

CHAPTER 2.04

METRO CONTRACT AND PROCUREMENT POLICIES

2.04.010 Definitions

CONTRACTS IN GENERAL

2.04.020 Authority to Award and Execute Contracts; Budget Limitations

2.04.030 Federal Law and Rules

2.04.040 Metropolitan Exposition Recreation Commission

2.04.050 Council Approval of Contracts

2.04.060 Grant Funding; Council Information Reports

DISPOSITION OF SURPLUS PROPERTY

2.04.070 Other Governmental Entity Requests

2.04.080 Disposition by Donation, Sale, Lease or Exchange

METRO LOCAL CONTRACT REVIEW BOARD

2.04.090 Metro Council as the Local Contract Review Board

2.04.100 Local Contract Review Board Administrative Rules

EQUITY IN CONTRACTING

2.04.110 Findings

2.04.120 Policy Statement

2.04.130 Equity in Contracting Administrative Rules

2.04.140 Annual Equity in Contracting Reports

SUSTAINABLE PROCUREMENT

2.04.150 Purpose and Intent

2.04.160 Sustainable Procurement Administrative Rules

2.04.170 Annual Sustainable Procurement Program Reports

Repealed

2.04.030 Contracts in General - Regulations

[Repealed Ord. 17-1398]

2.04.032 Prohibition Against Doing Business with Certain Former Metro Officials

[Repealed Ord. 99-822, Sec. 2]

2.04.035 Contract Provisions Requiring Records Maintenance and Permitting Audits

[Repealed Ord. 17-1398]

2.04.040 Personal Services Contracts - General

[Repealed Ord. 17-1398]

2.04.042 Procurement of Personal Services Contracts

[Repealed Ord. 17-1398]

- 2.04.044 Personal Service Contracts of More than \$50,000.00
[Repealed Ord. 04-1065A, Sec. 6]
- 2.04.046 Personal Services Contract Amendments
[Repealed Ord. 17-1398]
- 2.04.048 Notice of Award and Appeals of Personal Services
[Repealed Ord. 17-1398]
- 2.04.050 Public Contract Review Board
[Repealed Ord. 04-1065A, Sec. 8]
- 2.04.052 – Contract Review Board Provisions
- 2.04.058 [Repealed Ord. 17-1398]
- 2.04.060 Food Products
[Repealed Ord. 04-1065A, Sec. 15]
- 2.04.062 – Contract Review Board Provisions
- 2.04.070 [Repealed Ord. 17-1398]
- 2.04.110 – Metro ESB, MBE and WBE Program Provisions
- 2.04.120 [Repealed Ord. 17-1398]
- 2.04.125 Directory
[Repealed Ord. 97-692A, Sec. 10]
- 2.04.130 Minority Owned Banks
[Repealed Ord. 17-1398]
- 2.04.135 – Metro ESB, MBE and WBE Program Provisions
- 2.04.145 [Repealed Ord. 97-692A, Sec. 11]
- 2.04.150 Good Faith Efforts at Maximizing ESB, MBE and WBE Opportunities
[Repealed Ord. 17-1398]
- 2.04.155 – Metro ESB, MBE and WBE Program Provisions
- 2.04.160 [Repealed Ord. 97-692A, Sec. 13]
- 2.04.162 – Metro ESB, MBE and WBE Program Provisions
- 2.04.170 [Repealed Ord. 17-1398]
- 2.04.180 Compliance
[Repealed Ord. 97-692A, Sec. 18]
- 2.04.190 Severability and Intent
[Repealed Ord. 17-1398]
- 2.04.200 – Metro ESB, MBE and WBE Program Provisions
- 2.04.290 [Repealed Ord. 97-692A, Sec. 22]
- 2.04.300 – Metro Disadvantaged Business Enterprise Program for Federally-funded
- 2.04.380 Contracts Provisions
[Repealed Ord. 17-1398]
- 2.04.500 – Former “Metro Recycled Product Procurement Program” Provisions
- 2.04.580 [Repealed Ord. 10-1247]
- 2.04.510 Metro’s Sustainable Procurement Program – Definitions
[Repealed Ord. 17-1398]
- 2.04.530 Metro’s Sustainable Procurement Program Responsibilities
[Repealed Ord. 17-1398]

2.04.010 Definitions

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meanings indicated:

Auditor means the Metro Auditor provided for in Section 18 of the Metro Charter.

Chief Operating Officer means the person holding the position of Chief Operating Officer established by Section 2.20.010 of the Metro Code.

Commission means the Metropolitan Exposition Recreation Commission established by Section 6.01 of the Metro Code.

Council President means the Council President provided for in Section 16(4) of the Metro Charter.

Metro Attorney means the person holding the position of Metro Attorney established by Section 2.08 of the Metro Code.

Procurement Officer means the person designated by the Chief Operating Officer to carry out the functions required of such person by this chapter.

Public contract as defined in ORS 279A.010, and as it may be amended.

Surplus property means tangible personal property owned by Metro, including equipment and materials, which is no longer needed by Metro. Examples include inventoried and non-inventoried office furniture, specialized equipment, and items that are obsolete or overstocked. [Ord. 96-635B, Sec. 3; Ord. 02-966A, Sec. 1; Ord. 04-1065A, Sec. 1; Ord. 17-1398.]

CONTRACTS IN GENERAL

2.04.020 Authority to Award and Execute Contracts; Budget Limitations

The Chief Operating Officer, the Metro Attorney and the Auditor have the authority to award and execute contracts that are necessary to carry out their administrative responsibilities. These officers may delegate authority to award and execute contracts in writing. Unless the Council expressly approves a contract containing a requirement to the contrary, no contract may obligate Metro to the payment of funds not appropriated for that purpose by the Council. [Ord. 96-635B, Sec. 3; Ord. 02-966A, Sec. 1; Ord. 17-1398.]

2.04.030 Federal Law and Rules

Notwithstanding any provision of this chapter, the applicable federal laws, rules and regulations shall govern in any case where federal funds are involved and the federal laws, rules and regulations conflict with any of the provisions of this chapter. [Ord. 96-635B, Sec. 3; Ord. 17-1398.]

2.04.040 Metropolitan Exposition Recreation Commission

The Metro Council delegates to the Commission the authority to approve contracts for the facilities it manages. This approval authority is independent of the approval authority

delegated to the Chief Operating Officer pursuant to Section 2.04.020. The Chief Operating Officer has the authority to award and execute contracts on behalf of the Commission that are necessary to carry out its administrative responsibilities. The Commission may require Commission approval of certain contracts. The Metro Council is the local Contract Review Board for the Commission. [Ord. 96-635B, Sec. 3; Ord. 02-966A, Sec. 1; Ord. 04-1065A, Sec. 2; Ord. 09-1229, Sec. 3; Ord. 17-1398.]

2.04.050 Council Approval of Contracts

Notwithstanding any other provisions of this chapter, Council must approve the following types of contracts prior to execution:

- (a) Any agreement entered into pursuant to ORS Chapter 190 by which Metro agrees to acquire or transfer any interest in real property, assumes any function of another governmental body, or transfers any function of Metro to another governmental unit; or
- (b) Any contract for the purchase, sale, lease or transfer of real property owned by Metro. However, the Chief Operating Officer may execute options to purchase real property without prior Council approval, so long as the Council approves the exercise of the option. [Ord. 96-635B, Sec. 3; Ord. 99-822, Sec. 1; Ord. 02-966A, Sec. 1; Ord. 04-1065A, Sec. 3; Ord. 06-1123A, Sec. 1; Ord. 17-1398.]

2.04.060 Grant Funding; Council Information Reports

- (a) Prior to adoption of the annual budget, the Chief Operating Officer shall provide the Council with a list of Metro-proposed applications for grant funding over \$50,000.00 to be sought during the next fiscal year.
- (b) The Chief Operating Officer shall provide a quarterly report to Council showing all Metro applications for grant funding greater than \$50,000.00, and all grants awarded by Metro greater than \$10,000.00.
- (c) The Chief Operating Officer shall make available to the Council on request information showing the status of all contracts and grants whether listed in the adopted budget or not. [Ord. 96-635B, Sec. 3; Ord. 02-966A, Sec. 1, Ord. 06-1123A, Sec. 2; Ord. 17-1398.]

DISPOSITION OF SURPLUS PROPERTY

2.04.070 Other Governmental Entity Requests

Metro may donate, sell, lease, exchange, transfer or otherwise dispose of Metro-owned surplus property to another government agency that has requested such surplus property for public use, as authorized by state law. [Ord. 17-1398.]

2.04.080 Disposition by Donation, Sale, Lease or Exchange

Metro may donate, sell, lease, exchange, transfer or otherwise dispose of Metro-owned surplus property not needed for public use as authorized under state law. The Chief

Operating Officer will adopt a policy to effect the provisions of this subchapter. [Ord. 17-1398.]

METRO LOCAL CONTRACT REVIEW BOARD

2.04.090 Metro Council as the Local Contract Review Board

Pursuant to ORS 279A.060, the Metro Council is designated as the Local Contract Review Board for Metro and MERC. The Metro Council, acting as the Local Contract Review Board, shall exercise all the public contracting powers and duties conferred upon it by state law. The procedural rules of the Metro Council sitting as the Local Contract Review Board are the same as those that apply to the Metro Council as provided in Metro Code Chapter 2.01. [Ord. 96-635B, Sec. 3; Ord. 99-822, Sec. 6; Ord. 02-966A, Sec. 1; Ord. 04-1065A, Sec. 9; Ord. 04-1065A, Sec. 1, Ord. 11-1256; Ord. 14-1345, Sec. 2; Ord. 17-1398.]

2.04.100 Local Contract Review Board Administrative Rules

To carry out its powers and duties and to comply with state law, the Metro Local Contract Review Board will adopt administrative rules for public contracts. Upon adoption of said rules, the Attorney General's Model Public Contracting Rules do not apply to Metro's procurement of public contracts. [Ord. 17-1398.]

EQUITY IN CONTRACTING

2.04.110 Findings

The Metro Council finds:

- (a) The opportunity for full participation in our free enterprise system by emerging small businesses, minority-owned businesses, woman-owned businesses, and businesses owned by service disabled veterans is essential;
- (b) Greater economic opportunity for emerging small businesses, minority-owned businesses, woman-owned businesses, and businesses owned by service disabled veterans is essential;
- (c) Historical patterns of exclusion and discrimination against racial or ethnic groups and women resulted in unfortunate effects of social, political and economic inequity that still exist; and
- (d) It is in the best interest of Metro and the community to do business with emerging small businesses, minority-owned businesses, woman-owned businesses, and businesses owned by service disabled veterans, resulting in increased competition and a stronger local economy. [Ord. 83-165, Sec. 1; Ord. 84-181, Sec. 1; Ord. 87-216, Sec. 1; Ord. 87-231, Sec. 1; Ord. 92-466A, Sec. 2; Ord. 97-692A, Sec. 1; Ord. 97-692A, Sec. 2; Ord. 17-1398.]

2.04.120 Policy Statement

- (a) Metro expresses its strong commitment to provide maximum opportunity to do business with emerging small businesses, minority-owned businesses, woman-owned businesses, and businesses owned by service disabled veterans.
- (b) It is the policy of Metro to provide equal opportunity to all persons to access and participate in the locally-funded projects, programs and services of Metro. Metro and Metro contractors shall not discriminate against any person or firm on the basis of race, color, national origin, sex, sexual orientation, age, religion, physical handicap, political affiliation or marital status. [Ord. 83-165, Sec. 2; Ord. 84-181, Sec. 1; Ord. 87-216, Sec. 1; Ord. 87-231, Sec. 1; Ord. 92-466A, Sec. 2; Ord. 97-692A, Sec. 1; Ord. 10-1240, Sec. 1; Ord. 17-1398.]

2.04.130 Equity in Contracting Administrative Rules

The Metro Council acting as the Local Contract Review Board will adopt Equity in Contracting Administrative Rules to establish and implement a program to encourage the utilization by Metro of emerging small businesses, minority-owned businesses, woman-owned businesses, and businesses owned by service disabled veterans, by creating for such businesses the maximum possible opportunity to compete for and participate in Metro contracting activities. Metro's Equity in Contracting Administrative Rules will apply in addition to the Local Contract Review Board Administrative Rules adopted in accordance with Section 2.04.090 of this chapter. The Equity in Contracting Administrative Rules will not apply to federally-funded contracts, which are governed by federal rules and regulations. [Ord. 83-165, Sec. 3 and 4; Ord. 84-181, Sec. 2; Ord. 87-216, Sec. 1; Ord. 87-231, Sec. 1; Ord. 88-252, Sec. 1; Ord. 92-466A, Sec. 2; Ord. 96-635B, Sec. 4.; Ord. 97-692A, Sec. 4,6,8; Ord. 97-692A, Sec. 5; Ord. 10-1240, Sec. 2 and 3; Ord. 02-966A, Sec. 1; Ord. 17-1398.]

2.04.140 Annual Equity in Contracting Reports

On behalf of the Chief Operating Officer, the Procurement Officer shall provide an annual report to Council showing Metro's utilization of emerging small businesses, minority-owned businesses, woman-owned businesses, and businesses owned by service disabled veterans in the procurement and contracting process. The Chief Operating Officer shall refer to the annual reports when evaluating the performance of Metro's Equity in Contracting Program and of department directors. [Ord. 83-165, Sec. 15; Ord. 84-181, Sec. 7; Ord. 86-197, Sec. 1; Ord. 87-216, Sec. 1; Ord. 87-231, Sec. 1; Ord. 92-466A, Sec. 2; Ord. 97-692A, Sec. 16; Ord. 97-692A, Sec. 17; Ord. 02-966A, Sec. 1.; Ord. 10-1240, Sec. 8; Ord. 17-1398.]

SUSTAINABLE PROCUREMENT

2.04.150 Purpose and Intent

Metro expresses its strong commitment to support a sustainable environment, economy, and community by:

- (a) Reducing the environmental impact of Metro government operations and setting the standard for sustainable public purchasing in the region;
- (b) Supporting businesses and markets located in the Portland Metro region; and

- (c) Ensuring equitable inclusion of diverse members of our community in our sustainable procurement efforts. [Ord. 10-1247; Ord. 17-1398.]

2.04.160 Sustainable Procurement Administrative Rules

The Chief Operating Officer will establish Sustainable Procurement Administrative Rules to implement a Sustainable Procurement Program. Metro's Sustainable Procurement Program applies to all purchases made by Metro. [Ord. 10-1247; Ord. 17-1398.]

2.04.170 Annual Sustainable Procurement Program Reports

Each year the Chief Operating Office shall submit a report to the Metro Council that details the status and performance of the Sustainable Procurement Program and Administrative Rules. [Ord. 10-1247; Ord. 17-1398.]