

MEETING OF THE SUNNYSIDE DIVISION
BOARD OF CONTROL

The regular meeting of the Sunnyside Division Board of Control (SDBOC) was held in-person and via conference call, and was called to order by Chairman Simpson on, December 12, 2023 at 1:31 PM. Present in addition to Chairman Simpson were Directors Kevin Golob, Paul Groeneweg, and Dave Michels; Lori Brady, SDBOC Secretary/Treasurer, Ron Cowin, Assistant Manager-Engineering, Dave Bos, Assistant Manager- Operations, and Nikki Musson, SDBOC Deputy Treasurer/Office Manager; and Larry Martin, Legal Counsel for the Sunnyside Division Board of Control. Also in attendance was David Felman, Engineering Supervisor and incoming Manager.

The minutes of the November 13, 2023 Board Meeting were reviewed. Upon a motion by Director Golob that was seconded and unanimously carried, the minutes were approved.

The Board reviewed the monthly financial reports and vouchers numbered 6054-6102 in the total amount of \$251,163.95 which were submitted for approval. A motion was made by Director Michels which was seconded and unanimously carried, authorizing payment of the vouchers as listed above.

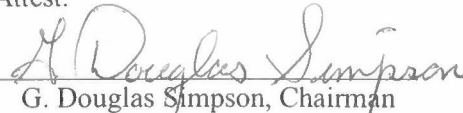
Mr. Bos presented the water supply report. As of December 12, 2023, storage in the mountain reservoirs is at 228,853 or 21% of capacity. Storage content is 50.2% of average. Precipitation for the year to date is 77.36 inches or 108% of average. Snow pack is 85% of average for the period of October 1st through December 12th.

Resolution 2023-12-01 is an amendment to Section 13 on Construction Projects and Purchase of Goods and Services. The resolution was amended so it more closely follows the R.C.W. Upon a motion by Director Michels that was seconded, and unanimously carried, Resolution 2023-12-01 was approved. Said resolution is attached and by this reference incorporated into these minutes.

There being no further business, the meeting was adjourned at 1:36 PM.


Lori Brady, Secretary

Attest:


G. Douglas Simpson, Chairman

RESOLUTION

2023-12-01

AMENDING THE BYLAWS, RULES AND REGULATIONS

CONSTRUCTION PROJECTS

AND

PURCHASE OF GOODS AND SERVICES


WHEREAS, The Board of Directors (Board) of the Sunnyside Division Board of Control (SDBOC) finds it necessary to set establish or modify policy from time to time, and

WHEREAS, the Board routinely review the Bylaws, Rules and Regulations to assure compliance with state statutes and amends its Bylaws, Rules, and Regulations as necessary.

THEREFORE, IT IS RESOLVED:

Section 13 of the Bylaws, Rules, and Regulations is hereby amended as set forth on Attachment "A."

Adopted this 12th day of December, 2023.


G. Douglas Simpson

Attest:


Lori A. Brady, Secretary

SECTION 13: PURCHASE OF MATERIALS, SUPPLIES, AND EQUIPMENT and SERVICES (2010-10-01)

A. CONSTRUCTION PROJECTS:

1. Formal sealed bidding requirements will apply to all construction projects except as noted in Paragraphs A.2. through A.8 below.¹
2. SDBOC shall maintain a small works roster which may be utilized for construction projects that are estimated to cost less than \$300,000². All construction projects, the estimated cost of which is less than three hundred thousand dollars, may be awarded to a contractor on the small works roster.
3. The small works roster shall be comprised of all responsible contractors who have requested to be on the list. Advertisement for the small works roster for construction work shall be published once a year.
4. When using the small works roster to obtain construction services, SDBOC will obtain telephone and/or written quotations from the contractors on the small works roster to assure establishment of a competitive price and for awarding work to the lowest responsible contractor. SDBOC will make a good-faith effort to request quotations from all responsible contractors on the small works roster. Immediately after an award is made, the telephone and/or written quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.
5. The formal bidding process is not required in the case of any contract between SDBOC and the United States.
6. In the case of an emergency when the public interest or property of SDBOC would suffer material injury or damage by delay, upon resolution of the board of directors or proclamation of an official designated by the board to act for the board during such emergencies. The resolution or proclamation shall declare the existence of the emergency and recite the facts constituting the emergency.
7. The bidding process is not required for purchases which are clearly and legitimately limited to a single source of supply or to purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation.

¹ RCW 87.03.435

² RCW 87.03.436

8. SDBOC may conduct construction projects under its own superintendence and without use of the formal bidding process.

B. USE OF A SMALL PROJECTS ROSTER

1. The Small Works Roster³ can be used to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property. These provisions may be used in place of the formal bid process for work with an estimated cost of two hundred & fifty thousand dollars or less (<\$250,000) for federal projects or three hundred thousand dollars or less (<\$300,000) for state projects.
2. SDBOC will create Small Works Rosters for different specialties or categories of anticipated work. Where applicable, SDBOC will make distinctions between contractors based upon different geographic areas served by the contractor. The Small Works Rosters shall consist of all responsible contractors who have requested to be on the list. SDBOC will require eligible contractors desiring to be placed on a roster or rosters to have on file with SDBOC as a condition of being placed on rosters the following information:
 - a. Certificate of Registration with the Department of Labor and Industries
 - b. Unified Business Identifier Number (UBI)
 - c. Employment Security Department Number
 - d. State Excise Tax Registration Number
 - e. Federal ID Number / Business License Number
3. At least once a year, SDBOC shall publish in in a newspaper of general circulation and provide the office of minority and women's business enterprises' directory of certified firms a notice of the existence of Small Works Rosters and solicit the names of contractors for such rosters. In addition, responsible contractors shall be added to the Small Works Rosters at any time they submit a request and provide the required information. Telephonic, written, or electronic quotations from contractors on the appropriate Small Works Roster shall be obtained to assure that a competitive price is established and to award contracts to the lowest responsible bidder. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation. Quotations will be invited from all contractors on the appropriate Small Works Roster. SDBOC has the sole option of mailing a notice to these contractors or sending a notice to these contractors by facsimile or other electronic means.

³ RCW 39.04.155 (1)
December 12, 2023

4. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.
5. A contract will be executed by SDBOC and the contractor that becomes effective when a specific award is made to the lowest responsible bidder. Written contracts will be required for any work estimated to cost more than \$10,000.
6. Whenever SDBOC shall contract to do any work estimated to cost between \$35,000 and \$300,000, it shall require the contractor to deliver a bond in the amount of the contract, to assure that such contractor shall faithfully perform all the provisions of such contract and pay all laborers, mechanics, and subcontractors and material suppliers, and all persons who supply such person or persons, or subcontractors, with provisions and supplies for the carrying on of such work.
 - a. For projects with an estimated cost of between \$10,000 and \$35,000, at the option of the contractor, SDBOC may, in lieu of the bond, retain fifty percent of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the Department of Revenue and the Department of Labor and Industries and settlement of any liens whichever is later.⁴ For contractors with no subcontractors and an estimated competition time of less than 45 days, SDBOC may waive the bonds and retainage requirements entirely.
 - b. For projects costing less than ten thousand dollars (<\$10,000) SDBOC also waive the requirement for a written contract.
7. In addition to other requirements, SDBOC shall reserve, a contract retainage not to exceed five percent of the moneys earned by the contractor as a trust fund for the protection and payment of: (a) The claims of any person arising under the contract; and (b) the state with respect to taxes imposed pursuant to Titles 50, 51, and 82 RCW which may be due from such contractor;⁵except, for projects with an estimated cost of less than \$35,000 retainage may not be required (See Paragraph 7a)

⁴ RCW 39.08.010

⁵ RCW 60.28.011(1)

- a. For contracts with an estimated cost of between \$10,000 and \$35,000 the contractor may elect to delay payment of 50% of the contract amount in lieu of SDBOC retaining 5% of the contract amount (See paragraph 7a).

C. MATERIALS, SUPPLIES, OR EQUIPMENT OR SERVICES

1. Purchase of materials, supplies, or equipment costing less than \$10,000⁶ for each purchase excluding sales tax may be acquired using standard business practices.
2. SDBOC shall maintain a list of vendors which may be utilized for purchases of materials, supplies, or equipment with an estimated cost (excluding sales tax) of between \$10,000 and \$50,000⁷.
3. All purchases, the estimated cost of which is less than fifty thousand dollars, may be awarded to a firm on the vendors list. All purchases, the estimated cost of which is \$50,000 or more, will be awarded by the sealed bid process.
4. The vendors list shall be comprised of all responsible vendors who have requested to be on the list. Advertisement for inclusion on the vendors list shall be published twice a year.
5. When using the vendors list to purchase materials, supplies, or equipment SDBOC will obtain telephone and/or written quotations from at least three vendors on the vendors list whenever possible to assure establishment of a competitive price. Immediately after an award is made, the telephone and/or written quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry. SDBOC will record and have available at the office for public inspection a list of the purchases for the preceding 18 months under this process.
6. Competitive bidding requirements may be waived for:
 - (a) Purchases that are clearly and legitimately limited to a single source of supply;
 - (b) Purchases involving special facilities or market conditions;

⁶ RCW 87.03.437(1)

⁷ RCW 87.03.437(2) and RCW 39.04.190

- (c) Purchases in the event of an emergency;
- (d) Purchases of insurance or bonds; and
- (e) Public works in the event of an emergency.

7. If the Board of Directors elects to waive competitive bidding requirements by the terms of written policies adopted by SDBOC, immediately after the award of any contract, the contract and the factual basis for the exception must be recorded and open to public inspection. This requirement does not apply to emergency situations.
8. If an emergency exists, the District Manager may declare an emergency situation exists, waive competitive bidding requirements, and award all necessary contracts on behalf of SDBOC to address the emergency situation. If a contract is awarded without competitive bidding due to an emergency, a written finding of the existence of an emergency must be made by the Board of Directors and duly entered of record no later than two weeks following the award of the contract.

"Emergency" means unforeseen circumstances beyond the control of the SDBOC that either: (a) Presents a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

9. Purchases under \$10,000 per purchase excluding sales tax do not require competitive quotations or bids.

D. BID PROCEDURES GENERALLY:

1. Advertisement of the notice for bids, the small works roster, or the vendors list shall be published at least once a week for two weeks in the newspaper in the county in which the office of the board is situated, in any other newspaper which may be designated by the board, and on the irrigation district's website.
2. The board can award the contract in whole or in part to the lowest responsible bidder.
3. The board has authority to reject any or all bids and re-advertise, or it may conduct construction work under its own superintendence.
4. The board may require a bid deposit in the amount equal to 5 percent of the bid amount.
5. When the contract is awarded for materials purchase, the successful bidder may supply a performance bond for at least 25 percent of the amount of contract.

E. ANTI-DISBARMENT AND NON-COLLUSION

On construction work or purchases over \$25,000 involving federal grants, a Declaration of Anti-disbarment and a Non-collusion Affidavit will be required. SDBOC will provide notice to prime contractors of their responsibilities to make this a requirement of subcontractors. In place of the Declaration of Anti-disbarment, SDBOC may check <http://www.epls.gov/epls/search.do>. A hard copy of the report should be kept on file.

F. CONFLICT OF INTEREST

No employee, officer or agent may participate in the selection, award or administration of a contract supported by federal funds if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer or agent, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

No employee, officer or agent of the district may solicit or accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts. Violation of these standards may result in disciplinary action including, but not limited to, suspension, dismissal or removal.

The contractor, parties, or entity must disclose in writing any potential conflict of interest to the Federal Awarding agency or pass through entity in accordance with applicable Federal awarding agency policy.