



Prineville City Council Meeting February 12, 2008

Issue Summary

Topic: Public Contracting Regulations

Department: Administration

Staff: Robb Corbett, City Mgr.

Background

At your last meeting the council tabled this resolution. Council directed staff to consider changes to the resolution that struck a balance between a simple solicitation and a more complicated one. It was also suggested that some solicitations had the potential to be more controversial as the dollar amount neared the top of the authority granted to staff.

An idea was to place a dollar limit that might reduce the potential for controversy.

There was also some hope that staff could develop language that would address these concerns without using a dollar limit.

Overview

Staff has recently been reviewing Resolution 1001, *Local Government Public Contracting Regulations*, developing a procedures document for employees to follow. In this work we have identified a constraint within the resolution under "Informally Solicited Quotes and Proposals" (Section 9) we would like to address through an amendment to the resolution.

The resolution requires: "The Solicitation Agent shall deliver or otherwise make available to potential offerors, a written scope of work," (Section 9.A(1)). We feel that there are times when a written scope of work might not be necessary. Those times would be when the solicitation is for something very clearly identified and simple.

Staff Recommendation to Council

Senior staff discussed this at length and would suggest that the easiest way to address concerns raised by the council would be to place a dollar threshold beyond which a written scope of work or description would be required. Informal solicitations below this cap can be given verbally at the discretion of the purchasing agent and in full compliance with the existing policy. (See proposed changes on page 15, Section 9)

City Options

1. Adopt changes through the new Resolution 1070
2. Choose not to make changes, requiring written description of the goods needed.

**RESOLUTION No. 1001
CITY OF PRINEVILLE LOCAL GOVERNMENT
PUBLIC CONTRACTING REGULATIONS**

1. Public Contracts - City of Prineville Policy.

- A. **Short Title.** The provisions of this Resolution and all rules adopted under this Resolution may be cited as the City of Prineville's Public Contracting Regulations.
- B. **Purpose of Public Contracting Regulations.** It is the policy of the City of Prineville (hereinafter "City") in adopting the Public Contracting Regulations to utilize public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by:
- (1) Promoting impartial and open competition;
 - (2) Using solicitation materials that are complete and contain a clear statement of contract specification and requirements; and
 - (3) Taking full advantage of evolving procurement methods that suit the contracting needs of the City as they emerge within various industries.
- C. **Interpretation of Public Contracting Rules.** In furtherance of the purpose of the objectives set forth in subsection B, it is the City's intent that the City of Prineville's Public Contracting Regulations be interpreted to authorize the full use of all contracting powers and authorities described in ORS Chapters 279A, 279B and 279C.
- D. **Repeals Resolution 1001 and Resolution 962.**

Formatted: Font: Bold

2. Application of Public Contracting Regulations. In accordance with ORS 279A.025, the City's public contracting regulations and the Oregon Public Contracting Code do not apply to the following classes of contracts.

- A. **Between Governments.** Contracts between the City and a public body or agency of the State of Oregon or its political subdivisions, or between the City and an agency of the federal government.
- B. **Grants.** A grant contract is an agreement under which the City is either a grantee or a grantor of monies, property, or other assistance, including loans, loan guarantees, credit enhancements, gifts, bequests, commodities, or other assets for the purpose of supporting or stimulating a program of activity of the grantee and in which no substantial involvement by the grantor is anticipated in the program or activity other than involvement associated with monitoring compliance with the grant conditions.
- C. **Legal Witnesses and Consultants.** Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the City is or may become interested.

- (2) **Classes of Contracts Eligible for Award Without Competition.** The following concession agreements may be awarded by any method deemed appropriate by the Solicitation Agent, including without limitation, by direct appointment, private negotiation, from a qualified pool, or using a competitive process.
- (a) **Contracts Under \$5,000.** Contracts under which the Solicitation Agent estimates that receipts by the City will not exceed \$5,000 in any fiscal year and \$50,000 in the aggregate.
 - (b) **Single Event concessions.** Concessions to sell or promote food, beverages, merchandise or services at a single public event shall be awarded based on any method determined by the Purchasing Manager to provide a fair opportunity to all persons desiring to operate a concession, but in which the promotion of the public interest and success of the event shall be of predominant importance.
- (3) **Competitive Award.** Concession agreements solicited by the City for the use of designated public premises for a term greater than a single event shall be awarded as follows:
- (a) **Small Concessions.** For Concession Agreements for which the concessionaire's projected annual gross revenues are estimated to be \$500,000 or less, the Purchasing Manager has discretion to use either an informal solicitation or formal request for proposals process applicable to contracts for personal services. If the proposals received indicate a probability that the concessionaire's annual gross revenues will exceed \$500,000, the Solicitation Agent may, but shall not be required to, reissue the solicitation as a request for proposals.
 - (b) **Major Concessions.** Concession agreements for which the concessionaire's projected annual gross revenues under the contract are estimated to exceed \$500,000 annually shall be awarded using a request for proposals.

9. Public Contracts - Informal Solicitation Procedures. The City may use the following procedure for informal solicitations in lieu of the procedures set forth in the Model Rules.

A. Informally Solicited Quotes and Proposals.

- (1) **Solicitation of Offers.** When authorized by these regulations, an informal solicitation may be made by general or limited advertisement to a certain group of vendors, by direct inquiry to persons selected by the Solicitation Agent, or in any other manner which the Solicitation Agent deems suitable for obtaining competitive quotes or proposals. The Solicitation Agent shall deliver or otherwise make available to potential offerors, a written scope of work, a description of how quotes or proposals are to be submitted and description of the criteria for award for these solicitations that exceed \$25,000.