  - a. Budget Authority - The project must be funded in the current adopted budget (including transfers and supplemental budget adoptions).

- b. Specifications - Specifications must be developed and reflect all necessary attributes desired in the item being requested. It is important that specifications be written so as not to expressly or implicitly require any product of any particular manufacturer or seller.
- c. Obtaining Quotes - Quotes may be obtained by phone calls, mail, e-mail or faxing **written specifications** to specific vendors, or by advertising that quotes are being sought. The objective of obtaining quotes is to obtain the desired product at the lowest cost to the District without incurring the cost and time involved in the competitive bid process. The method of obtaining quotes is therefore determined by the situation. Whichever method of obtaining quotes is selected, all efforts should be made to obtain a sufficient number of quotes, three to five in most cases, to encourage competition among vendors and to secure the lowest price for the District.
- d. Documentation - All quotes must be clearly documented on the Request for Quote Worksheet. The rationale for the method of obtaining quotes must also be clearly explained in writing. If at least three quotes cannot be obtained, the effort to obtain the quotes must be included in the documentation.
- e. Award - Once a sufficient number of quotes have been obtained, the purchase may be awarded to the vendor with the lowest price quote, provided that the quote is responsive to the purchase specifications.

2. **Obtaining Competitive Bids (For Contracts over \$100,000)**

- a. Budget Authority - The contract project must be funded in the current adopted budget.
- b. Specifications - Specifications must be developed and should reflect all necessary attributes desired in the item being requested. It is important that specifications be written so as not to preclude any name brands or manufacturers of similar or competing products.
- c. Advertising - All rules related to advertising must be followed, and the bid must be advertised in a publication of statewide circulation.
- d. Bid Closing & First Tier Subcontractor Disclosure - The deadline for submission of bids will be set at 2:00 pm on Tuesday, Wednesday, or Thursday. Within two (2) working hours of the Bid Closing for a Public Improvement Contract greater than \$100,000, all bidders shall submit a disclosure form, identifying any first-tier subcontractors that will be furnishing labor or materials on the Contract.

- e. Bid Opening - The bid opening will take place immediately after the deadline for submission of bids. The objective of the bid opening is to document the bids of each vendor and to determine the apparent low bidder who is reasonable and responsive (ORS279C.375 (3)).
- f. Bid Analysis - The department requesting the purchase is responsible for evaluating the submitted bids in order to recommend the award of a contract to the Board of Directors.
- g. Bid Award - In the competitive bidding process, only the Board of Directors has the authority to award a contract for services.
- h. Notice of Intent - At least seven (7) days before the award of a public improvement contract, the District shall post or provide to each bidder notice of the District's intent to award a contract. The notice and the manner in which the notice is posted or issued must conform with rules adopted under ORS 279A.065.

## PublicImprovement Projects Selection Procedures

Budget Authority	Develop Written Specifications	Board Approval To Advertise
		Advertise See Note "A"
Less than \$5,000	Less than \$100,000	Bid Opening See Note "B"
Yes	Yes	
Obtain Quotes Where Practical	Obtain Quotes	Bid Analysis
Award	Documentation of Quotes	7 day Notice of Intent to Award
	Award	Board Approval To Award
		Award

Note: A) Must advertise in a publication of statewide circulation if over \$100,000.

B) Public Improvement contracts with a contract value of more than \$100,000 require that a bidder shall submit a disclosure form of any first-tier subcontractor that will be furnishing labor or materials in connection with a public improvement, within two hours of the date and time of the deadline when bids are due.

## Public Improvement Projects General Origin of Rules

The following table shows the statutory or other legal basis for each public contracting rule contained within this Policy and Procedure Manual that are relevant to District operations:

<b>RULE</b>	<b>Origin</b>
Application	137-049-0100
Policies	137-049-0110
Definitions	137-049-0120
Competitive Bidding Requirement	137-049-0130
Contracts Construction Other than Public Improvements	137-049-0140
Emergency Contracts	137-049-0150
Intermediate Procurement--Competitive Quotes	137-049-0160
Solicitation Documents; Required Provisions	137-049-0200
Notice of Advertising Requirements	137-049-0210
Prequalification of Offers	137-049-0220
Eligibility to Bid or Propose: Registration or License	137-049-0230
Pre-Offer Conferences	137-049-0240
Addenda to Solicitation Documents	137-049-0250
Request for Clarification or Change; Protests	137-049-0260
Cancellation of Solicitation Documents	137-049-0270
Offer Submissions	137-049-0280
Bid or Proposal Security	137-049-0290
Facsimile Bids and Proposals	137-049-0300
Electronic Procurement	137-049-0310
Pre-Closing Modification or Withdrawal	137-049-0320
Receipt Opening and Recording Offers	137-049-0330
Late Bids, Late Withdrawals and Late Modifications	137-049-0340
Mistakes	137-049-0350
First-Tier Subcontractors; Disclosure and Substitution	137-049-0360
Disqualification of Persons	137-049-0370
Did or Proposal Evaluation Criteria	137-049-0380
Offer Evaluation and Award	137-049-0390
Notice of Intent to Award	137-049-0395
Documentation of Award	137-049-0400
Time for Contracting Agency Acceptance	137-049-0410
Negotiation with Bidders Prohibited	137-049-0420
Negotiations When Bids Exceed Cost Estimate	137-049-0430
Rejection of Offers	137-049-0440
Protest of Contract Selection/Award	137-049-0450
Performance and Payment Security	137-049-0460

Substitute Contractor  
Foreign Contractor

137-049-0470  
137-049-0490

**RULE**

Alternative Contracting Methods

Contract Provisions

**Origin**

137-049-0600 to

137-049-0690

137-049-0800 to

137-049-0910