

ORDINANCE No. 185898

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

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 In 2003 the Oregon Legislature passed HB 2341, which repealed most of the State's purchasing statutes found in ORS 279 and adopted new chapters 279A, 279B and 279C.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 that revised the City's Procurement Code to conform to these adopted state laws.
2. During the 2012 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 have taken effect and are being codified at this time.
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. In August, 2012, as part of the City's Equity in Contracting Strategy, the City Council passed Resolution #36944 which directed the Procurement Services Division to develop the necessary code amendments.
5. The attached Exhibit A (Chapter 5.33) and Exhibit B (Chapter 5.34) detail the City's revisions to its Code to make the necessary technical corrections to be effective immediately.
6. The attached Exhibit C (Chapter 5.33) and Exhibit D (Chapter 5.34) are outlines of the substantive proposed rule changes.
7. The substantive changes include the following in PCC 5.33:
 - a. Definitions: Provides for a definition for "amendment" as is in general use.
 - b. Modifies the Authority of Directors to more completely reflect the process that is in general use within the City.
 - c. Extends the time period for the City to respond to a protest beyond 7 days.
 - d. Provides for a preference when procuring goods that are fabricated or processed entirely within this state, or services that are performed entirely within this state as indicated by ORS Chapter 279B.
 - e. Clarifies that an evaluator's exercise of judgment is not grounds for protest.

- f. Clarifies the “Business with which a City employee is associated”.
 - g. Updates all references to the Revenue Bureau and requirements for the business license tax account and Bureau of Purchasing to Procurement Services to reflect name change.
 - h. Included reference to the Social Equity Contracting program as required by Resolution #36944, adopted July 19, 2012.
8. The substantive changes include the following in PCC 5.34:
- a. Definitions: Provides for a definition for “change order” as is in general use.
 - b. Updates all references to the Revenue Bureau and requirements for the business license tax account and Bureau of Purchasing to Procurement Services to reflect name change.
 - c. Included reference to the Social Equity Contracting program as required by Resolution #36944, adopted July 19, 2012 and includes:
 - d. Identifies the exempted contracts solicited regarding affirmative action, and specifically for those under the Prime Contractor Development Program.
 - Increased the Requirement for bid security to \$150,000.
 - Modified the prequalification requirements to allow for electronic filing and to standardize City processes.
 - e. Clarifies prequalification protest and appeal process.
 - f. Clarifies post-project evaluation process.

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. The Code changes shall take effect immediately.

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 of the Social Equity Contracting Strategy are enacted. Therefore, this ordinance shall be in force and effect from and after its passage by the Council.

185898

Passed by the Council: FEB 20 2013

LaVonne Griffin-Valade
Auditor of the City of Portland
By



Deputy

Mayor Charlie Hales
Prepared by: Christine Moody - BG
Date Prepared: February 11, 2013

Agenda No. **185898**
ORDINANCE NO.
 Title

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

<p>INTRODUCED BY Commissioner/Auditor: Mayor Charlie Hales</p>	<p>CLERK USE: DATE FILED <u>FEB 15 2013</u></p>
<p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Hales <i>CH</i></p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick</p>	<p style="text-align: right;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <u><i>[Signature]</i></u> Deputy</p>
<p>BUREAU APPROVAL</p> <p>Bureau: OMF/Bureau of Internal Business Service CAO: Jack D. Graham <i>JDG</i> Bureau Head: Bryant M. Enge <i>BME</i></p>	<p>ACTION TAKEN:</p>
<p>Prepared by: Christine Moody: bg <i>CM</i> Date Prepared: 2/13/2013</p>	
<p>Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p>Council Meeting Date 2/20/2013</p>	
<p>City Attorney Approval: <i>JUD</i> required for contract, code, easement, franchise, comp plan, charter</p>	

AGENDA
<p>TIME CERTAIN <input type="checkbox"/></p> <p>Start time: <u> : : </u></p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>
<p>CONSENT <input checked="" type="checkbox"/></p>
<p>REGULAR <input type="checkbox"/></p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>

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