

4.09.000-P Rules to Assure Balanced Competition for Energy Trust Program Management Contracts

History			
Source	Date	Action/Notes	Next Review Date
Board Decision	August 7, 2002	Approved (R122)	August 2005
Board	December 15, 2004	Waived two-program limit for Efficient Facility Operations RFP (R305)	December 2007
Board	April 9, 2008	Amended (R470)	March 2011
Policy Committee	March 8, 2011	Reviewed, no changes	March 2014

Resolution 470 AMENDING THE ENERGY TRUST BALANCED COMPETITION POLICY

WHEREAS:

1. Energy Trust's Balanced Competition Policy is meant to ensure that there is fair competition for Energy Trust program management contracts.
2. Section 3 of the policy provides that individuals in regulated utilities cannot perform work under an Energy Trust program management contract and perform work as part of the utility.
3. In 2007, the Oregon Renewable Energy Act authorized electric utilities to supplement energy efficiency funds. Energy Trust and these utilities are negotiating agreements for Energy Trust to provide services using these additional funds, and in some cases the best way to coordinate Energy Trust and utility work will involve utility personnel working under contract with Energy Trust.

It is therefore **RESOLVED** that the Energy Trust of Oregon, Inc., Board of Directors amends the balanced competition policy as follows:

1. *Arrangements for regulated utility information and referrals.* The Energy Trust will arrange directly with regulated utilities for information and referrals that help the Energy Trust reach the public, and come as a byproduct of the regulated role. The Energy Trust and utilities will work together to determine what activities and information will be made available with or without fee. Examples:
 - Coordination of 1-800 response for household and business efficiency inquiries
 - Qualification of leads coming from utility/customer relationships and referral to programs
 - Access to historic energy usage data as requested by utility customers
 - Access to utility-generated consumer demographic information for evaluation and/or marketing purposes
 - Utility customer representative role in marketing

Thus, these capabilities will not influence selection of program management contractors.

Rationale

These are services that stem from the natural monopoly role of the utility. They are unique and real assets, but not appropriate for the competitive bid.

2. *Limitation on number of program management contracts awarded to a single contractor.* No single firm, including other companies under the same ownership and affiliates, will be a contractor (prime or subcontractor) for more than two concurrent program management contracts. This limitation does not apply to subcontracts for installation or technical work (studies, commissioning, etc.) that are awarded to multiple contractors as part of implementation of a single program.

Rationale

Energy Trust needs to maintain a competitive market for program management. If one competitor wins all slots, others will not develop the skills, nor are they likely to bid in the future.

3. *Limitations on participation of regulated personnel in competitions for program management contracts.* With the exception of utility work for which Energy Trust contracts in connection with supplemental energy efficiency activities pursuant to the 2007 Renewable Energy Act, an individual within a regulated utility cannot perform work under an Energy Trust contract for program management *and* perform work as part of the regulated utility (i.e., functions billed to ratepayers) in Oregon.

Rationale

- *Regulated utilities have their own objectives, which in some cases include maintaining and building load. It would be difficult to manage employees who also report to a regulated utility and its objectives as "first boss."*
 - *To have ratepayers pay for part of the cost of an FTE that was used for competitive Energy Trust work would make it difficult for others to compete.*
4. *No review of work of related companies.* Neither a program management contractor to the Energy Trust nor organizations under the same ownership or affiliates may perform work under separate contract that would be submitted to the program management contractor for review on behalf of the Energy Trust. This type of work includes recommendation of efficiency measure brands, models or performance, technical analysis of savings, or equipment installation or commissioning.

Rationale

Avoids having program management contractors review their own work. Reduces consumer confusion about roles.

Adopted on April 9, 2008, by Energy Trust Board of Directors.