

MEMORANDUM

DATE: January 13, 2023

TO: Ted Corrigan, CEO and General Manager

FROM: Lindsey Wanderscheid, P.E., Engineering Supervisor

SUBJECT: Proposed Board Policy Changes – Contracting and Consultant Procedures

The Engineering Department presented recommendations to improve consulting and contracting processes at the December Planning Committee meeting. At the December 2022 Board meeting it was recommended that the policy manual be edited to allow those recommendations to be implemented. A draft of the proposed changes to the current Des Moines Water Works Board Policy Manual, last amended January 28, 2020, is attached.

A summary of the proposed changes include:

- Added a section on non-public improvements and that they must be competitively bid if they are over the CEO spending authority but need not follow the procedures set forth in Chapter 26.
- Edited the section on professional consultants and allowed for a Request for Qualification process when obtaining services and negotiation of scope and fee.
- Allowed for the hiring of a consultant for a project phase and then the ability to amend their agreement for the inclusion of the next phase of the project without resoliciting the project.
- Added a provision to be able to execute master service agreements, with a series of addendums executed for specific projects, with approval by the board. Addendums for specific projects can be approved without the board if the fee per project is within the CEO spending authority. There is a limit to a 5-year period and for projects less than \$1 million.
- Allowed for deviations from procedures with appropriate justification to the Board.

It is proposed that these revisions become effective immediately once approved by the Board at their meeting on January 24, 2023.

Improvement Contracting Procedure.

611.1 Public Improvement Projects

- 611.1.1 When a public improvement is estimated to exceed the competitive bid threshold under Section 26.3, Code of Iowa, the Board of Trustees shall advertise for sealed bids and award a contract for the proposed construction in the manner as provided by law. When a public improvement is estimated to be below the competitive bid threshold under Section 26.3, Code of Iowa, but in excess of the competitive quotation threshold under Section 26.14, Code of Iowa, the Board of Trustees may follow the full competitive bid process under Chapter 26, Code of Iowa, or the CEO and Board of Trustees may proceed with the competitive quotation process specified by Section 26.14, Code of Iowa. For public improvements below the competitive quotation threshold, the CEO shall have discretion to use other contracting procedures to the extent consistent with Chapter 26, Code of Iowa, and the spending authority of the CEO under these rules.
- 611.1.2 Notice to Bidders. When the competitive bid process applies, the Board of Trustees shall advertise for bids in the manner specified by Section 26.3, Code of Iowa by giving a Notice to Bidders conforming to the requirements of Section 26.7, Code of Iowa, which shall include the time and place for filing sealed bids, time and place the sealed bids will be opened and considered by the Board of Trustees, the general nature of the proposed construction, the general terms of when construction must be commenced and completed, the requirement for bid security, and any further information deemed pertinent by the CEO or Board of Trustees.
- 611.1.3 Bid Security. Each bid must be accompanied by a bid security that the successful bidder will enter into a contract for the proposed construction. The amount of the bid security shall be ten percent (10%) of the bid submitted by the bidder. If 33 alternatives are bid by the bidder, the bid security shall be ten percent (10%) of the bidder's highest alternative.
- 611.1.4 Award of Contract. Before entering into any contract for a proposed public improvement estimated to exceed the competitive bid threshold, the Board of Trustees shall adopt the form of the proposed contract, plans and specifications, and estimated costs for the project and conduct a public hearing thereon. The procedures stated in Section 602 shall apply to the public hearing. The Board of Trustees reserves the right to reject all bids. The contract may be, but need not be, awarded to the low responsible bidder. The contract shall be awarded by the Board of Trustees as it deems the contract to be in the best interests of the Water Works in compliance with Chapter 26 and Subchapter III of Chapter 73A, code of Iowa.

611.1.5 Emergency Construction. These procedures need not be followed if emergency work is necessary, and authorized by Section 384.103(2), Code of Iowa. In such cases, the CEO shall subsequently, but as soon as reasonably possible, communicate to the Board of Trustees the nature and cost of the emergency construction.

611.1.6 Supplies. Before the Water Works purchases any major supplies or capital budget items exceeding the CEO's spending authority, the Board of Trustees shall review the tabulations of competitive bids and authorize purchases accordingly.

611.1.7 Contracts for new facilities shall be let if the Board finds, pursuant to Section 28E.18, Code of Iowa, that no alternative suitable facilities are available for rent or sharing.

611.2 Non-Public Improvement Projects.

611.2.1 This section only applies to construction and maintenance projects that do not meet the definition of a "Public Improvement" in Iowa Code Chapter 26.

611.2.2 For construction or maintenance projects where the total anticipated cost of the project exceeds the CEO's spending authority, the Board of Trustees requires that project be competitively bid. At a minimum, Water Works staff will contact more than one qualified contractor or service provider and request a certificate of insurance; rates, fees, or charges; and qualifications of the contractor or service provider. After Water Works staff review the qualifications, charges, and insurance of the contractor or service provider, Water Works Staff will recommend to the Board of Trustees that Water Works enter into a contract with a particular contractor or service provider. The Board of Trustees will vote on whether to approve entering into a contract with the contractor or service provider.

611.2.3 For construction or maintenance projects where the anticipated total cost does not exceed the CEO's spending authority, the CEO has discretion to use procedures to identify and retain contractors or service providers that are in the best interests of the Des Moines Water Works.

611.2.4 Contract documents, including terms and conditions, bonds, and plans and specifications, for non-pubic improvement projects will generally conform to the documentation utilized for public improvement projects, except where Water Works staff determines that the nature of the project indicates the best interests of the Des Moines Water Works will be better served by other forms of contract documents. Any decision not to require a bond for a construction project shall be made by the CEO.

611.2.5 Water Works staff may deviate from the selection procedures in 611.2.2 so long as the Board of Trustees receives appropriate detailed justification, regarding the reasons for selection of a specific contractor or service provider, and the reasons for the procedure utilized by Water Works staff. The Board of Trustees may approve the selection of the contractor or service provider if the Board of Trustees determines it is in the best interest of Water Works.

617 Professional Consultants

617.1 Selection and Use of Single-Project Professional Consultants

617.1.1 For single-project professional consultant engagements where the anticipated fee exceeds the CEO's spending authority, the Board of Trustees requires that competitive proposals be solicited. This will ordinarily be accomplished by issuance of a Request for Proposals (RFP) that requires fee information to be provided by responsive bidders, or a Request for Qualifications (RFQ) with a fee and scope to be subsequently negotiated after Water Works staff review the qualifications of the responsive professional consultants. At a minimum, Water Works staff will contact more than one qualified professional consultant and request a certificate of insurance; rates, fees, or charges; and qualifications of the professional consultant. After Water Works staff review the qualifications, charges, and insurance of the professional consultant, Water Works staff will recommend to the Board of Trustees that Water Works enter into a contract with a particular professional consultant. The Board of Trustees will vote on whether to approve entering into a contract with the professional consultant.

617.1.2 If the anticipated cost for the single-project professional consultant is less than the CEO's spending authority then the CEO has discretion to use procedures to identify and retain single-project professional consultants that are in the best interests of the Des Moines Water Works.

617.1.3 Water Works staff may deviate from the selection procedures in 617.1.1 so long as the Board of Trustees receives appropriate detailed justification, regarding the reasons for selection of a specific professional consultant, and the reasons for the procedure utilized by Water Works staff. The Board of Trustees may approve the selection of the professional consultant if the Board of Trustees determines it is in the best interest of Water Works.

617.1.4 After a professional consultant is identified and retained for any

phase of the project, Water Works may execute amendments to the existing agreement to obtain additional services without re-soliciting the project. Subsequent amendments may be approved by the CEO if the anticipated cost of the amendment is within the CEO's spending authority or total authorized cost for the project. If the anticipated cost of the amendment exceeds the CEO's spending authority then the Board of Trustees must approve the amendment.

617.2 Selection and Use of Multi-Project Professional Consultants.

617.2.1 For engagements with professional consultants where Water Works Staff anticipate recurring or multiple project engagements with the same professional consultant, then the Board of Trustees shall approve the use of the professional consultant before Des Moines Water Works enters into a master service agreement ("MSA") with the professional consultant.

617.2.2 Multi-project professional consultant engagements will be established by a Request for Qualifications process. At a minimum, Water Works staff will contact more than one qualified professional consultant and request a certificate of insurance; rates, fees, or charges; and qualifications of the professional consultant. After Water Works staff review the qualifications, charges, and insurance of the professional consultant, Water Works staff will recommend to the Board of Trustees that Water Works enter into a contract with a particular professional consultant. The Board of Trustees will vote on whether to approve entering into a contract with the professional consultant.

617.2.3 The term of the MSA will not exceed five (5) years.

617.2.4 After approval of the MSA by the Board of Trustees, the CEO has discretion to approve subsequent amendments to the MSA that apply to specific projects if the total anticipated cost of the work covered by the amendment is within the CEO's spending authority. If the anticipated cost of a particular amendment exceeds the CEO's spending authority, then the amendment must be approved by the Board of Trustees.

617.2.5 Multi-project professional consultant agreements may not be used for any projects where the anticipated cost of the project is over \$1,000,000.

617.3 Water Works staff will provide a list of all agreements signed and executed in the past 24 months in the monthly Board materials.