

Hello Neighbor,

This email deals with the irregularities in the awarding of the \$89,700 PSWID contract for the electrical work to install the backup generators. This contract was awarded to Hat Creek Electric, LLC. There are multiple problems with the contract reward:

- District did not follow the purchasing rules in the rules and regs document
- The “competing” bid has the appearance of a straw bid
- Board member Mr. Mike Greer has been a long-time owner/operator of Hat Creek Electric. It was stated in the last board meeting that Mr. Greer was no longer an owner, however, transfer of ownership and the license of Hat Creek Electric to Mr. Dale Barnes did not occur until after the contract was awarded

We go through the issues in detail below. There may be explanations for some of the problems, but since PSWID refuses to answer questions about anything, we will layout what we know. Given all the shenanigans that the PSWID board has gone through in the past to transfer public money and property to several local developers, it isn't that hard to believe that they would be deterred from doing the same for one of their own members.

All of the referenced documents can be found here:

<http://www.waterforpinestrawberry.com/data%20pages/BudgetDocs.htm> . The documents consist of the Hat Creek Electric bid for one site, the Double “C” Electric bid, PSWID District Manager Mr. Brad Cole’s memo describing the contract award, the request to the ACC to remove Mr. Greer from Hat Creek Electric, and the recent electrical contractor’s license status for Hat Creek Electric. The full text of the PSWID Rules and Regulations that are referenced can be found at the end of the email. The full document can be found at the site referenced above.

1. Backup Generator Installation Contract Summary
 - a. Mr. Cole stated at the September PSWID meeting that he put out a verbal bid request for 13 separate generator installation contracts. The firm Hat Creek Electric was awarded all of the contracts as the low bidder on 8/26/2011, with a total value of the contracts of \$89,700. The only other bidder was a firm named Double “C” Electric which is located in Maricopa, AZ, 125 miles from Pine. Their bid of \$102,570 included a fuel surcharge of \$2860. Compensation for two plus hour drive time in each direction was not specifically called out in their bid.
2. The Bids
 - a. The bids cover the installation of the generators, installation of a transfer switch, associated wiring, and the installation of the propane tank and gas lines. Also includes preparation of a site plan and electrical drawings needed to obtain permits.
 - b. The dating on the Double “C” bid is interesting. It has an initial date of 12/20/2007, a revised date of 01/08/2008, and a handwritten date of 8/26/2011. Comment: May be nothing, but it raises the question of whether this was pulled from a drawer and reused. Leaning against that view is the fact that PSWID did not control the water system in 2007/2008. Could be an error on the part of Double “C” using an old bid as their starting point.
3. Bid Process

- a. The following basic PSWID Rules and Regulations apply to the solicitation and bidding of contracts (see full text at the end of the email):
 - i. District Manager can approve contracts/expenditures of \$10,000 or less without the requirement of public notice or Board authorization. (15.1)
 - ii. Board Chairman can approve contracts/expenditures of \$25,000 or less only after informal competitive solicitation from two or more responsible suppliers if available, without the requirements of public notification by advertisement. (16.1 and 16.5)
 - iii. Contracts/expenditures above \$25,000 have to be approved by the full board with a public vote, only after formal competitive sealed bidding, solicited by public notification, properly received and authorized by the District Board. (17.1)
 - iv. It is prohibited to break up a contract into pieces in order to avoid the above approval requirements (12.2)
 - v. The District Manager is required to prepare a purchase requisition to initiate procurement (9.1)
 - vi. No District employee, elected or appointed official shall assist a supplier of goods or services in securing a contract or purchase order by prejudicing the selection of that supplier or the price paid for goods or services sold to the District. (6.1)
- b. The District Manager's decision to do a verbal request for quotes appears to violate regulation 9.1. These contracts are a large dollar amount individually and in aggregate. The lack of a written request for quotes leaves ambiguity as to what is required, both for the two bidders if they weren't verbally told the exact same things, and later if there are disputes with the contract winner as to what was asked for.
- c. Comment: The Hat Creek bid is much more detailed than the Double "C" bid, is that because they received a much better verbal quote and because Mr. Greer had additional insight into the job that the other bidder did not?
- d. With a cost of \$89,700 this would have required advertisement, formal bids, and approval by the board with a public vote. By breaking the job into 13 separate contracts it reduced the amount to the point where only approval by the District Manager was required. This violates regulation 12.2 which prohibits breaking up contracts to avoid approval requirements. In his memo awarding the contracts, Mr. Cole provides the following rationale for breaking up the job:
 - i. "The rationale behind a site by site bid was the belief that certain sites would be more costly than others."
 - ii. "In addition, a site by site bid would allow PSWID the flexibility to select one or both contractors based on the lowest bid for each location."
 - iii. "Further rationale supporting a location specific bid is that it allows PSWID to record the true cost of each asset in an individual basis."
- e. Comment: It is hard to give credence to Mr. Cole's rationales. First, regulation 12.2 says that it is prohibited to break it up and doesn't provide any exceptions. With regard to the claim that different sites would have different costs, all of the sites have the same elements to be installed, only the positioning of the generator and propane tank would vary, with a resulting difference in the length of wiring

and gas line runs. With so little difference, it is hard to understand where an expectation of significant cost differences would come from. Indeed, neither of the bids had differences between sites. As far as knowing the true cost of the assets on an individual basis, all of the sites have the same items being added which will all have the same depreciation schedule, so dividing the total cost by 13 would have been just as effective.

- f. For the two bidders, one was local with a well known connection to the PSWID board and the other is 125 miles away with a built in cost disadvantage. This appears to violate regulation 6.1 that the awarding of contracts not be prejudiced. It is not known whether other verbal requests for quotes were given out and whether the receiving companies chose not to bid.
 - g. Comment: At the November PSWID meeting, Mr. Cole was asked whether he whether he thought that being 125 miles away put them at a disadvantage to a local company. He stated that he didn't know whether that put them at a disadvantage or not.
 - h. Comment: The purpose of competitive bidding is to get the best value for the district's money (our money) and the other is to provide fair access to contractor's interested in business with the district. Perhaps \$6900 per site is a good price, but there are a dozen or more local electrical contractors who might have been able to provide a more competitive bid since they wouldn't have had to figure in the cost of the distance, travel time, and fuel. Effectively, the Double "C" bid appears to be a straw bid in order to steer the contracts to Hat Creek Electric.
 - i. Comment: The actions of Mr. Cole seem out of character for what we know of him. The board has forbidden Mr. Cole from talking to us, but from other procurement activity we have obtained paper work for, he seems to be fairly studious about soliciting multiple bids from businesses that it makes sense to solicit bids from. I don't think it is unreasonable to think that he was under pressure from one or more board members to direct the contract to Hat Creek Electric. The conspiracy theory faction on the board, led by Mr. Gary Lovetro, has demonstrated in the past that they will run off any employee or board member that doesn't toe their line or the lines of their patrons.
4. Hat Creek Electric
- a. Mr. Barnes and Mr. Greer are listed as members and managers of Hat Creek Electric in the original filings with the Arizona Corporation Commission (ACC) on 4/25/2006.
 - b. The Hat Creek Electric bids were submitted on 8/22/2011 and the contract was awarded by Mr. Cole on 8/26/2011. The paperwork to remove Mr. Greer as a member and manager of Hat Creek Electric was not filed with the ACC until 8/30/2011. Mr. Greer was not removed as the agent for Hat Creek Electric until 10/24/2011.
 - c. Mr. Greer was not removed as the Qualifying Party on the Hat Creek Electric contractor's license until 10/24/2011. There is currently no one listed as the Qualifying Party on the license, although Mr. Barnes has been added as a Member.
 - d. Comment: Mr. Greer was, at least technically, still an active member of Hat Creek Electric at the time that the contract was awarded. Does Mr. Greer being removed

after the contract was awarded reflect poor paperwork skills or does it reflect the possibility that the transfer of ownership to Mr. Barnes was conditioned on the award of the contract?

- e. The following regulation appears to apply to the conflict of interest in this contract award:
 - i. PSWID Rules & Regs Article XI, Section 7.1. “No member of the District Board may be interested, directly or indirectly, in any contract entered into by the District Board.”
- f. Comment: Mr. Greer’s removal from Hat Creek Electric after the award of the contract and his holding of the contractor’s license for several months after that has the appearance of a continuing interest in Hat Creek Electric. If the sale was conditioned on the receipt of the contract or the sale price was influenced by it, then Mr. Greer would also have a direct interest. At the November meeting Mr. Lovetro stated that Mr. Greer had spent hundreds of hours of his own time supervising the generator installations. As the official holder of the license, perhaps he was obliged to. It is fair to say that over the years Mr. Greer has put more time in on PSWID/board activities than most of the other board members.
- g. Comment: Of related interest regarding the use of Hat Creek Electric, the following item was taken from the September 12th minutes of the Community Educational, Recreational and Civic Organization (CERCA) which manages the Pine Cultural Center complex. They had hired Hat Creek Electric to perform some electrical installation work. After the incident below, CERCA stopped the work by Hat Creek and hired another electrician. Emphasis is CERCA’s.
 - i. **Problems with Electrician:** Joe Mendoza (inspector) said Mike Greer (Hat Creek) did not get electrical permit from county - none of breakers are labeled. County can require engineers to report on electrical breakers. Work was "Red Tagged" by County Engineer but worker tore it off and continued working. **Luckily Service was not completed or we could have had the "Big Bang"**

5. PSWID Purchasing Regulations

The PSWID purchasing rules that come into play here:

- a. PSWID Rules & Regs Article XI, Section 9.1 “If the board determines the need for goods or services, the Manager shall prepare a purchase requisition to initiate procurement.”
- b. PSWID Rules & Regs Article XI, Section 6.1. “No District employee, elected or appointed official shall assist a supplier of goods or services in securing a contract or purchase order by prejudicing the selection of that supplier or the price paid for goods or services sold to the District.”
- c. PSWID Rules & Regs Article XI, Section 12.2. The cost of an item as set forth in Sections 15, 16, and 17, not the method of payment, determines the means of procurement. Artificial division, splitting or fragmentations of a transaction to circumvent source selection or to avoid requirements for bidding or authorization of procurements are prohibited.”
- d. PSWID Rules & Regs Article XI, Section 15.1. Any procurement that results in an expenditure of \$10,000.00 or less shall have been made with as much economy

as practicable in the open market place at the prevailing price without the requirement of public notice or Board authorization.”

- a. PSWID Rules & Regs Article XI, Section 15.2. Open market procurements shall, whenever practicable, be based on the lowest price of an item which meets or exceeds the performance or functional characteristics that are available from two or more sources of supply, if available, by written quote or in any acceptable informal manner.”
- e. PSWID Rules & Regs Article XI, Section 15.3. The District Manager is authorized to compare prices offered by suppliers of goods and services within the open market and have final determination of the prevailing price to be paid by the District.”
- b. PSWID Rules & Regs Article XI, Section 16.1. Any procurement resulting in expenditure from \$10,001.00 to \$25,000.00 shall have been made only after informal competitive solicitation from two or more responsible suppliers if available, without the requirements of public notification by advertisement.”
- c. PSWID Rules & Regs Article XI, Section 16.2. The District Manager or designee shall obtain, when possible, two or more informal competitive bids, in writing, from suppliers on the current prospective supplier list of the District or the State and/or from other available suppliers.”
- d. PSWID Rules & Regs Article XI, Section 16.3. Informal quotations from suppliers responding to a request for bid other than in writing are satisfactory when the method of inquiry, date and person "quoted is documented; however, a written informal bid is strongly encouraged.”
- e. PSWID Rules & Regs Article XI, Section 16.4. Invitations to informal bids or quotations shall include a description of goods or services and all contractual terms and conditions applicable to the procurement.”
- f. PSWID Rules & Regs Article XI, Section 16.5. The District Chairman as chief administrative officer is authorized to execute contracts providing for an expenditure of less than twenty-five thousand dollars (\$25,000.00) unless otherwise provided by resolution or direction of the Board.”
- f. PSWID Rules & Regs Article XI, Section 17.1. Unless otherwise provided for or exempt by Arizona Revised Statutes any procurement resulting in an expenditure of more than twenty \$25,000.00 shall have been made only after formal competitive sealed bidding, solicited by public notification, properly received and authorized by the District Board.
 - i. 1. Contracts for projects defined as a "public work" with an estimated value of less than \$100,000 may be let by following the "informal" bidding procedures.
 - ii. 2. Projects defined as a "public work" where the estimated cost exceeds \$100,000 shall be let following the "formal" bidding procedures outlined below.”
- g. PSWID Rules & Regs Article XI, Section 17.2. When a formal invitation to bid is issued by the District Manager, it shall include the dates of public notice, the time and place for bid receipt and opening as well as a description of the goods or services.”

- h. PSWID Rules & Regs Article XI, Section 17.3. Public notification shall be considered adequate when a formal invitation to bid is advertised and published at least two consecutive publications in a newspaper of general circulation within the county, if a weekly paper, and no less than six nor more than ten days apart in a daily paper.”
- g. PSWID Rules & Regs Article XI, Section 17.4. The District Manager shall solicit formal sealed bids from two or more suppliers on the current prospective supplier list or other sources that have requested to be included in bids for goods or services of a specific character and kind.”

This email is from the group Water For Pine Strawberry. We will be sending out an email after each of the PSWID meetings with a summary of what the board did, additional facts that are relevant to what went on, and some commentary. Please forward this email to friends and neighbors that are interested in the local water issues. If you would like to be added to or removed from the list for these emails, please reply to WaterForPineStrawberry@hotmail.com. Emails on earlier meetings are available on our website: www.WaterForPineStrawberry.com .

Water For Pine Strawberry is a group of residents who are concerned about the community’s water issues and how they can best be resolved. Visit our web site, www.WaterForPineStrawberry.com, for more information. The website for PSWID is www.pswid.org .

Clarifications can be submitted by anyone who is explicitly named, implicitly identifiable, or a board member to items in this email. Clarifications will be posted on our website. We reserve the right to post a response. Clarifications must deal with the topics discussed in the email that relate to the individual or the board. They must be in family friendly language and be non-abusive. When the clarification is accepted, it will be posted to the website and notice of that posting will be added to the next email.