

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Adopting Local Public)
Contracting Rules, Creating a Local Contract)
Review Board, Exempting Certain)
Classes of Contracts, and Adopting)
Rules of Procedure for Public Contracting)

ORDINANCE NO. 2024-2

SECTION 1. TITLE.

This Ordinance shall be known as Ordinance No. 2024-2 the Columbia County Public Contracting Ordinance.

SECTION 2. APPLICABILITY.

This Ordinance applies to all public contracting agencies for which the Board of County Commissioners is the Local Contract Review Board (LCRB). Such public contracting agencies are hereinafter referred to as "County Agencies".

This Ordinance does not apply to Personal Services contracts as defined in Ordinance No. 38-2006, as amended.

SECTION 3. PURPOSE.

A. Pursuant to ORS 203.035, the Board of County Commissioners may, by ordinance, exercise authority within the County over matters of county concern, which includes the authority to adopt rules governing the letting of public contracts by County Agencies.

B. Pursuant to ORS 279A.065(4), a contracting agency that has not adopted its own rules of procedure in accordance with ORS 279B.065(5) is subject to the model rules adopted by the Attorney General at OAR Chapter, 125, Divisions 46, 47, 48 and 49 (the "model rules"). The County desires to have the model rules apply to public contracting by County Agencies, except for Personal Services Contracts, which are regulated under the Columbia County Personal Service Contracting Rules, including contracts for architectural, engineering and land surveying services. Therefore, the County adopts OAR Chapter 125, Division 48 with limited applicability.

C. Pursuant to ORS 279A.070, in addition to adopting model rules, a Contracting Agency may, in the exercise of authority granted under ORS 279A.050, adopt rules necessary to carry out the provisions of the Public Contracting Code,

including but not limited to rules for the procurement, management, disposal and control of goods, services, personal services and public improvements under the Public Contracting Code.

D. Pursuant to ORS 279B.085, the County may exempt certain classes of contracts from the low bid requirements of ORS Chapter 279B.

E. The purpose of this Ordinance is to adopt the model rules, adopt additional local rules necessary to carry out the provisions of the Public Contracting Code, including but not limited to rules for the procurement, management, disposal and control of goods, services, and public improvements under the Public Contracting Code, and to exempt certain classes of contracts from the low bid requirements of ORS 279B. This Ordinance does not apply to Personal Services Contracts, including contracts for architectural, engineering and land surveying services.

SECTION 4. AUTHORITY.

This Ordinance is adopted pursuant to ORS 203.035, ORS 279A.060, ORS 279A.065, ORS 279A.070, 279A.075, 279B.080, and ORS 279B.085.

SECTION 5. HISTORY.

The Board of County Commissioners adopted Ordinance No. 2015-2, effective August 5, 2015. The Ordinance adopted rules of procedure for public contracting, created a local contract review board, exempted certain classes of contracts from the Public Contracting procedures of ORS 279B, and adopted rules of procedure for public contracting. The Board of County Commissioners adopted Ordinance No. 2017-1, effective May 31, 2017, amending the local public contracting rules and personal services contracting rules related to Federal Grant Compliance.

In 2023, the Oregon Public Contracting Code was amended. This Ordinance implements changes to the Oregon Public Contracting Code, ORS Chapters 279A, 279B, and 279C.

SECTION 6. ADOPTION.

The Board of County Commissioners hereby adopts the Columbia County Public Contracting Rules which are attached hereto as Attachment 1 and are incorporated herein by this reference.

SECTION 7. AMENDMENTS.

The Board of County Commissioners may, by order, amend the Columbia County Public Contracting Rules, attached hereto as Attachment 1, as may be necessary to comply with changes to Federal or Oregon law, or to correct scrivener's errors.

SECTION 8. REPEALER.

Ordinance No. 2015-2 and Ordinance No. 2017-1 are repealed, without revival of repealed Ordinances and orders.

SECTION 9. SEVERABILITY.

If any provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions hereof.

SECTION 10. EMERGENCY CLAUSE.

This Ordinance being immediately necessary to maintain the public health, safety and welfare, an emergency is declared to exist and this Ordinance shall take effect fourteen (14) days after its adoption.

Adopted this 20TH day of March, 2024.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: [Signature]
Casey Garrett, Chair

By: [Signature]
Kellie Jo Smith, Commissioner

By: [Signature]
Margaret Magruder, Commissioner

Attest:

By: [Signature]
Jacyn Normine, Recording Secretary

Approved as to form:

First Reading: March 20, 2024.
Second Reading: March 20, 2024
Effective Date: April 2, 2024

By: [Signature]
Office of County Counsel

ATTACHMENT 1

Columbia County



PUBLIC CONTRACTING RULES

A. DEFINITIONS.

1. Bidder. "Bidder" means a person that submits a bid in response to an invitation to bid.
2. Contracting Agency. "Contracting Agency" or "County Agencies" include, but are not necessarily limited to, the Board of County Commissioners, all County Officers, offices, elected officials, departments, department heads and employees, the Columbia County Fair Board, the 4-H Extension Service District, and all other commissions, committees, advisory boards, volunteers and volunteer programs governed by, directly or indirectly, the Board of County Commissioners, whose costs are paid wholly or in part from funds held by the Columbia County Treasurer.
3. Department Head. "Department Head" means a County Department director, or elected official, but does not include the Board of County Commissioners.
4. Emergency. "Emergency" means circumstances that: (a) could not have been reasonably foreseen, (b) create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety, and (c) require prompt execution of a contract to remedy the condition.
5. Goods. "Goods" include supplies, equipment, materials, personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto, and combinations of any of the items identified in this definition.

6. Local Contract Review Board (LCRB). The Board of County Commissioners is the Local Contract Review Board for all County Agencies.
7. Lowest Responsible Bidder. "Lowest responsible bidder" means the lowest bidder who: (a) has substantially complied with all prescribed public contracting procedures and requirements; (b) has met the standards of responsibility in ORS 279B110 or 279C.375; (c) has not been debarred or disqualified by the County under ORS 279B130 or 279C.440; and (d) if the advertised contract is a public improvement contract, is not on the list created by the Construction Contractors Board under ORS 701.227.
8. Model Rules. OAR Chapter 125, Divisions 46, 47 and 49, as amended, and Division 48 when the County is required to comply with ORS 279C.100 to 279C.125 pursuant to ORS 279C.110.
9. On-going Services. "On-going services" means the same or substantially similar services purchased from the same vendor.
10. Personal Services. The term "Personal Services" has the meaning given in ORS 279C.100, and as defined in the Columbia County Personal Services Contracting Rule, as amended.
11. Procurement. "Procurement" means the act of purchasing, leasing, renting or otherwise acquiring goods or services. It includes each function and procedure undertaken or required to be undertaken By the County to enter into a public contract, administer a public contract and obtain the performance of a public contract under law and this Ordinance.
12. Proposer. "Proposer" means a person that submits a proposal in response to a request for proposals.
13. Public Contract. "Public contract" means a sale or other acquisition by the County of personal property, services, including personal services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement. "Public contract" does not include grants.
14. Public Contracting Code. "Public Contracting Code" means ORS Chapters 279A, 279B, and 279C.
15. Public Improvement. "Public improvement" means a project for construction, reconstruction or major renovation on real property by or for Columbia County, but does not include:
 - a. Emergency work, minor alterations, ordinary repair or maintenance necessary to preserve a public improvement.

- b. Projects for which no County funds are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection.
16. Recycled Material. "Recycled material" means any material that would otherwise be a useless, unwanted or discarded material except for the fact that the material still has useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled.
17. Services. "Services" means services other than personal services designated under the Personal Services Contracting Rules.

B. APPLICABLE STATUTES

In the letting of public contracts and public improvement contracts in general, and in exercising the powers of the Local Contracting Review Board, all applicable sections of the Oregon Revised Statutes shall apply including, but not limited to the applicable provisions of the Public Contracting Code, as amended, as provided in ORS 279A.025, as amended, and any and all statutory requirements set forth in grant documents, or as otherwise required by law.

C. LOCAL PUBLIC CONTRACTING REVIEW BOARD

Pursuant to ORS 279A.060, the Board of County Commissioners is the Local Contract Review Board (LCRB) for all contracting agencies. No special procedure shall be necessary before the Board of County Commissioners, otherwise meeting properly for the transaction of County business and making any necessary findings, may exercise the powers of the Local Contract Review Board.

- D. MODEL RULES ADOPTED**. The Board of County Commissioners adopts the Attorney General's Model Public Contracting Rules, OAR Chapter 125, Divisions 46, 47, and 49. OAR Chapter 125, Division 48 is adopted for procurement of Architectural, Engineering, Land Surveying and Related Services if ORS 279C.110 applies to the procurement. The Board of Commissioners may decide, by order, not to apply one or more Model Rules if to do so would be in the best interest of the County. Any such order shall comply with ORS 279A.065(6), as amended, by stating which Model Rules do not apply, and prescribing the rules of procedure that the County will use for public contracts, which may include portions of the Model Rules. If the County does not adopt the Model Rules, the County shall review its local rules each time the Attorney General modifies the Model Rules to determine whether the County should modify its rules to ensure compliance with statutory changes.

E. PUBLIC CONTRACTING RULES FOR COUNTY AGENCIES

1. Agency Compliance. In the letting of public contracts in general, and in exercising the powers of the LCRB, County Agencies shall comply with the following:
 - a. All applicable sections of ORS 279A, 279B, and 279C, as amended.
 - b. All applicable sections of the Model Rules adopted in Section D, above.
 - c. All applicable sections of this Ordinance, and any amendments hereto, and any directive of the Board of County Commissioners.
 - d. All applicable procurement rules required as a condition of a grant or funding agreement, or other applicable law, rule or regulation. A Department Head procuring goods or services funded in part or in full by a grant is required to track compliance with all grant terms and conditions. The Department Head shall submit a grant compliance analysis, including the Grant Agreement, to the Finance Department. (See also, Section H)
2. Interpretation. The Board of County Commissioners shall have the authority to construe or interpret confusing, ambiguous or otherwise unclear terms or phrases within the rules adopted above as required to comply with the spirit of the statutes, model rules, and this Ordinance.
3. Exemptions. The Board of County Commissioners shall have the authority to grant exemptions to the public contracting rules as provided in ORS Chapter 279B and Chapter 279C.
4. Delegation. Pursuant to ORS 279A.075, unless otherwise provided in the Public Contracting Code, the Board of County Commissioners may delegate and subdelegate its authority as the LCRB in whole or in part.

F. LOCAL RULES FOR ADMINISTRATION OF PUBLIC CONTRACTING.

1. Delegation.
 - a. Signing of Purchase Orders and Contracts. The Board of County Commissioners delegates to the County Finance Director its authorization to sign Purchase Orders and to enter into Contracts in amounts not to exceed \$100,000, provided the requirements of the Public Contracting Code, the model rules and this Ordinance are met, and there are funds budgeting for such purchases and contracts. All other purchase orders and contracts shall be authorized by the Board of County Commissioners. The Board of County Commissioners delegates to the County Finance Director authorization to adopt rules for use of County Credit Cards, which

may include exemptions from the requirement to use a purchase order or contract in certain cases.

- b. Emergency Procurements. Notwithstanding Section F.1.a, the Board of County Commissioners delegates to the County Finance Director its authorization to make or authorize others to make emergency procurements of goods or services in an emergency pursuant to ORS 279B.080. The Finance Director shall document the nature of the emergency and describe the method used for the selection of the particular contractor.
- c. Sub-delegation Authorized. The Finance Director may sub-delegate his or her authority to sign Purchase Orders, as follows:
 - i. Department Heads. The Finance Director may give written authority to Department Heads and/or their assistants to purchase goods or services up to \$20,000 in value if the purchase is budgeted and revenue is sufficient. Department Heads may sign purchase orders up to the value of their authority.
 - ii. County Employees. Upon the request of a Department Head the Finance Director may give written authority to other County employees to purchase goods or services up to \$5,000 in value if the purchase is budgeted and revenue is sufficient.
 - iii. Public Works. The Finance Director may give written authority to the Public Works Director to purchase goods and services up to \$20,000 in value for trade related projects, i.e. construction, maintenance, repair or similar labor and materials purchases; up to \$20,000 in value for goods, materials, supplies and services; and up to \$40,000 in value for maintenance and repair of roads, highways, or parking lots, including the purchase of rock and asphalt.
 - iv. Procurement Process. The procurement of goods and services shall be done in accordance with this Ordinance.
 - v. Board Notice. The Board of County Commissioners shall be notified in advance of any purchase equaling or exceeding \$25,000.
- d. Procurement files. The Department soliciting goods or services is required to keep a procurement file for each solicitation. The file shall contain requests for quotes, invitations to bid, requests for proposals, any amendments to the solicitation documents, all

quotes, bids and proposals received, scoring sheets, and all other documentation related to the solicitation. Procurement files shall be maintained in the Department for a minimum retention period set forth in the Secretary of State's retention schedule or other applicable retention schedule. Procurement files shall be made available upon request to the Board of County Commissioners, Finance Director, auditors, grantors, and counsel.

2. Use Of Purchase Orders.
 - a. Goods. Purchase Orders may be used to purchase goods up to \$100,000 in value.
 - b. Services. Purchase Orders may be used to purchase services up to \$100,000 in value, except as provided in Paragraph 3, below.
 - c. County Form. County Agencies shall use the same County approved purchase order form which shall be in a form approved by the County Counsel's Office and shall include all public contract language required by ORS 279A, 279B, and 279C, and any grant required language.
3. Use Of Contracts. Contracts shall be signed for all purchases of goods and services over \$100,000 in value and for on-going services. In addition, unless Counsel determines otherwise, contracts shall be signed for purchases of goods and services in the following situations: i. When the good or service presents a high risk of injury to persons or property; ii. When the good or service should include warranties or other contract terms and conditions; iii. When the good or service is to be funded by a grant, and iii. For all construction work subject to prevailing wage rates, and all public improvements. A Contract shall be in the form approved by the County Counsel's office. All invoices or other requests for payment shall refer to the Contract. Signed contracts shall be submitted to the Finance Department as soon as possible after signature.
4. INSURANCE. All contracts for goods and services shall include a requirement that the contractor maintain a \$2,000,000 commercial general liability policy to protect the County, it's officers, agents and employees. A certificate of insurance and additional insured endorsement shall be required before work commences under the contract. Additional insurance policies may be required on a case-by-case basis. The Board of County Commissioners may exempt a single contract or class of contracts from this insurance requirement.

5. Competitive Procurement Procedures For Public Improvement Contracts (279c).
- a. Lowest Bid Requirement. Except as provided in ORS 279C.335, procurement of a public improvement shall be based on competitive bidding (“lowest bid”).
 - b. Exceptions to Lowest Bid Requirement. Exceptions to the competitive bidding “lowest bid” requirements are:
 - 1. A public improvement contract with a qualified nonprofit agency that provides employment opportunities for individuals with disabilities under ORS 279.835;
 - 2. A public improvement contract that is exempted by the Board of County Commissioner (see below);
 - 3. A public improvement contract with a value less than \$25,000 or between \$25,000-\$100,000 following a competitive quote process under ORS 279C.402 and 279C.414;
 - 4. An energy savings performance contract that is entered into in accordance with the Model Rules;
 - 5. A public improvement contract with an estimated contract price of \$25,000 or less awarded to an emerging small business certified under ORS 20.055 and funds with moneys from the Emerging Small Business Account established under ORS 200.180, following a competitive quote process under ORS 279C.414.
 - c. Exemptions. The Board of County Commissioners may exempt a public improvement contract or class of public improvement contracts from the competitive bidding requirements of ORS Chapter 279C. To seek approval of an exemption the Department Head in cooperation with County Counsel, shall request that the Board adopt an order approving the exemption. The request and order shall comply with ORS 279C.335, as amended, and shall demonstrate to the Board of County Commissioners that the findings required by 279C.335 can be made.
 - d. Findings Required. Upon completion of and final payment for any public improvement contract, or class of public improvement contracts, in excess of \$100,000 for which the County did not use the competitive bidding process, the County Department must

- prepare an evaluation including the actual project cost as compared with the original project estimates; the amount of any guaranteed maximum price; the number of project change orders issued by the County, a narrative description of successes and failures during the design, engineering and construction of the project and an objective assessment of the use of the alternative contracting process as compared to the findings required by ORS 279C.335. The evaluation must be delivered to the Board of County Commissioners, be made available for public inspection, and must be completed within 30 days of the date the County accepts the project or the last public improvement project if the project falls within a class of public improvement contracts.
- e. Solicitation, contract award. The County shall follow requirements for public improvement advertisements (ORS 279C.360) and requirements for solicitation documents and bids and proposals (ORS 279C.365).
 - f. Award and execution of contracts; determination of responsibility of bidder; bonds; impermissible exclusions. The County shall comply with ORS 279C.375 related to intent to award a contract to the lowest responsible bidder, by completing a responsibility determination form in substantially the form provided in ORS 279C.375. The form must be submitted to the Construction Contractors Board within 30 days after the date the County awards the contract.
 - g. When a competitive proposal process has been approved by the LCRB, the County will follow ORS 279C.400 to ORS 279C.410 for preparation, receipt and evaluation of proposals.
 - h. When a competitive quote process is allowed (not to exceed \$100,000), the County shall follow its competitive quote procedure for goods and services.
6. Competitive Procurement Procedures For Goods And Services (279B). Except as provided below, a procurement of goods or services shall be awarded by competitive sealed bidding under ORS 279B.055 or competitive sealed proposals under ORS 279B.060. It is the policy of the County to buy goods and services within the County whenever practicable and consistent with law, considering price, service quality, time constraints, and any other factor. Before purchasing goods and services, whether through cooperative procurement, or otherwise, Departments shall, consistent with this policy, contact one or more local

vendors/providers. A written record shall be maintained in the procurement file.

- a. Procurement valued at \$25,000 or less (Small Procurement). Any procurement of goods or services not exceeding \$25,000 may be awarded without formal competitive bidding in accordance with ORS 279B.065, as amended, and the Model Rules. A contract or purchase order awarded under this rule may be amended due to unforeseeable costs, provided that cumulative amendments shall not increase the total Contract Price to greater than \$31,250. A procurement may not be artificially fragmented so as to constitute a small procurement.
- b. Procurement valued between \$25,000 and \$250,000 (Intermediate Procurement).
 - i. Any procurement of goods or services with a value exceeding \$25,001 but not exceeding \$250,000 may be awarded in accordance with ORS 279B.070 as amended, and the Model Rules, as amended. When conducting an intermediate procurement, the County shall seek at least three informally solicited competitive price quotes or competitive proposals from prospective contractors. Quotes shall be in writing. The County 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 County shall make a written record of the effort made to obtain the quotes or proposals.
 - ii. If a contract is awarded, the County shall award the contract to the offeror whose quote or proposal will best serve the interests of the County, taking into account price as well as considerations including, but not limited to, experience, expertise, product functionality, suitability for a particular purpose, familiarity with the work site, and contractor responsibility under ORS 279B.110, as amended.
 - iii. A contract awarded under this section may be amended due to unforeseeable costs. However, the cumulative amendments shall not increase the total contract price to a sum that is greater than 125% of the original contract price, or \$250,000, whichever is higher. The Department Head shall document the reason why costs were unforeseeable and shall maintain the record in the procurement file.

- iv. A procurement may not be artificially divided or fragmented so as to constitute an intermediate procurement.
- c. Sole-Source Procurements. The County may award a contract for goods and services without competition when the Board of County Commissioners determines by order that the goods or services, or class of goods or services are available from only one source. To seek approval of a sole-source order, the Department Head, in cooperation with the County Counsel, shall request that the Board adopt an order approving the sole-source procurement. The request and order shall comply with ORS 279B.075, as amended, and shall provide to the Board of County Commissioners the following findings:
- i. That the efficient utilization of existing goods requires the acquisition of compatible goods or services;
 - ii. That the goods or services required for the exchange of software or data with other public or private agencies are available from only one source;
 - iii. That the goods or services are for use in a pilot or experimental project; or
 - iv. Other findings that support the conclusion that the goods or services are available from only one source; and
 - v. That all required notices have been published, and whether protests have been received.

The Department Head shall negotiate with a sole-source provider to obtain contract terms reasonably advantageous to the County. Findings establishing the sole-source shall be maintained in the procurement file.

- d. Emergency Procurements ORS 279B.080. The Board of County Commissioners or Finance Director may make or authorize the procurement of goods and services in an emergency in accordance with ORS 279B.080. The County Department that makes the purchase shall document the nature of the emergency and describe the method used for the selection of the contractor. For an emergency procurement of construction services that is not a public improvement, the County Department shall ensure competition for a contract for the emergency work that is reasonable and appropriate under the circumstances. In conducting the procurement, the County Department shall set a solicitation time period that the Department determines to be reasonable under the

circumstances and may issue written or verbal requests for offers or make direct appointments without competition in cases of extreme necessity. A procurement file shall be maintained in the Department procuring the goods or services, documenting the emergency, procurement process used and all contracting documents.

- e. Special Procurements For Goods and Services (279B). The Board of County Commissioners may approve a contract specific special procurement in accordance with ORS 279B.085. To seek approval of a contract specific special procurement a Department Head, in cooperation with the County Counsel, shall request that the Board adopt an order approving the special procurement. The request and order shall comply with ORS 279B.085, as amended, and shall demonstrate to the Board of County Commissioners how the use of the special procurement:
- i. Is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts; and
 - ii. Is reasonably expected to result in substantial cost savings to the County or to the public; or
 - iii. Otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with requirements that are applicable under ORS 279B.055 (competitive sealed bidding), 279B.060 (competitive sealed proposals), 279B.065 (small procurement), 279B.070 (intermediate procurement), and rules adopted thereunder.
- f. Cooperative Procurement. The County may procure goods and services with competition through Cooperative Procurement in accordance with ORS 279A.200-279A.225.
- i. State of Oregon Cooperative Purchasing Program (ORCPP)
The County finds that the State of Oregon Cooperative Purchasing Program's (ORCPP) solicitation and award process is an open and impartial competitive process and uses source selection methods substantially equivalent to those specified in ORS 279B.055 or 279B.060. The County may procure goods or services off of the ORCPP contract if:
 - a. The contractor agrees to extend the terms, conditions and prices of the original contract to the County; and

- b. No material change is made in the terms, conditions or prices of the contract or price agreement between the contractor and the County from the terms, conditions and prices of the original contract.

In addition to the ORCPP forms and paperwork normally used for purchasing or contracting through the ORCPP, a Purchase Order in the form approved by County Counsel may be used for purchases of goods, materials, supplies and services up to \$100,000. If a Purchase Order is not used a contract shall be used.

- ii. Purchasing through Other Jurisdictions' Competitive Procurement. The County may procure goods and services through another entity's permissive cooperative procurement in accordance with ORS 279A.200-279A.225. Notice is required to be given of any purchase over \$250,000. Department Heads shall coordinate with County Counsel regarding cooperative procurements exceeding \$250,000. The Department Head shall provide a written determination that the administering agency's solicitation and award process is substantially equivalent to those identified in ORS 279B.055, 279B.060 or 279B.085, and that all cooperative procurement requirements have been met. The County Department responsible for the procurement shall include the written determination in its procurement file.
7. Issuance of Invitation for Bids or Requests for Proposals. Department Heads and/or their designees may issue requests for bids or requests for proposal, subject to the Public Contracting Code, in accordance with all applicable federal laws, state laws, the Model Rules, grant requirements, and this Ordinance. Department Heads shall copy all requests for proposals and invitations to bid to the County Finance Director. Bids and proposals may be received and opened by the Department Head, his/her designee, or the Board of County Commissioners, according to the requirements stated in the Invitation to Bid or the Request for Proposals. Notwithstanding the foregoing, no Department Head shall issue bid or proposal documents without assuring compliance with the public contracting rules and regulations, and grant requirements, as applicable. Department Heads are encouraged to submit formal procurement documents to County Counsel for review prior to issuance.
8. Issuance of Competitive Quotes. When a bid process calls for the County to seek competitive quotes, the Department Head responsible for the procurement shall keep a written record of the source and number of

competitive quotes received. If the quote is given orally to the County that information should be written down and retained as part of the written record; original or faxed copies of quotes shall be retained as part of the written record. The written record shall be retained with the procurement file.

G. CLASS/CONTRACT SPECIAL PROCUREMENTS. The following class/contract special procurements are hereby exempted from the competitive procurement requirements pursuant to ORS 279B.085:

1. Purchases of Rock and Asphalt from Various Quarries and Suppliers in connection with the Repair and Maintenance of County Roads.

a. Findings.

- i. The Columbia County Public Works Director routinely solicits quotes for the purchase of rock/asphalt from various quarries and suppliers in connection with the repair and maintenance of County roads.
- ii. The quotes vary slightly depending on the quarry/supplier and the quality of rock/asphalt, but the variances are insignificant when compared with the cost to the County of transporting the rock/asphalt from various quarries and suppliers to the various road projects.
- iii. Because the cost to the County of transporting the rock/asphalt to the site of a road project is generally the most important component in determining the overall cost of rock/asphalt to the County, in nearly every case the quarry or supplier which is closest to the site of the road project will be the overall cheapest source of rock/asphalt for County Road projects.
- iv. Although the amount of rock/asphalt purchased for any particular road project is not likely to exceed the level above which competitive bidding is generally required, the total amount of rock purchased from a particular quarry or supplier may, in some cases, exceed that level when all of the projects are added together.
- v. It is unlikely that exempting contracts for the purchase of rock from various rock/asphalt quarries or suppliers around the County from competitive bidding will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts as long as competitive quotes are solicited at least once a year and the

contracts are let based on the overall cost to the County of purchasing and transporting the rock to the site of a particular County road project.

- vi. The awarding of contracts for the purchase of rock/asphalt pursuant to this class special procurement is reasonably expected to result in substantial cost savings to the County because the overall cost to the County, including the major component, transportation, will be the determinative factor in such contracts, rather than the generally insignificant differences in price quotations from the various quarries or suppliers.

b. Procurement process.

- i. The Public Works Director shall solicit competitive price quotations at least once a year from various rock/asphalt quarries and suppliers. Contracts for rock/asphalt purchases shall be based on the overall lowest cost to the County considering both the cost of the rock/asphalt and the cost of transporting the rock/asphalt to the site of the particular road project.
- ii. The Public Works Director shall keep a written record of the source and amount of the competitive quotes received. If the quote is given orally to the Public Works Director, that information shall be written down and retained as part of the written record. Original or faxed copies of quotes shall be retained as part of the written record.
- iii. Contracts for the purchase of rock/asphalt under this class special procurement may be awarded without making a subsequent request for a special procurement.
- iv. The Public Works Director is authorized to sign Purchase Orders within his or her authorized purchasing authority, providing there is sufficient revenue in the Road Fund for such purchases and said purchases otherwise comply with the requirements of this Ordinance.

- 2. Concession Contracts. Contracts entered into by the County which grant a franchise or concession to a non-profit organization to promote or sell, for its own purposes, specified types of goods or services from all or a portion of the Fairgrounds and under which the concessionaire or promoter makes payments to the County based, at least in part, on the concessionaire's revenues from sales.

- a. Findings.
 - i. The Columbia County Fair Board has traditionally offered concession agreements to local non-profit agencies during the Columbia County Fair and Rodeo.
 - ii. The agreements provide the non-profit organizations with fundraising opportunities, and provide income to the Fair.
 - iii. This class special procurement substantially promotes the public interest in a manner that could not practically be realized by complying with requirements that are applicable under ORS 279B.055, 279B.060 or 279B.070, or under any rules adopted thereunder because of the public benefit to having service organizations earn income which is then used to serve the public.
 - b. Procurement Process. The Columbia County Fair Board will annually solicit interest for its annual concession opportunities from non-profit organizations through an intermediate procurement process.
3. Manufacturer Direct Supplies. Contracts for goods if a large volume is required and the cost from the manufacturer is the same or less than the cost the manufacturer charges to its distributor(s).
- a. Findings.
 - i. This class special procurement is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because distributors of the supplies will be provided an opportunity to provide quotes for the supplies.
 - ii. It is reasonably expected that the County will experience a substantial cost savings by purchasing large volume goods directly from the manufacturer because distributor costs will be avoided.
 - b. Procurement Process. The Department procuring such goods shall obtain at least three written quotes from distributors of the desired goods from which to compare the manufacturer's cost. If the manufacturer's cost is the same as or less than the distributor's costs the Department may purchase directly from the manufacturer.
4. Technical Support/IT. Purchase of specialized IT Technical Support services.

- a. Findings.
 - i. This class special procurement for specialized IT technical support is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because quotes will be obtained from contractors who have the expertise in the support area sought and will be able to compete for the contract.
 - ii. An expedited procurement process substantially promotes the public interest in a manner that would not practicably be realized under ORS 279B.055, 279B.060 or 279B.070, or under any rules adopted thereunder because technical support is often needed quickly to address issues that interfere with County business.
 - b. Procurement Process. The Department procuring such services shall obtain three written quotes from consultants having experience with the required technology. If three consultants with experience with the applicable technology are not reasonably available, fewer will suffice. The Department Head shall document why less than three quotes were obtained in the procurement file. The Department Head shall coordinate procurements under this Section with the IT Department.
5. Copyrighted Materials. Contracts for the purchase of copyrighted material, including non-mass marketed software, where there is only one supplier for such goods.
- a. Findings.
 - i. This class special procurement for copyrighted materials is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts if there is only one supplier for such goods.
 - ii. Direct contracts with the sole suppliers of copyrighted material are reasonably expected to result in substantial cost savings to the County because the County will avoid using resources and funds to issue procurement documents.
 - b. Procurement Process. The Department procuring copyrighted material shall, after determining that there is only one supplier for such goods, enter into a direct contract for the copyrighted material. The Department shall document that there is only one supplier in the procurement file.

6. Equipment Repair and Overhaul.

a. Findings.

- i. It is often impossible to determine the cost of equipment repair or overhaul without testing the equipment. It is not cost effective to have one contractor test the equipment and another perform the repairs.
- ii. Equipment repair is often needed to be performed without delay and in less time than a competitive process would take.
- iii. The only way to have a competitive process for equipment repair or overhaul, other than by creating price agreements, would be to have a separate entity test the equipment to determine what is wrong with the equipment.
- iv. Without knowing the extent of repairs needed, competition is not possible because different entities could quote only their hourly rates, with no prediction as to the amount of time the repairs would take.
- v. This class special procurement is unlikely to encourage favoritism because it is to be used only on rare occasions when the County does not have established price agreements, reached by a competitive process without favoritism.
- vi. This exemption serves the public interest by providing a simple process for obtaining equipment repair when needed.
- vii. The exemption for maintenance does not apply to routine or scheduled maintenance, unless there is only one entity capable of providing the service.

- b. Procurement Process. The Department procuring such services shall attempt to obtain three quotes for the needed repair or overhaul and may enter into a direct contract for the services.

7. Hazmat/Environmental Cleanup.

a. Findings.

- i. This class special procurement is limited to situations in which the County must comply with a DEQ order. The exemption is needed to ensure compliance with environmental laws and protection of the environment in a

timely manner and applies only if a competitive process cannot be completed in time to comply with a DEQ order.

- ii. This class special procurement promotes competition by requiring the County to use an intermediate competitive process by obtaining informal solicitations or quotes from potential contractors.
 - iii. This exemption is in the public interest because the public interest in environmental clean-up would not be served if this exemption were not adopted.
 - b. Procurement Process. The Department procuring such services shall use the intermediate procurement process.
8. Petroleum Products (Gasoline, Diesel Fuel, Heating Oil, and Lubricants).
 - a. Findings.
 - i. This class special exemption encourages competition and discourages favoritism by requiring an informal competitive process and requiring the County to use the least expensive source of those providing quotes.
 - ii. The purchases under this exemption are likely to be at levels that qualify as small or intermediate contracts and the process is similar to the process required for intermediate contracts. The exemption is provided because over a period of time the total dollar amount of goods purchased from a single source may exceed the dollar maximum for intermediate contracts. The exemption is justified because each individual contract will be entered into on a competitive basis.
 - iii. This exemption is in the public interest because it allows the County to reduce costs while maintaining competition. The same result could not be achieved within existing rules because a costly formal process might otherwise be required.
 - b. Procurement Process. The Department procuring these goods shall follow the intermediate procurement process. Written justification for the purchase shall be retained in the procurement file.
9. Used Equipment.
 - a. Findings.

- i. This class special procurement for used equipment is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because used equipment is generally not available from more than one source.
 - ii. Departments are required to seek quotes if it is known that the used equipment is available from more than one source.
 - iii. The direct procurement process is reasonably expected to result in substantial cost savings to the County because the County will avoid expending resources and funds to issue procurement documents and will result in the acquisition of lower cost used equipment.
 - b. Procurement Process. The Department procuring these goods shall follow the Direct Procurement process. However, if it is reasonably known that there are more than one suppliers with similar equipment available, the Department shall obtain written quotes which shall be retained in the procurement file.
10. Sale of Timber from County Lands.
 - a. Findings.
 - i. This class special procurement for the sale of County timber is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because a competitive process will be followed designed to result in the greatest net return to the County.
 - ii. The modified procurement process is reasonably expected to result in substantial cost savings to the County and to the public by reducing costs to issue the procurement documents and by allowing the procurement to be designed to result in the greatest net return to the County.
 - iii. Timber prices fluctuate frequently such that it is important to act quickly in order to benefit from high market prices.
 - b. Procurement Process.
 - i. The sale of County timber from County lands does not require a declaration of surplus property and the provisions of Section H.3, below, do not apply.
 - ii. The sale of timber from County lands must be authorized by the Board of County Commissioners.

- iii. Sales of \$5000 or less. For timber sales with an anticipated gross value of \$5000 or less, the Department selling the product shall obtain at least three competitive written quotes, if available. If County staff cuts and decks the timber or retains ownership of the timber after cutting, then at least two competitive quotes should be obtained from available mills prior to sale.
 - iv. Sales over \$5000. Sales of timber with an anticipated gross value in excess of \$5000 require an intermediate competitive process applying the applicable provisions of ORS 275.290 and ORS 275.340. Sales may be conducted by two alternative means. The County may sell the product to be cut by the contractor, or the County may sell cut timber to a processor. The County shall advertise the sale in at least one newspaper of general circulation in the county for two successive weeks. Sale shall be to the highest bidder who meets County requirements, taking into account price as well as considerations including, but not limited to, experience, contractor responsibility, and bonding ability, resulting in the greatest net return to the County.
11. Sale of Minerals and Gas From County Lands. The sale of valuable minerals, including aggregate, and oil and gas ("minerals").
- a. Findings.
 - i. This class special procurement for the sale of County minerals is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because a competitive process will be followed designed to result in the greatest net return to the County.
 - ii. The modified procurement process is reasonably expected to result in substantial cost savings to the County and to the public by reducing costs to issue the procurement documents and by allowing the procurement to be designed to result in the greatest net return to the County.
 - iii. Mineral prices fluctuate frequently such that it is important to act quickly in order to benefit from high market prices.
 - b. Procurement Process.
 - i. The sale of minerals, including aggregate, and oil and gas from County lands does not require a declaration of surplus

property and the provisions of Section H.3, below, do not apply.

- ii. The sale of minerals from County lands must be authorized by the Board of County Commissioners.
- iii. The Department selling the minerals shall follow an intermediate competitive process applying the applicable provisions of ORS 275.294 and ORS 275.340. The County shall advertise the sale in at least one newspaper of general circulation in the county for two successive weeks. Sale shall be to the highest bidder who meets County requirements, taking into account price as well as considerations including, but not limited to, experience, contractor responsibility, and bonding ability, resulting in the greatest net return to the County.

12. Purchase of UASI Funded Goods.

a. Findings.

- i. The City of Portland provides federal UASI pass through funds to the County through grant agreements. In some cases the agreements require the County to procure goods and services funded by UASI following the City's procurement rules.
- ii. This class special procurement for UASI funded goods and services is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because the County will follow the City of Portland's procurement rules which are compliant with the Public Contracting Code and model rules. Following the City's procurement rules when required by a grant agreement is reasonably expected to result in substantial cost savings to the County because the County will be able to use the UASI funds to purchase emergency preparedness equipment in lieu of other County funds.

- b. Procurement process. When required by the terms of an agreement with the City of Portland for UASI funds, the County will follow the City of Portland's procurement rules for the purpose of procuring UASI funded goods and services.

13. Veterans Services through Community Action Team.

a. Findings.

- i. Columbia County receives State funding to provide veterans services to veterans living in the County.
- ii. The County initially contracted with Washington County to provide these services. When that agreement was terminated the County entered into an agreement with Community Action Team, a local non-profit corporation, to perform the services for the County.
- iii. Community Action team provides the services on a non-profit basis, keeping the costs to a minimum and increasing the services the County can provide to veterans.
- iii. This contract-specific special procurement is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because there are no other providers for these services which are usually provided directly by Counties.
- iv. A direct contract with Community Action Team is reasonably expected to result in a significant cost savings to the County and the public because as a non-profit the Contractor is able to provide the services at a reduced cost.

- b. Procurement process. The County will enter into an annual direct contract with Community Action Team.

14. Assessment and Taxation Software.

a. Findings.

- i. Columbia County has entered into an Intergovernmental Agreement with Polk County to use assessment and tax software developed and maintained by Polk County, with the financial support of several counties.
- ii. Polk County will no longer be supporting the software and has contracted with Helion to support and

upgrade the software for the benefit of participating counties.

- iii. A direct contract with Helion for on-going software support is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts because the of the special circumstances in which the County has already paid for development of the software through an Intergovernmental Agreement.
 - iv. This contract-specific special procurement is reasonably expected to result in a significant cost savings to the County and to the public because the software product is already developed and maintenance costs are small, whereas the costs to issue a procurement and develop new software would be significant.
- b. Procurement process. Columbia County may enter into a direct contract with Helion for assessment and taxation software and support.
15. Bus/Transit Vehicle Purchases. The purchase of transit vehicles funded through the Federal Transportation Administration.
- a. Findings.
 - i. All transit vehicles are funded by Federal Transportation Administration (FTA) grant funds through the Oregon Department of Transportation ("ODOT").
 - ii. The FTA requires the County to comply with FTA's procurement rules for all FTA funded purchases. The procurement rules require competitive procurement procedures that are more stringent than Oregon law provides.
 - iii. The Oregon Department of Transportation, through ORPIN, has established price agreements with transit vehicle distributors, which have extended pricing to the County. The State's procurement is compliant with FTA's procurement rules.
 - iv. This class special procurement is unlikely to encourage favoritism in the awarding of public

contracts because ODOT conducted a competitive solicitation consistent with FTA requirements.

- v. This class special procurement is reasonably expected to result in substantial cost savings to the County and to the public because the County will avoid expending resources to procure vehicles that are already under competitive price agreements consistent with FTA regulations.

b. Procurement Process.

- i. Transit vehicles may be purchased through the ODOT cooperative procurement for transit vehicles without further competitive process.
- ii. The County shall use the ODOT approved purchase order to acquire transit vehicles purchased under the ODOT cooperative procurement for transit vehicles. The County's purchase order shall be attached to the ODOT approved purchase order. No contract will be required for purchases over \$50,000 consistent with this rule and consistent with all grant requirements.

16. Advertising Contracts.

a. Findings.

- i. Most entities that provide a forum for advertisers have set prices that cannot be negotiated.
- ii. The County has legal requirements for advertising public notices that can only be met by a small number of sources and all possible sources can be contracted without the need for an invitation to bid or request for proposals.
- iii. The correct advertising medium is important for the success of any advertising, so the specific medium needs to be selected based on considerations that are difficult to quantify. Therefore, selecting advertising media by bid is inappropriate and selecting by proposals may also result in a proliferation of proposals that do not meet the County's needs.

- iv. Advertising often must be placed on a short time schedule that does not permit the use of a formal competitive process.
 - v. The costs of a formal competitive process would likely be greater than the savings resulting from using that type of process to place advertising.
 - vi. This class special procurement will not encourage favoritism because the County is still able to use informal processes to compare media and choose the best outcome for the County.
 - vii. This exemption is in the public interest because it will result in cost savings to the County without encouraging favoritism and those purposes could not be met with existing rules.
- b. Procurement Process. The County Department procuring advertising services will contract directly for advertising that best suits the needs of the Department for the particular advertisement.
17. Price- Regulated items.
- a. Findings.
 - i. If prices are regulated, a competitive process would not result in a lower-cost contract and the costs of the process would increase the County's overall costs.
 - ii. Price-regulated items are typically available only from a single source or limited number of sources. Therefore, this class special procurement is unlikely to encourage favoritism.
 - iii. The exemption for price-regulated items is in the public interest because it results in cost savings for the County that could not be achieved without the exemption.
 - b. Procurement Process. The Department procuring price-regulated items will solicit a sufficient number of quotes to determine that the selected contract results in the least cost to the County. If fewer than three quotes are obtained, the Department shall note the reason in the procurement file.

18. INVESTMENT CONTRACTS. Contracts entered into by the County Treasurer or Finance Director in exercising their duties under Oregon law, including, but not limited to investment contracts and agreements, banking services, clearing house services and collateralization agreements, bond documents, certificates of participation and other debt repayment agreements, and any associated contracts, agreements and documents, regardless of whether the obligations that the contracts, agreements or documents establish are general, special or limited.
- a. Findings.
- i. This class special procurement is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts rates and other contract terms will be checked to the extent reasonably practicable
 - ii. This class special procurement is reasonably expected to result in substantial cost savings to the County and to the public because rates will be competitive.
- b. Procurement Process. The County Finance Director and County Treasurer may enter into direct contracts for financial services and products that otherwise comply with all laws, rules, and regulations and that are designed to best benefit the County, and/or its taxing districts. The County Finance Director and County Treasurer shall check competitive rates and other contract terms before entering into direct contracts for financial services and products to the extent reasonably practicable.
19. Temporary Staffing Services. The County frequently needs to hire temporary employees to fill vacant positions or for additional support to a department on an intermittent basis. This kind of hiring is best done through a temporary staffing service located in the County because such a firm will have ready access to the local labor market from which we hire seasonal and temporary workers. Historically, there has been only one employment agency in the County.
- a. Findings.
- i. This class special procurement is unlikely to encourage favoritism in the awarding of public

contracts or to substantially diminish competition for public contracts because there has historically been only one employment agency in the County and if there are others, a procurement process will be followed.

- ii. This class special procurement substantially promotes the public interest in a manner that could not practicably be realized by complying with the requirements of ORS 279B.055, 279B.060, 279B.065, or 279B.070, or rules adopted thereunder because of the resource savings associated with avoiding a formal procurement that is not reasonably likely to result in more than one proposal.

- b. Procurement Process. The Human Resources will annually conduct a market review to determine if more than one firm that offers ready access to the local labor market. Upon a determination that there is more than one firm that offers ready access to the local labor market, the applicable procurement process will be followed in accordance with ORS Chapter 279B and this Ordinance. Upon a determination that only one firm offers ready access to the local labor market, a direct contract with such firm is authorized.

H. SUPPLEMENTAL PROCUREMENT RULES (279A.070).

1. Posting. All County Invitations to Bid and Requests for Proposals shall be posted on the County website and to ORPIN when practicable.
2. Contract Extensions. A contract may be amended to extend the time of completion of performance for up to one year if otherwise authorized by these rules, except as otherwise provided in the Invitation to Bid or Request for Proposals.
3. DISPOSAL OF SURPLUS PROPERTY.
 - a. \$2,500 or Less. The County Finance Director or designee may declare surplus and dispose of any County personal property deemed to have a current net to County value of \$2,500 or less, per item. The IT Director may declare surplus and dispose of any IT related personal property deemed to have a current net to value of \$2,500 or less, per item. The Columbia County Sheriff may declare surplus and dispose of any Sheriff's Office personal property

deemed to have a current net to County value of \$2,500 or less, per item.

- b. Over \$2,500. Any items with a current net value exceeding \$2,500 per item may be declared surplus by the Board of County Commissioners.
- c. Methods of Disposal. Surplus property may be disposed of by any of the following methods upon a finding that the method of disposal is in the best interest of the County. Factors that may be considered by the Board or Finance Director include, but are not limited to, costs of sale, administrative costs, and public benefits to the County. The County shall maintain a record of the reason for the disposal, including the name of the person to whom the surplus property was transferred. Approved methods of disposal:
 - i. Public entities. Without competition by transfer or sale to another County department or public agency.
 - ii. Auction. By publicly advertised auction to the highest bidder
 - iii. Bids. By publicly advertised invitation to bid, including bids solicited using an on-line marketing company or auction house, if the marketing company/auction house is approved for County use in advance by the Board of County Commissioners.
 - iv. Liquidation Sale. By liquidation sale using a commercially recognized third-party liquidator selected in accordance the procurement rules.
 - v. Fixed Price Sale. The County may establish a selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, schedule and advertise a sale date, and sell to the first buyer meeting the sales terms.
 - vi. Trade-in. By trade in, in conjunction with acquisition of other price-based items under a competitive solicitation. The solicitation shall require the offeror to state the total value assigned to the surplus property to be traded.
 - vii. Donation. By donation to any organization operating within or providing a service to residents of the County which is recognized by the Internal Revenue Service as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

- viii. Garbage/Recycling. Surplus property which has a value of less than \$500, or for which the costs of sale or transportation are likely to exceed sale proceeds may be disposed of by any means determined to be cost-effective, including by disposal as waste. The official making the disposal shall make a record of the value of the item and the manner of disposal.
 - ix. Transit Personal Property including Rolling Stock must be disposed of in compliance with FTA rules and regulations, as applicable.
 - x. These rules do not apply to the disposal of surplus real property or to the extent that federal, or state laws, rules or regulations or grant requirements specify alternative methods of disposal.
 - xi. No surplus property shall be transferred with any warranty, or guarantee of any kind.
 - xii. Employees not eligible. County officers, agents, and employees, and their immediate family members and members of household, are ineligible to purchase or otherwise acquire surplus property.
- d. The County may negotiate and enter into a direct contract for the use, operation, maintenance or ultimate lawful disposition of personal property owned by or under the control of the County. Before approving such a contract the Board of County Commissioners will make a finding that the contract, agreement or arrangement will promote the economic development of the County, of the geographical area of the County, or of other public bodies that perform similar functions.
4. Feasibility Determination. ORS 279B.030 requires that except as provided in ORS 279B.036, before conducting a procurement for services within an estimated contract price that exceeds \$250,000, the County must demonstrate by means of a written cost analysis in accordance with ORS 279B.033, that the County would incur less cost in conducting the procurement than in performing the services with the County's own personnel and resources; or demonstrate, in accordance with ORS 279B.036, that performing the services with the County's own personnel and resources is not feasible. Prior to issuing a procurement for services with an estimated contract price exceeding \$250,000, the Department conducting the procurement shall coordinate with County Counsel to draft the appropriate findings of feasibility.

5. Contract Preferences.

- a. Preference for recycled materials. Subject to ORS 279A.125(2), in any procurement for goods, the County shall give preference to the procurement of goods manufactured from recycled materials. The County's preference for recycled materials shall be included in all invitations to bid and requests for proposals. The County shall comply with ORS 279A.125 and the Model Rules in applying the preference.
- b. Preference for goods fabricated or processed within the State or services performed within the State. Pursuant to ORS 279A.128, the County may give preference to procuring goods that are fabricated or processed, or services that are performed, entirely within Oregon if the goods or services cost not more than 10% more than goods that are not fabricated or processed, or services that are not performed, entirely within Oregon. The determination to give preference under this paragraph will be made on a case by case basis. If the County determines it will give preference under this paragraph, the preference will be specified in the applicable invitation to bid or request for proposal, and the County shall comply with ORS 279A.128 and the Model Rules in applying the preference. This preference will not apply to emergency work, minor alterations, ordinary repairs or maintenance work for public improvements or to other construction contracts described in ORS 279C.320(1).
- c. Preference for emerging small businesses or businesses owned or controlled by disabled veterans. Pursuant to ORS 279A.105, the County may give preference on a case by case basis to contractors that subcontract some part of a contract to, or obtain materials to be used in performing the contract from an emerging small business certified under ORS 200.055 and known to the County to draw its workforce from economically distressed areas, as designated by the Oregon Business Development Department, or a business enterprise that is owned or controlled by a disabled veteran, as defined in ORS 408.225. The County may determine on a case by case basis that "responsible bidder" or "responsible proposer" includes a responsible bidder as defined in ORS 200.005 that has made good faith efforts as prescribed in ORS 200.045(3). If the County determines it will give preference under this paragraph, the preference will be specified in the applicable invitation to bid or request for proposal, and the County shall

comply with ORS 279A.105 and the Model Rules in applying the preference.

- d. Public Benefit. Pursuant to ORS 279A.128(A), the County may give a preference on a case by case basis to a public benefit company that is incorporated, organized, formed or created under ORS 60.754, that submits with a bid or proposal a certificate of existence issued under ORS 60.027 and has the majority of the benefit company's regular, full-time workforce located in Oregon at the time the benefit company submits the bid or proposal, if the goods or services cost not more than five percent more than goods or services available from a contractor that is not a benefit company. This preference will not apply to emergency work, minor alterations, ordinary repairs or maintenance work for public improvements or to other construction contracts described in ORS 279C.320(1).
6. Facsimile Offers. The County does not authorize facsimile offers.
 7. Electronic Procurement. Electronic Procurement Authorized.
 - a. Electronic Procurement Authorized. The County may, in its discretion conduct some or all phases of a procurement, including without limitation the posting of electronic advertisements and the receipt of electronic offers, by electronic methods if and to the extent the County specifies in a solicitation document or any other written instructions on how to participate in the procurement.
 - b. Opening. The County shall open an electronic offer in accordance with electronic security measures in effect at the County at the time of its receipt of the electronic offer. The person submitting the electronic offer assumes the risk of premature disclosure due to submission in unsealed form.
 - c. Bid Security. If the County determines that bid or proposal security is or will be required, the County will not authorize electronic offers.
 - d. Failure of the E-Procurement System. In the event of a failure of the County's electronic procurement system that interferes with the ability of persons to submit electronic offers, protest or to otherwise participate in the procurement, the County may cancel the procurement in accordance with OAR 137-047-0660, or may extend the date and time for receipt of electronic offers by providing notice of the extension immediately after the electronic procurement system becomes available.

- e. Registration. As a condition of participation in an electronic procurement the County may require potential Contractors to register with the County before the date and time on which the County will first accept offers, to agree to the terms, conditions, or other requirements of a solicitation document, or to agree to terms and conditions governing the procurement, such as procedures that the County may use to attribute, authenticate or verify the accuracy of an electronic offer, or the actions that constitute an electronic signature.

H. Procurement Requirements for Federal Awards.

1. General Procurement Standards.

- a. When procuring goods or services under a Federal award, the County will generally follow the applicable policies and procedures for the procurement under its rules, and Oregon law, except as provided in this Section.
- b. For all purchases under a Federal award, the County shall maintain oversight to ensure that contractors perform in accordance with the terms and conditions, and specifications of their contracts or purchase orders.
- c. The County will follow its written standards covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts, Order No. 24-2016, as amended. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties above, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the County may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts, except as otherwise provided in County rules.
- d. The County will avoid acquisition of unnecessary or duplicative items. The County will consider consolidating or breaking out procurements to obtain a more economical purchase in accordance with Oregon law. Where appropriate an analysis will be made of lease versus

purchase alternatives, and any other appropriate analysis to determine the most economical approach.

- e. To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the general government, the County will enter into state and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.
- f. The County will use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
- g. The County will use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
- h. The County will only award contracts to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources in accordance with 2 CFR 200.214, Suspension and Debarment.
- i. The County will maintain a procurement file with records sufficient to detail the history of each procurement. Records must include the rationale for the procurement method selected the selection of contract type, contractor selection or rejection, and the basis for the contract price.
- j. The County will only use a time and materials type contract after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. If a time and materials contract is used, the contract must include a not to exceed ceiling price that the contractor exceeds at its own risk. Time-and-materials type contract means a contract whose cost to the

County is the sum of the actual cost of materials and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit. In addition, the County must provide a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

- k. The County will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards don't relieve the County of any responsibilities under its contracts,

2. Competition.

- a. All procurements must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:
 - i. Placing unreasonable requirements on firms in order for them to qualify to do business;
 - ii. Requiring unnecessary experience and excessive bonding;
 - iii. Noncompetitive pricing practices between firms or between affiliated companies;
 - iv. Non-competitive contracts to consultants that are on retainer contracts;
 - v. Organizational conflicts of interest;
 - vi. Specifying only a "brand name" product instead of allowing an equal product to be offered and describing the performance or other relevant requirements of the procurement; and

- vii. Any arbitrary action in the procurement process.
- b. The County must conduct procurements in a manner that prohibits the use of statutorily or administratively state, local or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where Federal statutes expressly mandate or encourage geographical preference. When contracting for architectural and engineering services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- c. The County will follow its written procedures for procurement transactions including that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of the procurement. The specific features of the named brand which must be met by offerors must be clearly stated. In addition, the procurement must identify all requirements which the offeror must fulfill and all other factors to be used in evaluating bids or proposals.
- d. The County will routinely update any prequalified lists of persons, firms, or products which are used in acquiring goods and services to ensure maximum open and free competition. The County will not preclude potential bidders from qualifying during the solicitation period.
- e. Noncompetitive procurements can only be awarded in accordance with 2 CFR 200.320(C).

3. Methods of Procurement. The County will use one of the following methods of procurement when procuring goods or services under a Federal award:
- a. Micro-purchases. The aggregate dollar amount is set forth in 48 CFR Subpart 2.1 (currently \$10,000/\$2000). To the extent practicable, the County must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the County considers the price to be reasonable. The County will consider the price to be reasonable based on research, experience, purchase history or other information and documents.
 - b. Small Purchase Procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold set forth in 48 CFR Subpart 2.1 (currently \$250,000). If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.
 - c. Sealed Bids. Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitations for bids, is the lowest price. The sealed bid method is the preferred method for procuring construction, if the following conditions exist:
 - i. In order for sealed bidding to be feasible, the following conditions should be present: A complete, adequate and realistic specification or purchase description is available; two or more responsible bidders are willing and able to compete effectively for the business and the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
 - ii. If sealed bids are used, the following requirements apply: Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, the invitation for bids must be publicly advertised; the invitation for bids, which will include

any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond, all bids will be opened at the time and place prescribed in the invitation for bids, the bids must be opened publicly; and a firm fixed price contract award will be made in writing to the lowest responsible and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and any or all bids may be requested if there is a sound documented reason.

- d. Competitive Proposals. Competitive proposals are normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply: Requests for proposals must be publicized and identify all evaluation factors and their relative importance; Any response to publicized requests for proposal must be considered to the maximum extent practical; Proposals must be solicited from an adequate number of qualified sources; The County must have a written method for conducting technical evaluations of the proposals received and for selecting recipients; Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered. The County may use competitive proposal procedures for qualifications-based procurement of architectural/ engineering (A/E) professional services whereby competitors' qualification are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. This method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.
- e. Non-competitive proposals. Procurement by non-competitive proposals is through solicitation of a proposal from only one source and may be used only when one or more of the

following circumstances apply: The item is available only from a single source; the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; the Federal Agency or pass-through agency expressly authorizes noncompetitive proposals in response to a written request from the County; or after solicitation of a number of sources, competition is determined inadequate.

4. Contract Cost and Price.

- a. The County must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the County must make independent estimates before receiving bids or proposals.
- b. The County must negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all cases, where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- c. Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the County under its cost principles. (Order No. 29-2016).
- d. The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

5. Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

- a. The County must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

- b. Affirmative steps must include:
- i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
 - v. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 - vi. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (a) through (e) of this section.
6. Domestic Preference for Procurements. The County should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products. See definitions in 2 CFR § 200.322.
7. Procurement of Recovered Materials. The County and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at

40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

8. Grantor Review.

- a. The County must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the County desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.
- b. The County must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
 - i. The County's procurement procedures or operation fails to comply with the procurement standards in this part;
 - ii. The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
 - iii. The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

- iv. The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
 - v. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.
- c. The County may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis.
- d. The County may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the County that it is complying with these standards. The County must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.
9. Bonding. For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the County provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:
- a. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
 - b. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one

executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

- c. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.
10. Contract Provisions. The County's contracts must contain the applicable provisions described in Appendix II to Part 200-Contract Provisions for non-Federal entity Contracts Under Federal Awards in addition to all other applicable contract provisions required by the Federal award.
 11. HUD Section 3 Procurement Procedures. In addition to the foregoing UGG Procurement requirements, the County will follow the following additional requirements for Section 3 Contracting preferences when contracting results from HUD funding:
 - a. Each bidder/proposer must include a Section 3 Opportunities Plan and Certification or a separate schedule which indicates its commitment to meet the Section 3 resident requirements.
 - b. If a bidder/proposer fails to submit a Section 3 Opportunities Plan and Certification or a separate schedule and the related data along with the bid/proposal, such bid/proposals will be declared to be "non-responsive".
 - c. The Section 3 Clause (24 CFR Part 135.38) will be incorporated into all covered solicitations and contracts.
 - d. For solicitations by telephone, letter, or other informal procedure, the solicitation must provide for participation by a reasonable number of competitive sources. At the time of solicitation, the parties must be informed of the Section 3 covered contract to be awarded with sufficient specificity, including the time within which quotations must be submitted and the information that must be submitted with each quotation.
 - e. When a Section 3 covered contract is to be awarded based on the lowest price, the contract shall be awarded to the qualified section 3 business concern with the lowest responsive quotation, if it is reasonable and no more than 10

% higher than the quotation of the lowest responsive quotation from any qualified source.

- f. When a Section 3 covered contract is to be awarded based on factors other than price, a request for quotations shall be issued by developing the solicitation, including a rating system for the assignment of points, including points within a range of 15 to 25 percent of the total number of available rating points to be set aside for the Section 3 preference. The contract shall be awarded to the responsible firm whose quotation is the most advantageous, considering price and all other factors specified in the rating system.
- g. When a Section 3 covered contract is awarded under a sealed bid process, bids shall be solicited from all businesses. An award shall be made to the qualified Section 3 business concern with the highest priority ranking and with the lowest responsive bid if that bid is within the maximum total contract price established in the contracting party's budget for the specific project for which bids are being taken, and there is no more that 5% higher than the total bid price of the lowest responsive bid from any responsible bidder.
- h. When a Section 3 covered contract is awarded under a competitive proposal process (RFP), the RFP shall identify all evaluation factors and their relative importance to be used to rate proposals. One of the evaluation factors shall address both the Section 3 preference and the acceptability of the strategy for meeting the Section 3 preference. Points shall be given in the range of 15-25 percent of the total number of points to be set aside for the Section 3 preference. A determination of the contractor's responsibility will include the submission of an acceptable Section 3 strategy. The contract award shall be made to the responsible firm whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.