



**PUBLIC SERVICE BOARD MEETING
AGENDA ITEM
REGULAR MEETING
Wednesday, September 10, 2025**

SUBJECT

Resolution establishing Rules and Regulations No. 18.

BACKGROUND

The proposed Rules and Regulations No. 18 (Rule 18) relates to EPWater procurements of identified categories of goods and services that are essential to the continuity of critical infrastructure and the provision of services, which are exempt from the bidding statute under the health or safety exemption. For the procurement of such goods and services, a solicitation may be issued if operational circumstances permit, which may be awarded to more than one bidder if there is more than one bidder that is responsive and responsible.

PRIOR PSB ACTION

- None

UTILITY KPI ALIGNMENT

Customer Satisfaction

EVALUATION PROCESS

The proposed Rule 18 recognizes that although a bidding exemption applies to the identified categories of goods and services, the issuance of a bid, which may be awarded to more than one bidder, achieves the best value for the utility.

FINANCIAL IMPLICATIONS

None.

PROPOSED ACTION REQUESTED

Consider and adopt a resolution establishing Rules and Regulations No. 18 Governing Certain El Paso Water Procurements Necessary to Preserve or Protect the Public Health or Safety.

SUPPORTING DOCUMENTATION PROVIDED

- Proposed Rules and Regulations No. 18

RULES AND REGULATIONS NO. 18

RULES AND REGULATIONS GOVERNING CERTAIN EL PASO WATER PROCUREMENTS NECESSARY TO PRESERVE OR PROTECT THE PUBLIC HEALTH OR SAFETY

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD BY VIRTUE OF ARTICLES 1111-1118, REVISED CIVIL STATUTES OF TEXAS, AND ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS ON MAY 22, 1952, AND AS THEREAFTER AMENDED, CHAPTER 552 OF THE TEXAS LOCAL GOVERNMENT CODE, AS AMENDED AND ORDINANCE 016668, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS ON JUNE 19, 2007; NOW, THEREFORE BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, THAT THE FOLLOWING RULES AND REGULATIONS ARE HEREBY ESTABLISHED:

SECTION I - GENERAL

The El Paso Water Utilities Public Service Board ("EPWater") is vested with complete authority and control of the management and operation of the water, wastewater, and stormwater systems ("Systems"). As part of the management and operation of the Systems, EPWater procures goods and services in accordance with all applicable procurement laws. Under Section 252.022(a)(2) of the Texas Local Government Code, procurements necessary to preserve or protect the public health or safety of EPWater's customers are exempt from the bidding requirements under state law. The public health or safety exemption does not require a public calamity or emergency to exist. EPWater has a fiduciary duty to conduct all procurements in a fiscally responsible manner so as to achieve the best value.

When operational circumstances permit, EPWater achieves the best value by issuing a solicitation that expressly reserves the right to award to one or more bidders to provide essential services or goods necessary to preserve or protect the public health or safety.

These Rules and Regulations only apply to procurements that meet four conditions: 1) public health or safety exemption applies to the procurement; 2) the procurement falls under a category described in Section II of these Rules and Regulations; 3) it is necessary to engage more than one vendor; and 4) time allows for a bid to receive the best value for the Utility.

SECTION I-A – BOARD FINDINGS WHEN AWARDING BIDS

For each procurement under these Rules and Regulations, the Public Service Board ("Board") shall make a motion to approve the award of the solicitation and to adopt the following findings:

1. That the Texas public health or safety bidding exemption applies;
2. That multiple vendors are required to ensure continuity of utility services; and
3. That the public notice requirements under these Rules and Regulations have been satisfied.

SECTION II – CATEGORIES OF GOODS AND SERVICES

The Board identifies the following categories of goods and services that are necessary to preserve or protect the public health or safety of EPWater's customers for which EPWater will issue a solicitation, if operational circumstances permit, and which may be awarded to more than one bidder if there is more than one bidder that is responsive and responsible:

1. Water/Wastewater Treatment
2. Water/Wastewater Quality Monitoring
3. Lab Equipment and Testing Services
4. Paving
5. Traffic Control and Safety Services
6. Maintenance of Critical Infrastructure
7. Other categories as expressly identified by the Board in its findings as essential to preserve public health or safety

The Board identifies the above categories are essential to the continuity of critical infrastructure and provision of services directly related to delivering safe and reliable water, wastewater and stormwater services. The potential award of more than one vendor for these goods and services will ensure that EPWater will timely, efficiently and effectively be able to preserve and protect the good health and safety of EPWater customers in advance of any single vendor's inability to perform.

SECTION III – PUBLIC NOTICE

These Rules and Regulations acknowledges that although a statutory bidding exemption applies to the identified categories of goods and services, EPWater may engage in a transparent notice and bidding process. The Board prefers to engage in a public competitive process to ensure the best value for ratepayers when circumstances permit.

In addition to the notice requirements under the bidding statute, any solicitation issued by EPWater, in accordance with these Rules and Regulations, will contain language to provide notice to potential bidders of the potential for EPWater to award to more than one bidder.

These Rules and Regulations do not prevent EPWater from exercising its discretion to procure goods and services without competitive bidding requirements pursuant to an applicable bidding exemption under state law.

SECTION IV - SEVERABILITY

These Rules and Regulations are part of the other Rules and Regulations of the Board and persons accepting service agree to comply with the appropriate provisions and conditions of all of the Rules and Regulations. If any provision, paragraph, section, subsection, sentence, clause or phrase of these Rules and Regulations No. 18 or the application of same to any person or set of circumstances is for any reason invalidated by any court of competent jurisdiction, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of these Rules and Regulations No. 18. The remaining provisions, paragraphs, words or sections shall not be affected and shall continue in full force and effect.

SECTION V - SAVINGS

These Rules and Regulations are a part of the other Rules and Regulations of the Board and, save and except as amended hereby, the remaining provisions of the Board's Rules and Regulations shall remain in full force and effect.

SECTION VI - EFFECTIVE DATE

These Rules and Regulations No. 18 shall be and become effective from and after its adoption hereby and shall remain in effect until otherwise amended by the El Paso Water Utilities Public Service Board.

[Signatures on the Following Page]

RULES & REGULATIONS NO. 18 PASSED, APPROVED and ADOPTED the 10th day of September 2025, by the Public Service Board of the City of El Paso, Texas.

PUBLIC SERVICE BOARD

Bryan Morris, Chair

ATTEST:

Stefanie Block Uribarri, Secretary-Treasurer

APPROVED AS TO FORM:

Daniel Ortiz, General Counsel