

RESOLUTION No. 17/18-1
City of Dayton, Oregon

TITLE: *A Resolution Amending Public Contracting Rules.*

WHEREAS, the City of Dayton adopted public contracting rules on March 7, 2005 according to HB 2341 adopted by the State Legislature in 2003, which created a new Oregon Public Contracting Code (Code), codified in ORS chapters 279A, 279B, and 279C; and

WHEREAS, procurement limits allowed under the Code for different types of procurement have changed since that time; and

WHEREAS, the Code and the Model Rules allow local governments to adopt contracting rules different from or in addition to those in the Model Rules so long as they are consistent with the Code.

The City of Dayton resolves as follows:

Section 1. **THAT** the public contracting rules for the City of Dayton as adopted by Resolution 04/05-29 are amended as follows with additions in red and deletions in strikethrough:

1.10.010 General provisions

- (1) Except as provided within these rules, City public contracting is governed by the Code and the Model Rules.
- (2) The Dayton City Council is the City’s Contract Review Board (Board). Except as otherwise provided in these rules, the powers and duties of the Board under the Code and Model Rules will be exercised by the Board and the powers and duties given or assigned to contracting agencies by the Code or Model Rules will be exercised by the City ~~Administrator~~Manager as the City’s contracting agent.
- (3) For the purposes of these rules, “City ~~Administrator~~Manager” means the City ~~Administrator~~Manager for the City of Dayton, or the City ~~Administrator~~Manager’s designee.

1.10.020 Personal service contracts

- (1) “Personal service contract” means a contract for personal or professional services performed by an independent contractor, primarily for the provision of services that require specialized technical, creative, professional or communication skills or talents, unique and specialized knowledge, or the exercise of discretionary judgment skills, and for which the quality of the service depends on attributes that are unique to the service provider. Such services include, but are not limited to, the services of attorneys, accounting and auditing services, information technology services, planning and development services, artists, designers, performers, property managers and consultants. The City ~~Administrator~~Manager has discretion to determine whether

a particular contract or service falls within this definition. For the purposes of this section, personal services contracts do not include such contracts for architectural, engineering and land surveying services. The procedures for those contracts are found in the Model Rules, OAR 137, division 48.

- (2) The following formal selection procedure will be used when the estimated payment to the contractor exceeds \$25,000.
 - (a) Announcement. The City will give notice of its intent to procure personal services through the League of Oregon Cities, and any other means the City deems appropriate, including contacting prospective contractors directly. Announcements will include:
 - (A) A description of the proposed project;
 - (B) The scope of the services required;
 - (C) The project completion dates;
 - (D) A description of special requirements;
 - (E) When and where the application may be obtained and to whom it must be returned;
 - (F) The closing date; and
 - (G) Other necessary information.
 - (b) Application. Applications will include a statement that describes the prospective contractor's credentials, performance data, examples of previous work product or other information sufficient to establish contractor's qualification for the project, references, and other information identified by the City as necessary to make its selection.
 - (c) Initial screening. The City ~~Administrator~~Manager will evaluate the qualifications of all applications and select a prospective contractor or prospective contractors whose application demonstrates that the contractor is the best qualified to meet the City's needs.
 - (d) Final Selection.
 - (A) The City ~~Administrator~~Manager will interview the finalists selected from the initial screening. At the City ~~Administrator~~Manager's discretion, the interviews may be conducted before the Board.
 - (B) After the interview process concludes, the City ~~Administrator~~Manager will make the final selection. If the interviews are conducted before the Board, the Board will make the final selection.

- (C) The final selection will be based upon applicant capability, experience, project approach, compensation requirements, references and any other criteria identified by the City as necessary for the City to select a contractor.
- (3) The following informal selection procedure may be used when the estimated payment to the contractor is under \$25,000 or when the City ~~Administrator~~Manager determines that the informal procedure will not interfere with competition among prospective contractors, reduce the quality of services or increase costs. The City ~~Administrator~~Manager will contact a minimum of three prospective contractors qualified to offer the services sought. The City ~~Administrator~~Manager will request an estimated fee, and make the selection consistent with the City's best interests. If three quotes are not received, the City ~~Administrator~~Manager will make a written record of efforts to obtain the quotes.
- (4) The City ~~Administrator~~Manager may enter personal service contracts not exceeding an estimated \$510,000 without following the procedures under subsection (2) or (3). However, the City ~~Administrator~~Manager must make reasonable efforts to choose the most qualified contractor to meet the City's needs. The amount of a given contract may not be manipulated to avoid the informal or formal selection procedures.
- (5) The City ~~Administrator~~Manager may negotiate with a single source for personal services if the services are available from only one contractor, or the prospective contractor has special skills uniquely required for the performance of the services. The City must make written finds to demonstrate why the proposed contractor is the only contractor who can perform the services desired.
- (6) The City ~~Administrator~~Manager may select a contractor without following any procedures when conditions require immediate action to protect life or property. In such instances, the City ~~Administrator~~Manager must make written declarations of the circumstances that justify the emergency appointments.

1.10.030 Authority to electronically advertise solicitations for goods and services

- (1) The City ~~Administrator~~Manager is authorized to develop an "electronic procurement system" in accordance with OAR 137-047-0300(2)(b). As described in OAR 137-046-0110(15), this is an information system accessible through the internet that allows the City to post electronic advertisements and receive electronic offers for goods and services. When an electronic procurement system is in place, the Model Rules allow procurement solicitations to be advertised exclusively on the internet. This saves the City time and money over newspaper advertisements.
- (2) Prior to any development of an electronic procurement system, the City may advertise solicitations for goods and services on the internet in addition to newspaper advertisements.

1.10.040 Authority to electronically advertise solicitations for public improvements

- (1) For all public improvement contracts with an estimated cost not exceeding \$125,000, the City ~~Administrator~~Manager may electronically advertise solicitations in a manner deemed appropriate. This method of advertising will save the City time and money, may be used exclusively, and is allowed under ORS 279C.360(1).
- (2) And advertisement for a public improvement contract with an estimated cost over \$125,000 must be published at least once in a trade newspaper of general statewide circulation, such as the Daily Journal of Commerce.

1.10.050 Small procurements

- (1) As provided by ORS 279B.065, any procurement of goods or services not exceeding \$~~510,000~~ may be awarded in any manner the City ~~Administrator~~Manager finds practical or convenient, including direct selection or award.
- (2) A small procurement contract may be amended in accordance with OAR 137-047-0800, but the cumulative amendments may not increase the total contract price to greater than \$~~6,012,500~~.
- (3) A procurement may not be artificially divided or fragmented to qualify for this section.

1.10.060 Sole-source procurements

- (1) Pursuant to ORS 279B.075(1), the City ~~Administrator~~Manager is authorized to declare in writing certain goods and services to be available from only one source.
- (2) The determination of a sole-source must be based on findings required by ORS 279B.075(2), and otherwise be processed in accordance with OAR 137-047-0275.

1.10.070 Notice of intent to award certain contracts

- (1) At least seven days before the award of public contract solicited under a traditional invitation to bid or request for proposals, the City will post or provide to each bidder or proposer notice of the City's intent to award a contract.
- (2) If stated in the solicitation document, the City may post this notice electronically or through non-electronic means and require the bidder or proposer to determine the status of the City's intent.
- (3) As an alternative, the City may provide written notice to each bidder or proposer of the City's intent to award a contract. This written notice may be provided electronically or through non-electronic means.
- (4) The City may give less than seven days notice of its intent to award a contract if the City determines in writing that seven days is impracticable as allowed by ORS 279B.135.
- (5) This section does not apply to goods and services contracts awarded under small procurements under these rules, or other goods and services contracts awarded in accordance with ORS 279B.070, 279B.075, 279B.080 or 279B.085.

- (6) This section does not apply to any public improvement contract or class of public improvement contracts exempted from competitive bidding requirements.
- (7) A protest of the City's intent to award a contract may only be filed in accordance with OAR 137-047-0740 or OAR 137-049-0450, as applicable.

Section 2. THAT this resolution will be effective immediately upon adoption by the City Council.

ADOPTED this 17th day of July, 2017.

In Favor: Collins, Mackin, Marquez, Price, Wytoski

Opposed: None

Absent: Bixler

Abstained: None




Elizabeth Wytoski, Mayor



Date Signed

ATTEST:



Rochelle Roaden
City Recorder



Date of Enactment