

Minutes

Public Contracts Subcommittee Meeting

September 30, 2025

City Council Chambers, Bend City Hall
710 NW Wall, Bend, Oregon

9:00 a.m. Public Contracts Subcommittee Meeting

1. **Called to order at 9:06 a.m. by Roll Call:** Councilor Gina Franzosa, Councilor Megan Norris, Councilor Mike Riley
2. **Approval of the March 11, 2025, Meeting Minutes**

Councilor Franzosa moved to approve the March 11, 2025, Meeting Minutes. Councilor Norris seconded the motion.

The voice vote passed 3-0

Yes: Franzosa, Norris, Riley

No: None

3. Subcommittee focus areas

Procurement Manager Justin Sweet recapped the subcommittee's focus areas and the renaming to "Public Contracts Subcommittee." Sweet stated that the goal was to move away from project-specific discussion and focus on higher level policy and programmatic issues such as procurement policies, program changes, large contracts, and cooperative contracts. Sweet noted one exception to moving away from project-specific contracts in that alternative delivery projects will still be brought to the subcommittee.

4. Procurement in Bend

Sweet outlined the purpose of public procurement, which is to foster public trust, maximize efficiency, ensure open and fair competition and deliver high-quality, cost-effective public improvements, goods and services.



Sweet summarized procurement activity in FY23-25, stating that the City spent over \$50M on purchases that individually were valued at less than \$25k and almost \$171M on purchases over \$250k. The highest volume of transactions (21,505 transactions) was for purchases individually less than \$25k. Purchases under \$25k are awarded directly and the City or department can select the vendor. Sweet identified direct award as an area of opportunity to increase supplier diversity. 477 transactions landed in the intermediate category of \$25k-\$250k. These contracts require three quotes and departments can conduct this themselves with assistance from Procurement. Only 124 transactions were for purchases over \$250k. Contracts over \$250k are brought to Council for approval and the City conducts a formal solicitation.

Sweet noted that the process for contracts over \$250k is the most complicated and time consuming and that the average timeframe for a formal Invitation to Bid (ITB), from drafting documents to bringing it before Council, is 3-4 months, and a Request for Proposal (RFP) can take 5-6 months. Sweet stated that ITB is the default process and the selection is based only on lowest cost. An RFP selection evaluates proposals based on quality, experience and price, and takes more time due to complex analysis.

5. Alternative (Construction) Project Delivery 101

Sweet provided an overview of construction project delivery methods and reasons for selecting different methods.

- Under State law, public improvement (construction) contracts must be awarded to the responsible bidder who submits the lowest responsive bid unless otherwise exempt.
 - At least 90% of the City's public improvements contracts fall under low bid.
- An alternative delivery method is any process to award a public improvement contract that is *not* based on competitive sealed bids.
- Alternative delivery methods include:
 - Construction Manager / General Contractor (CM/GM)
 - Design-Build (including Progressive Design-Build)

Sweet clarified that a responsible bid must meet minimum qualifications, which include being registered with the Construction Contractors Board (CCB), being registered to perform the specific type of work, having a public works bond filed with the CCB, meeting the City's insurance requirements, having the financial and physical resources necessary to complete the work, and being an existing business. Depending on the nature of work, there may be additional requirements, such as having a right-of-way license for right-of-way work or additional requirements for specialized work.

Senior Assistant City Attorney Mike Gaffney defined "responsible" and "responsive." "Responsible" means the contractor meets the minimum qualifications and has a satisfactory record of past performance, whereas "responsive" refers to what is required for the particular procurement. Gaffney clarified that the City is permitted to disqualify a contractor in a low bid selection based on a history of faulty performance.

Engineering Director Ryan Oster added that a history of interpersonal issues or friction would not disqualify a contractor.

Councilor Franzosa asked if bid documents require contractors to include a list of key staff.

Oster responded that a list of key staff is not required on low bids but is required on alternative delivery bids, which require a list of key staff, their availability, and timelines of current projects they are working on. Oster added that if a contractor doesn't have staffing capacity, the City can require them to bring in additional staff and can require key staff to remain on a current project.

Sweet added that if the City issues an ITB but does not feel any bid will produce a successful outcome, the City is not required to award the contract to any bidders.

Chief Finance Officer Samantha Nelson stated that the City's Finance Department is very mindful of the financial capacity of a contractor because the City pays on reimbursement rather than upfront. Upfront payment is considered a loan and is not permitted for public entities. The City typically pays within 30 days of receipt of invoice, and so vendors may need to carry millions of dollars in cost.

Councilor Franzosa commented that reimbursement payment would be a barrier to smaller businesses and asked if the 30-day payment is a City policy.

Sweet responded that the State requires payment within 30 days of receipt of invoice, but it is City policy that allows for up to 30 days for payment.

Nelson added that reimbursement can occur, City staff is required to confirm completion of work, confirm quality, and review invoices. Nelson stated that the City aims to pay sooner, which is usually within 20 days of receipt, but that the City allows up to 30 days in order to provide time to complete approvals and reviews.

Sweet noted that the State is evaluating prompt payment, as this process is a barrier to small businesses.

Sweet agreed to consider asking for key staff to be listed in ITB bids, but noted that ITB documents don't require contractors to maintain the key staff throughout the project.

Sweet confirmed that staff brings requests for alternative delivery methods to Council for approval prior to issuing the RFP. Sweet proposed a change to Councilor involvement and would like to include the Public Contracts Subcommittee earlier in the process while staff is drafting findings to discuss why an alternative delivery method is recommended for a particular project. Findings are required by State law to exempt a process, and findings include justifications of substantial cost savings and substantial other benefits to the public agency, such as schedule savings, complexities with a project, earlier contractor engagement, or the need of specialized knowledge or a specialty contractor.

Chief Operations Officer Russ Grayson noted that most of the City's alternative delivery needs revolve around complexity and schedule.

Sweet introduced delivery methods Design-Bid-Build, Construction Manager/General Contractor, Design-Build, and Progressive Design-Build, outlined the reasons to use each, and shared past City examples of alternative delivery contracts:

Design-Bid-Build (standard low-bid process)

- Limited project scope

- Little specialization needed
- Want high-level of project control
- Supplier engagement

CM/GC – Ex. Newport Corridor Improvements

- Complex/large-scale project
- Element of schedule optimization
- Substantial project cost
- High-risk project
- Want high-level of project control

(Progressive) Design Build – Ex. Empire Corridor Improvements

- Complex/large-scale project
- Schedule optimization
- Substantial project cost
- High-risk project
- Team qualifications are essential (specialization)
- Supplier engagement

Oster clarified that the criteria for Design-Build and Progressive Design-Build is predominantly qualifications based.

Councilor Franzosa noted that if qualifications are weighted heavily, that makes it difficult for new contractors to be selected.

Sweet suggested reviewing the minimum requirements, evaluation criteria, application requirements, and vendor-subcontractor engagement.

6. Supplier Diversity Program Check-In

Gaffney recapped Council's Action Item to implement a supplier diversity program with a focus on outreach and education.

Gaffney discussed current collaboration with the State. The State recently conducted a disparity study and is now holding workgroups to consider recommendations in the report, including subcontractor data, minimums and goals, and insurance bonding requirements. City of Bend staff are participating in some of the workgroups.

Councilor Norris left the meeting at 10:08 a.m. and returned at 10:10 a.m.

Gaffney discussed the current legal landscape and stated that the law has primarily remained the same, but scrutiny over supplier diversity programs has increased. Additionally, there has been litigation around certain supplier diversity programs, including that of the U.S. Department of Transportation. Gaffney stated that the City has many possibilities within the legal framework for diversifying its supplier pool to reach effective outcomes that will be legally defensible.

Gaffney stated that staff plan to bring options to the Public Contracts Subcommittee in future meetings.

7. Roadmap for Subcommittee

Sweet outlined upcoming projects for the Public Contracts Subcommittee:

- Fall 2025 – discuss three engineering projects for which the City would like to use alternative delivery methods
- Spring 2026 – discuss supplier diversity program
- Summer 2026 – supplier diversity program update

8. Adjourned at 10:37 a.m.



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