

Purpose of Contracting Policy

The Mid John Day Watershed Council (**MJDWC or Council**) is a non-governmental, 501(c)(3) non-profit MJDWC that procures services and supplies through formal agreements and contracts. The purpose of this policy is to guide the Council's procurement activities to define processes that are transparent, fair, and competitive that (1) result in high-quality products, goods, and/or services for the greatest overall value and (2) is in a manner that complies with the state and federal regulations governing MJDWC's use of grant funds.

General Authority

The MJDWC's Executive Director (ED) shall be the MJDWC's 'Procurement Manager' and is hereby authorized to award, manage, and administer all MJDWC's appropriated contracts.

Definitions

The following terms used in this *Contracting Policy* shall mean:

Award: either the act or occurrence of the Procurement Manager's identification of the person with whom MJDWC will enter into a contract following the resolution of any protest of the Procurement Manager's selection of that person and the completion of all contract negotiations. Award of a contract is not binding until both parties have signed the contract.

Bid: a written offer to provide goods or services for a specified price or prices.

Contract: an executed and binding agreement between the MJDWC and contractor for the delivery of goods, services, personal services, and public improvements.

Contractor: the entity with whom MJDWC enters into a contract.

Contract Price: the total amount paid or to be paid under a contract, including any approved alternates, and any fully executed change orders or amendments.

Debarment: a declaration by the MJDWC prohibiting a potential contractor from competing for MJDWC contracts for a prescribed period of time.

Emergency: circumstances creating a substantial risk of loss, damage, or interruption of services, or a substantial threat to property, public health, welfare, safety, or otherwise undermining the stability of a project or project component risking previous financial investments; and requiring prompt execution of a contract to remedy the condition.

Informal solicitation means a solicitation made in accordance with the Public Contracting Regulations to a limited number of potential contractors, in which the Procurement Manager attempts to obtain written quotes or proposals.

Invitation to Bid (ITB): means a publicly advertised request for competitive sealed bids.

Local Contractor: a contractor with its primary place of business in _____ counties.

Offer: a written response to a solicitation.

Offeror: a person who submits a written bid, quote, or proposal to enter into a contract with the MJDWC.

Person: a natural person or any other private or governmental entity, having the legal capacity to enter a binding contract.

Proposal: a written response to a 'Request for Proposal'. This response is a binding offer to provide goods, services or public improvements with the understanding that acceptance will depend on the evaluation of factors other than, or in addition to, price.

Quote: a price offer made in response to an informal or qualified pool solicitation to provide goods, services or public improvements.

Request for Proposals (RFP): a publicly advertised request for sealed competitive proposals.

Solicitation: refers to the process by which the MJDWC requests, receives and evaluates potential contractors and includes an invitation to one or more potential contractors to submit a bid, proposal, quote, statement of qualifications or letter of interest to the MJDWC with respect to a proposed project, procurement or other contracting opportunity.

Solicitation Documents: all informational materials issued by MJDWC for a solicitation, including instructions, submission requirements and schedules, evaluation criteria, contract terms, and specifications.

Standards for Contracting Rules

When adopting contracting rules, the Procurement Manager shall establish best practices and procedures that:

- a) Do not encourage favoritism or substantially diminish competition;
- b) Allow MJDWC to take advantage of the cost-saving benefits of alternative contracting methods and practices;
- c) In instances of tie low bids or two identical proposals or offers, give preference to goods and services manufactured or produced in the State of Oregon or support local economy, if price, fitness, availability, and quality are otherwise equal; and
- d) Give preference to goods certified to be made from recycled products when such goods are available, can be substituted for non-recycled products without a loss in quality, and

the cost of goods made from recycled products is not significantly more than the cost of goods made from non-recycled products.

Advertising

Exercising its total discretion, the Council will advertise to obtain competitive offers by any means appropriate, including: posting electronically, newspaper ads, or via its public website.

Minimum Qualifications

An offeror meets the minimum qualifications if the offeror has/is:

- a) Available the appropriate financial, material, equipment, facility, and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to indicate the capability of the offeror to meet all contractual responsibilities;
- b) A satisfactory record of performance. The Procurement Manager shall document the record of performance of an offeror if the Procurement Manager finds the offeror to be not responsible under this paragraph;
- c) A satisfactory record of integrity. The Procurement Manager shall document the record of integrity of an offeror if the Procurement Manager finds the offeror to be not responsible under this paragraph;
- d) Qualified legally to contract with the MJDWC;
- e) Supplied all necessary information in connection with the inquiry concerning responsibility. If an offeror fails to promptly supply information requested by the Procurement Manager concerning responsibility, the Procurement Manager shall base the determination of responsibility upon any available information or may find the offeror non-responsible; and
- f) Not been debarred by the MJDWC, and, in the case of projects involving use of public funds, has not been listed by the Construction Contractors Board as a contractor who is not qualified to hold a public improvement contract.
- g) MJDWC is further prohibited from entering publicly funded contracts with parties listed on the government-wide exclusion in the System for Award Management.

Procurement Procedures

Council Program Staff are responsible for retaining and managing independent contractors and consultants. The Procurement Manager is responsible for reviewing and approving contractor agreements, work plans, and payments.

Sole Source Procurements

MJDWC may award contracts for goods or services without competition if the Council makes a written determination the goods or services, or class of goods or services, are available from only one source. Sole source procurements may be made when one or more of the following circumstances apply:

- Contract amount does not exceed \$5,000.
- The item or service is only available from a single source.
- An emergency exists rendering a delay resulting from competitive solicitation reasonably impractical or functionally impossible.
- A landowner has a preferred contractor.
- Competition is inadequate after solicitation of a number of sources.

If a private landowner has a preferred contractor that meets the MJDWC's 'Minimum Qualifications', the Procurement Manager will verify that:

- a) The contractor is registered with the Oregon's Construction Contractors Board (CCB) if activities require it.
- b) The contractor has the appropriate insurance and the ability to provide certificate(s) of General Liability showing MJDWC as additionally insured.
- c) The contractor estimate is reasonable and consistent with current industry costs.
- d) The contractor is qualified and can provide at least one reference for project type.

Small Procurements

Contracts Not Exceeding \$25,000

- ✓ Sole Source Procurement (No-bid Contract, Sole Source, Direct Contract) is allowed
- ✓ No formal solicitation process required
- ✓ Request for Quotes and RFP/ITB optional

- Procurement process and award selection will be documented on the 'Informal Procurement Record'.
- Council staff are expected to conduct an informal cost/price analysis and make selection for award based on best mix of quality, service, and price for the specified goods or services.
- Reasonable efforts shall be made to distribute such procurements equitably among qualified suppliers.
- MJDWC reserves the right to contract with Local Contractors for Small Procurements.

Intermediate Procurements

Contracts over \$25,000 But Not Exceeding \$75,000

- ✓ No formal solicitation process required
- ✓ Request for Quotes (minimum of three (3) quotes required)
- ✓ RFP/ITB optional

- Procurements with a contract price estimated over \$15,000 but not exceeding \$50,000 may be made after obtaining a minimum of three (3) independent vendor/contractor quotes.
- Procurement process, solicited quotes, and award selection will be documented on the 'Informal Procurement Record'. Written documentation of the selection process is required and includes vendor name, bid/quote amount, and date received.
- If three (3) quotes are not reasonably available, two (2) or one (1) quote will suffice, but the Council shall make a written record of the effort made to obtain the quotes.
- MJDWC shall award the contract to the prospective contractor whose quote will best serve the interests of the Council, considering price as well as any other applicable factors, such as experience, specific expertise, availability, project understanding, contractor capacity, and responsibility.
- If award is not made to the prospective contractor offering the lowest price quote, MJDWC shall make a written record of the basis for award.

Large Procurements

Contracts Exceeding \$75,000

- ✓ Formal solicitation process required
- ✓ RFP/ITB required

Request for Proposals (RFP)	Invitation to Bid (ITB)
<p>MJDWC shall evaluate all responsive bids based on the evaluation criteria described in the solicitation documents.</p> <p>Contracts shall be awarded to the responsible offeror whose proposal is the most advantageous to MJDWC.</p> <p>This award is not only based on price but other factors well, such as:</p> <ul style="list-style-type: none"> ● Experience and Qualifications ● Proposal clarity ● Approach and Timeline 	<p>MJDWC shall evaluate all responsive bids based on the requirements set forth in the solicitation documents.</p> <p>Contracts shall be awarded to the lowest responsible bidder whose bid substantially complies with the requirements and criteria of the ITB.</p>

<ul style="list-style-type: none"> ● Company resources available ● Relevant Project management experience and/or past experience working with MJDWC and/or partners 	
<p>MJDWC shall maintain written record of the evaluations of proposals received.</p> <p>Once a contractor is selected, all responsible bidders who submitted a sealed bid will receive notification disclosing the selected contractor and the winning bid amount.</p> <p>Proposal evaluations and/or scores will not be shared with any person other than the offeror.</p> <p>Negotiations are permitted during the advertised contract negotiation period.</p>	<p>MJDWC shall maintain written record of the evaluations of proposals and bids received.</p> <p>Once a contractor is selected, all responsible bidders who submitted a sealed bid will receive notification disclosing the selected contractor and the winning bid amount.</p> <p>Negotiations are not permitted; however, MJDWC may seek clarification of a bid, but clarification does not supplement, change, or otherwise alter any aspect of the solicitation.</p>

Prevailing Wage

The MJDWC adheres to both Federal Wage Rate Requirements and Oregon Prevailing Wage Rate Laws, as they apply to instruments of funding. The award of any applicable MJDWC contract shall be conditioned upon the acceptance of the wage determination.

Construction contracts in excess of \$50,000 are required to comply with either:

- 1) Oregon Prevailing Wage Laws administered by Oregon Bureau of Labor & Industries (BOLI) ORS 279C.800-279C.870, or
- 2) The Federal Wage Rate Requirements administered by The US Department of Labor (DOL)

Contracts triggering both State and Federal wage requirements must elect the higher Wage Rate determination of the two.

Primary and Subcontractor Requirements, Responsibility, and Liability

Primary contractor is responsible for subcontractor. Liability for the sub is under the primary contractor.

Oregon’s Construction Contractors Board

The MJDWC looks at project complexity and liability when requiring a CCB-licensed contractor. Contracts involving power driven machinery, take place instream, and/or are complex in nature may require a CCB-licensed contractor.

Individual solicitation documents will identify and state the CCB requirement.

Insurance

Any Contractor retained by the Council must provide proof of insurance and complete the form attached as **Appendix A**, unless this requirement is waived in writing by the Council.

Modifying/Amending Contracts and Extending Services

MJDWC, in its sole discretion, may modify contracts or extend services of existing approved contractors without a solicitation.

Cancellation, Rejection, and Delay

MJDWC reserves the right to cancel, suspend, or delay any solicitation, and to reject all offers, when the Council determines such action is in the best interest of the Council.

Additional criteria may include: (i) the content of or an error in the solicitation document or procurement process unnecessarily restricted competition for the contract; (ii) the price, quality, or performance presented by prospective contractors are too costly or of insufficient quality to justify acceptance of any offer; and (iii) misconduct, error, or ambiguous/misleading provisions in the solicitation document threaten the fairness and integrity of the competitive process.

Any or all offers submitted in response to a solicitation may be rejected in whole or in part for the same reasons. MJDWC shall document the reasons and place the writing in the appropriate solicitation file.