



Agenda Item Number 5. Public Contracting Rules

Date: June 22, 2023

Presenter: Brenda Wilson

Action Recommended: Adopt

Background:

In 2011, first opted out of the Public Contracting Model Rules adopted by the Attorney General under ORS subchapters 279A, 279B, and 279C, as set forth in Oregon Administrative Rules Chapter 137, Divisions 46, 47, 48 and 49 (the “Model Rules”) and adopted its own rules. In 2014, the Board decided to continue to use the Local Government Law Group’s Revised Model Rules. Using the Local Government Law Group’s Revised Model Rules makes it easier to update the rules and for counsel to provide advice in using the rules. Their Revised Model Rules are not substantially different than the Attorney General’s Model Rules but provide LCOG with flexibility to provide nimble and immediate support to our regional and state partners. In addition, having a uniform set of Model Rules that are commonly used provides consistency for contractors and vendors.

Last year, the Oregon State Legislature amended parts of the Public Contracting Code and the Attorney General updated the Model Rules. Accordingly, LCOG should update our rules to match the changes where necessary. The 2022 Model Rules address legislative amendments adopted through the 2022 legislative session, reflecting the following amendments:

These 2022 rules include refinements to the AG Model Rules, as well as address the following 2021 legislative amendments:

1. An increase to the small procurement threshold for public improvement contracts from \$5,000 to \$10,000 (matching the threshold for goods and service contracts); and
2. Public hearings are no longer necessarily required for public improvement contract exemptions. Instead, notice continues to be required, and if a hearing is requested, one must be held.

The final section of the attached Rules includes a set of exemptions addressing standard purchasing needs not otherwise covered by the Code or the Model Rules. LCOG has adopted these exemptions before and they need to be re-adopted with the amended Rules.

A public hearing will be held at the June Board meeting. The Executive Committee, as LCOG's Contract Review Board, and the Board will be asked to take action on the updated Rules.

Suggested Motion:

Adopt Resolution 2023-02 to amend and adopt LCOG's Public Contracting Rules.

Attachments: A. Findings
B. Public Contracting Rules
C. Resolution 2023-02