

BEFORE THE METRO LOCAL CONTRACT REVIEW BOARD

FOR THE PURPOSE OF APPROVING A CLASS)	RESOLUTION NO. 21-5197
SPECIAL PROCUREMENT FOR THIRD PARTY)	Introduced by Chief Operating
PAYROLL SERVICES)	Officer Marissa Madrigal in
)	concurrence with Acting Council
)	President Christine Lewis

WHEREAS, the Metro Council, acting in its capacity as the Metro Local Contract Review board, has authority under ORS 279B.085 and Metro Local Contract Review board Rule 47-0285 to authorize a class special procurement upon the making of certain findings described in ORS 279B.085(4); and

WHEREAS, Metro staff desires to create a class special procurement for Third Party Payroll Services; and

WHEREAS, pursuant to ORS 279B.085(2), the attached Exhibit A more particularly describes the contracting procedure and the services that are the subject of the special procurement and the circumstances that justify the use of a special procurement under the standards set forth in ORS 279B.085(4); now therefore,

BE IT RESOLVED that the Metro Local Contract Review Board hereby approves the class special procurement described in the attached Exhibit A and finds that the special procurement process described on Exhibit A is justified as it (a) is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts, and (b) otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with requirements that are applicable under ORS 279B.055, 279B.060, 279B.065 or 279B.070.

ADOPTED by the Metro Local Contract Review Board this 29th day of July, 2021.



Christine Lewis, Acting Council President

Approved as to Form:



Carrie MacLaren, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 21-5197 FOR THE PURPOSE OF AMENDING METRO'S CONTRACTING AND PROCUREMENT ADMINISTRATIVE RULES

Date: 07/19/2021

Prepared by: Gabriele Schuster, Procurement Manager

BACKGROUND

The Metro Local Contract Review Board has adopted administrative rules that direct the process by which Metro contracts for goods and services, personal services and construction services. The last significant changes to the contracting and procurement administrative rules were in 2018. Staff has since been monitoring rules for effectiveness to Metro procurements and has identified an area in the rules which would benefit from an update.

Of particular note, staff is recommending updating section 47-0288 Special Procurements Authorized by Rules to add an additional class of special procurements for Third Party Payroll Services.

Metro has utilized a third party payroll provider created by the Union for the venues as performing arts-, convention- and tradeshow payroll services require special skills. Any payroll service provider has to be approved by the Union which complicates the process of conducting a competitive procurement as potential proposers might not comply with venue Union payroll requirements. In addition it is more cost effective to have the third party payroll provider be responsible for the workers compensation and the unemployment insurance that is required. The venues pass the cost of the third party vendor onto their clients. For this service we charge an administrative fee that provides additional revenue, which is included in the final invoice.

ANALYSIS/INFORMATION

1. **Known Opposition.** None known.
2. **Legal Antecedents.** Oregon Revised Statutes Chapter 279 A,B,C. Metro LCRB Rules Division 47, Metro Personal Services Contracting Rules.
3. **Anticipated Effects.** Revises Metro's contracting and procurement administrative rules to add an additional class of special procurements.
4. **Budget Impacts.** None.

RECOMMENDED ACTION

Staff recommends adoption of the revised contracting and procurement administrative rules by the Metro Local Contract Review Board.

Attachment 1

Findings in Support of Resolution No. 21-5197

ORS 279B.085 provides that a Local Contract Review Board may approve “class special procurements” subject to different contracting procedures than those otherwise required by ORS 279B.055 (Competitive Sealed Bidding), ORS 279B.060 (Competitive Sealed Proposals), ORS 279B.065 (Small Procurements) and ORS 279B.070 (Intermediate Procurements). In order to approve a class special procurement the Local Contract Review Board must find that the use of a special procurement:

- (1) Is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts; and
- (2) (a) Is reasonably expected to result in substantial cost savings to the contracting agency or to the public; or
(b) Otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with requirements that are applicable under ORS 279B.055, 279B.060, 279B.065 or 279B.070.

FINDINGS

1. **Third Party Payroll Services:** Metro may directly contract for third party payroll services including, but not limited to, timekeeping and payroll services, unemployment coverage, workers compensation coverage, payment of health care contributions, retirement contributions and other related services.
 - a. The use of third party payroll companies is the norm for many venues in the performing arts, convention and trade show business when entities use employees drawn from a Union hall. The Metro Visitor Venues have used a third party payroll company created by the Union for these services for many years but has searched with its Union partners for alternative private payroll companies skilled in these specialized payroll services. Metro has engaged in formal solicitations to obtain these services with no success. Further, any third party payroll company must have Union approval for use by the venues which further complicates the ability to procure these services under traditional methods.
 - b. Based upon the forgoing, the ability to directly contract with a third party payroll company is unlikely to encourage favoritism or to substantially diminish competition as there are a very limited number of payroll companies that have this skill set that are willing to perform these services for a public entity and have approval from the Union. Furthermore, the use of a private third party payroll company will increase revenues for the venues and continue cost savings for unemployment and workers compensation costs in contrast to the current model.