

BEFORE THE METRO LOCAL CONTRACT REVIEW BOARD

FOR THE PURPOSE OF ADOPTING LOCAL) RESOLUTION NO. 17-4779
CONTRACT REVIEW BOARD)
ADMINISTRATIVE RULES AND INTERIM) Introduced by Metro Attorney Alison R.
EQUITY IN CONTRACTING) Kean in concurrence with Council
ADMINISTRATIVE RULES) President Tom Hughes

WHEREAS, it is the policy of both the State of Oregon and Metro to utilize public contracting practices and methods that (a) simplify, clarify and modernize procurement practices so that they reflect the marketplace and industry standards, (b) instill public confidence through ethical and fair dealing, honesty and good faith on the part of government officials and those who do business with the government, (c) promote efficient use of government resources, (d) allow impartial and open competition, protecting both the integrity of the public contracting process and the competitive nature of public procurement, and (f) provide a public contracting structure that can take full advantage of evolving procurement methods as they emerge within various industries; and

WHEREAS, the Oregon Legislature adopted HB 2341 (2003 Oregon Laws, Chapter 794), which was signed by the Governor and had an operative date of March 1, 2005. HB 2341 repealed Oregon Revised Statutes Chapter 279 (with minor exceptions) and replaced it with three new subchapters: ORS 279A, 279B, and 279C. These three subchapters collectively constitute the Oregon Public Contracting Code (referred to herein as the "State Code"); and

WHEREAS, the State Code directs that the Attorney General prepare and maintain model rules that specify procedures for public contracting ("Model Rules"), specifically requiring that the Model Rules be used by all public bodies authorized by law to conduct procurements of public contracts, unless a public body "opts out" by adopting its own public rules; and

WHEREAS, in 2005, Metro "opted out" of following the Model Rules and relied on the policies contained in Metro Code Chapter 2.04 as Metro's rules of procedure for public contracting; and

WHEREAS, Metro now desires to make changes to its rules of procedure for public contracting, to (a) reflect legislative changes to the State Code and (b) implement public contracting practices and methods that achieve the policy directives referenced above; and

WHEREAS, the Metro Council is the Local Contract Review Board for Metro, and as such is authorized to adopt rules of procedure for public contracting; and

WHEREAS, the State Code empowers and directs the Metro Local Contract Review Board to designate certain public contracts as "personal services contracts" and to create procedures to screen and select persons to perform personal services for Metro; and

WHEREAS, Oregon Revised Statutes Chapter 200 requires that all public bodies authorized by law to conduct procurements of public contracts (a) aggressively pursue a policy of providing opportunities for disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own and emerging small businesses and (b) cooperate with the Governor's Policy Advisor for Economic and Business Equity to determine the best means by which to make such opportunities available; and

WHEREAS, recognizing the validity in the findings set forth in ORS 200.015, the Metro Local Contract Review Board desires to adopt rules of procedure to advance equity in public contracting that promote economic growth of disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own and emerging small businesses; now therefore

BE IT RESOLVED THAT THE METRO LOCAL CONTRACT REVIEW BOARD:

1. Adopts the administrative rules attached hereto as Exhibit A, as its rules of procedure for public contracting (hereinafter referred to as the “LCRB Contracting Rules”);
2. Adopts the findings set forth in Exhibit A-1, which are required by State Code to approve the classes of special procurements set forth in Rule 47.0288 of the attached LCRB Contract Rules;
3. In accordance with ORS 279A.065(6)(b), directs Metro staff to review the LCRB Contracting Rules each time the Attorney General modifies the Model Rules in order to determine whether amendments to the LCRB Contracting Rules are necessary for statutory compliance;
4. Adopts the administrative rules attached hereto as Exhibit B, as its rules of procedure for screening and selecting persons to perform personal services for Metro (hereinafter referred to as the “Personal Services Contracting Rules”);
5. Adopts the administrative rules attached hereto as Exhibit C, as its rules of procedure to advance equity in public contracting at Metro (hereinafter referred to as the “Equity in Contracting Rules”); and
6. Recognizing the importance of public and stakeholder involvement in the development and drafting of administrative rules, declares the attached LCRB Contracting Rules, the attached Personal Services Contracting Rules, and the attached Equity in Contracting Rules, to be interim rules effective immediately and directs Metro staff to return to the Local Contract Review Board for final adoption after Metro has provided those persons likely to be affected by the permanent adoption of these rules with an opportunity to provide public comment.

ADOPTED by the Metro Council this _____ day of April, 2017.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney