

BOARD OF EDUCATION

Portland Public Schools
STUDY SESSION
March 3, 2014

Board Auditorium

Blanchard Education Service Center
501 N. Dixon Street
Portland, Oregon 97227

Note: Those wishing to speak before the School Board should sign the public comment sheet prior to the start of the meeting. No additional speakers will be accepted after the sign-in sheet is removed, but testifiers are welcome to sign up for the next meeting. While the School Board wants to hear from the public, comments must be limited to three minutes. All those testifying must abide by the Board's Rules of Conduct for Board meetings.

Public comment related to an action item on the agenda will be heard immediately following staff presentation on that issue. Public comment on all other matters will be heard during the "Public Comment" time.

This meeting may be taped and televised by the media.

AGENDA

1. **PUBLIC COMMENT** 6:00 pm
2. **APPROVAL OF PORTLAND ASSOCIATION OF TEACHERS BARGAINING AGREEMENT** (action item) 6:20 pm
3. **2014-2015 BUDGET: DISTRICT STAFFING** 7:15 pm
4. **FIRST READING: REVISED PUBLIC CONTRACTING RULES** 8:45 pm
5. **ADJOURN** 9:00 pm

Portland Public Schools Nondiscrimination Statement

Portland Public Schools recognizes the diversity and worth of all individuals and groups and their roles in society. The District is committed to equal opportunity and nondiscrimination based on race; national or ethnic origin; color; sex; religion; age; sexual orientation; gender expression or identity; pregnancy; marital status; familial status; economic status or source of income; mental or physical disability or perceived disability; or military service.

Portland Public School District 1st Reading

DATE: March 3, 2014

Notice of Proposed Policy and Public Comment for Revised Public Contracting Rules Board Policy 8.50.100-P

The Portland Public School District is providing Notice of Proposed Policy and Public Comment to offer interested parties reasonable opportunity to submit data or comments on the proposed policies noted below.

Public comment may be submitted in writing directly to the district or through the district Web site noted below. Written comments must be submitted by 5:00 p.m. on the Last Date for Comment listed below.

1st Reading by: Pam Knowles, Co-Chair, Portland Public School Board
Summary: Revised Public Contract Rules; Policy 8.50.100-P

Draft Policy Web Site:

<http://www.pps.k12.or.us/departments/board/872.htm>

(click on draft policy link)

Recommended for 1st Reading by: Board of Education

Policy Contact: Caren Huson

Last Date for Comment: March 24, 2014

Address: P.O. Box 3107, Portland, OR 97208-3107

Telephone: 503-916-3741

E-mail: chusonqu@pps.net

Last Date for Comment: March 24, 2014



Board of Education

Staff Report to the Board

Board Meeting Date: March 3, 2014

Executive Committee Lead: Neil Sullivan

Department: Purchasing & Contracting

Presenter/Staff Lead: Emily Courtnage

SUBJECT: Resolution to Adopt Revised Public Contracting Rules

BACKGROUND

Staff asks the Board to adopt revised Public Contracting Rules ('March 2014 Rules'). These rules comprise the Purchasing Manual referenced in Policy 8.50.100-P and govern the District's purchasing and contracting activities. If adopted, these rules will replace the 2012 Portland Public Schools Purchasing and Contracting Rules.

RELATED POLICIES / BOARD GOALS AND PRIORITIES

District Policy 8.50.090-P designates the Board as the local government contract review board with authority to adopt rules for public contracts and purchasing, as per ORS 279A.060.

PROCESS / COMMUNITY ENGAGEMENT

The March 2014 Rules vary from the 2012 version as follows:

Page 35:

1. In PPS-47-0250 (1)(c), the upper limit for Small Procurements of Goods and Services is raised from \$5,000 to \$10,000.
2. In PPS-47-0250 (1)(d), the threshold for Intermediate Procurements of Goods and Services is raised from \$5,000 to \$10,000.

Page 50:

1. In PPS-47-0265 (1), the upper limit for Small Procurements of Goods and Services is raised from \$5,000 to \$10,000.
2. In PPS-47-0265 (2), the maximum total contract price resulting from cumulative amendments of contracts awarded as Small Procurements of Goods and Services is raised from \$6,000 to \$12,000.
3. In PPS-47-0270 (1), the threshold for Intermediate Procurements of Goods and Services is raised from \$5,000 to \$10,000.

Reviewed and Approved by
Executive Committee Lead

Neil A. Sullivan

These changes are consistent with the state legislature's 2013 revisions of state statute ORS 279B.065. The revisions to ORS 279B.065 recognize public agency need for increased efficiencies when making small purchases and the realities of inflation since the previous such update 16 years ago.

The proposed changes will allow the District to make small purchases of Goods and Services up to \$10,000 directly rather than going through a competitive process. The change does not mandate that the District negotiate directly; it merely allows flexibility when time and other constraints make a competitive bid practice impractical.

The changes will also allow cumulative amendments of contracts awarded as Small Procurements of Goods and Services up to but not exceeding \$12,000, or 120% of the Small Procurements upper limit. This change maintains the current allowed cumulative amendment percentage and provides flexibility in approving and processing minor, unforeseen scope of work changes without the need to engage in a competitive bid process mid-work.

It is also important to note that this change does apply to personal services, architecture or engineering consulting, or public improvement contracts.

ALIGNMENT WITH EQUITY POLICY IMPLEMENTATION PLAN

The changes described herein are in alignment with the District's Equity in Public Purchasing & Contracting Policy. Minority-owned and women-owned businesses, as well as small business advocacy groups, have requested the District consider more direct contracting because it allows project managers and others to specifically utilize local minority-owned, woman-owned, and emerging small businesses.

BUDGET / RESOURCE IMPLICATIONS

This flexibility will allow us to better utilize our scarce project management resources in order to quickly and efficiently make minor purchases of Goods and Services.

NEXT STEPS / TIMELINE / COMMUNICATION PLAN

The March 2014 Rules are scheduled for a first reading at the March 3rd Board Meeting. A second reading, at which time the revised rules may be proposed for adoption, is on the proposed agenda for the March 31st Board Meeting. If adopted, these revised rules will replace those currently posted on the District website.

The Attorney General Model Rules are currently under revision, with anticipated completion in the summer of 2014. Staff expects to return to the Board at that time, with a second proposed revision, in order to align District rules with the new changes.

QUESTIONS FOR BOARD DISCUSSION

ATTACHMENTS

1. Resolution
2. Exhibit A: Page 35 and page 50 of 2012 PPS Public Contracting Rules, redlined to show proposed changes.

RESOLUTION NO.

Resolution to Adopt Revised Public Contracting Rules

RECITALS

- A. The Board of Education of School District No. 1J, Multnomah County, Oregon (“District”) acts as the Local Public Contract Review Board (“Board”) pursuant to ORS 279A.060.
- B. ORS 279A.065 empowers public contracting agencies to adopt rules of procedure for public contracts; the District has adopted the 2012 Portland Public Schools Public Contracting Rules (“Rules”) as such.
- C. The state legislature revised ORS 279B.065 in 2013, increasing the upper limit for small Goods and Services procurements from \$5,000 to \$10,000. At the same time, the state legislature revised ORS 279B.270, increasing the lower threshold for intermediate Goods and Services procurements from \$5,000 to \$10,000.
- D. In order for staff to implement these changes, and utilize the new thresholds, they must have Board approval.
- E. The Rules state that cumulative amendments of small procurement contracts must not increase the total contract price to greater than \$6,000. With the proposed increase of the upper limit for small Goods and Services procurements from \$5,000 to \$10,000, staff recommends allowing cumulative amendments to increase the total contract price up to but not greater than \$12,000.
- F. The Superintendent recommends adoption of the updated Rules (“March 2014 Rules”) in order that staff may make small Goods and Services purchases more efficiently and effectively.

RESOLUTION

1. The Board of Education hereby adopts these changes to the 2012 Portland Public Schools Public Contracting Rules, attached as Exhibit A.
2. These amended Rules supersede and replace the District’s 2012 Rules for procurements advertised, or first solicited, on or after the effective date of this Resolution. Procurements advertised, or first solicited, prior to the effective date of this Resolution shall continue to be processed under the 2012 Rules.

Portland Public Schools Public Contracting Rules
Division 49 – Public Contracting Rules for Contracts for Goods and/or Services
Other Than Personal Services

Exhibit A - Proposed Changes

PPS DIVISION 47

**PUBLIC CONTRACTING RULES FOR CONTRACTS FOR GOODS AND/OR
SERVICES OTHER THAN PERSONAL SERVICES**

PPS-47-0000 Generally

These Division 47 Rules implement ORS 279B applicable to public Procurements for Goods or Services, or both.

PPS-47-0250 Methods of Source Selection

- (1) Except as permitted in these Rules, the District must Award a Public Contract for Goods or Services, or both, by one of the following sourcing methods:
- (a) Competitive Sealed Bidding (also known as Invitation to Bid or ITB) pursuant to ORS 279B.055 and PPS-47-0255 and -0257;
 - (b) Competitive Sealed Proposals (also known as Request for Proposals or RFP) pursuant to ORS 279B.060 and PPS-47-0260 through 0263;
 - (c) Small Procurements (~~\$5,000~~10,000 or less) pursuant to ORS 279B.065 and PPS-47-0265;
 - (d) Intermediate Procurements (more than ~~\$5,000~~10,000 to \$150,000) pursuant to ORS 279B.070 and PPS-47-0270;
 - (e) Sole-source Procurement pursuant to ORS 279B.075 and PPS-47-0275;
 - (f) Emergency Procurement pursuant to ORS 279B.080 and PPS-47-0280;
 - (g) Special Procurement pursuant to ORS 279B.085 and PPS-47-0285, including the Class Special Procurements set forth in PPS-47-0288; or
 - (h) Cooperative Procurement pursuant to ORS 279A.200 and PPS-46-0400 through PPS-46-0480.

PPS-47-0252 Procurement of Service Contracts Over \$250,000 in Compliance with ORS 279B.030 through ORS 279B.036

(1) Unless the District determines that it is not feasible to perform the Services with the District's own personnel and resources pursuant to Section (4) of this Rule, before conducting a Procurement of a Contract for Services with an estimated Contract Price that exceeds \$250,000 the District shall conduct a Written cost analysis in accordance with Section (2) of this Rule. The cost analysis must compare an estimate of the District's cost in performing the Services with an estimate of the cost that a potential Contractor would incur in performing the Services. The District may proceed with the Procurement only if it determines that the District would incur more cost in performing the Services with its own personnel and resources than in procuring the Services from a Contractor. For the purposes of this Section, "Contract for Services" does not include:

- (a) Contracts for Personal Services as defined in PPS-46-0500.
- (b) Contracts for Services exempted from compliance with the Public Contracting Code by ORS 197.025 or other state statute.
- (c) Procurements for Client Services as defined in OAR 125-246-0110. "Client Services" means any Services that directly or primarily support a Client, whether or not the Client is the recipient through the provision of voluntary or mandatory Services. Client Services also means any Goods

Portland Public Schools Public Contracting Rules
Division 49 – Public Contracting Rules for Contracts for Goods and/or Services
Other Than Personal Services

- (a) Addenda to the Request for Proposals. After receipt of unpriced technical Proposals, Addenda to the Request for Proposals shall be distributed only to Proposers who submitted unpriced technical Proposals.
- (b) Receipt and Handling of Unpriced Technical Proposals. Unpriced technical Proposals need not be opened publicly.
- (c) Evaluation of Unpriced Technical Proposals. Unpriced technical Proposals shall be evaluated solely in accordance with the criteria set forth in the Request for Proposals.
- (d) Discussion of Unpriced Technical Proposals. The District may seek clarification of a technical Proposal of any Proposer who submits a qualified, or potentially qualified, technical Proposal. During the course of such discussions, the District shall not disclose any information derived from one unpriced technical Proposal to any other Proposer.
- (e) Methods of Contractor Selection for Phase One. In conducting phase one, the District may employ any combination of the methods of Contractor selection that call for the establishment of a Competitive Range or include discussions, negotiations, or best and final Offers as set forth in this Rule.
- (f) Procedure for Phase Two. On the completion of phase one, the District shall invite each qualified Proposer to submit price Proposals. The District shall conduct phase two as any other Competitive Sealed Proposal Procurement except as set forth in this Rule.
- (g) No public notice need be given of the request to submit Price Proposals because such notice was previously given.

PPS-47-0265 Small Procurements

- (1) **Generally**. For Procurements of Goods and Services less than or equal to ~~\$5,000~~10,000, the District may Award a Contract as a Small Procurement in any manner deemed practical or convenient by the District, including by direct selection or Award.
- (2) **Amendments**. The District may amend a Contract Awarded as a Small Procurement in accordance with PPS-47-0800, but the cumulative amendments must not increase the total Contract Price to greater than ~~\$6,000~~12,000.
- (3) **No Fragmentation**. A Procurement may not be artificially divided or fragmented so as to constitute a Small Procurement. See ORS 279B.065(2).

PPS-47-0270 Intermediate Procurements

- (1) **Generally**. For Procurements of Goods and Services greater than ~~\$5,000~~10,000 and less than or equal to \$150,000, the District may Award a Contract as an Intermediate Procurement pursuant to ORS 279B.070.
- (2) **Intermediate Solicitation Process**. When conducting an Intermediate Procurement, the District shall seek at least three informally solicited Competitive Price Quotes or Competitive Proposals from prospective Contractors. The District shall keep a Written record of the sources of the Quotes or Proposals received. If three Quotes or Proposals are not reasonably available, fewer will suffice, but the District shall make a Written record of the effort made to obtain the Quotes or Proposals.
- (3) **Written Solicitations**. For Intermediate Procurements equal to or exceeding \$75,000, the District shall use a Written solicitation to obtain Quotes, Bids, or Proposals.
- (4) **Negotiations**. The District may negotiate with a prospective Contractor who offers to provide Goods or Services in response to an Intermediate Procurement to clarify its Quote or Offer or to effect modifications that will make the Quote or Offer more advantageous to the District.

BOARD OF EDUCATION
SCHOOL DISTRICT NO. 1J, MULTNOMAH COUNTY, OREGON

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Other Items Requiring Board Action

The Superintendent RECOMMENDS adoption of the following items:

Numbers 4881 and 4882

RESOLUTION No. 4881

2013–2016 Agreement between Portland Association of Teachers and
School District No. 1J, Multnomah County, Oregon

RESOLUTION

The Chairperson of the Board of Education and the Chief Human Resources Officer are authorized and directed to execute the 2013–2016 Agreement between the Portland Association of Teachers, representing licensed teaching personnel, and School District No. 1J, Multnomah County, Oregon, on the terms presented to the Board and filed in the record of this meeting.

S. Murray

RESOLUTION No. 4882

Rescinding Resolution 4872: Temporary Delegation of Authority

RECITALS

- A. Between April 2013 and February 2014, the Portland Public School District (District) and the Portland Association of Teachers (PAT) engaged in collective bargaining for a successor collective bargaining agreement.
- B. The Portland Association of Teachers held a strike vote on February 5, 2014. On February 6, 2014, the District received notice that the PAT intended to call a strike that would commence on February 20, 2014.
- C. On February 10, 2014, the School Board approved Resolution 4872 to provide temporary delegation of authority to the Superintendent in anticipation of a strike by the Portland Association of Teachers.
- D. On February 18, 2014, the District and PAT reached a tentative agreement, thus suspending a strike.

RESOLUTION

The Board rescinds Resolution 4872 and end the temporary delegation of authority.