

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING THE PUBLIC )      ORDINANCE NO. 84-179  
CONTRACT PROCEDURES FOR EMERGENCY )  
CONTRACTS, CODE SECTIONS 2.04.011 )  
AND 2.04.030 )

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Code Section 2.04.011 is hereby amended to read:

2.04.011 Requirement of Competitive Bidding, Exemptions

(a) For purposes of this chapter, "public contract" shall mean any purchase, lease or sale by Metro of personal property, public improvement or services other than agreements which are for personal service.

(b) All public contracts shall be based on competitive bids except:

(1) Contracts with other public agencies or the federal government.

(2) Contracts made with qualified nonprofit agencies providing employment opportunities for the handicapped.

(3) Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145.

(4) Contracts for supplies of less than \$2,500.

(5) Personal service contracts subject to ORS 279.051 and Code Section 2.04.035.

(6) Classes of public contracts which the Contract Review Board has found to be exempt without encouraging favoritism or substantially diminishing competition for public contracts and that such exemptions will result in substantial cost savings. These contracts include:

(a) Purchase and sale of Zoo animals.

(b) Purchase and sale of Zoo gift shop retail inventory and resale items.

(c) All contracts of less than \$10,000, not otherwise exempt, subject to the requirements of subsection (d) of this section.

(d) Contracts not to exceed \$25,000 for road, highway or parking lot maintenance provided that at least three (3) competitive quotes are obtained, if available, and a record of said quotes and efforts to obtain them are maintained.

(e) Emergency contracts when there are written findings that an emergency exists and that the emergency consists of circumstances that could not have been reasonably foreseen and requires prompt execution of a contract to remedy that condition. An emergency contract must be awarded within sixty (60) days of the declaration of the emergency unless the Board grants an extension.

(f) Contracts for sale of surplus property subject to subsection (e) of this section.

(c) Specific contracts, not within the classes exempted in subsection (6) above, may be exempted by the Board by resolution subject to the requirements of ORS 279.015(2) and ORS 279.015(5).

(d) Contracts exempted by subsection (6)(c) of this section may be awarded only subject to the following:

(1) The amount of the contract does not exceed \$10,000; and is for a single project; and is not a component of any other project.

(2) When the amount of the contract does not exceed \$500, the District should, where feasible, obtain competitive quotes.

(3) When the amount of the contract is more than \$500, but less than \$10,000, the District must obtain a minimum of three (3) competitive quotes. The District shall keep a written record of the source and amount of the quotes received. If three (3) quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes.

(4) No contractor may be awarded in the aggregate, within the fiscal year, contracts in excess of \$30,000 without competitive bidding. In computing the aggregate under this subsection, awards under \$500 shall not be included.

[(e) Emergency contracts shall be awarded subject to a resolution of the Council declaring the emergency and reciting the conditions which require prompt contract execution. Any emergency contract shall be awarded within sixty (60) days following the declaration of the emergency unless the Board grants an extension.]

(e) Contracts for sale of surplus property may be executed without competitive bidding only when the Executive Officer determines in writing that the number, value and nature of the items to be sold make it probable that the cost of conducting a sale by competitive bid will be such that a liquidation sale will result in substantially greater net revenue to the District.

Section 2. Code Section 2.04.030 is hereby amended to read:

2.04.030 Rules and Procedures Governing All Contracts:

(a) **Initiating a Contract:** When a department initiates a contract not in the form of a purchase order, it must first notify the Budget and Administrative Services Division of its intention and request the issuance of a contract number which shall appear on all copies of the contract. Additionally, the department must complete a Contract Summary form indicating the specifics of the contract. This form must be forwarded to the Budget and Administrative Services Division either with a fully executed contract (one copy), if the amount is \$2,500 or under; or with an unexecuted contract (three copies) for review, approval and signature, if the amount is over \$2,500.

(b) **Persons Authorized to Sign Contracts:**

(1) For contracts of an amount of \$2,500 or under the Director of the initiating department, or a designee of the Director approved by the Executive Officer, may sign contracts if the following conditions are met:

(A) A standard contract form is used;

(B) Any deviations to the contract form are approved by the Legal Counsel;

(C) The expenditure is authorized in the budget;

(D) The contract does not further obligate Metro beyond \$2,500;

(E) The appropriate Scope of Work is attached to the contract; and

(F) The Contract is for an entire project or purchase; not a portion of a project or purchase which, when complete, will amount to a cost greater than \$2,500.

(2) For contracts of more than \$2,500, and for contract amendments which exceed \$2,500 or which result in a total contract price exceeding \$2,500, either the Executive Officer or Deputy Executive Officer must sign; provided, however, that the Director or Assistant Director of the Zoo may

sign purchase orders of \$10,000 or less. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Manager of Budget and Administrative Services may sign contracts.

(c) Approval of Contracts of more than \$10,000:

(1) Except as provided in subsection (4) of this section, all initial contracts, individual amendments, or purchase orders, with a contract price of more than \$50,000 shall be approved by the Council prior to execution.

(2) Except as provided in subsection (4) of this section, all initial contracts, including purchase orders, with a contract price of greater than \$10,000 but \$50,000 or less shall be approved by the Council Management Committee prior to execution.

(3) Except as provided in subsection (4) of this section, all contract amendments and extensions which exceed \$10,000 or which result in a total contract price of more than \$10,000 or \$50,000 shall be approved by the Council Management Committee prior to execution.

(4) The following types of contracts, including contract amendments and extensions to such contracts, shall be exempt from the provisions of this section (c).

(A) Contracts which merely pass through funds from a state or federal agency.

(B) Contracts under which Metro is to provide a service only and incurs no financial obligation to another party.

(C) Contracts with another government agency.

(D) Initial contracts of \$10,000 or less and contract extensions and amendments which do not cause or result in a total contract price of more than \$10,000.

(E) Grant award contracts.

(F) Purchases of inventory and gift items for resale at the Zoo Gift Shop.

(G) Emergency contracts [approved pursuant to Code section 2.04.010(e)].

(d) Documentation Required for Contract Files: The Budget and Administrative Services Division will maintain central files for all contracts. An original copy should be given to each contractor. All correspondence relating to a contract which

alters conditions or amounts must be included in the central files as should all papers which document the process of obtaining competitive bids, quotes, or proposals. In any case where a low bid, quote, or proposal is not accepted, a detailed justification must be included with the contract file. Other documentation, if applicable, that should be included in the file includes:

- Mailing lists
- Affidavits of Publication
- Insurance endorsements and certificates
- Amendments
- Extensions
- Related Correspondence
- Quotes, Proposals, and Bids
- Bonds
- WBE/DBE information
- Contract closure form
- Personal Services Evaluation form

(e) Contract Review: Any contract which deviates from a standard contract form must be reviewed by legal counsel. Contracts involving federal or state grant funds must be reviewed by the Deputy Executive Officer.

(f) Disadvantaged Business Program: All public contracting and purchasing is subject to the Metro Disadvantaged Business Enterprise Program. Metro will take affirmative action to do business with Disadvantaged Business Enterprises. The Contracts Manager will maintain a directory of disadvantaged businesses which shall be consulted and used in all contracting and purchasing of goods and services. If a disadvantaged business is included in the directory that appears capable of providing needed goods or services, that business should be contacted and given an opportunity to compete for Metro business. Contracts awarded subject to the program may be exempted from the competitive bidding process by resolution of the Contract Review Board.

(g) Monthly Contract Report: The Executive Officer shall provide or cause to be provided a monthly report to the Council of all contracts, including extensions and amendments, which have been executed during the preceding month; provided, however, that such monthly report need not include purchase orders under \$500.

(h) Purchase Orders: For purposes of this chapter, the term "contracts" includes purchases of goods or materials by purchase order. Purchase orders may be utilized in lieu of written contracts when the purchase is for goods or materials only.

(i) Code of Conduct:

- (1) No employee, officer or agent of Metro shall

participate in the selection, award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer or agent, any member of his/her immediate family, his or her partner, or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. No Metro officer, employee or agent shall solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

(2) Violations of this Code of Conduct shall subject an officer or employee to disciplinary action pursuant to the Metro Personnel Rules and may be grounds for other civil or criminal penalties provided by law.

(j) Federal/State Agency Approval: When required by federal or state law or regulations, review and approval of Metro contracts shall include prior concurrence or approval by appropriate federal or state agencies. (Ordinance No. 82-130, Sec. 2(a))

(k) In all public contracts, Metro shall prefer goods or services that have been manufactured or produced in Oregon if price, fitness, availability and quality are otherwise equal. Where a contract in excess of \$10,000 is awarded to a contractor not domiciled or registered to do business in Oregon, the initiating Department shall assure compliance with the provisions of ORS 279.021.

(l) All requests for bids or proposals for all contracts in excess of \$10,000 shall be reviewed by the Department of Management Services and Legal Counsel prior to solicitation or advertisement, and shall include the contract form to be used.

ADOPTED by the Council of the Metropolitan Service District

this 25th day of September, 1984.

  
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Presiding Officer

ATTEST:

  
\_\_\_\_\_  
Clerk of the Council

ESB/gl  
1924C/392-3  
09/27/84

STAFF REPORT

CONSIDERATION OF AN ORDINANCE AMENDING THE PUBLIC  
CONTRACT PROCEDURES FOR EMERGENCY CONTRACTS, CODE  
SECTIONS 2.04.011 AND 2.04.030

Date: August 31, 1984

Presented by: Eleanore S. Baxendale

FACTUAL BACKGROUND AND ANALYSIS

The new contracting procedures allow emergency contracts to be let without competitive bidding, as did the prior contract procedures. However, the new procedures make the award subject to a subsequent Council resolution declaring an emergency and also require this resolution before the contract can be signed. This means the contractor may be tentatively selected, but no work carried out until the next Council meeting, possibly two or three weeks later. This defeats the purpose of using the emergency provision and in effect takes emergencies out of the recognized exemption class of subsection b (such as contracts for Zoo animals or contracts under \$500) and makes it like a special exemption which requires special approval under subsection c.

There is no record of abuses of the emergency provision by Metro administration warranting this delay. There was no change in state statute requiring this procedure. The provision appears to derive from new state agency rules governing emergency contracts where the state acts as contract review board for a local government. In such circumstances the state board needs some control over the contracting of local governments. The control over the state's own agencies is much less restrictive; only written findings on the emergency by staff are required. Metro is its own contract review board, which is more analogous to the contract review board/agency situation. Therefore, a deviation from the model rules is appropriate so that emergency contracts can be implemented quickly.

To ensure the emergency process continues to be used appropriately, a definition of emergency is added, similar to Metro's former code definition and the state's definition, and written documentation of the emergency is required, reflecting staff's current practice and the state's procedures for its agencies.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption.

ESB/srb  
1924C/392-2  
09/04/84

Council Minutes of September 13, 1984

Page 3

7.1 Consideration of Ordinance No. 84-179, for the purpose of amending the Public Contract Procedures for emergency contracts, Code Sections 2.04.011 and 2.04.030 (First Reading)

Motion: Councilor Kafoury moved for adoption of the Ordinance and Councilor Bonner seconded the motion.

Eleanore Baxendale explained Metro's original contract procedures had included provisions for timely approval of emergency type contracts. The recently amended procedures, however, require Council approval of such contracts which could cause up to three week delays in getting emergency contracts approved. For example, Ms. Baxendale said a three week delay in executing the recent Zoo train emergency repair contract would have resulted in the loss of much revenue. She explained the Ordinance before the Council would not require a change in Metro's internal policies and would not be a breach of state contracting law.

Councilor Deines pointed out that under the former Council structure, the Council met often enough to approve contracts as need for approval arose. Because there are fewer meetings under the reorganized structure, staff must learn to plan ahead for contract approvals. Otherwise, more contracts will be considered to be emergency type contracts and they will be approved without public comment, he said. Councilor Deines added the Council would be abdicating its responsibility if Ordinance No. 84-179 were adopted.

Councilor Oleson asked if emergency type contracts could be approved via telephone conference calls. Ms. Baxendale responded that contracts between \$2,500 and \$50,000 could be approved by the Management Committee via such calls if staff could arrange to get a quorum of busy Councilors together. However, in the event of a true emergency, an effective emergency procedure would be the most desirable solution, such as the emergency procedures that were in effect six weeks ago, she said.

Councilor Waker said the types of contracts that would be covered under the proposed Ordinance would not be contracts effecting Metro policy. Rather, they would be similar to the contract for repairing the Zoo train engine where the decision was simply whether to make the repairs.

There being no further discussion, the Presiding Officer said a public hearing and a vote on whether to adopt the Ordinance would occur on September 25, 1984.

7.2 Consideration of Ordinance No. 84-178, for the purpose of amending Ordinance No. 84-172 and transferring appropriations (First Reading)

Jennifer Sims explained the Ordinance before the Council contained provisions to transfer funds from contingency for three purposes: 1) \$5,000 to provide funding assistance for the Columbia-Willamette Futures Forum (CWFF); 2) \$19,170 to provide funds for computer equipment; and 3) \$17,000 to fund the contract previously approved by the Management Committee for a consultant to assist with the recruitment and selection of a new Zoo Director.

Councilor Waker asked if other agencies were contributing to the CWFF. Ms. Sims said Tri-Met was also providing financial assistance.



The motion carried and the main motion was amended a second time.

Vote: The vote on the main motion, as amended, resulted in:

Ayes: Councilors Banzer, Bonner, Cooper, Hansen, Kafoury, Kelley, Oleson, Van Bergen, Waker and Kirkpatrick

Nay: Councilor Deines

Absent: Councilor Williamson

The motion carried and Ordinance No. 84-178 was adopted as amended.

7.2 Consideration of Ordinance No. 84-179, for the purpose of amending the Public Contract Procedures for emergency contracts, Code Section 2.04.011 and 2.04.030 (Second Reading)

The Clerk read the Ordinance by title only.

There being no public testimony or discussion of the ordinance, a vote was taken on the motion to adopt the Ordinance.

Vote: The vote on the motion to adopt Ordinance No. 84-178, made by Councilors Kafoury and Bonner on September 13, 1984, resulted in:

Ayes: Councilors Bonner, Cooper, Hansen, Kafoury, Kelley, Oleson, Van Bergen, Waker and Kirkpatrick

Naye: Councilor Deines

Absent: Councilor Williamson

The motion carried and Ordinance No. 84-179 was adopted.

8. RESOLUTIONS

8.1 Consideration of Resolution No. 84-497, for the purpose of adopting the Year 2005 Forecast of population and employment for use in Metro's functional plan

Keith Lawton explained the process used to develop the forecast which involved the participation of professional planners representing public and private interests in the region. Mr. Lawton also said both TPAC and JPACT had reviewed the forecast and recommended approval of the Resolution.

Motion: Councilor Kafoury moved for adoption of the Resolution. Councilor Waker seconded the motion.



# Memo

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METROPOLITAN SERVICE DISTRICT 527 S.W. HALL ST., PORTLAND, OREGON 97201-5287 503 221-1646  
Providing Zoo, Transportation, Solid Waste and other Regional Services

Date: October 22, 1984

To: People Who Have Copies of the Metro Code

From: Marie Nelson, Clerk of the Council

Regarding: CHANGES TO THE METRO CODE

On September 25, 1984, the Council adopted Ordinance No. 84-179 which amends the Public Contract Procedures for Emergency Contracts, Code Sections 2.04.011 and 2.04.030. The attached Ordinance should be placed in your Code book until replacement pages of the codified version are provided at a later date.



**METROPOLITAN SERVICE DISTRICT**

Providing Zoo, Transportation, Solid Waste and  
other Regional Services

October 1, 1984

Rick Gustafson  
Executive Officer

**Metro Council**

Corky Kirkpatrick  
Presiding Officer  
District 4

Ernie Bonner  
Deputy Presiding  
Officer  
District 8

Bob Oleson  
District 1

Richard Waker  
District 2

Charlie Williamson  
District 3

Jack Deines  
District 5

George Van Bergen  
District 6

Sharron Kelley  
District 7

Cindy Banzer  
District 9

Larry Cooper  
District 10

Marge Kafoury  
District 11

Gary Hansen  
District 12

527 SW Hall St.  
Portland, OR  
97201-5287  
503/221-1646

Dear :

Enclosed are true copies of the following ordinances  
adopted by the Council of the Metropolitan Service  
District on September 25, 1984:

Ordinance No. 84-178, For the purpose  
of amending Ordinance No. 84-172 and  
transferring appropriations.

Ordinance No. 84-179, For the purpose  
of amending the Public Contract  
Procedures for emergency contracts,  
Code Sections 2.04.011 and 2.04.030.

Please file these ordinances in the Metro ordinance files  
maintained by your county.

Sincerely,

Marie Nelson  
Clerk of the Council

MN/gl  
2081C/D1

Enclosures