

A RESOLUTION OF THE BOARD OF DIRECTORS ADOPTING PUBLIC CONTRACTING RULES AND PRESCRIBING RULES OF PROCEDURE FOR PUBLIC CONTRACTING

RESOLUTION NO: 030205C

WHEREAS, Marion Soil & Water Conservation District ("District") is an Oregon special district which is subject to Oregon's public contracting rules; and

WHEREAS, in 2003 the Oregon Legislature substantially revised Oregon Public Contracting Code, and most of these revisions will take effect March 1, 2005; and

WHEREAS, ORS 279A.065(5) provides that a local contracting agency may adopt its own rules of procedure for public contract that:

(A) Specifically state that the model rules adopted by the Attorney General do apply to the contracting agency; and

(B) Prescribe the rules of procedure that the contracting agency will use for public contracts, which may include portions of the model rules adopted by the Attorney General;

NOW, THEREFORE, BE IT RESOLVED:

1. That except as otherwise provided herein, the District hereby adopts the provisions of ORS 279A, 279B, and 279C, and the Oregon Attorney General's Model Public Contracting Rules ("Model Rules") as the contracting rules for the District, as such Model Rules now exist or are later modified.
2. That the District affirmatively adopts the public contracting rules described in Exhibit A, which is attached to this Resolution and incorporated herein by reference. The Rules described in Exhibit A shall be in addition to, and shall supersede any conflicting provisions in, the Model Rules.
3. That the District shall regularly review changes in the Public Contracting Code and the Model Rules to ensure that the Rules adopted in Exhibit A are consistent with current law.

APPROVED AND ADOPTED on March 2, 2005.


Board Chair

ATTEST:


Board Secretary

EXHIBIT A

MARION SOIL AND WATER CONSERVATION DISTRICT PUBLIC CONTRACTING RULES AND PROCEDURES

A. Public Notice of Solicitations.

The District opts to follow statutory requirements.

B. Personal Services.

(1) Pursuant to ORS 279A.055, the District's Local Contract Review Board has defined "Personal Services" as follows:

"Personal Services" shall be defined to include those that require specialized technical, creative, professional or communication skills or talents, unique or specialized knowledge, or the exercise of discretionary judgment, and for which the quality of the service depends on attributes that are unique to the service provider. Such services shall include, but are not limited to: architects; engineers; surveyors; attorneys; accountants; auditors; computer programmers; artists; designers; performers; project managers and consultants. The District Contract Officer shall have the authority to determine whether a particular service is a "personal service" under this definition.

(2) Procedures for awarding personal services contracts shall be like any other procurement, pursuant to ORS 279B.050 to 279B.085.

C. Delegation.

(1) Except as otherwise provided in these rules, the powers and duties of the local contract review board under the Public Contracting Code must be exercised and performed by the District's Board of Directors. All powers and duties given or assigned to contract agencies by the Public Contracting Code must be exercised or performed by the District Contracting Officer.

(2) Public contracts and personal services contracts valued at \$10,000 or less are authorized for approval by the District Contracting Officer. All other types of contracts and public or personal services contracts valued at more than \$10,000 must be approved by the Board of Directors.

D. Special Procurements and Exemptions.

There are two types of "special procurements" described in ORS 279B.085: A "class special procurement," which includes an entire class of contracts, and a "contract-specific special procurement," which includes only one contract. A written request for any special procurement must be made to the Board of Directors. The Board of Directors are permitted to adopt findings supporting an exemption if the award is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts, and will result in substantial cost savings to the District or the public, and then declare an exemption from competitive bidding for a contract or class of contracts. Alternatively, the Board of Directors

may find that the special procurement will “otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with public contracting requirements.” Once the special procurement is authorized by the Board of Directors, the contract may be awarded to the offeror “whose offer” the District Contracting Officer determines in writing to be the most advantageous to the District.

E. Contracts Under \$5,000.

A “small procurement” is defined in ORS 279B.065 as “any procurement of goods or services not exceeding \$5000.” Small procurements are exempt from competitive bidding, however, where practical, more than one quote shall be obtained. Contracts will usually be awarded to the offeror, whose quote or proposal will “best serve the interests of the District, taking into account price as well as other considerations.”

F. Intermediate Procurements.

An “intermediate procurement” is defined in ORS 279B.070 as “any procurement of goods or services exceeding \$5,000 but not exceeding \$150,000.” When seeking to award such a contract, the District shall obtain at least three informally solicited quotes from prospective contractors. The contract must be awarded to the offeror, whose quote or proposal will “best serve the interests of the District, taking into account price as well as other considerations.”

G. Methods for Awarding Contracts Using Request for Proposal Process.

Pursuant to ORS 279B.060, the District shall award procurement contracts using the proposal process based on a simple ranking of proposals.

H. Emergency Contracts.

Contracts under \$10,000 are exempt from competitive bidding in an emergency. Pursuant to ORS 279B.080, the District Contracting Officer is authorized to make procurement of goods or services in an emergency. The emergency and the methods used to procure the goods or services must be documented. An “emergency” is defined as circumstances that could not have been reasonably foreseen that create a substantial risk of loss, damage, interruption of services or a threat to the public health and safety that requires a prompt execution of a contract to remedy the condition.

I. Disposal of Surplus Property.

Surplus property owned by or under the control of the District shall be disposed of pursuant to ORS 279A.185(2).

J. Sole Source Acquisitions.

The District Contracting Officer or Board of Directors may award a public contract without competition as a sole-source procurement pursuant to the requirements of ORS 279B.075.

K. Correction and Withdrawal of Bids.

The District adopts Model Rules, paragraph 9, Bid Mistakes.

L. Negotiations With Lowest Bidder When All Bids for Public Improvement Contract Exceed Cost Estimate.

The District does not intend to execute "public improvement contracts."

M. Protests Related to Procurement of Goods and Services.

The District adopts Model Rules, paragraph 11, Protests.

N. Appeals of Prequalification Decisions and Debarment Decisions.

The District adopts Model Rules, paragraph 12, Debarment Decisions.

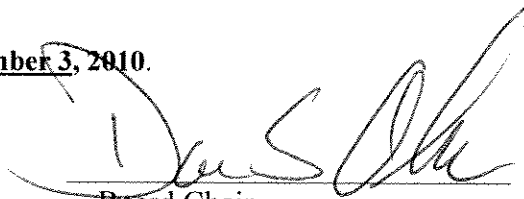
O. Concession Agreements.

When it is in the District's best interest to do so, the Board of Directors may obtain competitive proposals for concession agreements using the procedures described in ORS 279B.060.

P. Purchases from Federal Catalogs.

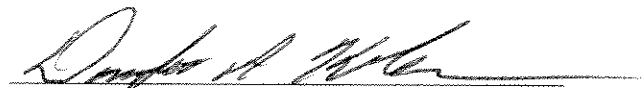
The District may purchase goods available from federal agencies under federal purchasing programs.

APPROVED AND ADOPTED on November 3, 2010.



Board Chair

ATTEST:



District Secretary