

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

Re: Formation of the Columbia County)
Local Contract Review Board)

*Rescinded by Ordinance
76-2*

No. 76-1

ORDINANCE

AN ORDINANCE for the purpose of creating a local contract review board as authorized by Chapter 771, Oregon Laws of 1975 and establishing rules of procedure for said board.

THE BOARD OF COMMISSIONERS FOR COLUMBIA COUNTY, OREGON
ORDAIN AS FOLLOWS:

Section 1. LOCAL CONTRACT REVIEW BOARD. The Board of County Commissioners for Columbia County, Oregon is hereby designated as the Local Contract Review Board and relative to contract concerns of this Board of Commissioners shall have all powers granted to the State Public Contract Review Board.

Section 2. DEFINITIONS.

- (1) "Public Contract" means any purchase, lease or sale by a public agency of personal property, public improvements or services other than agreements which are exclusively for personal service.
- (2) "Public agency" or "public contracting agency" means any agency of the State of Oregon or any political subdivision of the State of Oregon thereof authorized by law to enter into public contracts.
- (3) "Public improvement" means any construction of improvements on real property by or for a public agency.
- (4) "Board" means the local contract review board of a city or county as provided for in Section (2) of section 34 of Chapter 771, Oregon Laws of 1975.

Section 3. COMPETITIVE BIDS: EXEMPTIONS.

- (1) All contracts shall be based upon competitive bids except:
 - (a) Contracts made with, or the cost of which is provided by, other public agencies or the Federal Government.

- (b) Contracts for any purchase the amount of which is less than \$5,000.00.
 - (c) Contracts for any item which is available only through one company, firm or individual.
 - (d) Those contracts exempted by rules adopted herein at Section 11 hereof.
- (2) The contract review board may by resolution exempt other contracts from competitive bidding if it finds:
- (a) The lack of bids will not result in favoritism or substantially diminish competition in awarding the contract; and
 - (b) The exemption will result in substantial cost savings.

In making such finding, the board may consider the type, cost, amount of the contract, number of persons available to bid, and such other factors as the board may deem appropriate.

Section 4. EMERGENCY CONTRACTS. A contract may also be exempted from competitive bidding if the board, by unanimous vote, determines that emergency conditions require prompt execution of the contract. A determination of such an emergency shall be entered into the record of the meeting at which the determination was made.

Section 5. BRAND NAME SPECIFICATION IN CONTRACTS.

- (1) Specifications for contracts shall not require any products by any brand name or mark, nor the products of any particular manufacturer or seller, unless the product is exempted from this requirement by the board under this section. However, this section shall not be construed to prevent reference in the specification to a particular product as a description of the type of item required.
- (2) The board may, by resolution, exempt certain products or classes of products upon any of the following findings:
 - (a) It is unlikely that such exemption will encourage favoritism in the awarding of the contract or substantially diminish competition.
 - (b) The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings.

- (c) There is only one manufacturer or seller of the product of the quality required.
- (d) Efficient utilization of existing equipment or supplies require the acquisition of compatible equipment or supplies.

Section 6. EXEMPTION HEARING. Whenever the board is considering an exemption to the requirements for competitive bids or brand name specification, it shall provide for notice to the public and an opportunity for a public hearing on whether the exemption should be allowed.

Section 7. BID REJECTION. The Board of County Commissioners, or any official designated by the Board of County Commissioners, may reject any bid not in compliance with all prescribed public bidding procedures and requirements and may reject all bids if it is in the public interest to do so.

Section 8. BIDDER DISQUALIFICATION. The Board of County Commissioners, or an official designated by the Board of County Commissioners, may disqualify any person as a bidder on a contract if:

- (1) The person does not have sufficient financial ability to perform the contract. Evidence that the person can acquire a surety bond in the amount and type required shall be sufficient to establish financial ability;
- (2) The person does not have equipment available to perform the contract;
- (3) The person does not have personnel of sufficient experience to perform the contract; or
- (4) The person has repeatedly breached contractual obligations to public and private contracting agencies.

Section 9. APPEAL OF DISQUALIFICATION. A person who has been disqualified as a bidder may appeal such disqualification to the board as provided in this section:

- (1) The person shall, within three business days after receipt of notice of disqualification, in writing notify the official designated by the board in Section 7 hereof.
- (2) Immediately upon receipt of such written notice of appeal, said official shall inform the board.

- (3) Upon receipt of notice of appeal, the board shall notify the person appealing of the time and place of the hearing.
- (4) The board shall conduct the hearing according to the provisions of ORS 279.045 (3) [Ch. 771, Oregon Laws 1975, sec. 18 (3)], and decide the appeal within 10 days after receiving the notification and shall set forth in writing the reasons for its decisions.

Section 10. ADDITIONAL AUTHORITY OF THE BOARD. In addition to the powers and duties established by this ordinance, the board shall have such additional powers as authorized by state law.

Section 11. PROCEDURAL RULES APPLICABLE TO PUBLIC HEARINGS AND ENFORCEMENT AND REGULATION OF THIS ORDINANCE.

The Board shall adopt procedural rules applicable to public hearings and enforcement of this ordinance. Said rules shall be adopted by resolution of the board in writing and shall be recorded with the minutes of said board. These procedural rules may be amended at the option of the board, but in no case shall any amendment be allowed to act retroactively upon any matter, that at the time of the amendment, is pending for hearing or which the time for appeal has not yet run.

Section 12. ILLEGALITY. Any provision of this ordinance inconsistent with the administrative rules adopted hereunder shall, unless illegal by statute, supersede said rules. Any rule or section hereunder declared hereafter by a court of competent jurisdiction to be invalid for any reason whatsoever shall not thereby void this ordinance in its entirety nor shall said decision void any rules hereunder except the specific one declared invalid.

Section 13. EMERGENCY. This ordinance being necessary for the immediate implementation of a local contract review board as provided in Chapter 771, Oregon Laws of 1975, an emergency is declared to exist and this ordinance shall take effect upon its passage.

Enacted this 28 day of January, 1976, being the date of second reading and second hearing before the Board of County Commissioners for Columbia County, Oregon.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

/s/ Fred Foshaug
Chairman

By /s/ Gloria Salvey
Recording Secretary

/s/ Cleo W. Horn
Commissioner

APPROVED AS TO FORM:

/s/ Jack Minkoff
Commissioner

/s/ John F. Hunnicutt
John F. Hunnicutt
County Counsel

Reading:

1st: January 14, 1976

2nd: January 28, 1976

Public Hearing:

1st: January 14, 1976

2nd: January 28, 1976

Vote:

Aye: 3

Nay: 0