

# ORDINANCE No. 185065

\*Update Procurement Code to conform to new state law and make technical corrections (Ordinance; amend Code Chapters 5.33, 5.34 and 5.68)

The City of Portland ordains:

Section 1. The Council finds:

1. In 2003 the Oregon Legislature passed HB 2341, which repealed most of the State's purchasing statutes found in ORS 279 and adopted new chapters 279A, 279B and 279C. These changes became effective March 2005. On March 9, 2005, the City Council passed Ordinance No. 179110 revising the City's Procurement Code to conform to these adopted state laws.
2. During the 2011 legislative session, the Oregon Legislature passed other legislation which revises portions of ORS Chapters 279A, 279B and 279C collectively known as the "Public Contracting Code." Some of these changes take effect January 1, 2012.
3. If the City Code changes are not adopted, some of the Attorney General Model Rules, which are directed more to state agencies than municipal governments, would apply by default as a result of ORS 279A.065(5).
4. The attached Exhibit A (Chapter 5.33), Exhibit B (Chapter 5.34) and Exhibit C (Chapter 5.68) detail the City's revisions to its Code to take into account the newly enacted laws and technical corrections to be effective January 1, 2012.
5. The attached Exhibit D (Chapter 5.33), Exhibit E (Chapter 5.34) and Exhibit F (Chapter 5.68) are outlines of the substantive proposed rule changes.
6. The changes to 5.33.220 include a new special procurement, that permits, but does not require, the City to procure information technology hardware or software licenses without competitive bidding when the license is available from only one source, or, if available from more than one source, are obtained from the City's current provider in order to utilize pre-existing knowledge of the vendor regarding the specifics of the City's system. The acquisition of such licenses is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts when the license is available only from a single source, or from the City's current source after competition has already occurred in the original section process. In addition, this will save the City and the public money by not having to switch from one vendor to another for the same license.
7. The substantive changes include the following in PCC 5.33:
  - a. Discretionary Preference and Award: Provides that the City may specify a percentage preference of not more than ten percent for Goods fabricated or processed entirely in Oregon or Services performed entirely in Oregon.
8. The substantive changes under PCC 5.68:
  - a. Definitions: Provides professional services designations that fall within QBS guidelines, further defines Transportation Planning and Related Services.

- b. Directs Chief Procurement Officer to revise Professional, Technical and Expert Services Manual to conform with changes to Qualified Based Selection Processes resulting from HB 3316, which takes effect January 1, 2012.

NOW, THEREFORE, the Council directs:

- a. Portions of City Code Chapter 5.33, Goods and Services, are revised as shown in attached Exhibit A.
- b. Portions of City Code Chapter 5.34, Public Improvements and Construction Services, are revised as shown in attached Exhibit B.
- c. Portions of Code Chapter 5.68, Professional, Technical and Expert Services Contracts, are revised as shown attached Exhibit C.
- d. The Chief Procurement Office is directed to amend the Professional, Technical and Expert Services Contract Manual to conform to the requirements of HB 3316. Such changes shall take effect on January 1, 2012.
- e. The Code changes shall take effect on January 1, 2012.

Section 2. The Council declares that an emergency exists because these corrections will bring the City's Procurement Code into conformance with current law, prevent further confusion, add clarity to the City Procurement Code for both outside vendors and City staff, and make sure that provisions adopted by the State that are directed to state agencies are not inadvertently applied to the City; therefore, this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council: DEC 14 2011

**LaVonne Griffin-Valade**  
Auditor of the City of Portland

By

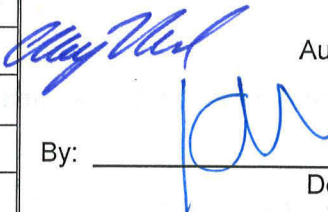
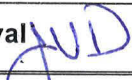


Deputy

Mayor Sam Adams  
Prepared by: Christine Moody/BG  
Date Prepared: December 2, 2011

Agenda No. **185065**  
**ORDINANCE NO.**  
 Title

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INTRODUCED BY Commissioner/Auditor: <b>Mayor Sam Adams</b>	CLERK USE: DATE FILED <u>DEC 09 2011</u>
<b>COMMISSIONER APPROVAL</b> Mayor—Finance and Administration - Adams Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Leonard	LaVonne Griffin-Valade Auditor of the City of Portland  By: <u></u> Deputy
<b>BUREAU APPROVAL</b> Bureau: Internal Business Services Bureau Head: Jeff Baer	ACTION TAKEN:
Prepared by: Christine Moody Date Prepared: 12/5/11	
Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Council Meeting Date <b>12/14/11</b>	
City Attorney Approval <u></u>	

**AGENDA**

**TIME CERTAIN**   
 Start time: \_\_\_\_\_  
 Total amount of time needed: \_\_\_\_\_  
 (for presentation, testimony and discussion)

**CONSENT**

**REGULAR**   
 Total amount of time needed: \_\_\_\_\_  
 (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Leonard	4. Leonard	✓	
Adams	Adams	✓	