

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 00-2925
AN EXEMPTION TO THE REQUIREMENT OF)
COMPETITIVE BIDDING, AUTHORIZING ISSUANCE) INTRODUCED BY MIKE BURTON
OF A REQUEST FOR PROPOSALS TO PROCURE) EXECUTIVE OFFICER
HAZARDOUS WASTE DISPOSAL SERVICES, AND)
AUTHORIZING THE EXECUTIVE OFFICER)
TO EXECUTE THE RESULTING MULTI-YEAR)
CONTRACTS)

WHEREAS, Metro operates a hazardous waste collection program, which includes two permanent household hazardous waste facilities, satellite collections around the region, and a conditionally exempt generator (CEG) program; and

WHEREAS, Metro's current contracts for transportation and disposal of wastes collected in the hazardous waste program expire on June 30, 2000; and

WHEREAS, The FY 2000-01 Metro budget of the Regional Environmental Management Department authorizes expenditures of a total of \$971,400 for hazardous waste disposal; and

WHEREAS, ORS 279.015 requires that public contracts shall be based upon competitive bids except when exempted upon approval of certain findings; and

WHEREAS, Metro Code Section 2.04.054 provides that all Metro public contracts shall be based upon competitive bid with the exception that specific contracts may be exempted by resolution of the Metro Contract Review Board, subject to the requirements of ORS 279.015, including certain findings; and

WHEREAS, for the justifications set forth in the attached Exhibit B, the Metro Contract Review Board finds that exempting the award of a contract resulting from the RFP for procurement of hazardous waste disposal services from the competitive bidding requirements of

ORS 279.015 and Metro Code Section 2.04.052 is unlikely to encourage favoritism in the award of such contract or substantially diminish competition for such contract, and result in substantial cost savings to Metro; and

WHEREAS, Pursuant to Metro Code Section 2.04.026(c) Council approval of contracts awarded as a result of the RFP is required; and

WHEREAS, Pursuant to Section 2.04.026 (c) of the Metro Code, the Council may at the time it approves a Request for Proposals waive the requirement for Council approval of a contract prior to execution of the contract by the Executive Officer; and

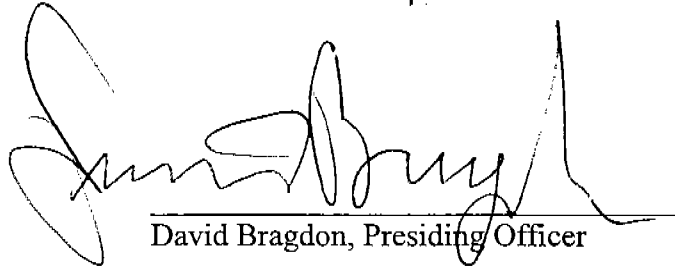
WHEREAS, The resolution was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now therefore,

BE IT RESOLVED,

1. That the Metro Contract Review Board adopts as its findings the justifications, information and reasoning set forth in Exhibit "B" and incorporated by reference into this Resolution as if set forth in full; and
2. That based upon such findings, the Metro Contract Review Board exempts from competitive bidding requirements the contract to be solicited through the attached Request for Proposals; and
3. That the Metro Council approves issuance of the multi-year Request for Proposals for Transportation and Disposal of Wastes Collected in Metro's Hazardous Waste Programs, Exhibit "A".
4. That the Metro Council authorizes the Executive Officer to execute multi-year contracts for Transportation and Disposal of Hazardous Wastes Collected in Metro's Hazardous Waste Collection Program with the most qualified proposers

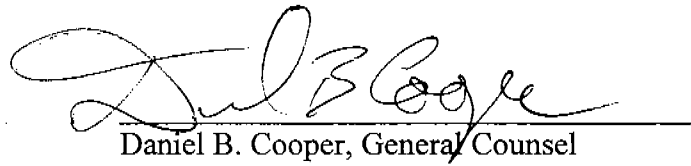
in accordance with the requirements of the Metro Code.

ADOPTED by the Metro Council this 27th day of April, 2000.



David Bragdon, Presiding Officer

Approved as to Form:



Daniel B. Cooper, General Counsel

JQ:clk

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**Request for
Proposals
for
Transportation and
Disposal of Hazardous
Waste**

RFP #00R-12-REM

*Regional Environmental Management
Environmental Services Section*
600 NE Grand Ave
Portland, OR 97232-2736
(503) 797-1668
Fax (503) 797-1795
www.metro-region.org

May 2000



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EXHIBIT "B"

FINDINGS SUPPORTING AN EXEMPTION FROM THE COMPETITIVE BIDDING PROCESS FOR A REQUEST FOR PROPOSALS TO PROCURE HAZARDOUS WASTE DISPOSAL SERVICES

1. BACKGROUND

Metro operates a hazardous waste program which includes two permanent household hazardous waste collection facilities, satellite collections held at various locations around the region, and a conditionally exempt generator (CEG) program. The transportation and disposal of the wastes collected in this program is currently performed by three contractors. All of the current hazardous waste disposal contracts expire at the end of June 2000.

Metro's hazardous waste program strives to manage all wastes in a manner that maximizes both cost-effectiveness and environmental considerations. An RFP process has been used to each time hazardous waste disposal services have been procured for the program. The RFP process allows Metro to take advantage of the varying capabilities and strengths of the various hazardous waste disposal firms serving the Pacific Northwest, by separately awarding contracts for each waste category based on costs savings and environmental soundness.

2. FINDINGS

2.1. **Findings supporting exemption from competitive bid process regarding favoritism and competition**

The Metro Contract Review Board finds that exempting the procurement of hazardous waste disposal services from competitive bidding requirements is unlikely to encourage favoritism in the award of a contract or to substantially diminish competition for such a contract. This finding is supported by the following:

- 2.1.1. Solicitation Advertisement: Pursuant to ORS 279.025, the solicitation will be advertised as appropriate in regional publications. In addition, solicitation documents will be available both through Metro's website page that highlights contracting opportunities, as well as at regional plan and procurement centers. Additionally, solicitation documents will be sent to an extensive mailing list of all known companies providing hazardous waste disposal services in the Pacific Northwest. Accordingly, this solicitation process is designed to encourage competition and to discourage favoritism.
- 2.1.2. Full Disclosure: To avoid favoritism and ensure full disclosure of all project requirements, the RFP solicitation package will include:
 - A detailed description of Metro's hazardous waste program
 - Technical specifications of disposal categories
 - Proposed contractual terms and conditions
 - Selection process description
 - Evaluation criteria

2.1.3. Selection Process: To avoid favoritism the evaluation process will include the following steps:

- Proposals will be evaluated for completeness and compliance with the requirements listed in the RFP
- References regarding experience and qualifications will be evaluated
- A detailed analysis of disposal category specifications and comparative costs will be completed
- Each disposal category will be evaluated separately
- Category groupings will then be independently scored by the selection committee

2.1.3.3. Metro will then enter into negotiations with the highest ranked firm for each category grouping to attempt to negotiate a contract or contracts. If negotiations are unsuccessful, negotiations will be conducted with the next ranked firm.

2.1.3.4. Once a contract has been negotiated, competing firms will be notified and given an opportunity to appeal award in accordance with the provisions of the Metro Code.

2.1.4. Competition: There are several firms that provide hazardous waste disposal services in this region. The exemption from competitive bidding will not diminish competition because all known firms will be sent a copy of the solicitation. A mailing list of about 30 companies has been developed.

2.2. Findings supporting exemption from the competitive bid process regarding cost savings

The Metro Contract Review Board finds that awarding the contracts for hazardous waste disposal services pursuant to an exemption from competitive bidding requirements will result in substantial cost savings to Metro. The finding is supported by the following:

2.2.1 Cost a primary factor in evaluation: The evaluation criteria to be used by the selection committee, as detailed in the RFP, will include cost as 50% of the evaluation points awarded.

2.2.2. Flexibility in category specifications: Using the RFP process allows proposers to propose creative category sorting and packaging specifications, and thus allows for specifications that best fit with a firm's operations or that are less costly for Metro staff to prepare. This results in lower costs for disposal and lower costs to Metro in preparing wastes for disposal.

2.2.3 Awarding by category groupings: A total of nine separate groups of waste categories are specified in the RFP, and each group will be evaluated and awarded separately. This ensures that proposers will provide the lowest pricing for each group.

2.3. Additional information justifying exemption from competitive bidding requirements

2.3.1. Environmental soundness: Use of the RFP process allows for consideration of environmental factors in evaluating proposals. Proposers are encouraged to offer disposal methods high on the waste reduction hierarchy, and proposers' environmental records are considered in evaluating proposers' qualifications. This ensures that wastes are disposed of in a manner that is environmentally sound and that minimizes Metro's future liability.

**EXECUTIVE SUMMARY
RESOLUTION 00-2925
TRANSPORTATION AND DISPOSAL OF HAZARDOUS WASTE**

PROPOSED ACTION

- Adopt resolution No. 00-2925 , which exempts the procurement of hazardous waste transportation and disposal services from the competitive bid process, authorizes release of RFP #00R- 12-REM, and authorizes the Executive Officer to execute contracts for transportation and disposal of waste collected in Metro's Hazardous Waste Program.

WHY NECESSARY

- Three current contracts for transportation and disposal of hazardous waste expire in June 2000.
- During FY00-01 the Hazardous Waste Program will collect about 3.5 million pounds of hazardous waste requiring proper disposal.

ISSUES/CONCERNS

- Use of a proposal process requires an exemption from the competitive bid process. As part of the exemption process, the Contract review board must adopt findings showing that such an exemption is: unlikely to encourage favoritism or substantially diminish competition for public contracts, and would result in substantial cost savings. Such findings are included in the resolution being adopted.
- The findings show that use of a proposal process will result in substantial cost savings to Metro because proposers will be allowed to recommend waste categorization procedures; waste disposal options, recycling alternatives, and other aspects of their services that result in decreased costs; and because cost will be a primary factor in the selection process.
- The findings show that the use of a proposal process is unlikely to encourage favoritism or diminish competition because the invitation to submit proposals will be advertised and the RFP will be sent to a variety of hazardous waste management firms.
- To minimize the likelihood of a recurrence of a recent situation, in which a former disposal contractor did not properly dispose of Metro-generated hazardous waste, the proposed scope of work includes strengthened disposal certification requirements. If contractors do not provide official certification within specified timelines, payment will be withheld.

BUDGET/FINANCIAL IMPACTS

- The proposed FY2000-01 budget for the Hazardous Waste Program contains \$971,400 for hazardous waste transportation and disposal services.

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 00-2925, FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO THE REQUIREMENT OF COMPETITIVE BIDDING, AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS TO PROCURE HAZARDOUS WASTE DISPOSAL SERVICES, AND AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE THE RESULTING MULTI-YEAR CONTRACTS

Date: April 6, 2000

Presented by: Terry Petersen

PROPOSED ACTION

Approve Resolution 00-2925 to authorize the use of a request for proposals process to procure hazardous waste disposal services, issuance of the attached RFP (Exhibit A), and Executive Officer approval of the contracts resulting from the RFP.

EXISTING LAW

Metro Code section 2.04.054 (c) authorizes the contract review Board to exempt contracts from competitive bidding, subject to certain requirements. Metro code section 2.04.026 (c) requires council authorization of RFP's such as this prior to their release, and allows council to waive the requirement of council authorization of the resulting contracts.

BACKGROUND

Metro operates a hazardous waste program which includes two permanent household hazardous waste collection facilities, satellite collections held at various locations around the region, and a conditionally exempt generator (CEG) program. The transportation and disposal of the wastes collected in this program is currently performed by three contractors. All of the current hazardous waste disposal contracts expire at the end of June 2000.

JUSTIFICATION FOR USING RFP PROCESS

Metro's hazardous waste program strives to manage all wastes in a manner that maximizes both cost-effectiveness and environmental considerations. The use of an RFP process to procure hazardous waste transportation and disposal services provides a degree of flexibility that greatly facilitates the attainment of these two goals.

The hazardous waste transportation and disposal firms that service the Pacific Northwest have varying capabilities, and generally varying relationships with final recycling and disposal facilities. Some regional contractors may have developed in-house treatment and recycling methods, while others may ship wastes around the country to facilities under their control. A wide variety of hazardous wastes are received at Metro's facilities, and each potential disposal contractor will have certain types of wastes for which they offer particularly attractive pricing or otherwise unavailable processing or disposal technologies. The details of categorization and packaging that each contractor requires can vary significantly, and it is necessary to leave open these specific details in order to capitalize on strengths of the various hazardous waste management firms.

The RFP details 28 different categories of waste, based on the sorting procedures currently employed at Metro's Hazardous Waste Facilities. These categories are then grouped into eight groups of similar categories. Proposers are asked to provide separate pricing information for each waste category, and are informed that each group will be evaluated separately. The most highly rated proposer for each group will be contacted for contract negotiations. It is possible that more than one contract will be awarded.

Proposals solicited will include information on the types of waste that may be included in each of the proposer's waste categories, the packaging requirements for each category, and the proposed disposal methods. The proposals will be evaluated by a committee, category by category, based on the following criteria:

General compliance with the RFP. (10 points)

Costs for transportation and disposal of individual waste category, including labor and material costs which would be incurred by Metro in preparing wastes to meet proposer's specifications. (50 points)

Environmental soundness of disposal method. (25 points)

Proposer's experience, qualifications and compliance record. (15 points)

The RFP includes a detailed Proposed Scope of Work, and all contracts negotiated will adhere to the provisions outlined therein. The Proposed Scope of Work contains new requirements intended to prevent the recurrence of a recent situation in which drums of waste generated by Metro's program were found at the site of a contractor that had gone bankrupt, several years after Metro shipped the drums and several years after the disposal contract had ended.

The Council has authorized use of the RFP process for procuring hazardous waste disposal services for each of the four previous procurement processes between 1991 and 1997. Because of the complex nature of hazardous waste transportation and disposal, and the cost savings and environmental benefits that will result, a Request for Proposals process remains the most desirable approach to selecting transportation and disposal contractors for Metro's hazardous waste program.

BUDGET IMPACT

The proposed 2000-01 budget for the Hazardous Waste Program has budgeted \$971,400 for hazardous waste transportation and disposal services.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive officer recommends adoption of Resolution No. 00-2925.

ORS 279.015 and Metro Code Section 2.04.052 is unlikely to encourage favoritism in the award of such contract or substantially diminish competition for such contract, and result in substantial cost savings to Metro; and

WHEREAS, Pursuant to Metro Code Section 2.04.026(c) Council approval of contracts awarded as a result of the RFP is required; and

WHEREAS, Pursuant to Section 2.04.026 (c) of the Metro Code, the Council may at the time it approves a Request for Proposals waive the requirement for Council approval of a contract prior to execution of the contract by the Executive Officer; and

WHEREAS, The resolution was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now therefore,

BE IT RESOLVED,

1. That the Metro Contract Review Board adopts as its findings the justifications, information and reasoning set forth in Exhibit "B" and incorporated by reference into this Resolution as if set forth in full; and
2. That based upon such findings, the Metro Contract Review Board exempts from competitive bidding requirements the contract to be solicited through the attached Request for Proposals; and
3. That the Metro Council approves issuance of the multi-year Request for Proposals for Transportation and Disposal of Wastes Collected in Metro's Hazardous Waste Programs, Exhibit "A".
4. That the Metro Council authorizes the Executive Officer to execute multi-year contracts for Transportation and Disposal of Hazardous Wastes Collected in Metro's Hazardous Waste Collection Program with the most qualified proposers