OFFICE OF THE SECRETARY OF STATE
TOBIAS READ
SECRETARY OF STATE

MICHAEL KAPLAN
DEPUTY SECRETARY OF STATE

ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

PERMANENT ADMINISTRATIVE ORDER

FILED
01/28/2025 1:12 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

DOJ 1-2025
CHAPTER 137
DEPARTMENT OF JUSTICE

FILING CAPTION: Amends rule governing Attorney General's review of anticipated public contracts.

EFFECTIVE DATE: 01/28/2025

AGENCY APPROVED DATE: 01/28/2025

CONTACT: John McCormick
503-480-6584
John.McCormick@doj.oregon.gov

1162 Court Street
Salem,OR 97301

Filed By:
Carmen Graham
Rules Coordinator

AMEND: 137-045-0035

RULE TITLE: Review of Anticipated Public Contracts and Price Agreements

NOTICE FILED DATE: 10/30/2024

RULE SUMMARY: This rule is amended to correct a prior filing error by deleting its subsection (3), which was inadvertently included in a prior permanent rule filing.

RULE TEXT:

(1) Except as provided in this rule, if an Agency expects a Public Contract resulting from a procurement to require legal sufficiency approval, the Agency must submit to the Attorney General for review both the Agency Procurement Documents and the anticipated Public Contract. The Agency must obtain authorization from an Assistant Attorney General to release the Procurement Documents before the Agency releases them. An Assistant Attorney General may waive the failure of an Agency to comply with this rule if the Assistant Attorney General determines that the resulting Public Contract is legally sufficient, and a re-solicitation of the Public Contract would not materially reduce the risk to the State. Addenda that solely extend the date that offers are due are not subject to the review requirements of this rule.

(2) Review of the Procurement Documents includes determining what law applies to the procurement and applying that law to the Procurement Documents to determine whether the procurement process complies with applicable law and the Agency's reasonable interpretations of its own rules. The reviewing attorney is not required to inquire into facts concerning the procurement process that are not apparent on the face of the documents. The Assistant Attorney General may require changes to the Procurement Documents that are necessary for compliance with applicable law. If the Assistant Attorney General determines that nothing in the Procurement Documents, or otherwise apparent to the attorney, would prevent approval of the anticipated Public Contract for legal sufficiency, the attorney shall authorize release of the Procurement Documents. The Assistant Attorney General may condition an authorization to release Procurement Documents as necessary for compliance with these rules. Authorization to release the Procurement Documents does not ensure subsequent legal sufficiency approval of the Public Contract contemplated by the procurement. Authorization to release the Procurement Documents includes a determination that the solicitation process on the face of the Procurement Documents complies with applicable statutes or rules.

STATUTORY/OTHER AUTHORITY: ORS 291.047(3)

STATUTES/OTHER IMPLEMENTED: ORS 291.047