



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: 12/12/2018

Department: Finance Agenda Planning Date: 12/6/2018 Time required: 10

☐ Audio/Visual aids

Contact: Camber Schlag Phone: x3944

Department Head Signature:

Jeff D White

TITLE Approval to amend the Marion County Public Contracting Rules and Marion County Code 3.25

Issue, Description & Background Consider approval of an ordinance amending the Marion County Public Contracting Rules and Marion County Code, Chapter 3.25 and declaring an emergency.

ORS 279A.060 allows the governing body of the local contracting agency to authorize a board, commission, or other body to serve as the local contract review board. Ordinance No. 1211 adopted February 23, 20015, authorized the Marion County Board of Commissioners to serve in that role. Each year following the end of a legislative session, the Attorney General's office under ORS 279A.065, is required to review all laws passed by the Legislative Assembly that affect public contracting to determine if the model rules should be modified by the adoption of a new rule, by an amendment, or repeal of an existing rule. If the local contracting agency has adopted its own set of public contracting rules, the Attorney General's model rules do not apply, requiring the local contracting agency to review the Attorney General's model rules to determine whether its contracting rules should also be modified to ensure compliance with statutory changes.

County staff have reviewed the model rules and have made recommendations for changes to the Marion County Public Contracting Rules. Staff reviewed these recommended changes in detail with the Chief Administrative Officer and the Deputy County Administrative Officer on October 31, 2018 and with the Board of Commissioners November 6, 2018 in a Work Session. Several of the items recommended for change in the Rules are small housekeeping issues or were edited for clarification purposes. The attached document shows the summary of substantive rule changes that are being recommended for adoption.

In order to make the recommended changes effective, the board must approve an ordinance amending the Marion County Public Contracting Rules and Marion County Code, Chapter 3.25. Staff is requesting the Board do this by emergency procedures. The legislative changes went into effect on January 1, 2018 and county staff have been following the required statutory changes in practice since January 1, 2018. Therefore, in order to have our written rules and code effective as quickly as possible to match our practice and follow state statute, staff requests adoption by emergency procedures.

Financial Impacts: There is no fiscal impact for adopting this ordinance.

Impacts to Department & External Agencies Adopting the recommended changes for the Marion County Public Contracting Rules will ensure that all procurements and contracts made by county departments will be in compliance with Oregon Revised Statute and Marion County rules. The rules also clarify for county staff and the vendor community the



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Options for
Consideration:

rules, policies and procedures that must be followed when procuring goods or services using taxpayer dollars.

1. Approve adoption of the ordinance amending the Marion County Public Contracting Rules and Marion County Code, Chapter 3.25 and declaring an emergency or
2. Approve adoption of the ordinance amending the Marion County Public Contracting Rules and Marion County Code, Chapter 3.25 without an emergency.

Recommendation:

County staff recommends that the board adopts the ordinance to amend the Marion County Public Contracting Rules and Marion County Code, Chapter 3.25 and declaring an emergency. The adoption of these recommended changes will ensure that Marion County is in compliance with the statutory requirements of ORS 279A, 279B, and 279C.

List of attachments:

Summary of 2018 Substantive Rule Changes
Ordinance
Exhibit A - Marion County Public Contracting Rules

Presenter:

Camber Schlag and Jeff White

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to:

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BEFORE THE BOARD OF COMMISSIONERS

FOR MARION COUNTY, OREGON

An ordinance amending the Marion)
County Public Contracting Rules and)
Marion County Code, Chapter 3.25,)
)

ORDINANCE NO. _____

THE MARION COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

SECTION 1. Findings

This is the seventh amendment to Marion County Ordinance No. 1211 relating to the Marion County Public Contracting Rules. The board amended the Marion County Public Contract Rules by Ordinance No. 1256 on January 2, 2008, Ordinance No. 1299 on January 27, 2010, Ordinance 1322 on January 4, 2012, Ordinance 1332 on January 8, 2014, May 6, 2015, and on September 7, 2016. The board has determined that certain amendments to the rules are necessary to conform with changes in state law enacted during the 2017 legislative session that were effective January 1, 2018.

SECTION 2. Amendments to the Public Contracting Rules

The Marion County Public Contracting Rules are hereby amended as provided in Exhibit A, attached and by this reference incorporated herein.

SECTION 3. Amendment to the Marion County Code

The Marion County Code, Section 3.25.030 is hereby amended to include reference to this amending ordinance and Exhibit A to this ordinance as the Marion County public contract review board rules that are available for public review and inspection.

SIGNED AND FINALIZED this 12th day of December 2018.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary

cc: Finance Department

Attachment: Exhibit A Marion County Public Contracting Rules

Contracts & Procurement Work Session

Public Contracting Rules Revision Summary

The Finance Department has reviewed and worked with Legal Counsel on the following recommendations:

1. pg 12 10-0110 Definitions/Glossary

Added definitions for the following: Contracts Officer or Designee, Descriptive Literature, Electronic Offer, Electronic Procurement System, Signature, Signed, expanded Writing.

2. pg 21 10-0170 Delegation of Authority

- Added definition for Designee
- Increased CAO amendment authority to 25%.
- Increased Department head authority on amendments from 20 to 25%

3. pg 22 10-0200 Governor's Policy Advisor for Economic and Business Equity

Removed reference to OAR, this OAR is for state contracting agencies only, does not apply to the county. Title change to Disadvantaged Business Enterprises, Minority-Owned Businesses, Woman-Owned Businesses, Businesses that Service-Disabled Veterans Own and Emerging Small Businesses to coincide with ORS 279A.100

4. pg 26 10-0550 General Definitions

Under (3) Contract Signature added "electronic" to allow for electronic signatures on contracts.

5. pg 26 10-0556 Procurement File

Added language for the County's electronic procurement management system.

6. pg 41 20-0260 Competitive Sealed Proposals

Added language under section (c) Proposal and Evaluation Process, per OAR 137-047-0260 that applies to contracting agencies, which includes the County. Language gives the county additional evaluation factors with RFP's.

7. pg 46 20-0270 Intermediate Procurements

Updated verbal quote criteria to be \$10,000 to \$25,000 and the written competitive quote prices from \$25,000 to \$100,000.

8. pg 49 20-0300 Public Notice of Solicitation Document

Deleted (5) Certification Office of Business Inclusion and Diversity. This applies to state agencies only. Not all departments provide notice to disadvantaged, minority, women, service disabled veterans or emerging small businesses on solicitations greater than \$20,000. The County is only required to obtain 3 written quotes.

*Deleted also on page 92 and 107 for A&E and public improvement solicitations.

*Deletion from Sections 20, 30, & 40.

- o Applies to State Agency Only per DOJ Model Rules, regarding posting notices.
- o Departments are not posting the majority of intermediate to ORPIN, majority seeking quotes through email, internet.

- 40-0400(8) posting award notice greater than \$5,000 applies to State Agencies, MC is not doing this.

*200.035 Notice to Governor's Policy Advisor for Economic and Business Equity. (1) A state contracting agency shall give timely notice and information to the Governor's Policy Advisor for Economic and Business Equity if the state contracting agency intends to advertise or solicit bids or proposals for a public contract with a contract price of \$10,000 or more and shall notify the policy advisor when the state contracting agency has awarded the contract.

*(2) Each state contracting agency shall, in consultation with the policy advisor, establish a process and timeline for providing the policy advisor with the notice and information required by subsection (1) of this section. [1987 c.893 §5; 1997 c.145 §1; 1997 c.802 §10; 2005 c.351 §1; 2015 c.565 §3]

9. pg 59 – 60 **20-0640 Rejection of an Offer**

Added language under (1) Rejection of an Offer. OAR 137-047-0640 includes tax law language the County's contract for services and RFP Proposal Form include.

10. pg 68 **30-0130 Applicable Selection Procedures; Pricing Information; Disclosure of Proposals; Conflicts of Interest**

Added language from OAR 137-048-0130, restriction on requesting cost proposals from A&E does not apply to intermediate solicitations or emergency A&E contracts.

11. pg 77 **30-0220 Formal Selection Procedures**

Added language under (4)(b) RFP Contents for Related Services Selections Based on Price Only. OAR 137-048-0220 identifies criteria required for related services formal RFP's for contracting agencies, including the county. The County's related services RFP's contain this language, this formalizes what the county is already including.

12. pg 87 **40-0160 Intermediate Procurements; Competitive Quotes and Amendments**

Deleted language pertaining to \$50,000 for highways, bridges and other transportation projects. There is no longer a separate amount, all public improvement including highways and bridges is \$100,000.

13. pg 140 **50-0015 Memberships and Professional Associations**

New exemption for memberships authorized without a procurement process when position related.

14. pg 140 **50-0020 A&E Services Consultants for Public Works Department Engineering Division**

Changed the name to A&E Services Consultants for Public Works Department and Business Services Facilities.

Allows for Public Works and Facilities to direct appoint A&E contracts when not more than \$100,000. The intermediate level will now be \$100,000.01 to \$200,000 and formal RFP process to \$200,000.01 or more.