



Meeting of the PSERN Board of Directors

Location: To be conducted virtually: Microsoft Teams Meeting

Date: Thursday, December 9, 2021

Time: 4:00 p.m. – 5:00 p.m.

Teams Call: Members of the public are invited to participate in the virtual meeting by telephone or video by using the following phone number and meeting ID: 1-425-653-6586 Meeting ID: 548 015 410#

Directors: Lora Ueland, Harold Scoggins, Brenda Bauer, Kurt Triplett, Chris Elwell, Dan Yourkoski

Alternates: Brad Miyake, Kristin Meitzler, Mark Schmidt, Matt Morris, Dwight Dively, Shawn Hayes

Agenda Details:

1. Call to Order – Board Chairperson 4:00 p.m.
2. Roll Call – All 4:01 – 4:03 p.m.
3. Approve the Minutes – Board Chairperson 4:04 – 4:05 p.m.
(Decision: Motion to approve the minutes from the 10-28-21 Regular Meeting of the PSERN Board of Directors)
4. Public Comment – Board Chairperson 4:06 – 4:09 p.m.
Board Chairperson to open floor for public comment. Members of the public are invited to address the Board of Directors for a period of time not to exceed three minutes.
5. Appoint Dwight Dively as Interim Treasurer – Board Chairperson 4:10 – 4:12 p.m.
(Decision)
6. Procurement Policy Update – Zak Tomlinson 4:13 – 4:25 p.m.
(Decision)
7. Executive Director Report – Mike Webb 4:26 – 4:30 p.m.
(Discussion)
8. Administrative Staffing Recruitment Update – Mike Webb 4:31 – 4:36 p.m.
(Discussion)
9. Operator 2022 Staffing and Spending Plan – Mike Webb 4:37 – 4:43 p.m.
(Discussion)
10. PSERN Board of Directors Officer Report – Board Officers 4:44 – 4:50 p.m.
(Discussion)
11. BoD Work Plan Updates – Mike Webb 4:51 – 4:55 p.m.
(Discussion)

12. Review Action Items – Board Chairperson

4:56 – 4:57 p.m.

13. Executive Session – (If needed)

4:58 – 5:00 p.m.

Next Meeting: January 27, 2022



Location: Microsoft Teams Meeting

Date: Thursday, October 28, 2021

Time: 4:00 p.m. – 5:00 p.m.

Teams Call: Members of the public were invited to participate in the virtual meeting by telephone or video by using the following phone number and meeting ID: 1-425-653-6586 Meeting ID: 357 391 827#

Attendees:

- **Directors:** Lora Ueland, Harold Scoggins, Brenda Bauer, Kurt Triplett, Dan Yourkoski
- **Alternates:** Kristin Meitzler, Mark Schmidt
- **Others:** Spencer Bahner, Mahak Chopra, Sean Douglas, Armand Eichhorn, Adrian Englet, David Mendel, Kimberly Nuber, Zak Tomlinson, Michael Webb

Minutes:

1. Call to Order – Board Chairperson 4:01 p.m.
2. Roll Call – All 4:01 – 4:01 p.m.
3. Approve the Minutes – Board Chairperson 4:01 – 4:02 p.m.

(Decision: Motion to approve the minutes from the 9-23-21 Regular Meeting of the PSERN Board of Directors)

MOTION: A motion was made to approve the minutes of the September 23rd, 2021 meeting of the PSERN Board of Directors by [Kurt Triplett](#). The motion was seconded by [Harold Scoggins](#). Members unanimously approved the motion.

4. Public Comment – Board Chairperson 4:02 – 4:02 p.m.

There were no public comments.

5. Draft Procurement Policy – Zak Tomlinson 4:03 – 4:30 p.m.

- The draft procurement policy was provided in the materials packet for this meeting.
- Following the implementation of any approved revisions the policy will be voted on for approval at a future meeting of the PSERN Board of Directors.
- Zak Tomlinson explained why PSERN needs to account for the limits and conditions applicable to its members' cities and cannot develop a procurement policy without their proper consideration. It is a requirement of the State Auditor and not following the recommendation in the development of the new policy could increase the risk of an audit finding.
- The inclusion of equity and inclusion language in the policy was acknowledged.
- There was a discussion on whether the procurement policy should be reviewed by the procurement divisions of the respective partner cities. It was suggested to keep the policy as simple as possible, given the size of the organization, staffing plan, and the budget availability. The policy should also account for contract

piggybacking and other abbreviated processes.

- It was suggested to revise the Emergency Section to further define the power and authority of the Executive Director.
- It was suggested that having all sole source provider explanations sent to Board may be too burdensome, as most of the contract work will be provided by a sole source.
- Additional emphasis was needed to ensure the policy was consistent with the ILA.
- A revised policy would be shared with the Board at the upcoming December meeting.

6. Administrative Staffing Recruitment Update – David Mendel 4:30 – 4:34 p.m.

- The position was advertised from October 1st through October 17th.
- 31 applications were received and 7 were selected for the first round of interviews, which will be conducted during the first week of November.
- New participant volunteers from the Board:
 - Mark Schmidt - 1st Interview panel.
 - Harold Scoggins and Lora Ueland – 2nd Interview panel – preferably 11/19 afternoon.

7. PSERN Board of Directors Officer Report – Board Officers 4:34 – 4:35 p.m.

- BUDGET REPORT:
 - The remaining balance as of September 23, 2021 is \$1,843,870.
- Kurt Triplett will not be present during the December PSERN Board of Directors meeting. His alternate Brad Miyake will be attending the meeting on his behalf.

8. BoD 2022 Meeting Schedule – David Mendel 4:35 – 4:36 p.m.

- | | |
|---------------------|-------------------------|
| • January 27, 2022 | • July 28, 2022 |
| • February 24, 2022 | • August 25, 2022 |
| • March 24, 2022 | • September 22, 2022 |
| • April 28, 2022 | • October 27, 2022 |
| • May 26, 2022 | • November – no meeting |
| • June 23, 2022 | • December 8, 2022 |

A motion was made by [Kurt Triplett](#) to adopt the 2022 meeting schedule that continues meeting the 4th Thursday of each month at 4PM, except November where there will be no meeting, and the December 2022 meeting will occur on the 2nd Thursday of that month. The motion was seconded by [Brenda Bauer](#). Members unanimously approved the motion.

9. Review Action Items – Board Chairperson 4:36 – 4:38 p.m.

- An updated version of the PSERN Procurement Policy to be presented at the Board of Directors meeting in December 2021.

Shared a few words 4:38 – 4:40 p.m.

- Mike Webb is excited to start his role as the Executive Director on November 1, 2021.

10. Executive Session

- There was no executive session.

Next Meeting: December 9, 2021

Adjourn 4:41 p.m.

PSERN Staff Report Agenda Item #6



Title: Procurement Policy

Meeting Date: December 9, 2021

Staff Contact: Michael Webb, Executive Director

Action: Decision

BACKGROUND:

The intent of this staff report is to provide information on updates made to the draft PSERN procurement policy that was distributed to the Board of Directors for their October 2021 meeting, as developed by Zak Tomlinson of the Pacifica Law Group. The expectation is that the revised policy can be reviewed and voted on for approval at the December 2021 meeting of the PSERN Board of Directors. Prior to the approval of a procurement policy one issue needs to be addressed.

Issue 1: Does the provided draft procurement policy need any additional changes or revisions prior to its adoption?

ANALYSIS:

The following analysis addresses the issue identified in the previous section.

Issue 1: Does the provided draft procurement policy need any additional changes or revisions prior to its adoption?

The provided draft procurement policy is an updated version of the one shared in the meeting materials packet for the October 28th, 2021 meeting of the PSERN Board of Directors. In the updated version of the policy, comments are provided to the reader by its author identifying areas where revisions were made and where further discussion by the PSERN Board and the Executive Director may be needed. Following the Board's review of the document and the conclusion of its discussion, the policy can then be voted on for adoption by the Board.

The following revisions were made to the draft version presented at the October 28th meeting:

- Changed reference from "ICA" to "ILA" to reflect common practice.
- Section 5.2. Modified bidding requirements for Goods, including change of County-based references to appropriate PSERN references.
- Section 5.3.3. Added language to clarify process related to waiver of bidding requirements.
- Section 6.1. Added new section to provide authority to enter into public works contracts < \$40,000 through direct negotiation.
- Section 6.2. Modified sections for readability and removed reference to specific Board Resolution authorizing small works process. The Board, however, still needs to pass a resolution authorizing the process.
- Section 7.3. Clarified that minor changes to the contract may only be authorized if within the authorized budget.
- Section 8.3. Removed reference to Board Resolution authorizing purchases from federal agency. Under the statute, however, the Board will still need to authorize this process.
- Section 9.0. Augmented the Emergency waiver section including more clarity on when the ED may make an emergency determination.
- Section 11 (new). Added new brief section noting that PSERN will need to comply with all applicable federal/state/grant requirements if that funding is used in connection with a procurement.

PSERN Staff Report Agenda Item #6

Title: Procurement Policy

Meeting Date: December 9, 2021

Staff Contact: Michael Webb, Executive Director

Action: Decision



ADDITIONAL INFORMATION:

None

RECOMMENDATION:

If no additional revisions are requested by the board, it is recommended that the Board vote to approve the adoption of the PSERN Procurement policy as shared in the meeting material packet. However, if further revisions are needed the board could vote to approve the policy contingent on the needed revisions being made.

It is also recommended that:

- The Board pass a resolution authorizing staff to establish a small works roster procedure for Public Works contracts pursuant to RCWs 35A.40.210, 35.23.352, and 39.04.155;
- The Board pass a resolution authorizing use of federal agency rosters.

CONCLUSION:

The preceding analysis explored issues related to the draft PSERN procurement policy. Following the PSERN Board of Directors review, related discussion, and execution of any needed revisions, the policy could then be voted on by the Board for adoption.

STAFF REPORT REFERENCE DOCUMENTS:

- Revised Draft PSERN Procurement Policy (Tracked Changes).
- Revised Draft PSERN Procurement Policy (Clean).

PUGET SOUND EMERGENCY RADIO NETWORK (PSERN) OPERATOR

PROCUREMENT POLICY

Commented [WM1]: General comment. This Policy seems to cover 3 related areas:

- 1) Procurement process and methods (i.e. how do we select contractors)
- 2) Contracting requirements, e.g. retainage, bonds, etc. (i.e. what needs to be included in each type of contract)
- 3) Approval and authorizations of expenditures.

I'm wondering if the latter should ultimately find its way into a separate policy, although I think it is OK to leave it in this one at the beginning. See comment below related to the "tiering" of authorization levels – something that we are not yet in a position to properly address.

Commented [ZT2R1]: Leaving #3 in for now, per our discussion.

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1.0 PURPOSE

The Puget Sound Emergency Radio Network Operator (hereinafter, PSERN) establishes this policy to ensure uniform, efficient, and competitive procurement to achieve the greatest attainable levels of quality and value permitted by law, and to ensure that all public procurement is executed and managed at the highest professional and ethical standards.

Commented [ZT3]: PSERN or PSERN Operator.

Commented [DM4R3]: Yes, just PSERN is the right approach.

Commented [WM5R3]: I note that the legal name is "PSERN Operator".

2.0 GOVERNING LAWS

This policy is governed by the relevant laws of the State of Washington; relevant federal laws, and any additional federal or grant requirements when applicable. When a conflict occurs, unless otherwise required by applicable law, the stricter of the law, rule or regulation, prevails. This policy does not create any enforceable rights or causes of action in third parties and does not in any way limit PSERN to procure goods and services in accordance with state and federal law.

Commented [ZT6]: For Discussion. I think it's best to be generic here given diversity in contracting requirements between the various entities.

3.0 DEFINITIONS

A&E Services: Services rendered by a consultant or any person, other than an employee of the agency, contracting to perform activities within the scope of the general definition of professional practice in RCW 18.08 (Architects), RCW 18.43 (Engineers and Land Surveyors) or RCW 18.96 (Landscape Architects).

Board: The Board of Directors of PSERN as provided and defined by the PSERN Operator ILCA.

Commented [DM7]: Not sure if this will trip people up, but we generally refer to them as ILAs. Can we change throughout the document to "ILA?"

Bid or Proposal: An offer to provide goods and/or services in response to a solicitation for bids or proposals issued by PSERN.

Commented [WM8R7]: This did trip me up. But after looking at the agreements, I note that "Interlocal Cooperation Agreement" seems to be the correct term (that's what both agreements are called despite the use of the ILA acronym).

Bidder or Proposer: Any person, firm, partnership or corporation or combination thereof that formally submits a bid, proposal or offers to provide goods and/or services in response to a solicitation for bids or proposals or a request for qualifications issued by PSERN.

Commented [ZT9R7]: Changed to ILA, per our discussion.

Change: Any change, supplement, amendment, alteration or addendum to an existing Contract.

Contract: A written agreement between PSERN and one or more entities enforceable by law.

Emergency: Unforeseen circumstances beyond the control of PSERN that either a) present a real, immediate threat to the proper performance of essential functions; or b) will likely result in material loss or damage to property, bodily injury, or loss of life, if immediate action is not taken.

Executive Director: The Executive Director of PSERN as provided and defined by the PSERN Operator ILCA.

Goods: Goods generally are tangible objects, typically including, without limitation, materials, supplies, or equipment.

Invitation to Bid (ITB): ~~Invitation to Bid, issued in connection with a~~ **Formal invitation to bid issued in connection with a formal bid of a** Public Works project.

PSERN: The PSERN Operator, the governmental agency formed under RCW 39.34.030(3)(b) that is organized as a nonprofit corporation under chapter 24.06 RCW as authorized by the Interlocal Cooperation Act for the purpose of owning, operating, maintaining, managing and ongoing upgrading/replacing of the Puget Sound Emergency Radio Network system.

PSERN Operator ~~ICAILA~~: The Puget Sound Emergency Radio Network Operator Interlocal Cooperation Agreement.

Public Work: Public Work means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at PSERN’s cost as defined in RCW 39.04.010. Ordinary maintenance, in the context of Public Works contracts, is defined as work that is typically performed at least once per year.

Request for Proposals (RFP): Solicitation of proposals for professional services, or purchases of equipment, materials or supplies not associated with a Public Work.

Request for Qualifications (RFQ): Solicitation of statements of qualifications for a certain project or to establish an Architect and Engineering services roster.

Services: Services rendered by a consultant or any person, other than an employee of the agency and other than A&E Services or services that would constitute a Public Work. By way of example, and without limitation, Services includes consulting contracts, non-A&E professional services (such as by accounting, real estate, legal and other professional occupations), healthcare insurance coverage, investment consultants, training, and software licensing subscription, support, and maintenance agreements. Specifically, for the purposes of this policy, Services includes the purchase of software programs (for example, and without limitation, “software as a service” (SAAS)), whether provided by on-site installation or provided through cloud-based methodology.

Taxes: All amounts and thresholds contained herein shall be inclusive of applicable sales and use taxes at the time of soliciting for bids/proposals.

Unit Priced Contracts: A competitively bid contract for Public Works (as opposed to procurements) needed on a recurring basis, where the contractor agrees to a fixed period, indefinite quantity delivery of work, at a defined unit price for each category of work.

4.0 AUTHORIZATION AMOUNTS AND SIGNATURE REQUIREMENTS

Commented [ZT10]: Should we refer to the entity as PSERN or PSERN Operator (or something else).

Commented [DM11R10]: The “official” incorporated name does include “Operator” but we have already established with the Board that they will go by only “PSERN” when referring to the organization in a colloquial sense.

Commented [WM12R10]: I am good with using PSERN in this document, recognizing that it refers to the PSERN Operator.

Commented [ZT13R10]: Keeping PSERN.

Commented [WM14]: I think the term “subscription” might be better here?

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Commented [ZT15]: For general discussion, including both titles and limits.

Commented [DM16R15]: In reviewing the ILA, Executive Director Authority (Section 6.1.e) says “Consistent with applicable budget and procurement policies adopted by the Board, approve expenditures and sign contracts in amounts as established by the Board of Directors without additional approval of the Board of Directors”. I think this becomes part of that policy unless I’m interpreting incorrectly. Nonetheless, we need to make sure the authorities in this document are consistent with the ILA.

4.1 Up to \$10,000. The Executive Director or any Department Head (or any person filling those roles in an authorized acting capacity) or their designees has authority to procure A&E Services, Goods, other Services, or Public Works with an estimated cost up to \$10,000, and the Executive Director, Department Head, or designee may sign these authorizations when signature is required.

Commented [DM17]: Mike Webb may want to weigh in on this term, but as of now the idea of different “departments” within PSERN has not been discussed. Maybe a generic way to say this is “or any other Management level person has the authority.”

4.2 10,000 to \$50,000. The Executive Director, Deputy Director, or Finance Manager (or any person filling those roles in an authorized acting capacity) may authorize procurement of A&E Services, Goods, other Services, or Public Works with an estimated cost from \$10,000 up to \$50,000. A Department Head (or any person filling that role in an authorized capacity) has the same authorization authority within the same monetary limits, but only for purchases that relate directly to, and are necessary for, the operations of the department managed by that Department Head.

Commented [WM18R17]: I see us needing to have tiered expenditure approvals. Whether we need 3 levels or something more or less is likely something that requires further discussion and possibly board input. I also think there needs to be something in these sections that states “within authorized budgets”.

There likely is another limit, that would also be set by the board, regarding ED authority for “out of budget” expenditures. I wonder, however, whether this needs to be in a separate policy (one dealing with financial approvals). In that case, this whole section 4 would be replaced by a statement that says something to the effect of “Authorization of expenditures should be pursuant to XXX Policy”.

4.3 \$50,000 or more. The Executive Director or designee may authorize procurement of A&E Services, Goods, other Services, or Public Works with an estimated value of \$50,000 or more, and the Executive Director or designee has authority to sign these procurements when signature is required.

4.3

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5.0 A&E SERVICES, SERVICES, AND GOODS

5.1 A&E Services

PSERN shall procure A&E Services in accordance with the requirements of RCW 39.80 as follows:

5.1.1 Process: PSERN may select a firm to provide A&E Services as follows:

- .1 Publish an RFQ soliciting statements of qualifications to provide A&E Services on a single project. PSERN shall evaluate the statements of qualifications received in response to the RFQ and select the most highly qualified firm without regard to price; or
- .2 Select a qualified firm from a roster or list maintained in accordance with the requirements of RCW 39.80.030. PSERN may maintain its own roster and/or may utilize any roster maintained by a Party to the PSERN Operator ICAILA or the Municipal Research & Services Center of Washington (MRSC).

Commented [WM19]: I’m curious about whether it is possible to select based on price under and any circumstances?

Commented [ZT20R19]: As discussed, not possible

5.1.2 RFQ Requirements: PSERN shall publish RFQs in advance, concisely stating the general scope and nature of the project or work for which services are required; and providing the name and telephone number of a staff contact who can provide additional details.

5.1.3 Negotiation: PSERN shall enter into negotiations with the selected firm, including pricing of the A&E Services to be provided. If a satisfactory contract cannot be negotiated, PSERN shall formally terminate the negotiations with that firm and attempt to negotiate a contract with the next most qualified firm. The process continues until an agreement is reached or the search is terminated.

5.2 Services

PSERN may procure Services using the method it determines will provide the greatest attainable levels of quality and value, including without limitation, advertised bid, request for quote, request for proposal, or direct negotiation and contract, so long as the procurement is within overall budget capacity.

5.3 Goods

PSERN shall procure Goods as follows.

5.3.1 Requirements: The following requirements apply to purchases of Goods, except as otherwise provided by this Policy.

- .1 **\$0 to \$10,000.** PSERN may procure Goods with an estimated value of less than \$10,000 using the method it determines will provide the greatest attainable levels of quality and value.
- .2 **\$10,000 to \$50,000.** PSERN may procure Goods with an estimated value between \$10,000 and \$50,000 by inviting obtaining, where practical, at least three competitive quotes.
- .3 **\$50,000 or more.** PSERN shall procure Goods with an estimated value of \$50,000 or more using the competitive solicitation process provided by Section 5.3.2:

5.3.2 Competitive Solicitation Process. Where competitive solicitation of Goods is required by this Policy, PSERN shall comply with the following process:

- .1 PSERN shall prepare specifications and shall publish an advertisement for bids containing (a) the time and place where bids will be opened, (b) the time after which bids will not be received, (c) the materials, equipment, supplies, or services to be purchased, and that the specifications may be seen at the office of the clerk of the county legislative authority PSERN's office. The advertisement shall be published at least once at least fourteen days prior to the last date upon which bids will be received. The bids shall be in writing,

Commented [WM21]: So no requirement for competitive solicitation for services? Why not use the same limits as for Goods?

Commented [ZT22]: For discussion and in consideration of the different requirements between King County and the various Cities.

Commented [DM23R22]: This is very very close to what KC policy is.

Commented [ZT24]: This threshold presents certain issues w/r/t differences in the County and City policies.

Commented [DM25R24]: There have been times where I have struggled with this as a policy, e.g. there may only be three vendors for a product, and 1 doesn't respond to our ask for a competitive quote. Should we specify here that we are meeting this objective if we "invite" three vendors, regardless of how many actually respond? Also, what do we do in a case where there are only 2 vendors that do make a thing? Would that require a full competitive procurement?

Commented [WM26R24]: Maybe this where the "where practical" clause applies?

Commented [ZT27R24]: I've changed it to "inviting", which I think implies additional discretion.

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Commented [WM28]: Is there any way to get around this? i.e. rely on an online public tender/bidding service for the publishing of specs and other RFP info. In any event, I don't think we want to rely on the county clerk do we?

may be in either hard copy or electronic form as specified by ~~the county~~ PSERN, and shall be filed with ~~the clerk~~ PSERN. The bids shall be opened and read in public at the time and place named in the advertisement. Contracts requiring competitive bidding under this section may be awarded only to the lowest responsible bidder. Immediately after the award is made, the bid quotations shall be recorded and open to public inspection and shall be available by telephone inquiry. Any or all bids may be rejected for good cause.

Commented [DM29]: Do we really mean "county" here?

Commented [WM30R29]: PSERN?

Commented [DM31]: Who is this?

Commented [WM32]: Is there any way to award based on a weighted blend of specifications and price? This method of procurement seems to be similar to that for Public Works. I can think of many situations in which it is necessary to trade off functionality/performance for pricing. Essentially this would involve the specifications outlining both "Mandatory" and "Rated" requirements, which Rated requirements being used to develop an evaluation score.

Commented [ZT33R32]: Unfortunately, no.

5.3.3 Waiver. PSERN's Executive Director may waive purchasing requirements for the purchase of Goods for the following:

- .1 Emergencies. Emergencies in accordance with the requirements of Section 9;
- .2 Sole Source. Purchases clearly and legitimately limited to a single source of supply; or
- .3 Special Facilities or Market Conditions. Purchases that are subject to special facilities or market conditions.

Staff shall prepare a memo for the Executive Director outlining the reasons for the requested waiver. Any waiver shall be documented in writing in a memorandum, which shall include (a) the basis for the waiver; and (b) the specific reasons that support the waiver. Purchases authorized under this section If the Executive Director authorizes the waiver, the purchase may be completed by direct negotiation or any other appropriate means.

Commented [DM34]: We need to make sure this is consistent with the authority of the ED per the ILA.

Commented [WM35R34]: I don't think we need to specify who writes up the reasons. I think it is more important that the reasons be documented and approved by the ED and kept on file for some period of time.

5.3.4 Auctions. PSERN may purchase Goods at auctions conducted by the United States government or any of its agencies, or by the State of Washington and any of its political subdivisions, without being subject to the bidding requirements of this policy.

5.3.5 Recycled Products. Nothing in this Section shall prohibit PSERN from preferentially purchasing products made from recycled materials or products that may be recycled or reused, pursuant to Chapter 43.19A RCW.

5.3.6 Interagency Agreements. Nothing in this policy shall prohibit PSERN from purchasing goods through an Interagency Agreement entered into in accordance with Section 8.

6.0 PUBLIC WORKS

6.1 General Process (Non-Small Works)

Commented [ZT36]: For discussion including differences between the County and City requirements.

6.1.1 Contracts Less Than \$40,000. PSERN, upon approval by the Board, may enter into a contract for Public Works estimated to cost less than \$40,000 through direct negotiation or any other method deemed appropriate.

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6.1.16.1.2 Competitive Bidding: Except as otherwise provided by Section 6.1.1, or as otherwise allowed by this Policy (including the Small Works procedures authorized in Section 6.2), PSERN shall solicit all Public Works contracts through the following a formal Invitation to Bid process.

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6.1.26.1.3 Notice: PSERN shall provide public notice of all Invitations to Bid. Such notice shall:

Commented [ZT37]: I would suggest that (at least initially) any formal public works documents be reviewed by counsel.

Commented [DM38R37]: I agree.

- .1 Call for sealed bids in a newspaper of general circulation a least one (1) time, and at least thirteen (13) days prior to the last date upon which bids will be received;
- .2 ~~Generally d~~Describe the nature of the contemplated Public Work and include an estimate of the contemplated cost; and
- .3 Direct prospective bidders to a location (physical or electronic) where such bidders can review the full Invitation to Bid, including the contract documents, plans, and/or specifications.

Commented [WM39]: Also via an online method?

6.1.4 Invitation to Bid: The full Invitation to Bid shall include:

- .1 A direction to bidders as to when and where to submit sealed bids;
- .2 Contract Documents (including plans and specifications, as appropriate) containing all applicable public works requirements, including the bond, retainage and prevailing wage requirements identified in Section 6.5;
- .3 A requirement that the bidders submit subcontractor lists in accordance with RCW 39.30.060;
- .4 A requirement that the bidders submit a signed statement in accordance with RCW 39.04.350 (2);
- .5 A requirement that the bidders include a bid bond of a minimum of 5%, which must be in the form of a surety bond, cash, cashiers or certified check;
- .6 Any supplemental bidder responsibility criteria; and
- .7 Bid protest procedures, as appropriate;

Commented [DM40]: Is there any flexibility on this level (e.g. can it be a minimum of 5%)? I think we talked about surety bonds when we first went over this draft, but I will queue up the same question I had then – is there any other forms of security that a bidder can use or only surety bonds?

Commented [ZT41R40]: Unfortunately, no.

~~6.1.36.1.5~~ PSERN shall open bids at the time and place identified in the Invitation to Bid. After bid opening, ~~PSERN the Project Manager~~ will comply with RCW 39.04.105 which requires within two business days of the bid opening on a public works project that is the subject of competitive bids, ~~the municipality~~ PSERN must provide, if requested by a bidder, copies of the bids ~~the municipality~~ received for the project.

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Commented [WM42]: PSERN?

~~6.1.46.1.6~~ PSERN shall evaluate the bids and determine which bidder is apparent low responsive and responsible bidder, as defined by RCW 39.04.350.

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~~6.1.56.1.7~~ PSERN shall allow at least two full business days after providing bidders with copies of all bids before executing a contract for the project. Intermediate Saturdays, Sundays, and legal holidays are not counted.

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6.2 Limited and Small Works

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~~6.2.26.2.1~~ **General Authorization.** ~~PSERN may establish a small works roster procedure for Public Works contracts consistent with and pursuant to the requirements of RCWs 35A.40.210, 35.23.352, and 39.04.155. PSERN may, as an alternative to the procedures established by Section 6.1, use the small works roster process where the estimated Contract amount for a Public Works project is \$350,000 or less.~~

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Commented [ZT43]: We should pass a separate resolution authorizing establishment of a small works roster.

~~6.2.36.2.2~~ **Authorization General.** ~~Pursuant to its Resolution, the PSERN Administration Board has determined that the small works roster provisions set forth in RCW 39.04.155 would provide an efficient process for the award and construction of small Public Works projects for PSERN. The Administration Board authorized staff to establish a small works roster procedure for Public Works contracts pursuant to RCWs 35A.40.210, 35.23.352, and 39.04.155. PSERN may, as an alternative to the procedures established by Section 6.1, use the small works roster process where the estimated Contract amount for a Public Works project is \$350,000 or less.~~

Commented [DM44]: Is there any flexibility in the amounts in this section or are these determined by statute?

Commented [ZT45R44]: These are all mandated by statute. They do occasionally change, however, and we should keep track to ensure we modify policy to make best use of any expansion.

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Commented [WM46]: Is this implying that the Board must pass such a resolution?

.1 Authorization under \$50,000; Limited Public Works. The Executive Director may elect to use a "Limited Public Works" process for Public Works under \$50,000, as follows: PSERN must obtain at least three electronic or written quotes from the appropriate roster and must equitably distribute opportunities for these projects among contractors willing to perform the work.

Commented [DM47]: How does this work?

Commented [DM48]: BoD?

.2 Authorization between \$50,000 and \$250,000. The Executive Director may elect to use a "Small Works" process for Public Works

Commented [ZT49]: We should have a separate resolution authorizing use of the small public works roster.

Commented [DM50]: Is there any flexibility in the amounts in this section or are these determined by statute?

Commented [ZT51R50]: These are all mandated by statute. They do occasionally change, however, and we should keep track to ensure we modify policy to make best use of any expansion.

estimated to cost between \$50,000 and \$250,000, as follows: PSERN shall invite at least five telephone, written, or electronic quotes from contractors on the appropriate roster that appear capable of performing the work and in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. If preferred, PSERN may use this process for contracts under \$50,000 instead of the Limited Public Works process.

- .3 Authorization between \$250,000 and \$350,000.** The Executive Director may elect to use a “Small Works” process for Public Works estimated to cost between \$250,000 to \$350,000, as follows: PSERN shall invite at least five telephone, written, or electronic quotes from contractors on the appropriate roster that appear capable of performing the work and in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. PSERN may invite quotations from less than the full roster applicable to the project, but if it does so, it must also notify all other contractors on the roster that PSERN is seeking quotations for the project. Notice under this section may be made by (i) publication in a newspaper of general circulation in the area where the work is to occur, (ii) mailed notice, or (iii) electronic notice.

Commented [WM52]: How estimated?

Commented [WM53]: Is this the primary difference versus the <\$250K category?

Commented [ZT54R53]: Yes

6.2.3 Invitation for Quotations and Award.

- .1** Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation.
- .2** PSERN shall award contracts to the lowest responsible and responsive bidder with the lowest bid, as defined in RCW 39.04.010 and RCW 39.04.350.
- .3** PSERN may not favor certain contractors on the small works roster over other contractors on the small works roster who perform similar services. PSERN must equitably distribute the contractors it selects from the roster by not favoring certain contractors on the roster over other contractors. At the time bids are solicited, PSERN’s representative shall not inform a contractor of the terms or amount of any other contractor’s bid for the same project.
- .4** A written record shall be made by the PSERN representative of each contractor’s bid on the project and of any conditions imposed on the bid. Immediately after an award is made, the bid quotes obtained shall be recorded, open to public inspection, and available by telephone inquiry or electronic request.

Commented [DM55]: Does this mean lowest bid of a responsible bidder?

Commented [WM56R55]: Is this the same as “responsive” or “responding” bidder?

Commented [ZT57R55]: I’ve changed it to make it clearer.

6.2.4 Rosters.

- .1 **Adoption of Other Agency Roster.** PSERN may use the small works roster created and maintained by MRSC, or any other state or local agency that maintains a roster for shared use.
- .2 **Independent PSERN Roster.** If PSERN creates and maintains its own small works roster, it shall do the following:
 - **Maintaining the roster.** The small works roster shall consist of all responsible contractors who have requested to be on the roster and, where required by law, are properly licensed or registered to perform such work in the State of Washington. As may be requested by PSERN staff, contractors desiring to be placed on a roster must keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with PSERN.
 - **Publication.** PSERN shall publish at least once a year a notice of the existence of the roster and solicit the names of contractors for such roster in a newspaper of general circulation within the jurisdiction. Responsible contractors shall be added to a roster if they submit a written request and any records requested by PSERN. With the exception of PSERN's owner agencies, an interlocal contract or agreement between PSERN and other local governments establishing a small works roster to be used by the parties to the agreement or contract must clearly identify the lead entity that is responsible for implementing the small works roster provisions.
- .3 **Electronic rosters.** If any PSERN department wishes to maintain its own rosters or use rosters maintained by other agencies, it shall keep the roster on file in paper and/or electronic format.

6.2.5 Bond, Retainage, and Wages.

All provisions of Section 6.5 (relating to performance and payment bonds, contract retainage, and prevailing wages) apply equally to contracts entered under this small works roster process, except as authorized under this section.

- .1 **Retainage waiver.** The Executive Director may waive the retainage requirements for any project awarded under the small works roster process, but in doing so, PSERN may be required to assume liability for a contractor's failure to pay wages, failure to pay for materials or services, and failure to pay taxes that may be due from the project.

Commented [WM58]: Are these the only criteria required to get placed on a roster? How do we determine whether a contractor is competent, qualified, able to complete on time, etc.? Is it possible for PSERN to undertake its own RFQ process to establish such a roster?

Commented [ZT59R58]: There is nothing in the statute that allows us to use a qualifications-based process for establishment of a roster. However, we may create a single small works roster or multiple small works rosters for different specialties or categories of work, if that is helpful.

- .2 **Limited Public Works; bond and retainage not required.** The Executive Director or any department head may waive contract retainage and contract bonds on any Limited Public Works contract. If not so required, PSERN may be required to assume liability for a contractor's failure to pay wages, failure to pay for materials or services, and failure to pay taxes that may be due from the project.

6.2.86.2.6 List of projects awarded from roster. PSERN must post a list of contracts awarded using the small works process at least once every year. At a minimum, the list must contain the name of the contractor that was awarded the contract, the contractor's registration number, the contract amount, a brief description of the contract work, and the date of contract award. The list must also state the location where the bid quotations for the awarded contracts are available for public inspection. In addition to these requirements, for Limited Public Works contracts only, PSERN must also maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four months.

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6.3 Electronic Data / Telecommunications Equipment, Software or Services

6.3.1 Authority. As an alternative to the public bidding and small works processes above, PSERN may purchase electronic data processing or telecommunications equipment, software, or services pursuant to the RCW 39.04.270 "competitive negotiation" request for proposal (RFP) process. At a minimum, competitive negotiation must include the following process:

- .1 **Publication.** PSERN must publish the RFP in a newspaper of general circulation at least 13 days before the last date on which the proposals will be received.
- .2 **RFP Content.** The RFP must identify significant evaluation factors, including price, and their relative importance. PSERN must provide reasonable procedures for technical evaluation of the proposals, identification of qualified sources, and selection for awarding the contract.
- .3 **Award.** PSERN must make the award to the qualified bidder whose proposal is most advantageous to PSERN. PSERN may reject all proposals for good cause and request new proposals.

6.3.2 Public Works. To the extent such purchase of telecommunications and data processing equipment or software falls within the definition of "Public Work" as defined by this Policy, PSERN must still require retainage, prevailing wages, and performance and payment bonds as provided by Sections 6.5. Note that public works contracts made through competitive negotiation under this section, even if the contract amount falls within the

limits for small works contracts, cannot utilize the bond and retainage waivers for small works unless the contracts are procured using the small works process.

6.4 Unit Priced Contracts

- 6.4.1 Procedure.** As an alternative to the public bidding and small works processes above, PSERN may enter into Unit Priced Contracts pursuant to RCW 36.32.235 and RCW 35.23.352(12).
- 6.4.2 Contract Term.** The initial term of any Unit Priced Contract shall not exceed one year. PSERN, at its option, may agree to an extension of the initial term for one additional year.
- 6.4.3 Bid Requirements.** Invitations for unit price bids must include, at a minimum, estimated quantities of the work and the manner in which PSERN will issue work orders, based on the hourly rates or unit prices bid, and specify how PSERN will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor.
- 6.4.4 Bid Award; Minority or Woman Contractors.** Unit Priced Contracts must be awarded to the lowest responsible bidder. Whenever possible, PSERN must invite at least one proposal from a certified minority or woman contractor that qualifies for the work. If PSERN issues a Unit Priced contract(s) in any calendar year, it must make an annual report to the Department of Commerce that includes the total number of bids awarded to certified minority or women contractors, including a description of the how notice was provided to those contractors.
- 6.4.5 Prevailing Wages.** Unit Price contractors must pay prevailing wages based on the prevailing wage rates in effect at the beginning date for each contract year. Intents and affidavits for prevailing wages paid must be submitted for all work completed within the previous twelve-month period.
- 6.4.6 Retainage and Bond.** PSERN and the Unit Price contractor should comply with the provisions of chapter 60.28 RCW. Current advice from the State Department of Labor and Industries (L&I) is that each Unit Price Contract must conduct contract closeout at the expiration of each twelve-month Unit Price Contract Period, even if the contract is for a multi-year term. The closeout process should include submission of appropriate affidavits and releases required by law. L&I has not provided direction on performance and payment bond requirements, if any. PSERN staff should consult with L&I for clarification on retainage and bond requirements before issuing a notice for bids on a Unit Priced Contract.

6.5 General Public Works Requirements

6.5.1 Retainage Requirements.

- .1 **Retainage required.** Unless otherwise provided herein, for all Public Works contracts, PSERN shall reserve a contract retainage not to exceed five percent (5%) of the moneys earned by the contractor for the protection and payment of: (1) The claims of any person arising under the contract; and (2) the state with respect to taxes, increases, and penalties imposed pursuant to Titles 50 (Unemployment), 51 (Industrial Insurance), and 82 (Excise Tax) RCW which may be due from such contractor.
- .2 **Waiver.** For contracts of \$35,000 or less, the Executive Director or any Department Head may consider and grant a request to waive these retainage requirements.
- .3 **Release of retainage.** Except as otherwise required by law, PSERN will release the contract retainage sixty (60) days after PSERN issues its Final Acceptance of the Project or at the most reasonably practical time immediately thereafter, subject to (1) confirmation that no claims concerning nonpayment of prevailing wage rates have been filed with the Department of Labor & Industries; (2) submission by contractor of approved Statements of Intent to Pay Prevailing Wage and Affidavits of Wages Paid; (3) receipt of all necessary releases from the Departments of Revenue, Labor and Industries, and Employment Security (to the extent the departments issue such releases as a matter of law or policy); and (4) settlement of any liens filed under RCW 60.28.
- .4 **Retainage Bond.** PSERN shall otherwise release all or part of the contract retainage in accordance with the requirements of RCW 60.28.011, including upon provision of a retainage bond by contractor that conforms to the requirements of RCW 60.28.011(6).

6.5.2 Payment and Performance Bonds.

- .1 **General Bond Requirement.** Except as otherwise provided herein, PSERN shall require Payment and Performance Bonds for all Public Works contracts in an amount of at least 100% of the contract for the purpose of completion of projects and fulfillment of claims and liens, regardless of whether such contract is subject to competitive bidding requirements.
- .2 **\$150,000 or Less.** PSERN may waive the requirement for a

Commented [DM60]: In our first discussion re: this draft, we discussed how this can be an impediment to small contractors bidding large contracts. Is there any flexibility to the 100% requirement?

Commented [ZT61R60]: Unfortunately, no.

payment and performance bond for contracts of \$150,000 or less, at the option of contractor, and instead retain ten percent (10%) of the contract amount for a period of thirty (30) days after final acceptance of the work or until receipt of all necessary releases from the Departments of Revenue, Labor and Industries, and Employment Security (to the extent the departments issue such releases as a matter of policy), and settlement of any liens filed under RCW 60.28, whichever time period is greater. Exercising this ten percent (10%) bond waiver option must be in addition to, and may not be combined with, the five percent (5%) retainage requirement.

6.5.3 Prevailing Wage. PSERN must require all contractors to pay prevailing wages on all Public Works and as otherwise provided by law. For Public Works contracts, a “Statement of Intent to Pay Prevailing Wages” must be received from the contractor and all subcontractors before any payment is made, and an “Affidavit of Wages Paid” must be received from the contractor and all subcontractors following PSERN’s final acceptance of the contracted work.

6.5.4 Bidder Responsibility Criteria. A contractor under consideration for award of a Public Works project shall submit a sworn statement to PSERN in accordance with the requirements of RCW 39.04.350(1) and (2) certifying the bidder is in compliance with all bidder responsibility criteria identified in RCW 39.04.350(1) and (2) and with the requirements of Chapter 39.06 RCW pertaining to unregistered or unlicensed contractors, subcontractors, or other violators.

~~6.5.5~~ **Notice of Completion:** Upon completion of a Public Works Contract with a value over \$35,000, PSERN shall provide the “Notice of Completion of Public Works Contract” to the Washington State Departments of Revenue, Labor and Industries and Employment Security. PSERN shall not make any payment from contract retainage to any person, until PSERN has received certifications from all three departments that all taxes, increases, and penalties due from the contractor, and all taxes due and to become due with respect to the contract have been paid in full or that they are, in each department's opinion, readily collectible without recourse to the state's lien on the retained percentage.

6.5.5

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Commented [DM62]: Mike should weigh in on this section.

Commented [WM63R62]: My main concern in this section has to do with 7.2, how to ensure that the cumulative set of changes don't result in the contract scope changing such that the original method of procurement/contracting would not apply.

7.0 **CHANGES TO CONTRACTS**

7.1 Change Order. All material Changes to Contracts are required to be memorialized at the earliest possible time in writing in a change order or other equivalent document.

7.2 Bid Requirement. Bids are not required when unforeseen extra work becomes

necessary under a valid preexisting contract. However, a change in scope and purposes deviating substantially from the original plans so as to constitute a new undertaking may constitute a separate project and may require a separate contract process.

7.3 Minor Changes. ~~The Department Head~~ A Department Head is authorized to sign contract change orders or amendments that (a) that involve only a minor extension of time for the contractor to perform; ~~or (b)~~ do not cumulatively exceed the original Contract price by more than 20%; and (c) do not cumulatively exceed the authorized budget.

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Commented [ZT64]: For discussion.

Commented [WM65]: Also, within authorized budget.

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7.4 Major Changes. All other change order or amendments must be signed by the Executive Director. If the Executive Director is unavailable to execute the change order, and if a ~~d~~Department ~~H~~head determines that an emergency exists that requires immediate approval of the change order or amendment, the Department Head may execute the change order or amendment and must subsequently inform the Executive Director as soon as possible.

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8.0 INTERAGENCY AGREEMENTS

8.1 Authorization: PSERN is authorized to procure Services and Goods from the contracts of another public agency (or group of public agencies) in accordance with the requirements of the Interlocal Cooperation Act, RCW 39.34.30.

8.2 Confirmation: PSERN shall confirm the following prior to utilizing another agency's contract:

8.2.1 The contract has not expired and will be open and active for the relevant period.

8.2.2 The contract allows for use by other agencies.

8.2.3 The contract was awarded by a public agency. For purposes of this policy, a "public agency" means any agency, political subdivision, or unit of local government of this state including, but not limited to, municipal corporations, quasi-municipal corporations, special-purpose districts, and local service districts; any agency of the state government; any agency of the United States; any tribe recognized as such by the federal government; and any political subdivision of another state.

8.2.4 The original bid or solicitation notice was posted on a website of a public agency, purchasing cooperative or similar service provider; or that there was an access link provided on the state's web portal to the notice.

8.2.5 The awarding agency complied with its own bidding requirements. For purposes of this requirement, PSERN may either (1) review and retain the procurement documentation from the awarding agency; or (2) obtain a signed certification from the awarding agency attesting that it met its own bid requirements.

~~8.3~~ **Federal Agencies.** PSERN may purchase Services and Goods from or through a federal agency (including GSA) without going through the additional processes described in this policy. ~~PSERN has passed an Administration Board Resolution to authorize purchasing from a federal agency or through a federal government contract.~~

~~8.3~~

Commented [WM66]: Board resolution also required?

Commented [ZT67R66]: Yes. I've removed the reference to a specific resolution number, but we should also put this together.

Commented [ZT68]: We do need to pass a separate resolution authorizing this.

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Commented [DM69]: Do we need parameters around what constitutes an emergency, who can declare it or how it is communicated?

9.0 EMERGENCIES

~~When any emergency requires an immediate contract, change order, or amendment to an existing contract, the Executive Director shall have the power to make and enter into that contract, change order, or amendment without strict compliance to either the bidding or other applicable contract approval requirements set forth in this policy. The Executive Director shall have the power to enter into an immediate contract, change order, or amendment to an existing contract without compliance with the procedures required by this policy upon making a determination that an emergency requires such action.~~

The Executive Director shall have the power to make such an emergency determination where there are unforeseen circumstances beyond the control of PSERN that either: (a) present a real, immediate threat to the proper performance of essential functions, or (b) may result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

However, the Executive Director must issue a written basis for the emergency determination no later than two weeks following award of the emergency contract and file the written basis with PSERN.

10.0 SOCIAL EQUITY

PSERN is committed to socially-responsible procurement and promoting social equity through our contracts. PSERN shall work to ensure open and fair procurements, competitive and fair pricing, environmentally-sustainable solutions, best labor practices, access to equal benefits and utilization of women- and minority-owned businesses, when applicable, in its contracts.

11.0 FEDERAL AND GRANT FUNDING

If federal or state funding, financial assistance, or grant funding is involved in the proposed acquisition or contract, the solicitation requirements and clauses should be obtained from the appropriate granting entity and all required grant management procedures must be followed per 2 C.F.R. § 200.318 - 326. If funding source guidelines conflict with or are more stringent than this policy, then the stricter requirements apply and must be used.

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~~11.0~~12.0 OTHER

~~11.1~~12.1 **Real Property Interests.** The ~~Administration~~ Board specifically authorizes the Executive Director to do the following:

~~11.1.1~~12.1.1 To acquire and convey property interests by lease or purchase.

~~11.1.2~~12.1.2 To enter into all lease agreements where PSERN is the lessor.

~~11.2~~12.2 **Surplus property.** Except for real property, or utility equipment and property as provided for in RCW 35.94.040, or property that is sold to another governmental entity that is valued over fifty thousand dollars (\$50,000), as provided for in RCW 39.33.020, the Executive Director, upon a Department Head's recommendation, is authorized to surplus equipment or property the Executive Director determines is surplus to PSERN's needs, and the Executive Director dispose of such surplus equipment or property in such a way to secure the best interests of PSERN.

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Commented [DM71R70]: Yes, I think we talked about adding Grant language to this at a minimum.

Commented [ZT70]: Additional Federal Requirements for Discussion

Commented [WM72R70]: Have we done any work to determine which types of grants might be applicable and what their requirements are? One example I can think of are DHS grants (e.g. the old "PSIC" grants) but I'm not sure what grant programs are still running.

Commented [ZT73R70]: I have included a very brief section, above in new Section 11.

REVIEWED, APPROVED AND ADOPTED this ____ day of _____, 2021.

PUGET SOUND EMERGENCY RADIO NETWORK (PSERN) OPERATOR PROCUREMENT POLICY

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1.0 PURPOSE

The Puget Sound Emergency Radio Network Operator (hereinafter, PSERN) establishes this policy to ensure uniform, efficient, and competitive procurement to achieve the greatest attainable levels of quality and value permitted by law, and to ensure that all public procurement is executed and managed at the highest professional and ethical standards.

2.0 GOVERNING LAWS

This policy is governed by the relevant laws of the State of Washington; relevant federal laws, and any additional federal or grant requirements when applicable. When a conflict occurs, unless otherwise required by applicable law, the stricter of the law, rule or regulation, prevails. This policy does not create any enforceable rights or causes of action in third parties and does not in any way limit PSERN to procure goods and services in accordance with state and federal law.

3.0 DEFINITIONS

A&E Services: Services rendered by a consultant or any person, other than an employee of the agency, contracting to perform activities within the scope of the general definition of professional practice in RCW 18.08 (Architects), RCW 18.43 (Engineers and Land Surveyors) or RCW 18.96 (Landscape Architects).

Board: The Board of Directors of PSERN as provided and defined by the PSERN Operator ILA.

Bid or Proposal: An offer to provide goods and/or services in response to a solicitation for bids or proposals issued by PSERN.

Bidder or Proposer: Any person, firm, partnership or corporation or combination thereof that formally submits a bid, proposal or offers to provide goods and/or services in response to a solicitation for bids or proposals or a request for qualifications issued by PSERN.

Change: Any change, supplement, amendment, alteration or addendum to an existing Contract.

Contract: A written agreement between PSERN and one or more entities enforceable by law.

Emergency: Unforeseen circumstances beyond the control of PSERN that either a) present a real, immediate threat to the proper performance of essential functions; or b) will likely result in material loss or damage to property, bodily injury, or loss of life, if immediate action is not taken.

Executive Director: The Executive Director of PSERN as provided and defined by the PSERN Operator ILA.

Goods: Goods generally are tangible objects, typically including, without limitation, materials, supplies, or equipment.

Invitation to Bid (ITB): Formal invitation to bid issued in connection with a Public Works project.

PSERN: The PSERN Operator, the governmental agency formed under RCW 39.34.030(3)(b) that is organized as a nonprofit corporation under chapter 24.06 RCW as authorized by the Interlocal Cooperation Act for the purpose of owning, operating, maintaining, managing and ongoing upgrading/replacing of the Puget Sound Emergency Radio Network system.

PSERN Operator ILA: The Puget Sound Emergency Radio Network Operator Interlocal Cooperation Agreement.

Public Work: Public Work means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at PSERN's cost as defined in RCW 39.04.010. Ordinary maintenance, in the context of Public Works contracts, is defined as work that is typically performed at least once per year.

Request for Proposals (RFP): Solicitation of proposals for professional services, or purchases of equipment, materials or supplies not associated with a Public Work.

Request for Qualifications (RFQ): Solicitation of statements of qualifications for a certain project or to establish an Architect and Engineering services roster.

Services: Services rendered by a consultant or any person, other than an employee of the agency and other than A&E Services or services that would constitute a Public Work. By way of example, and without limitation, Services includes consulting contracts, non-A&E professional services (such as by accounting, real estate, legal and other professional occupations), healthcare insurance coverage, investment consultants, training, and software licensing subscription, support, and maintenance agreements. Specifically, for the purposes of this policy, Services includes the purchase of software programs (for example, and without limitation, "software as a service" (SAAS)), whether provided by on-site installation or provided through cloud-based methodology.

Taxes: All amounts and thresholds contained herein shall be inclusive of applicable sales and use taxes at the time of soliciting for bids/proposals.

Unit Priced Contracts: A competitively bid contract for Public Works (as opposed to procurements) needed on a recurring basis, where the contractor agrees to a fixed period, indefinite quantity delivery of work, at a defined unit price for each category of work.

4.0 AUTHORIZATION AMOUNTS AND SIGNATURE REQUIREMENTS

- 4.1 Up to \$10,000.** The Executive Director or any Department Head (or any person filling those roles in an authorized acting capacity) or their designees has authority to procure A&E Services, Goods, other Services, or Public Works with an estimated cost up to \$10,000, and the Executive Director, Department Head, or designee may sign these authorizations when signature is required.
- 4.2 10,000 to \$50,000.** The Executive Director, Deputy Director, or Finance Manager (or any person filling those roles in an authorized acting capacity) may authorize procurement of A&E Services, Goods, other Services, or Public Works with an estimated cost from \$10,000 up to \$50,000. A Department Head (or any person filling that role in an authorized capacity) has the same authorization authority within the same monetary limits, but only for purchases that relate directly to, and are necessary for, the operations of the department managed by that Department Head.
- 4.3 \$50,000 or more.** The Executive Director or designee may authorize procurement of A&E Services, Goods, other Services, or Public Works with an estimated value of \$50,000 or more, and the Executive Director or designee has authority to sign these procurements when signature is required.

5.0 A&E SERVICES, SERVICES, AND GOODS

5.1 A&E Services

PSERN shall procure A&E Services in accordance with the requirements of RCW 39.80 as follows:

5.1.1 Process: PSERN may select a firm to provide A&E Services as follows:

- .1** Publish an RFQ soliciting statements of qualifications to provide A&E Services on a single project. PSERN shall evaluate the statements of qualifications received in response to the RFQ and select the most highly qualified firm without regard to price; or
- .2** Select a qualified firm from a roster or list maintained in accordance with the requirements of RCW 39.80.030. PSERN may maintain its own roster and/or may utilize any roster maintained by a Party to the PSERN Operator ILA or the Municipal Research & Services Center of Washington (MRSC).

5.1.2 RFQ Requirements: PSERN shall publish RFQs in advance, concisely stating the general scope and nature of the project or work for which services are required; and providing the name and telephone number of a staff contact who can provide additional details.

5.1.3 Negotiation: PSERN shall enter into negotiations with the selected firm,

including pricing of the A&E Services to be provided. If a satisfactory contract cannot be negotiated, PSERN shall formally terminate the negotiations with that firm and attempt to negotiate a contract with the next most qualified firm. The process continues until an agreement is reached or the search is terminated.

5.2 Services

PSERN may procure Services using the method it determines will provide the greatest attainable levels of quality and value, including without limitation, advertised bid, request for quote, request for proposal, or direct negotiation and contract, so long as the procurement is within overall budget capacity.

5.3 Goods

PSERN shall procure Goods as follows.

5.3.1 Requirements: The following requirements apply to purchases of Goods, except as otherwise provided by this Policy.

- .1 \$0 to \$10,000.** PSERN may procure Goods with an estimated value of less than \$10,000 using the method it determines will provide the greatest attainable levels of quality and value.
- .2 \$10,000 to \$50,000.** PSERN may procure Goods with an estimated value between \$10,000 and \$50,000 by inviting, where practical, at least three competitive quotes.
- .3 \$50,000 or more.** PSERN shall procure Goods with an estimated value of \$50,000 or more using the competitive solicitation process provided by Section 5.3.2:

5.3.2 Competitive Solicitation Process. Where competitive solicitation of Goods is required by this Policy, PSERN shall comply with the following process:

- .1** PSERN shall prepare specifications and shall publish an advertisement for bids containing (a) the time and place where bids will be opened, (b) the time after which bids will not be received, (c) the materials, equipment, supplies, or services to be purchased, and that the specifications may be seen at PSERN's office. The advertisement shall be published at least once at least fourteen days prior to the last date upon which bids will be received. The bids shall be in writing, may be in either hard copy or electronic form as specified by PSERN, and shall be filed with PSERN. The bids shall be opened and read in public at the time and place named in the

advertisement. Contracts requiring competitive bidding under this section may be awarded only to the lowest responsible bidder. Immediately after the award is made, the bid quotations shall be recorded and open to public inspection and shall be available by telephone inquiry. Any or all bids may be rejected for good cause.

5.3.3 Waiver. PSERN's Executive Director may waive purchasing requirements for the purchase of Goods for the following:

- .1 Emergencies. Emergencies in accordance with the requirements of Section 9;
- .2 Sole Source. Purchases clearly and legitimately limited to a single source of supply; or
- .3 Special Facilities or Market Conditions. Purchases that are subject to special facilities or market conditions.

Any waiver shall be documented in writing in a memorandum, which shall include (a) the basis for the waiver; and (b) the specific reasons that support the waiver. Purchases authorized under this section may be completed by direct negotiation or any other appropriate means.

5.3.4 Auctions. PSERN may purchase Goods at auctions conducted by the United States government or any of its agencies, or by the State of Washington and any of its political subdivisions, without being subject to the bidding requirements of this policy.

5.3.5 Recycled Products. Nothing in this Section shall prohibit PSERN from preferentially purchasing products made from recycled materials or products that may be recycled or reused, pursuant to Chapter 43.19A RCW.

5.3.6 Interagency Agreements. Nothing in this policy shall prohibit PSERN from purchasing goods through an Interagency Agreement entered into in accordance with Section 8.

6.0 PUBLIC WORKS

6.1 General Process (Non-Small Works)

6.1.1 Contracts Less Than \$40,000. PSERN, upon approval by the Board, may enter into a contract for Public Works estimated to cost less than \$40,000 through direct negotiation or any other method deemed appropriate.

6.1.2 Competitive Bidding: Except as otherwise provided by Section 6.1.1, or

as otherwise allowed by this Policy (including the Small Works procedures authorized in Section 6.2), PSERN shall solicit all Public Works contracts through the following formal Invitation to Bid process.

6.1.3 Notice: PSERN shall provide public notice of all Invitations to Bid. Such notice shall:

- .1 Call for sealed bids in a newspaper of general circulation a least one (1) time, and at least thirteen (13) days prior to the last date upon which bids will be received;
- .2 Describe the nature of the contemplated Public Work and include an estimate of the contemplated cost; and
- .3 Direct prospective bidders to a location (physical or electronic) where such bidders can review the full Invitation to Bid, including the contract documents, plans, and/or specifications.

6.1.4 Invitation to Bid: The full Invitation to Bid shall include:

- .1 A direction to bidders as to when and where to submit sealed bids;
- .2 Contract Documents (including plans and specifications, as appropriate) containing all applicable public works requirements, including the bond, retainage and prevailing wage requirements identified in Section 6.5;
- .3 A requirement that the bidders submit subcontractor lists in accordance with RCW 39.30.060;
- .4 A requirement that the bidders submit a signed statement in accordance with RCW 39.04.350 (2);
- .5 A requirement that the bidders include a bid bond of a minimum of 5%, which must be in the form of a surety bond, cash, cashiers or certified check;
- .6 Any supplemental bidder responsibility criteria; and
- .7 Bid protest procedures, as appropriate;

6.1.5 PSERN shall open bids at the time and place identified in the Invitation to Bid. After bid opening, PSERN will comply with RCW 39.04.105 which requires within two business days of the bid opening on a public works project that is the subject of competitive bids, PSERN must provide, if requested by a bidder, copies of the bids received for the project.

6.1.6 PSERN shall evaluate the bids and determine which bidder is apparent low responsive and responsible bidder, as defined by RCW 39.04.350.

6.1.7 PSERN shall allow at least two full business days after providing bidders with copies of all bids before executing a contract for the project. Intermediate Saturdays, Sundays, and legal holidays are not counted.

6.2 Limited and Small Works

6.2.1 Authorization. PSERN may establish a small works roster procedure for Public Works contracts consistent with and pursuant to the requirements of RCWs 35A.40.210, 35.23.352, and 39.04.155.

6.2.2 General. PSERN may, as an alternative to the procedures established by Section 6.1, use the small works roster process where the estimated Contract amount for a Public Works project is \$350,000 or less.

.1 Authorization under \$50,000; Limited Public Works. The Executive Director may elect to use a “Limited Public Works” process for Public Works under \$50,000, as follows: PSERN must obtain at least three electronic or written quotes from the appropriate roster and must equitably distribute opportunities for these projects among contractors willing to perform the work.

.2 Authorization between \$50,000 and \$250,000. The Executive Director may elect to use a “Small Works” process for Public Works estimated to cost between \$50,000 and \$250,000, as follows: PSERN shall invite at least five telephone, written, or electronic quotes from contractors on the appropriate roster that appear capable of performing the work and in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. If preferred, PSERN may use this process for contracts under \$50,000 instead of the Limited Public Works process.

.3 Authorization between \$250,000 and \$350,000. The Executive Director may elect to use a “Small Works” process for Public Works estimated to cost between \$250,000 to \$350,000, as follows: PSERN shall invite at least five telephone, written, or electronic quotes from contractors on the appropriate roster that appear capable of performing the work and in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. PSERN may invite quotations from less than the full roster applicable to the project, but if it does so, it must also notify all other contractors on the roster that PSERN is seeking quotations for the project. Notice under this section may be made by (i) publication in

a newspaper of general circulation in the area where the work is to occur, (ii) mailed notice, or (iii) electronic notice.

6.2.3 Invitation for Quotations and Award.

- .1 Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation.
- .2 PSERN shall award contracts to the responsible and responsive bidder with the lowest bid, as defined in RCW 39.04.010 and RCW 39.04.350.
- .3 PSERN may not favor certain contractors on the small works roster over other contractors on the small works roster who perform similar services. PSERN must equitably distribute the contractors it selects from the roster by not favoring certain contractors on the roster over other contractors. At the time bids are solicited, PSERN's representative shall not inform a contractor of the terms or amount of any other contractor's bid for the same project.
- .4 A written record shall be made by the PSERN representative of each contractor's bid on the project and of any conditions imposed on the bid. Immediately after an award is made, the bid quotes obtained shall be recorded, open to public inspection, and available by telephone inquiry or electronic request.

6.2.4 Rosters.

- .1 **Adoption of Other Agency Roster.** PSERN may use the small works roster created and maintained by MRSC, or any other state or local agency that maintains a roster for shared use.
- .2 **Independent PSERN Roster.** If PSERN creates and maintains its own small works roster, it shall do the following:
 - **Maintaining the roster.** The small works roster shall consist of all responsible contractors who have requested to be on the roster and, where required by law, are properly licensed or registered to perform such work in the State of Washington. As may be requested by PSERN staff, contractors desiring to be placed on a roster must keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with PSERN.

- **Publication.** PSERN shall publish at least once a year a notice of the existence of the roster and solicit the names of contractors for such roster in a newspaper of general circulation within the jurisdiction. Responsible contractors shall be added to a roster if they submit a written request and any records requested by PSERN. With the exception of PSERN's owner agencies, an interlocal contract or agreement between PSERN and other local governments establishing a small works roster to be used by the parties to the agreement or contract must clearly identify the lead entity that is responsible for implementing the small works roster provisions.

.3 Electronic rosters. If any PSERN department wishes to maintain its own rosters or use rosters maintained by other agencies, it shall keep the roster on file in paper and/or electronic format.

6.2.5 Bond, Retainage, and Wages. All provisions of Section 6.5 (relating to performance and payment bonds, contract retainage, and prevailing wages) apply equally to contracts entered under this small works roster process, except as authorized under this section.

.1 Retainage waiver. The Executive Director may waive the retainage requirements for any project awarded under the small works roster process, but in doing so, PSERN may be required to assume liability for a contractor's failure to pay wages, failure to pay for materials or services, and failure to pay taxes that may be due from the project.

.2 Limited Public Works; bond and retainage not required. The Executive Director or any department head may waive contract retainage and contract bonds on any Limited Public Works contract. If not so required, PSERN may be required to assume liability for a contractor's failure to pay wages, failure to pay for materials or services, and failure to pay taxes that may be due from the project.

6.2.6 List of projects awarded from roster. PSERN must post a list of contracts awarded using the small works process at least once every year. At a minimum, the list must contain the name of the contractor that was awarded the contract, the contractor's registration number, the contract amount, a brief description of the contract work, and the date of contract award. The list must also state the location where the bid quotations for the awarded contracts are available for public inspection. In addition to these requirements, for Limited Public Works contracts only, PSERN must also maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four months.

6.3 Electronic Data / Telecommunications Equipment, Software or Services

6.3.1 Authority. As an alternative to the public bidding and small works processes above, PSERN may purchase electronic data processing or telecommunications equipment, software, or services pursuant to the RCW 39.04.270 “competitive negotiation” request for proposal (RFP) process. At a minimum, competitive negotiation must include the following process:

- .1 Publication.** PSERN must publish the RFP in a newspaper of general circulation at least 13 days before the last date on which the proposals will be received.
- .2 RFP Content.** The RFP must identify significant evaluation factors, including price, and their relative importance. PSERN must provide reasonable procedures for technical evaluation of the proposals, identification of qualified sources, and selection for awarding the contract.
- .3 Award.** PSERN must make the award to the qualified bidder whose proposal is most advantageous to PSERN. PSERN may reject all proposals for good cause and request new proposals.

6.3.2 Public Works. To the extent such purchase of telecommunications and data processing equipment or software falls within the definition of “Public Work” as defined by this Policy, PSERN must still require retainage, prevailing wages, and performance and payment bonds as provided by Sections 6.5. Note that public works contracts made through competitive negotiation under this section, even if the contract amount falls within the limits for small works contracts, cannot utilize the bond and retainage waivers for small works unless the contracts are procured using the small works process.

6.4 Unit Priced Contracts

6.4.1 Procedure. As an alternative to the public bidding and small works processes above, PSERN may enter into Unit Priced Contracts pursuant to RCW 36.32.235 and RCW 35.23.352(12).

6.4.2 Contract Term. The initial term of any Unit Priced Contract shall not exceed one year. PSERN, at its option, may agree to an extension of the initial term for one additional year.

6.4.3 Bid Requirements. Invitations for unit price bids must include, at a minimum, estimated quantities of the work and the manner in which PSERN will issue work orders, based on the hourly rates or unit prices bid, and specify how PSERN will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects,

tasks, or other work based on the hourly rates or unit prices bid by the contractor.

6.4.4 Bid Award; Minority or Woman Contractors. Unit Priced Contracts must be awarded to the lowest responsible bidder. Whenever possible, PSERN must invite at least one proposal from a certified minority or woman contractor that qualifies for the work. If PSERN issues a Unit Priced contract(s) in any calendar year, it must make an annual report to the Department of Commerce that includes the total number of bids awarded to certified minority or women contractors, including a description of the how notice was provided to those contractors.

6.4.5 Prevailing Wages. Unit Price contractors must pay prevailing wages based on the prevailing wage rates in effect at the beginning date for each contract year. Intents and affidavits for prevailing wages paid must be submitted for all work completed within the previous twelve-month period.

6.4.6 Retainage and Bond. PSERN and the Unit Price contractor should comply with the provisions of chapter 60.28 RCW. Current advice from the State Department of Labor and Industries (L&I) is that each Unit Price Contract must conduct contract closeout at the expiration of each twelve-month Unit Price Contract Period, even if the contract is for a multi-year term. The closeout process should include submission of appropriate affidavits and releases required by law. L&I has not provided direction on performance and payment bond requirements, if any. PSERN staff should consult with L&I for clarification on retainage and bond requirements before issuing a notice for bids on a Unit Priced Contract.

6.5 General Public Works Requirements

6.5.1 Retainage Requirements.

.1 Retainage required. Unless otherwise provided herein, for all Public Works contracts, PSERN shall reserve a contract retainage not to exceed five percent (5%) of the moneys earned by the contractor for the protection and payment of: (1) The claims of any person arising under the contract; and (2) the state with respect to taxes, increases, and penalties imposed pursuant to Titles 50 (Unemployment), 51 (Industrial Insurance), and 82 (Excise Tax) RCW which may be due from such contractor.

.2 Waiver. For contracts of \$35,000 or less, the Executive Director or any Department Head may consider and grant a request to waive these retainage requirements.

.3 Release of retainage. Except as otherwise required by law, PSERN

will release the contract retainage sixty (60) days after PSERN issues its Final Acceptance of the Project or at the most reasonably practical time immediately thereafter, subject to (1) confirmation that no claims concerning nonpayment of prevailing wage rates have been filed with the Department of Labor & Industries; (2) submission by contractor of approved Statements of Intent to Pay Prevailing Wage and Affidavits of Wages Paid; (3) receipt of all necessary releases from the Departments of Revenue, Labor and Industries, and Employment Security (to the extent the departments issue such releases as a matter of law or policy); and (4) settlement of any liens filed under RCW 60.28.

- .4 **Retainage Bond.** PSERN shall otherwise release all or part of the contract retainage in accordance with the requirements of RCW 60.28.011, including upon provision of a retainage bond by contractor that conforms to the requirements of RCW 60.28.011(6).

6.5.2 Payment and Performance Bonds.

- .1 **General Bond Requirement.** Except as otherwise provided herein, PSERN shall require Payment and Performance Bonds for all Public Works contracts in an amount of at least 100% of the contract for the purpose of completion of projects and fulfillment of claims and liens, regardless of whether such contract is subject to competitive bidding requirements.
- .2 **\$150,000 or Less.** PSERN may waive the requirement for a payment and performance bond for contracts of \$150,000 or less, at the option of contractor, and instead retain ten percent (10%) of the contract amount for a period of thirty (30) days after final acceptance of the work or until receipt of all necessary releases from the Departments of Revenue, Labor and Industries, and Employment Security (to the extent the departments issue such releases as a matter of policy), and settlement of any liens filed under RCW 60.28, whichever time period is greater. Exercising this ten percent (10%) bond waiver option must be in addition to, and may not be combined with, the five percent (5%) retainage requirement.

- 6.5.3 **Prevailing Wage.** PSERN must require all contractors to pay prevailing wages on all Public Works and as otherwise provided by law. For Public Works contracts, a “Statement of Intent to Pay Prevailing Wages” must be received from the contractor and all subcontractors before any payment is made, and an “Affidavit of Wages Paid” must be received from the contractor and all subcontractors following PSERN’s final acceptance of the contracted work.

6.5.4 Bidder Responsibility Criteria. A contractor under consideration for award of a Public Works project shall submit a sworn statement to PSERN in accordance with the requirements of RCW 39.04.350(1) and (2) certifying the bidder is in compliance with all bidder responsibility criteria identified in RCW 39.04.350(1) and (2) and with the requirements of Chapter 39.06 RCW pertaining to unregistered or unlicensed contractors, subcontractors, or other violators.

6.5.5 Notice of Completion: Upon completion of a Public Works Contract with a value over \$35,000, PSERN shall provide the “Notice of Completion of Public Works Contract” to the Washington State Departments of Revenue, Labor and Industries and Employment Security. PSERN shall not make any payment from contract retainage to any person, until PSERN has received certifications from all three departments that all taxes, increases, and penalties due from the contractor, and all taxes due and to become due with respect to the contract have been paid in full or that they are, in each department's opinion, readily collectible without recourse to the state's lien on the retained percentage.

7.0 CHANGES TO CONTRACTS

7.1 Change Order. All material Changes to Contracts are required to be memorialized at the earliest possible time in writing in a change order or other equivalent document.

7.2 Bid Requirement. Bids are not required when unforeseen extra work becomes necessary under a valid preexisting contract. However, a change in scope and purposes deviating substantially from the original plans so as to constitute a new undertaking may constitute a separate project and may require a separate contract process.

7.3 Minor Changes. A Department Head is authorized to sign contract change orders or amendments that (a) that involve only a minor extension of time for the contractor to perform; (b) do not cumulatively exceed the original Contract price by more than 20%; and (c) do not cumulatively exceed the authorized budget.

7.4 Major Changes. All other change order or amendments must be signed by the Executive Director. If the Executive Director is unavailable to execute the change order, and if a department head determines that an emergency exists that requires immediate approval of the change order or amendment, the Department Head may execute the change order or amendment and must subsequently inform the Executive Director as soon as possible.

8.0 INTERAGENCY AGREEMENTS

- 8.1 Authorization:** PSERN is authorized to procure Services and Goods from the contracts of another public agency (or group of public agencies) in accordance with the requirements of the Interlocal Cooperation Act, RCW 39.34.30.
- 8.2 Confirmation:** PSERN shall confirm the following prior to utilizing another agency's contract:
- 8.2.1** The contract has not expired and will be open and active for the relevant period.
 - 8.2.2** The contract allows for use by other agencies.
 - 8.2.3** The contract was awarded by a public agency. For purposes of this policy, a "public agency" means any agency, political subdivision, or unit of local government of this state including, but not limited to, municipal corporations, quasi-municipal corporations, special-purpose districts, and local service districts; any agency of the state government; any agency of the United States; any tribe recognized as such by the federal government; and any political subdivision of another state.
 - 8.2.4** The original bid or solicitation notice was posted on a website of a public agency, purchasing cooperative or similar service provider; or that there was an access link provided on the state's web portal to the notice.
 - 8.2.5** The awarding agency complied with its own bidding requirements. For purposes of this requirement, PSERN may either (1) review and retain the procurement documentation from the awarding agency; or (2) obtain a signed certification from the awarding agency attesting that it met its own bid requirements.
- 8.3 Federal Agencies.** PSERN may purchase Services and Goods from or through a federal agency (including GSA) without going through the additional processes described in this policy.

9.0 EMERGENCIES

The Executive Director shall have the power to enter into an immediate contract, change order, or amendment to an existing contract without compliance with the procedures required by this policy upon making a determination that an emergency requires such action.

The Executive Director shall have the power to make such an emergency determination where there are unforeseen circumstances beyond the control of PSERN that either: (a) present a real, immediate threat to the proper performance of essential functions, or (b) may result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

The Executive Director must issue a written basis for the emergency determination no later than

two weeks following award of the emergency contract and file the written basis with PSERN.

10.0 SOCIAL EQUITY

PSERN is committed to socially-responsible procurement and promoting social equity through our contracts. PSERN shall work to ensure open and fair procurements, competitive and fair pricing, environmentally-sustainable solutions, best labor practices, access to equal benefits and utilization of women- and minority-owned businesses, when applicable, in its contracts.

11.0 FEDERAL AND GRANT FUNDING

If federal or state funding, financial assistance, or grant funding is involved in the proposed acquisition or contract, the solicitation requirements and clauses should be obtained from the appropriate granting entity and all required grant management procedures must be followed per 2 C.F.R. § 200.318 - 326. If funding source guidelines conflict with or are more stringent than this policy, then the stricter requirements apply and must be used.

12.0 OTHER

12.1 Real Property Interests. The Board specifically authorizes the Executive Director to do the following:

12.1.1 To acquire and convey property interests by lease or purchase.

12.1.2 To enter into all lease agreements where PSERN is the lessor.

12.2 Surplus property. Except for real property, or utility equipment and property as provided for in RCW 35.94.040, or property that is sold to another governmental entity that is valued over fifty thousand dollars (\$50,000), as provided for in RCW 39.33.020, the Executive Director, upon a Department Head's recommendation, is authorized to surplus equipment or property the Executive Director determines is surplus to PSERN's needs, and the Executive Director dispose of such surplused equipment or property in such a way to secure the best interests of PSERN.

REVIEWED, APPROVED AND ADOPTED this ____ day of _____, 2021.

PSERN Board of Directors Staff Report

Agenda Item #7



Title: Executive Director's Report – December 2021
Meeting Date: December 9, 2021
PSERN Staff Contact: Michael Webb, Executive Director
Action: Discussion

SUMMARY:

This is my first Executive Director's report since joining PSERN at the beginning of November. I am planning to present this report to the Board at each meeting for the purpose of keeping the Board apprised of PSERN's progress in development of the organization and the status of its preparations to assume operational and administrative responsibility for the PSERN radio network in 2023.

ANALYSIS:

Throughout the month of November, my focus has been in four areas:

1. On-boarding to employment with King County

While this required a significant amount of time during the first two weeks, it is largely complete. I am grateful for the support provided by KCIT HR, David Mendel and Tracey Doss in getting me "up and running".

2. Outreach and introduction to key PSERN stakeholders

An initial priority has been to get introduced to PSERN Board members and alternatives. To date, I have initiated outreach and met one-on-one with 3 Board members and 2 alternates. My goal is to complete this by the end of January. If I have not already booked a meeting with you, please let me know when you are available.

I have also met with or been introduced to a variety of other PSERN stakeholders, including:

- PSERN Project staff (approximately 50% so far)
- Key agency personnel – Seattle and King County radio shops
- King County Fire Marshal's Association
- PSERN Technical Committee
- PSERN Operations Board
- PSERN Legal Counsel

I am very grateful and appreciative for the warm welcome that has been provided by all stakeholders I have interacted with to date, and I hope to continue this outreach effort on an ongoing basis.

3. Administrator hiring

In support of the hiring process, I worked with Project Team staff and the Board to prepare and finalized 2nd round interview questions. I also participated in the 2nd round interview panel with Chair Ueland and Chief Scoggins.

At the present time, we are conducting reference checks for the preferred candidate and anticipate an offer being presented prior to the board meeting.

4. Development of a startup phase spending and staffing plan

This work is the subject of a separate report to the Board during the December meeting. As the report outlines, there is a significant amount of work to be done to prepare PSERN for assuming operational responsibility for the PSERN network in 2023. I expect that the management and implementation of the proposed staffing and spending plan, including the establishment of financial management capability for PSERN and staffing of key management roles, will be a major focus for myself and the Board over the next year.

CONCLUSION

This report has outlined my activities and focus since joining PSERN at the beginning of November. I welcome feedback from the Board on the content and structure of this report and hope to evolve it going forward to meet the Board's needs.

SUPPORTING DOCUMENTATION

None

PSERN Board of Directors Staff Report

Agenda Item #9



Title: Preliminary 2022 Staffing and Spending Plan (Startup Phase)

Meeting Date: December 9, 2021

PSERN Staff Contact: Michael Webb, Executive Director

Action: Discussion

SUMMARY:

The PSERN Executive Director has been on-board since November 1st, 2021 and has undertaken a preliminary examination and assessment of the required PSERN Operator (PSERN) staffing and spending plan for the “startup phase”, i.e., the period from 4Q 2021 to end 1Q 2023 at which point, PSERN is expected to be operational and collecting user fees.

This assessment has raised several questions/issues which require the Board’s discussion and direction. These are outlined in this report, along with an overview of the required staffing and funding for this startup phase.

PSERN needs to establish a financial management system and supporting policy and processes as a matter of urgency. This will require the Board to approve the hiring of a Finance Manager or equivalent staff position in the early part of 2022.

Similarly, the hiring of an Operations Manager for PSERN in mid-2022 will be needed to enable the establishment of PSERN’s operational capabilities by early 2023. The hiring process for this position is expected to take a significant amount of time and should also proceed without delay.

Startup cost estimation is a work-in-progress at this point, as is the development of plans for establishing PSERN’s operational and administrative capabilities. This report, therefore, provides a current view and understanding of these matters that will be updated going forward.

BACKGROUND:

To date, the Board has authorized the hiring of two staff positions:

- Executive Director (filled)
- Administrator III (hiring in process)

Hiring for both positions has been undertaken pursuant to the agreement between PSERN and King County for the hiring of staff¹.

No further staffing approval/authorization has occurred so far. However, PSERN will need to hire several additional administrative and management positions throughout 2022 and early 2023 in order to be prepared to assume operational responsibility for the network at the Full System Acceptance (FSA) milestone – on or about March 30, 2023. On-boarding of this staff during 2022 will enable a number of administrative and operational systems and processes to be implemented and will establish the management structure that will enable additional staff to be on-boarded in time for FSA.

¹ Agreement executed as a result of Board Resolution No. 21-08 (May 27, 2021).

The PSERN Project has previously developed initial estimates of the costs the Operator will need to incur prior to FSA and commencement of network operational responsibility (“startup” costs). The upper end of these estimates identified a requirement for funding of \$1.85M for an eighteen-month period (October 1, 2021 – March 30, 2023), which has previously been allocated out of project funds by the Joint Board (also referred to as “seed” funding).

ISSUES:

To enable PSERN to prepare to assume operational responsibility in 2023, including the ability to collect revenue, purchase goods and services, pay suppliers, meet its statutory reporting obligations and support the day-to-day needs of PSERN staff, the organization will need to undertake a variety of initiatives starting in early 2022.

Most of these initiatives have already been incorporated in the Board’s existing workplan. They will all trigger staffing and funding requirements and raise a number of related issues, as outlined below.

Issue #1: What initiatives does PSERN need to undertake during the startup phase and when?

Issue #2: What additional staff will PSERN need to hire during the startup phase and when?

Issue #3: What spending is required in 2022 and 2023 during the startup phase and when?

Issue #4: How and when does the Board need to approve the staffing plan?

Issue #5: How and when does the Board need to approve the spending plan and what approach should be used to approve, track and report on those expenses going forward?

Issue #6: Does the Board support the continuation of the hiring/staffing arrangement with King County to a point in time after the FSA milestone?

Issue #7: Which administrative support services should be brought in-house, which should be provided by King County and what should the timeline be?

ANALYSIS:

The following analysis addresses the issues identified in the previous section. This analysis is preliminary and will continue to evolve as more work is undertaken. In particular, costs and timing of the various initiatives will be further investigated and updated.

Issue #1: What initiatives does PSERN need to undertake during the startup phase and when?

The following initiatives will need to be undertaken in 2022 and early 2023 to prepare PSERN to be operational as of FSA. Cross references to the items that are included in, or overlap with, the Board workplan (see Appendix A) are indicated in the **X-Ref** field. In several cases, the dates in the Board workplan have been extended to reflect Start and Finish dates for a sequence of related workplan activities.

Category	Initiative	Start	Finish	Dependencies	Notes	X-Ref
Admin	Complete PSERN registrations: - Tax ID/info, business license(s), new govt. intake, etc.	4Q 2021	4Q 2021			11, 14, 15
Admin	Implement document & records management policies, processes and systems.	1Q 2022	3Q 2022	Administrator On- boarding.	1	20, 45
Admin	Establish workspace and IT systems for administrative and management staff.	1Q 2022	1Q 2022	Determine outsourced Services. Administrator On- boarding.	2	9, 17
Admin	Implement procurement and purchasing policies, processes and systems.	1Q 2022	4Q 2022	Procurement policy. Determine outsourced Services. Hire Finance Manager.		5, 9
Admin	Develop financial policies/controls, implement financial management and accounting processes and systems.	2Q 2022	4Q 2022	Determine outsourced services. Hire Finance Manager.	3, 4	9, 10, 25
Admin	Develop 2023/2024 budget and fee schedules.	3Q 2022	4Q 2022	Hire Finance Manager.	5	32, 33
Admin & Operational	Establish a Corporate Security function.	3Q 2022	4Q 2022	To be determined.	6	30
Operational	Acquire and implement asset management system.	3Q 2022	4Q 2022	Hire Operations Manager.	7	24
Operational	Acquire and implement service management (ticketing) system.	3Q 2022	4Q 2022	Hire Operations Manager.	7	44
Operational	Acquire and fit-out vehicles, acquire technician tools and equipment.	3Q 2022	1Q 2023	Hire Operations Manager.	8	34, 41
Operational	Establish equipment storage and technical workspace.	3Q 2022	1Q 2023	Hire Operations Manager.	8	17
Admin	Establish ongoing financial and administrative capability and capacity.	3Q 2022	1Q 2023	Hire additional administrative staff.	9	31
Operational	Establish operational capability, transition operations from PSERN Project.	4Q 2022	2Q 2023	Hire operational and technical staff.	9	31

Notes:

1. A large amount of corporate records will need to be transferred from the PSERN Project to the Operator prior to or at FSA, including material that is technical, operational, contractual, governance and administrative in nature. All material is expected to be subject to RCW 42.56 (Public Records Act), with appropriate exceptions.

2. Workspace and IT support for Admin staff is assumed to be provided by King County initially. However, as new systems are implemented that are specific to PSERN, it may be necessary to transition PSERN to an IT environment that is separate from KCIT. The use of Cloud/SaaS² solutions should be considered for PSERN-specific IT systems to eliminate the need for PSERN to develop and operate IT infrastructure.
3. King County has advised that because PSERN is a distinct, incorporated entity, it is unable to provide financial management services on its behalf. Discussions are still underway with County finance staff regarding ways in which it can potentially support or assist PSERN. However, the best approach will likely be for PSERN to be fully distinct and independent from a financial perspective as soon as possible, including establishing its own accounting/financial management system and/or outsourcing certain financial management functions.
4. Priority activities related to financial management are listed below. PSERN needs to seek third party financial advisory services and/or an outsourced service provider to support this work, particularly b, c & d:
 - a. Establishing bank account(s) and financial registrations (Tax ID, business licenses, etc.);
 - b. Defining accounting method, reporting and audit requirements³;
 - c. Establishing financial policy and controls
 - d. Acquiring and implementing a financial management system (Cloud/SaaS-based)
5. It is expected that PSERN will eventually need to undertake budgeting and rate setting on a 2-year cycle consistent with many municipalities. However, this cannot be done for the current 2023/24 cycle due to timelines and a lack of financial staff resources in PSERN. PSERN will have to determine early in 2022 how it will set its initial rates for at least 2023, including what contingencies/reserves will need to be collected and how rate stabilization funds will be allocated.
6. The corporate security function will need to cover all aspects of security for PSERN:
 - a. Information, technical and cyber security
 - b. Physical security (particularly related to PSERN infrastructure assets)
 - c. Personnel security, including clearances (as required), training, etc.
 Further work is needed to determine the best way to resource the required activities and which can be outsourced cost effectively.
7. Asset Management and Service Management systems perform distinct functions. An Asset Management system will be used to track all fixed assets, including maintenance/repair plans and records, interdependencies and lifecycles. A Service Management system is used to log and track service performance on behalf of PSERN users/customers in alignment with Service Level Agreements. It may be possible to acquire all functionality in a single system, although the priority will be to acquire such systems as “off-the-shelf” Cloud/SaaS offerings.
8. The workspace, equipment and vehicle requirements for operational and technical staff will need to be determined by the Operations Manager once hired. However, initial assumptions, consistent with existing KCERCS practice have been made.
9. Hiring of transitional staff will be as per Operator ILA and King County hiring agreement. Costs for administrative staff incurred prior to FSA will require startup funding. See next section.

Issue #2: What additional staff will PSERN need to hire during the startup phase and when?

² Software-as-a-Service (SaaS) is a software licensing and delivery model in which software is licensed on a subscription basis and is centrally hosted by the service provider.

³ A key issue is whether PSERN should follow a “Fund/Cash” or “Accrual/GAAP” accounting method. As PSERN’s revenues will need to be tied to its expenses and it will be managing a large amount of non-cash assets, Accrual/GAAP accounting is likely to be preferred. A review of the State Auditor guidelines and requirements needs to be undertaken.

The analysis above identifies the following additional staff to be hired in 2022:

Position	Approval Status	Excluded/Non-Represented	Job Description Exists	Target Start Date
Administrator III	Approved, hiring in progress	Yes	Yes	December 2021 (TBC)
Finance Manager	Not approved	Yes	No/TBD	April 1, 2022
Operations Manager	Not approved	Yes	No/TBD	July 1, 2022

All three positions would report directly to the Executive Director during the startup phase and beyond. To meet the target start dates for the Finance Manager and Operations Manager, the hiring of these two positions should be approved as soon as possible⁴.

Beyond this, it is expected that additional administrative staff and up to 17 additional operational and technical staff will need to be hired in 2023. Additional administrative staff will be required around the beginning of 1Q 2023 (3 months before FSA, during the startup phase) while operational and technical staff will be required at or shortly after FSA (a number of which will be transitioning pursuant to the Operator ILA). The breakdown of administrative operational and technical staff by position type/classification has not yet been determined.

Hiring approval for these positions should occur in the latter part of 2022, once the three staff positions identified above are in place and the duties and qualifications have been further assessed.

Issue #3: What spending is required in 2022 and 2023 during the startup phase and when?

As discussed above, initial estimates of PSERN startup costs (done in 2019) identified a requirement for funding of up to \$1.85M for an eighteen-month period (October 1, 2021 – March 30, 2023), which has been allocated out of project funds by the Joint Board.

The Executive Director is currently reviewing and updating startup cost estimates in consideration of the hiring and initiatives discussed above. Preliminary indications are that the allocated funding envelope of \$1.85M will be sufficient. However, more work and analysis are required to improve the accuracy of the various cost estimates and verify that the funding is sufficient.

The following assumptions are being made. Costs that are excluded are assumed to be funded by the collection of user fees starting at FSA:

- FSA will be achieved as of 1 April 2023; if FSA is delayed and PSERN delays the commencement of user fees, then the requirement for start-up funding will increase;
- One-time costs associated with setting up administrative or operational systems for PSERN and purchase of equipment and tools (outside of PSERN Project scope) are included;
- Vehicles for operational staff will be leased; one-time costs for acquisition of tools, equipment and vehicle fit-out are included;
- Costs associated with operating and maintaining the PSERN radio network (either before or after FSA) are excluded⁵;

⁴ The hiring process is expected to take 3-4 months minimum.

⁵ Operating costs incurred before FSA are funded by the Project levy.

- Costs for operational or technical staff, other than the Operations Manager identified above, are also excluded;
- Costs for dedicated space to support PSERN technical operations (e.g., warehouse or workshop space) are excluded.

Issue #4: How and when does the Board need to approve the staffing plan?

To date, the Board has authorized the hiring of two staff positions – Executive Director and Administrator III. Separate approvals, including job descriptions/classifications, were made by the Board to trigger hiring for both positions pursuant to the agreement between the PSERN Operator and King County.

The staffing plan discussed above identifies two additional staff positions to be hired in 2022 – Finance Manager and Operations Manager. At this point, job descriptions and classifications have not been defined and costs have not been finalized. It is assumed that both positions will be hired through the King County hiring agreement following a similar process as used for the ED and Administrator.

To enable the hiring process for the Finance Manager and Operations Manager to proceed as a matter of urgency, work to prepare job descriptions and classifications will start immediately and should lead to formal approval of hiring of the two positions at the January Board meeting.

Further work is also needed to define and validate the requirements, including job descriptions and classifications, for the additional administrative, technical and operational positions that would start in 2023 as outlined above. Approval of these positions can be delayed until later in 2022.

Issue #5: How and when does the Board need to approve the spending plan and what approach should be used to approve, track and report on those expenses?

The Board needs to determine how it will provide approval and oversight of a spending plan for the startup phase in 2022 and 2023. The following approach is recommended to ensure rapid progress can be made on startup initiatives:

- Subject to development of job descriptions, classifications and cost estimates, the Board should approve the hiring of a Finance Manager and Operations manager at the January 2022 meeting;
- A spending plan is prepared and presented for approval at the January 2022 meeting; such approval would authorize expenditures against it on interim basis;
- The Executive Director provides monthly status reports/updates on this plan at each Board meeting that describes:
 - Year-To-Date spending against plan;
 - Any revisions to expenditure forecasts, including cost estimates and timing;
- At the point the Finance Manager is on-board, and a financial system established, more standardized or pro-forma reporting can be generated (likely 3Q 2022).

Issue #6: Does the Board support the continuation of the hiring/staffing arrangement with King County to a point in time after the FSA milestone?

Establishment of an alternative (internal to PSERN) staffing arrangement, including establishing payroll and benefits, is a significant undertaking that will be gated by the following:

- Establishment of PSERN’s financial management system, as discussed above;
- Creation of an HR function in PSERN, including hiring of an HR Manager and other HR/administrative staff;
- Implementation of a payroll system;
- Establishment of benefits providers and programs, including retirement benefits⁶;
- Bargaining unit arrangements for represented staff, including PSERN Transitional Employees.

Other than establishment of the financial system, these activities are not currently included in the Board’s workplan or the staffing/spending plan for the startup phase discussed above. PSERN has a significant number of higher priority initiatives it needs to undertake prior to FSA. As a result, it is proposed that the existing hiring/staffing arrangement with King County be maintained until mid-late 2023 (after FSA has occurred) and the majority of planned PSERN staff, including Transitional Employees, have been on-boarded.

Issue #7: Which administrative support services should be brought in-house, and which should be provided by King County and what should the timeline be?

At the present time, it is assumed that following services will be provided to PSERN by King County throughout the startup phase and beyond into mid or late 2023:

- Hiring, staffing and labor relations, as per the Hiring Agreement
- IT support services
- Office space for administrative staff
- Procurement services

Work is still underway to define the scope and costs for each of these services and update the corresponding cost estimates. Preliminary cost estimates were developed during earlier work undertaken by the PSERN Project. As discussions with King County progress and cost updates are made, they will be incorporated in a revised spending plan.

CONCLUSION

This report has discussed a number of questions/issues which require the Board’s discussion and direction with respect to a proposed staffing and spending plan for PSERN’s startup phase.

A high priority for PSERN is the establishment of a financial management system and supporting policy and processes for PSERN, which will be gated by the hiring of a Finance Manager or equivalent staff position. The job description and classification for this position will be developed in the coming weeks to enable hiring approval at the January meeting so the hiring process can commence without delay.

A secondary priority is the hiring of an Operations Manager who will develop PSERN’s operational capabilities and manage the transition and hiring of the technical and operational staff that will be needed in early 2023. Due to the unique skillsets, experience and qualifications required of this position, the hiring process is expected to be long and should also commence without delay.

Startup cost estimation and the development of plans for establishing PSERN’s operational and administrative capabilities are underway and an initial spending plan for 2022 will be presented for approval at the January meeting, revisions and updates to occur over the next year.

⁶ PSERN is required to become a “PERS” employer.

SUPPORTING DOCUMENTATION

Appendix A: Cross Reference Between Staffing/Spending Plan (Startup) and BoD Workplan

The table below shows the current Board workplan for PSERN. The far-right column shows the current status (Status) of that workplan or the section of this report that discusses each item (Reference). Items that are blank are either not started or do not currently have an identified staffing and/or spending impact in the startup phase.

#	Task	BoD	ED	Date Due	Status/Reference
4	Perform annual performance appraisals of Executive Director	Accountable/ Responsible	Consulted	Q3 Annually	
5	Adopt purchasing and contracting policies consistent with State Law	Consulted	Accountable/ Responsible	Q3/2021	In progress. S/S Plan: Issue 1
7	Set classifications, create job descriptions and pay levels for initial PSERN staff	Accountable	Responsible	Q3/2021	In progress. S/S Plan: Issue 2
8	Determine any other services the Operator may offer to end user agencies	Consulted	Accountable/ Responsible	Q3/2021	
9	Determine what services will be contracted out and what will be done inhouse	Accountable	Responsible	Q3/2021	In progress. S/S Plan: Issue 7
10	Establish a fund or special fund as authorized by RCW 39.34.030	Accountable	Responsible	Q3/2021	S/S Plan: Issue 1
11	Acquire the Operator’s IRS EIN / Tax ID Number.	Consulted	Accountable/ Responsible	Q4/2021	In progress. S/S Plan: Issue 1
12	Set and adopt a PSERN staffing plan that includes the Operator’s supervisory structure	Accountable	Responsible	Q3/2021	In progress. S/S Plan: Issue 2
13	Hire initial Operator staff	Accountable	Responsible	Q4/2021	In progress. S/S Plan: Issue 2
14	Submit the New Government Intake Form to the State Auditor.	Accountable	Responsible	Q4/2021	In progress. S/S Plan: Issue 1
15	Acquire business licenses for the City of Seattle and Washington State	Accountable	Responsible	Q4/2021	S/S Plan: Issue 1
16	Submit yearend tax information to the City of Seattle	Accountable	Responsible	Q4 Annually	
17	Determine place of employment (office/location)	Accountable	Responsible	Q4/2021	In progress. S/S Plan: Issue 1

#	Task	BoD	ED	Date Due	Status/ Reference
18	Determine any legislative priorities and/or work plans	Consulted	Accountable/ Responsible	Q4 Annually	
19	Establish policies related to co-location tenants at radio sites	Accountable	Responsible	Q1/2022	
20	Adopt and implement information assurance controls, policies, procedures and processes	Consulted	Accountable/ Responsible	Q2/2022	S/S Plan: Issue 1
21	Set classifications, create job descriptions and pay levels for remaining PSERN staff	Consulted	Accountable/ Responsible	Q3/2022	S/S Plan: Issue 2
22	Perform annual performance appraisals of Executive Director	Accountable/ Responsible	Consulted	Q3 Annually	
23	Perform annual performance appraisals of PSERN Operator staff	Consulted	Accountable/ Responsible	Q3 Annually	
24	Procure an asset management system	Consulted	Accountable/ Responsible	Q3/2022	S/S Plan: Issue 1
25	Procure business suite software (if not part of asset mgmt. system)	Consulted	Accountable/ Responsible	Q3/2022	S/S Plan: Issue 1
26	Create policies for central management of encryption keys and archiving of radio templates	Accountable	Responsible	Q4/2022	
27	Determine any legislative priorities and/or work plans	Consulted	Accountable/ Responsible	Q4 Annually	
28	Set after hours service (Duty Tech) policies	Accountable	Responsible	Q4/2022	
29	Make take home vehicle policies	Consulted	Accountable/ Responsible	Q4/2022	
30	Establish a cyber security incident response plan	Consulted	Accountable/ Responsible	Q4/2022	S/S Plan: Issue 1
31	Hire remaining operator staff	Accountable	Responsible	Q4/2022	S/S Plan: Issue 2
32	Set the operating budget*	Accountable	Responsible	Q4/2022	S/S Plan: Issue 1
33	Set end user agency rates*	Accountable	Responsible	Q4/2022	S/S Plan: Issue 1
34	Purchase equipment: 1. Tools 2. Test equipment 3. Avalanche materials 4. Wildfire tools	Informed	Accountable/ Responsible	Q4/2022	S/S Plan: Issue 1
35	Develop an emergency preparedness and COOP plans	Consulted	Accountable/ Responsible	Q4/2022	
36	Adopt policies defining the approved equipment and subscriber radios authorized for use in PSERN	Accountable	Responsible	Q1/2023	

#	Task	BoD	ED	Date Due	Status/ Reference
37	Adopt policies defining mandatory configuration settings that must be set into each authorized subscriber radio	Accountable	Responsible	Q1/2023	
38	Develop policies governing the replacement, removal, and addition of equipment under BoD control	Accountable	Responsible	Q1/2023	
39	Adopt policies related to the access of PSERN for mutual aid and/or interoperability purposes	Accountable	Responsible	Q1/2023	
40	Adopt policies governing the change management program (also see SLA section 5.5)	Consulted	Accountable/ Responsible	Q1/2023	
41	Procure vehicles	Consulted	Accountable/ Responsible	Q1/2023	S/S Plan: Issue 1
42	Acquire long term insurance	Accountable	Responsible	Q1/2023	
43	Establish Operating Board (ILA section 5.0) and any other committees or advisory groups as needed	Accountable	Responsible	Q1/2023	
44	Work in partnership with the end user agencies to develop and regularly report on performance and operating metrics indicating system performance as well as the PSERN Operator's ability to meet the end user agencies service requirements	Consulted	Accountable/ Responsible	Q1/2023	S/S Plan: Issue 1
45	Receive transitioned property and documents (including operational and legal documents)	Consulted	Accountable/ Responsible	FSA, currently Q1/2023	S/S Plan: Issue 1