

4.14.000-P Approve a Policy on Oregon Preference

History			
Source	Date	Action/Notes	Next Review Date
Board Decision	October 1, 2003	Approved (R207)	October 2006
Policy Committee	September 21, 2006	No changes	October 2009
Policy Committee	November 4, 2009	No change	October 2012

Purpose

To adopt a policy on giving preference to Oregon contractors for major Energy Trust contracts.

Background and Relation to Strategic Plan/Action Plan

Goal 4 of the Energy Trust strategic plan speaks to promoting a healthy business climate for Oregon’s renewable energy and energy efficiency businesses. Having enlisted nearly 200 trade allies to date, the Energy Trust clearly is making progress toward this goal. In response to inquiries about our policy on giving preference to Oregon contractors, we conducted a legal review and engaged our advisory councils in discussion of the matter.

The pertinent provisions of Oregon Revised Statutes (ORS) cover public contracting. They provide:

- (1) In all public contracts, the public contracting agency shall prefer goods or services that have been **manufactured** or **produced** in this state if price, fitness, availability and quality are otherwise equal. (emphasis added).

....

ORS 279.021

- (1) After the bids are opened . . . and after a determination is made that a contract is to be awarded, the public contracting agency shall award the contract to the lowest responsible bidder.

- (2) In determining the lowest responsible bidder, a public contracting agency shall: . . .

- (b) For the purpose of awarding the contract, add a percent increase on the bid of the nonresident bidder equal to the percent, if any, of preference given to that bidder in the state in which that bidder resides.

....

ORS 279.029

Since the Energy Trust is not subject to Oregon public contracts law, Energy Trust is not bound to the above provisions.

Committee/Public Review

As a starting point for discussion, staff made reference to the above provisions in meetings of the Renewable Energy Advisory Council and Conservation Advisory Council September 17, 2003, and the Policy Committee meeting September 22, 2003.

In examining the above provisions of ORS, it was clear that most participants in these meeting do not support provisions of ORS 279.029 that could penalize out-of-state bidders. There was general support for the concept expressed in ORS 279.021 to give preference to an Oregon contractor if competing bidders score equally on other selection criteria. There was no consensus however, on the wording of such a policy. Participants expressed concern that the terms “manufactured” or “produced” may be too restrictive.

Recommendation

Given the general support for giving preference to Oregon bidders if competitors are equal in other respects, staff recommends the Energy Trust board endorse a policy to grant such a preference if price, fitness, availability and quality are otherwise equal, to bidders whose goods or services are produced, acquired, or available in the State of Oregon. For administrative efficiency, we propose applying the policy to contracts valued in excess of \$500,000.

Resolution

BE IT RESOLVED: That Energy Trust of Oregon, Inc., Board of Directors adopts as Energy Trust policy that, if price, fitness, availability and quality are otherwise equal, Energy Trust will give preference to a bidder whose goods or services ~~valued in excess of \$500,000~~ are produced, acquired, or available in the State of Oregon.

The board approved the resolution on the Oregon Preference policy at its October 1, 2003 board meeting with the changes noted above.