BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO: 15-09-01-05

IN THE MATTER OF ADOPTING NEW CONTRACTING RULES CONSOLIDATED IN CHAPTER 20 OF THE LANE MANUAL

EFFECTIVE OCTOBER 15, 2015

WHEREAS, the Public Contracting Code allows local public contract review boards to establish local rules governing the procurement of goods and services; and

WHEREAS, the Board, acting as the local public contract review board, has opted to adopt its own rules governing public contracting in lieu of adopting the Oregon Attorney General's Model Public Contract Rules; and

WHEREAS, the Board's adopted rules are those contained in Chapters 20, 21, and 60 of the Lane Manual; and

WHEREAS, it has become necessary to revised the County's rules to comply with current law, current County practices, and modern commercial practices, and to make the rules more usable for County staff and other parties;

NOW, THEREFORE, the Board, sitting as both the local contract review board and as the Board of County Commissioners of Lane County, ORDERS as follows:

1. That the findings and conclusions contained in the Agenda Memo submitted in support of the amendments to Chapters 20 and 21 of the Lane Manual are adopted.

2. That the Board continues to opt to adopt its own rules governing public contracting in lieu of adopting the Oregon Attorney General's Model Public Contract Rules.

3. That the County Administrator take all necessary actions to implement these rules.

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4. That Lane Manual Chapters 20 and 21 are hereby amended by replacing the following sections with the sections indicated as attached to this Board Order, effective October 15, 2015:

**REMOVE THESE SECTIONS**

- 20
- 21.100 – 21.149

**INSERT THESE SECTIONS**

- 20
- n/a

Amended sections are attached hereto and incorporated herein by reference.

ADOPTED this 1st day of September, 2015.

[Signature]
Jay Bozlevich, Chair, Lane County Board of Commissioners

[Signature]
LANE COUNTY OFFICE OF LEGAL COUNSEL
CONTRACT POLICIES

PUBLIC CONTRACTS
21.100 Generally.
21.101 Definitions.
21.102 Policy on Competition.
21.103 Contract Execution and Processing.

COMPETITIVE SELECTION
21.104 Cost and Feasibility Analysis
21.105 Competitive Bidding
21.107 Requests for Proposals.
21.110 Intermediate Procurements.
21.111 Sole Source.
21.112 Brand Name.
21.112A Cooperative Procurements.
21.112B Exhaustion of Remedies.

TYPES OF CONTRACTS
21.113 Goods, Materials and/or Services Contracts.
21.114 Maintenance and Repair Contracts.
21.115 Public Improvement and Construction Contracts.
21.116 Retainage.
21.117 Personal Service Contracts.
21.118 Selection of Personal Service Contractor.
21.120 Requirements and Pricing Contracts.
21.122 Revenue Contracts.
21.124 Intergovernmental Agreements.
21.126 Grants.
21.127 Amendments.
21.128 Emergency Contracts.
21.129 Purchase Orders.

STANDARD PROVISIONS

AUTHORITY TO AWARD, EXECUTE, CANCEL
21.135 Contract Awards.
21.137 Grant Applications.
21.139 Fair Board.
21.141 Construction and On-Site Construction Change Orders.
21.143 Cancellation of Award.
DELEGATION OF AUTHORITY TO EXECUTE CONTRACTS AND AMENDMENTS

21.145 — Delegation of Authority to Execute Contracts.
21.147 — County Administrator’s Delegation of Authority to Execute Amendments.
21.148 — Department Directors’ Authority to Execute Amendments.
21.149 — Further Delegation and Termination.

INSURANCE

21.300 — Generally.

REAL PROPERTY

21.400 — Real Property Acquisition, Management and Disposition Policy.
21.410 — Real Property Acquisition.
21.420 — Management of County-Owned or County-Utilized Real Property.
21.425 — Disposition of County-Owned Real Property.
21.430 — Donation of Tax-Foreclosed Property for Low-Income Housing, Social Services or Child Care.
21.435 — Designation of County Forests, Parks, and Recreational Areas
21.440 — Sale of County Timber & Log Export Regulations
Chapter 21

CONTRACT POLICIES

PUBLIC CONTRACTS

21.100 Generally:

(1) Nothing stated in this Chapter shall be construed contrary to the provisions of ORS Chapters 279 A, B, or C ("Public Contracting Code").

(2) Lane County is the “contracting agency” referenced in the Public Contracting Code and “contracting agency” powers and duties shall be exercised and performed by those employees who have expressly been delegated authority in a LM Chapter 20, 21, or 60 rule ("County rules"). These express delegations include, but are not limited to, authority to award and execute contract documents. Absent this express delegation, the County Administrator, and Department Directors as authorized by the County Administrator, may determine which public officers have authority to exercise the powers and duties of the contracting agency under County rules. Such delegations should generally be evidenced by a writing. Generally, the Department of Management Services may conduct or assist with competitive bid or RFP processes as determined by the Director of that department. Nothing in this provision is intended to modify the authority of the County Administrator and Department Directors for contract matters after contract execution.

(3) The model rules adopted by the Oregon Attorney General pursuant to ORS 279A.065 do not apply to Lane County, unless specifically adopted in these rules.

(4) Any reference in this Chapter to OAR Chapter 137 provisions shall be for the purposes of aiding in interpretation in the event of ambiguity or of providing further explanation of the manner in which the County may interpret its rule. When used as such, the reference shall be: “See OAR ______.” Unless otherwise specifically noted, these OAR provisions are not adopted as rules applicable to County contracts. The applicable rules are those contained in LM Chapters 20, 21, and 60 (regarding sale of personal/surplus property).

(5) The County Administrator, with assistance of the Office of Legal Counsel as requested, is delegated authority to review the Attorney General’s model rules when modified and evaluate whether Lane County should modify its rules to ensure compliance with statutory changes. If the evaluation suggests this modification may be necessary, proposed amendments shall be submitted for Board consideration.

(6) In addition to contracting agency powers and duties the County Administrator is delegated the authority to adopt all procedures necessary to implement the provisions of the County rules.

21.101 Definitions:

(1) As used in this Chapter, the following words and phrases shall mean:

...
21.102 Policy on Competition.

It is the policy of Lane County to encourage open and impartial competition and to encourage the economic integration of minorities, women and emerging small businesses into the business sector.

All public contracts shall be awarded by competitive procurement, except as otherwise allowed or required in ORS 279A, B, or C; ORS 282.210; or the County's public contracting policies and exemption rules. If federal funds are involved, federal laws, rules and regulations shall govern, in the event of conflict. (Revised by Order No. 05-2-16-8, Effective 2-28-05)

21.103 Contract Execution and Processing.

(1) All contracts shall be in writing and signed by the Board, or a duly authorized delegate. Until a contract is executed by the parties, it shall not be binding.
COMPETITIVE SELECTION

21.103 Cost and Feasibility Analysis

(1) Before conducting a procurement for certain services covered by ORS 279B and estimated to exceed a $250,000 contract amount, except as provided in (2) below, the County shall prepare proposed written findings that performing the services with the County’s own personnel and resources is not feasible or can be performed by means of a proposed written cost analysis that performing the services by contract would cost less than performing the services with the County’s own personnel and resources.

(2) The services subject to this rule are those covered by a contract where service supplier agrees to supply the County’s service requirements that arise for a specified time period or an individual project, usually paid on time and materials. The services are covered by a contract that calls primarily for the contractor’s time and effort.

(3) Procurement of the following services are not covered by (1) of this rule:

(a) Client services as described in OAR 125-246-0110,
(b) Personal services purchased under County rules,
(c) Services described in ORS 279C, including but not limited to contracts for architects, engineers, photogrammetrists, transportation planners, land surveyors and related services and public improvements.

(4) When determining whether or not using the County’s personnel or resources is feasible, factors include but are not limited to the factors found in ORS 279B.036 including:

(a) The County lacks the specialized capabilities, experience or technical or other expertise necessary to perform the services, comparing the field most closely involved with a potential contractor’s capability, experience or expertise in the same or similar field; or,
(b) A special circumstance requires the contracting agency to procure the services by contract as set forth in ORS 279B.036(1)(b). Special circumstances include, but are not limited to, services incidental to primary purchase or lease of real or personal property; services needed in an emergency or for urgent, temporary or occasional use such that use of County resources would delay and frustrate the purpose of the services or they will be completed in six months; where a grant funding source or state or federal law requires an independent contractor.

(5) Any cost analysis shall be conducted in accordance with ORS 279B.033.

(6) Prior to conducting the procurement, the department will submit their proposed written findings or cost analysis, including the proposed basis for a decision to proceed, to the County Administrator. The County Administrator is delegated the authority to make the determination of how to proceed based on findings or cost analysis covered by this rule.
(7) The County Administrator shall collect and provide to the Board each quarter, copies of the record of the written findings or cost analyses, and the basis for the decision to proceed, for each procurement covered by this rule. Upon request, the County Administrator or a designee will consult with Oregon Department of Administrative Services in evaluating the process covered by this rule. (Revised by Order No. 09-12-13-2, Effective 12/15/09.)

21.105 Competitive Bidding.

Competitive bidding is a formal process by which the County advertises and issues a written invitation to bid, and receive and open bids, as required by ORS Chapters 279A, B, and C and these rules. An invitation to bid is a solicitation of competitive offers in which technical specifications, price and delivery (or project completion) will be the predominant award criteria. Whenever possible, competitive offers should be solicited from appropriate minority, women and emerging small business enterprises certified by the State pursuant to ORS 200.055.

(1) When Required. Generally, a formal competitive bid process is required for all public contracts unless exempt or excepted pursuant to ORS Chapter 279A, B, or C, or an LM Chapter 20 exemption rule, or such authorities provide formal bidding as an option. Nothing in this rule is intended to prohibit the County, in its discretion, from using formal bidding even though it may not be required.

(2) In preparation for an invitation to bid, the County may issue a request for information, a request for interest or other preliminary documents. It may also develop and maintain a qualified products list in accordance with LM 20.230;

(3) Advertisements.

(a) The contents of advertisements for bids shall include:

(i) a description of the project, goods or services;

(ii) the office where the specifications for the project or purchase may be reviewed;

(iii) name, title and address of person authorized to receive bids;

(iv) if prequalification is required, a statement of the class or classes of work for which bidders must be pre qualified and the filing deadline;

(v) scheduled bid submission deadline which shall not be less than 7 days after the date of the last publication of the ad;

(vi) scheduled bid opening (immediately after bid submission deadline for public improvement contracts);

(vii) if applicable, that the contract is for a public work subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act.

(b) The County may use either or both of the following advertising methods in (i) or (ii) except as provided in (iii):

(i) Publish at least once in at least one newspaper of general circulation in the Lane County area;

(ii) Publish electronically on a Lane County website or other electronic posting site (e.g., ORPIN) as long as the requirements of (iv) below are met.

(iii) For public improvement contracts estimated to exceed $125,000, County shall use either or both methods in (i) and (ii); and, publication in at least one trade newspaper of general statewide circulation.
(iv) In considering whether to advertise by the method in (i) or (ii) for a particular project, County shall weigh advertising cost savings with the method likely to encourage the greatest competition, and decide based on the greatest competition. Nothing in this rule is intended to prohibit the County from using any other method of public notice in addition to (i) or (ii).

(v) In order to conduct an electronic advertisement described above, a department shall publish weekly, for no less than 4 consecutive weeks, in at least one newspaper of general circulation, a notice that the department may publish future advertisements (listing the types) by electronic advertisement, including the world wide web location(s) (i.e., Uniform Resource Locator or URL), and providing a contact person for questions or concerns. It is within the department’s discretion to decide if and how any concerns will be accommodated, subject to use of a method likely to encourage the greatest competition.

(4) Reserved.

(5) Bids.

To be received and considered, all bids must be in writing and signed by the bidder or authorized representative and submitted in a sealed envelope. No oral, telegraphic, telephonic, or telephonic facsimile bids, modifications of bids, or signatures, will be considered, unless otherwise stated in the bid documents.

(a) An invitation to bid is used to initiate a sealed bidding solicitation. It shall contain the information required by ORS 279B.055 for non-public improvement contracts, and by ORS 279C.365 and ORS 279C.830 for public improvement contracts. The County may provide solicitation documents by electronic means or hard copy, or both. It shall include notice of the distribution method in the advertisement for the solicitation. Departments shall take steps to protect against modification of electronic documents. The County shall also notify potential bidders about the method for obtaining addenda.

(b) By signing and returning a bid, the bidder acknowledges it has read and understands the terms and conditions applicable to the solicitation document and that it accepts and agrees to be bound by the terms and conditions of the contract, including to perform the scope of work and meet the performance standards.

(c) The County may allow or require prequalification of bidders by setting forth the procedure and criteria in the invitation to bid. The public officer shall determine when a prequalification may be mandatory or permissive for a specific contract or class of contracts and the prequalification procedure, subject to requirements in this subsection (b) or applicable statutes. See ORS 279B.120, 279B.125, 279C.430.

(i) For public improvement contracts with mandatory prequalification, the County shall include in the invitation to bid the time for submitting written prequalification applications, and the general description of the type and nature of the contracts to be awarded. For both mandatory and permissive prequalification, the County shall also provide the standard form to be used.

(ii) In making a determination for non-public improvement contracts, the County will consider applicable standards of responsibility listed in ORS 279B.110(2) and discrimination pursuant to ORS 279A.110, and for public improvement contracts as set forth in ORS 279C.375(3) and ORS 279A.110. For all contracts, if a bidder fails to qualify for a mandatory prequalification, notice shall be provided of the reasons, length of proposed disqualification not to exceed three years, the right to a hearing before
the LCRB by filing a timely notice of appeal within 3 days with the department conducting
the competitive selection, waiver of the hearing if the deadline is missed, and reference to
the sections of the County rules covering the appeal process. For non-public improvement
contracts, the County may revoke or reissue a prequalification approval upon reasonable cause to believe there has been a substantial change in conditions or bidder is no
longer qualified or less qualified by providing notice of the grounds and a right to a hearing.

(iii) The County, through the public officer, may also debar a
prospective bidder based on standards in ORS 279B.130 and ORS 279C.440. The same
procedures for disqualification above shall be followed.

(d) For non public improvement contracts, the County may use a
multi-step invitation to bid seeking technical unpriced bids after providing public notice,
and later issue an invitation to bid limited to the bidders whom the public officer has
determined to be eligible under criteria set forth in the initial solicitation. The multi-step
procedure shall be described in the invitation to bid. Technical unpriced bids need not be
opened publicly. The opportunity to protest the solicitation in accordance with (6) below
shall be provided prior to the closing of phase one. Unsuccessful bidders may protest the
intent to award a contract, which should include the opportunity for affected bidders to
protest exclusion from the phase two. See OAR 137.047.0257.

(e) The County may award multiple contracts when specified in the
invitation to bid.

(f) Correction, Withdrawal and Late Bids. A bidder may withdraw
the bid at any time prior to the deadline set for receipt of bids and deposit a new, sealed bid
in accordance with the initial invitation to bid. The County may release an unopened bid
which has been withdrawn to the bidder or authorized representative after voiding any date
and time stamp mark. The County will not consider bids received after the time and date
indicated for bid opening in the invitation to bid. A bidder may not modify any bid after it
has been deposited with the public officer, except for minor informalities. All decisions to
permit correction or withdrawal of bids shall be supported by written reasons.

(g) Clarification. If a bidder finds discrepancies or omissions in the
drawings or bid documents, or is in doubt as to their meaning, the bidder shall immedi-
ately notify the public officer. If the public officer believes a clarification is necessary,
an addendum will be issued to all bidders in writing preferably at least five calendar days
prior to the deadline set for bid receipt but in no case less than 72 hours prior to the
deadline for bid. If there are not five calendar days left before the deadline for bid
receipt, the addendum may postpone the date for bid for a minimum of five calendar
days. Any addenda so issued are to be covered in the bid proposal and will become part
of the contract documents.

(h) Bids Irrevocable. All bids shall be irrevocable for 30 days from
the time of opening unless otherwise stated in the bid documents. Further, the bids of the
three lowest un rejected bidders shall be irrevocable and binding and the bid securities
shall be retained by the public officer until there is an executed contract and the
contractor has provided all required satisfactory performance bonds. All other bid
securities shall be returned promptly upon award of the contract or rejection of all bids.


For non-public improvement contracts, a prospective bidder may protest
the competitive selection process or provision(s) in the solicitation document if they
believe the process is contrary to law, or that a solicitation document is unnecessarily
21.105 Lane Manual

restrictive, is legally flawed or improperly specifies a brand name pursuant to requirements in ORS 279B.405(2)(a) and (4). Unless otherwise specified, the protest must be filed no later than 5 calendar days before bid opening. The County shall issue a decision no less than three business days before bids are due, unless otherwise decided by the County. The County may exercise the response options set forth in OAR 137-049-0260(3), (4) and (5). Unless otherwise specified in the invitation to bid, the protest shall be filed no later than 10 days before bid opening.

(7) Opening of Bids. The public officer will not examine any bid prior to opening. The officer shall note on the envelope containing the bid the date and hour received. All bids submitted to the County will be opened publicly at the time, date and place designated in the invitation to bid and by the public officer. Any bid or modification received after the designated deadline shall be returned unopened to the bidder. To the extent practicable, the public officer shall read aloud the amount of the bid, the name of the bidder and such other information as the public officer considers appropriate, and record the same. The bid record for a public improvement contract shall be open to public inspection after the opening, with the exception of certain information covered by a public records exemption. The bid record for a non-public improvement contract shall be open to public inspection after the issuance of an intent to award, with the exception of certain information covered by a public records exemption. If the County receives a records request, including subpoena, covering information the bidder believes is covered by an applicable public records exemption, it shall be the bidder's responsibility to defend and indemnify the County for any costs associated with establishing such an exemption. The bidder's act in submitting a bid constitutes its acceptance of this responsibility.

(8) Evaluation of Bids.
(a) Evaluation of bids will be conducted by the public officer in cooperation with the department requesting the bid, if any, and shall be based on minimum requirements established by the bid documents, compliance with public bidding procedures, bidder responsibility, ethical practice, product acceptability, ORS 279B.055(6)(a), and LM Chapter 20. See also, OAR 137-049-0380.
(b) Goods and services that have been manufactured, produced or performed in this state shall be preferred, if price, fitness, availability and quality are otherwise equal. See ORS 279A.120.
(e) The public officer shall, for the purpose of evaluating bids, apply any preference in ORS 279A.120 (resident bidder), ORS 279A.125 (preference for recycled materials) or ORS 282.210.
(d) The public officer shall make all necessary investigation to determine whether the apparent lowest responsible bidder has met responsibility requirements. See ORS 279C.375(3); ORS 279B.110.
(e) Where the methods and factors which have cost implications over the life of the product have been identified in the bid documents pursuant to LM 20.115, a life cycle cost analysis shall be made of all bids to determine the lowest responsible bidder.
(f) Invitations to bid may solicit lump sum offers, unit price offers, or a combination of the two, as well as additive or deductive alternates. The County may
use evaluation methods as described in OAR 137-049-0380(2) or any other method reasonably likely to result in similar comparisons.

(g) For public improvement contracts, if all responsive bids from responsible bidders exceed the County’s cost estimate, the County may negotiate value engineering and other options (excluding those likely to affect the field of competition) with the lowest responsive, responsible bidder to attempt to bring the bid within the cost estimate. However, a negotiated contract under this provision shall not be awarded if there is significant change in the scope of the project from the original bid proposal. The County may discontinue the negotiation at any time. Nothing in this rule prohibits the County from conducting a new solicitation process. To the extent bidder’s records used in the negotiation are public records, they are exempt from disclosure until after contract award or termination of the negotiation, and then subject to disclosure in accordance with ORS 192.410 through ORS 192.505. See OAR 137-049-0430.

(9) Mistakes in Bids.

Minor informalities may be waived. Mistakes discovered in bids after opening where the intended correct bid is clearly evident or properly substantiated may be corrected. Where the intended correct bid is not clearly evident or cannot be substantiated by accompanying documents, the bid may not be accepted. The County reserves the right to waive technical defects, discrepancies and minor irregularities, and to not award a contract when it finds such action to be in the public interest. See OAR 137-049-0350 and OAR 137-047-0470.

(10) Rejection.

The County reserves the right to cancel a solicitation, or reject any or all bids in whole or in part when the cancellation or rejection is in the County’s best interests as determined by the County. This includes rejecting any bid not in compliance with all prescribed public bidding procedures and requirements, and for good cause, rejecting all bids upon a finding that it is in the public interest to do so. See OAR 137-049-0440(5); OAR 137-047-0470; OAR 137-047-0450. If all bids are rejected in whole or in part, new bids may be called for as in the first instance or initial bids may be considered with opportunity for supplemental submission. If there is partial rejection, the County may solicit supplemental information only from the bidders who submitted bids and may set an expedited deadline on the conditions that such deadline is within what could reasonably be expected as part of the original competitive process and that it is unlikely readvertising publicly would lead to greater competition. The public officer is delegated the authority to reject all bids, prepare findings of best interests and provide written notice of rejection of all bids including the reasons therefore to all bidders. However, if the rejection is of what initially appears to be the successful bid, the Board or the County Administrator, depending upon authority to execute the contract, shall exercise the right to reject the apparent successful bid. In addition, if partial rejection under this rule occurs as a result of the filing of a protest, any portion of the protest not resolved in favor of the protestor shall proceed to the Board or County Administrator. The Board and County Administrator may also exercise authority to act in accordance with this provision.

(11) Reserved.

(12) Notice of Intent to Award.

The County shall provide written notice of its intent to award to a particular bidder or bidders at least fourteen (14) days before the award, unless the County department determines that a shorter notice period is more practicable.
(13) Protests of Intent to Award.

Unless otherwise specified in the bid documents, all written protests of the intent to award must be filed within seven (7) days of the date of the notice of intent to award. Protests of intent to award shall be considered by the Board if it would approve and award the contract. Protests of intent to award shall be handled by the County Administrator, or designee, for those contracts to be awarded by the County Administrator.

(a) The protest for a non-public improvement contract shall specify the applicable grounds for the protest as set forth in ORS 279B.410(1). The protest for a public improvement contract shall specify the applicable grounds for protest set forth in OAR 137-049-0450(4)(e) which is adopted.

(b) For contracts to be awarded by the Board, if the public officer determines there is sufficient merit to reject bids under LM 21.105(10), he or she may do so. If any portion of the protest remains, the Board shall provide and may consider a complete copy of the written record, and any other evidence provided at a public meeting and shall issue its decision by Board Order. The Board may affirm, reverse, send back to the Department or revise the award.

(c) For County Administrator awarded contracts, the County Administrator has authority to reject bids pursuant to LM 21.105(10), and authority to affirm, reverse, send back to the department or revise the award of the contract in order to correct any errors made in the original award, so that the contract is awarded to the bidder legally entitled to receive an award pursuant to public contract law and regulations and the criteria stated in the documents. The County Administrator shall deliver this decision to the Board. The decision shall be final seven days after it is delivered to the Board, unless within that time the Board elects to review the matter. If the Board elects review, a complete copy of the written record shall be delivered to the Board within a reasonable time period. The Board may consider this written record, and any other evidence provided at a public meeting and shall issue its decision by Board Order. The Board may affirm, reverse, send back to department, or revise the decision of the County Administrator, or his or her designee. Upon adoption of the order, the decision will be final.

(14) For public improvement contracts, the County shall submit a completed responsibility determination form covering the selected contractor, along with any attachments, to the Construction Contractors Board within 30 days after the contract award. (Revised by Order No. 05-2-16-8, Effective 2-28-05; 03-12-14-9, 1-1-06; 08-2-13-11; 2-13-08; 09-12-15-2, 12-15-09; 11-12-11-1, 12-11-11; 13-03-11-04; 03-19-14)


(1) Bid Security.

(a) Unless otherwise provided below, all bids shall require as bid security a surety bond, irrevocable letter of credit issued by an insured institution as defined in ORS 706.008, cashier's check or certified check, of the bidder in an amount not to exceed 10 percent of the bid. The dollar amount or percentage required as security shall be stated in the bid documents.

(b) The public officer is delegated the authority to waive the bid security requirement described above prior to bid opening for any goods or services contract, any construction contract as defined in ORS 279C.320(1), and any public improvement contract.
not exceeding $100,000 except a contract for highway, bridge, or other transportation projects which cannot exceed $50,000. The public officer must reasonably believe:

(i) That waiving the bid security requirement will probably result in lower bids or an increased number of bids; and

(ii) That waiving the bid security requirement will not endanger completion of the project if rebidding is necessary because the successful bidder is unable or unwilling to sign the contract or provide any required performance bond, and

(iii) That the potential for cost to the County of rebidding the project is outweighed by the benefits.


(a) All bid solicitation documents for public improvement and other construction contracts shall require a payment and performance bond be filed with the County in accordance with ORS 279C.380, unless exempt under LM 20.275. All bids for goods or services contracts may require a payment and performance bond, if the public officer determines it is in the County’s best interest to do so.

(b) Payment and performance bonds are not required for public improvement and other construction contracts if the amount of the contract does not exceed $100,000, except contracts for highway, bridge, or other transportation projects which do not exceed $50,000 pursuant to LM 20.275.

(c) In cases of emergency or as described in ORS 279C.380(4), the requirement for a performance and payment bond may be excused if the declaration of such emergency is made in accordance with LM 21.128.

21.107 Public Works Bond.

(a) The County’s solicitation document shall require that each contractor and subcontractor have a public works bond on file with the Construction Contractors Board before starting work on the project unless exempt under ORS 279C.836(4) (not required to pay prevailing rates of wage), ORS 279C.836(7) (disadvantaged minority, women, or emerging small business), or ORS 279C.836(8) (project price does not exceed $100,000), or ORS 279C.836(9) (County excuses due to emergency). Except as to emergencies, the Contractor shall notify the County before starting work if it is relying on an exemption to the public works bond requirement. The Contractor shall require each subcontractor to provide a similar notification to the Contractor and County. If requested by County, the contractor shall submit written documentation from the Construction Contractors Board or its website, evidencing the receipt of this bond and receipt of such bonds for any subcontractors. (Revised by Order No. 98 12 2 1. Effective 12 2 1988. 01 6 30 12.
6 30 01 05 3 16 9 2 280 05 12 11 9 14 065 05 2 13 1 2 13 08)

21.107 Requests for Proposals.

(1) Description. Requests for proposals (hereinafter RFP) are a means of soliciting competitive proposals or offers for entering into a contract for personal services, goods, goods and services, equipment, non public improvement construction related services (ORS 279C.320), or public improvement contracts for which an RFP process is appropriately authorized (ORS 279C.335(2)). Generally, an RFP is appropriate when price and specification will not necessarily be the predominant basis for award. An RFP process is one, but not the only means of competition for personal services contracts.

(2) When Required and Requirements. Proposals submitted in response to an RFP are offers as are bids. See OAR 137 047 0310, 137 049 0280. Unless otherwise
specified in ORS 279A, B, or C or these rules, references to "bids" and "bidder" and "invitation to bid" shall, to the extent practicable within the proposal process, be deemed equally applicable to "proposals," "proposers," and "requests for proposals." The RFP process must generally comply with the requirements stated in LM 21.105 above, unless otherwise stated, and shall comply with requirements in ORS 279B.060 for non-public improvement contracts and ORS 279C.400 and ORS 279C.405 for public improvement contracts. In addition, all RFP documents shall state:

- (a) The composition and role of the evaluation committee;
- (b) The evaluation criteria to be used in awarding the contract and the weight assigned to each criterion;
- (c) Provide for an opportunity to protest the solicitation in accordance with LM 21.107(6);
- (d) The contract terms;
- (e) Describe the right to protest as stated in LM 21.107(14);
- (f) Invite the submission of sealed, written offers to be publicly opened at a designated time and place;
- (g) Describe the method of contract selection, including award without negotiation, negotiation with highest ranked proposer, competitive negotiations, multi-tiered competition or any combination of these methods or any other method authorized by these rules.
- (h) An RFP process, if appropriately authorized for a public improvement contract, is not required to include first tier subcontractor disclosure and reciprocal preference for non-resident bidders.
- (i) Departments are encouraged to include diversity in the evaluation criteria in RFPs for contracts in which direct services are to be provided to the public. See Lane County Diversity Action Plan.

(3) The County may issue a request for information, a request for interest, a request for qualifications or other preliminary documents, or consult as set forth in ORS 279B.210 (for non-public improvement contracts) and ORS 279C.405(1) (for public works contracts), in order to obtain information in preparation of a request for proposals.

(4) Advertisements and Proposals—LM 21.105(3) and (5). References to "bid" or "bidder" there include "proposals" or "propoer." By signing and returning a proposal, in addition to the acknowledgment in LM 21.105(5)(b), the proposer agrees to be bound by the terms and conditions of the contract, including the final negotiated scope of work and performance standards.

(5) Reserved.

(6) Protest of Process and Solicitation Document—LM 21.105(6). References to "bid" or "bidder" there include "proposals" or "proposers."

(7) Opening—LM 21.105(7) above. References to "bid" or "bidder" there include "proposals" or "proposers." However, proposals need not be read aloud, and the County is only required to list and record the names of the proposers at the opening. It may record any additional information deemed necessary in its discretion.

(8) Evaluation of Proposals—The evaluation committee shall evaluate the proposals according to the criteria stated in the RFP, compliance with public contracting procedures, proposer responsibility, ethical practice, product acceptability, and ORS Chapter 279A, B, and C. The award shall be to the responsible proposer whose proposal is determined in writing to be the most advantageous to the County, not restricted to
price, based on evaluation factors set forth in the RFP and any authorized negotiations. The department responsible for issuing the RFP shall mail notice of the evaluation committee recommendation to the proposers within two days of the committee's decision unless otherwise stated in the RFP. Negotiations with proposers regarding contract terms may occur only after the award or only as provided in the RFP. See OAR 137-047-0262; OAR 137-049-0650.

(9) Methods of Selection. For non-public improvement contracts, the County may use any one or combination of methods of contractor selection set forth in ORS 279B.060. See OAR 137-047-0262 and 137-047-0261, except (2) and (6) are adopted. Prior to initial closing, the County shall provide an opportunity to protest as in LM 21.105(6); and after the notice of intent to award, an opportunity to protest the award as in LM 21.105(13) with the ability to protest exclusion from any phase of a multi-step or multi-tiered process based on criteria in OAR 137-047-0720(2) which is adopted, if such opportunity was not previously provided. In addition, the County may use portions of these methods of contractor selection to develop a multi-tiered competitive process designed to identify, at one or more stages, a class of proposers that fall within a competitive range based on criteria established for that stage, or to otherwise eliminate from consideration a class of lower ranked proposers. In doing so, the County shall provide notice of the method of selection in the RFP, evaluate all responsive proposals, and provide at least an opportunity to protest the solicitation process or document, and the award as set forth in this subsection.

(10) Bid, Payment and Performance Security. Unless otherwise provided in the RFP, payment and performance security requirements may be waived if the contract will not be a public improvement or other construction contract or if it will be for a public improvement contract not exceeding $100,000 except for a highway, bridge or other transportation project which does not exceed $50,000. Bid, payment and performance securities shall be provided if the contract will be for a public improvement exceeding these dollar amounts.

(11) Mistakes in Bids. See LM 21.105(9). References to "bid" includes "proposal."

(12) Rejection. See LM 21.105(10). References to "bid" includes "proposal." References to "bidders" includes "proposers." References to "bid documents" include "request for proposal documents." References to "opening bids" include "opening proposals."

(13) Notice of Intent to Award. LM 21.105(12). References to "bid" and "bidder" shall include "proposal" and "proposer." A notice of the recommendation of the evaluation committee is considered a notice of intent to award the contract, unless stated otherwise.

(14) Protest of Intent to Award/Evaluation Committee Recommendation. Anyone responding to an RFP who is not recommended for award by the evaluation committee may protest the recommendation to the decision maker, either the Board or the County Administrator, depending upon which has authority to execute the contract pursuant to LM 21.105(13). References to "bid documents" include "request for proposal documents" and references to "bid" include "proposal," except for the grounds in LM 21.105(13)(a). The applicable grounds for this protest are set forth below.

(a) A protest must be made in writing, be received before the contract is awarded by the decision maker, clearly state the ground(s) for the protest, and indicate

what condition(s) resulted in the proposal not being recommended for award. Any protest which does not comply with the applicable procedures may be rejected.

(b) Unless otherwise stated in the RFP, the protest must be received by the department which issued the RFP not later than seven (7) calendar days after notice of the evaluation committee’s decision was mailed. Upon receipt of the protest, the department shall notify the proposer recommended for award of the protest and the evaluation committee’s recommendation. The proposer and the committee shall have three calendar days from the date the protest was filed to respond to the protest in writing if they so desire.

c) When a protest is filed, the department responsible for preparing the RFP shall prepare a written analysis of the protest and make a recommendation to the decision maker as to appropriate action to be taken.

d) The grounds for protest include any one or more of the following:

(i) The evaluation committee has failed to conduct the evaluation of proposals in accordance with the criteria or processes described in the solicitation materials.

(ii) Different criteria were used to evaluate different proposals.

(iii) The evaluation committee unfairly applied the evaluation criteria to a proposal.

(iv) A member or members of the evaluation committee had a relationship with a proposer that represented a conflict of interest.

(v) The criteria used to evaluate the proposals did not pertain to the services or products requested.

(vi) A member or members of the evaluation committee demonstrated bias toward a proposal or a proposer.

(vii) The County abused its discretion in rejecting the protestor’s proposal as nonresponsive.

(viii) The evaluation of the proposals is otherwise in violation of any provisions of ORS 279A or ORS 279B.

(ix) All higher ranked proposals are nonresponsive.

e) If the decision maker is the Board, the department which issued the RFP shall present the issues orally or in writing at a public meeting. The appellant shall then have 10 minutes to specify the protest criteria, and the evaluation committee’s recommendation and the recommended proposer(s) shall have a total of 10 minutes to respond, divided between them as they wish. If the decision maker is the County Administrator, the decision shall be made on the written record.

(f) If a protest is timely filed, the Board or County Administrator, as appropriate, shall consider the evaluation committee’s recommendation and the allegations of the protest before rendering a final decision. The decision maker may grant or deny the protest, reject proposals, or cancel the solicitation pursuant to LM 21.107(12) or remand to the department or evaluation committee for further information or consideration. In the event of remand, the department will report back to the decision maker as soon as reasonably possible if the protest remains pending. The County Administrator’s response to the protest will be in writing. If the Board is the decision maker, it shall evaluate any protest before rendering a decision and shall state reasons and conclusions reached either in writing or on the record in a public meeting, with a Board Order referencing reasons for its decision on the protest. Any decision to overturn the
recommendation shall be based on a finding that one of the criteria of LM 21.107(14)(d) above occurred to the substantial prejudice of the protester. The protester must be eligible and next in line to be awarded the contract if the protest was successful.

(2) The procedures above are mandatory to the extent they establish the time and manner for protests to be submitted to the County, including that the protest be in writing specifying the grounds and timely filed, and that there be a written response. The County will not consider late protests. The other protest procedures above are directory and failure to follow or complete the action in the manner provided shall not invalidate the County's decision, and the goal is to provide a reasonable time and manner process for the County to consider a protest.

(Revised by Order No. 98-12-3, Effective 12.23.98; 01-1-04-12-1-01-01-05-2-16-8-2-08; 2-13-1; 2-13-08; 09-23-15-2; 31-1-15; 11-11-11-12-11-11)


(1) Description. Letters of Interest (LOIs) are expressions of interest in a particular contract by potential contractors. Typically, potential contractors submit a letter in response to the County's solicitation which states they are interested in providing a good or service. This preliminary process should be used cautiously in order to avoid any chill to competition.

(2) When Applicable.

(a) LOIs may be used as a means of determining whether a potential contractor is a sole source under LM 20.096 and LM 21.111 and to support findings as set forth in LM 21.111. This includes where the fundamental nature of the purchase is so limiting that it is likely that only one seller/provider exists or there is likely only one qualified seller/provider available to contract with the County for the purchase. There may be additional facts to support the sole source findings.

(b) An LOI process may be used as a preliminary phase of an RFP process. If the County receives more than one LOI such responses may be included on a list of potential contractors who will be mailed a bid, RFP or RFPs solicitation document.

(3) Requirements. LOIs may be sought in the following manner:

(a) An advertisement must be run in a newspaper of general countywide circulation and/or electronically as authorized by LM 21.108(3) at least once and not less than five days before the LOIs are due. Additional advertisements may also be published in other newspapers.

(b) The advertisement must contain a description of the nature of the work to be performed or good to be provided, the term of the contract, the person to whom LOIs are to be submitted and the date the LOIs are due. There must be a sufficient description of the service or good that potential competitors will be able to evaluate whether they are qualified, able and wish to perform. The ad shall include an opportunity to submit comments or objections to the prospective purchase using this process or to support findings in LM 21.111.

(c) If there is only one LOI submitted, County shall obtain sufficient proof, as it deems necessary, of basic ability to perform, including but not limited to, an adequate level of professional, fiscal and management capability. These factors may be included in the findings as set forth in LM 21.111.

(d) If the County receives more than one LOI response, all parties responding shall receive an opportunity to compete for the contract pursuant to a bid
The County may award a contract for goods or services, when the amount does not exceed $10,000 or 3 years in length. See ORS 279B.065 and ORS 279C.335.

(1) The contract award may be direct without competitive selection subject to (2) below. However, solicitation of competitive quotes is encouraged whenever practicable, particularly for new purchases or projects.

(2) A contract may not be considered a small procurement contract when it is a component of a larger purchase, set of purchases, or project, all taking place in one year, and which when considered as a whole would exceed $10,000 in contract amount.

(3) Contract terms must be consistent with county contract procedures. (Revised by Order No. 05-12-14, Effective 2-28-05; 08-2-13-1; 03-19-14)

21.110 Intermediate Procurements.
The County may award an intermediate procurement contract for goods or services, either related to a public improvement or non-public improvement, when the amount does not exceed $100,000. The County may use any LM Chapter 21 procedures for obtaining information in preparation for soliciting quotes or prequalifying a product. The three quotes as required by LM 20.105(1)(c) may be either oral or written for non-public improvement contracts exceeding $5,000 but not $50,000, and for public-improvement contracts equal to or greater than $5,000 but not exceeding $50,000. The County shall keep a written record of the source and amount of quotes received. For intermediate contracts exceeding $50,000 but not $100,000, the County department shall prepare a written solicitation, the quotes must be written, and unsuccessful quoters shall have the right to protest the award decision in accordance with LM 21.105(12)(a) and (b). The written solicitation shall provide notice of the right to protest the award. If three quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes. An intermediate procurement acquisition should not be made when it is a component of a larger purchase or project in any single year, and when considered as a whole would require a different competitive selection than as provided by this or another rule.

(4) The award of any contract as an intermediate procurement under this rule shall be 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 and contractor responsibility. (Revised by Order No. 05-12-14, Effective 2-28-05; 08-2-13-1; 03-19-14)

21.111 Sole Source.
For non-public improvement contracts, if there is only one source for goods or services, or a class of goods or services of the quality required by the County, a contract may be awarded to that source without competition.
21.112 Lane Manual

The County must make written findings which may include at least one of the following:

(a) That the efficient utilization of existing goods requires acquisition of compatible goods or services;

(b) That the goods or services are required for the exchange of software or data with other public or private agencies and are available from only one source;

(c) That the goods or services are for use in a pilot or an experimental project;

(d) Other findings that support that the goods or services are available from only one source.

(2) There may be only one qualified seller/provider available to contract, such as in specific circumstances under (1)(c) or (d) of this rule. Prior to awarding a contract, if there are known potential contractors, the County shall make a reasonable effort to notify them of the intended purchase or project. For contracts exceeding $100,000 “reasonable effort” includes at least one of the following actions in the County’s discretion: formal request for information, or request for qualifications or use a Letter of Interest (LOI) selection process as set forth in LM 21.108.

(3) If the County intends to make several purchases of the product or service from a particular seller or provider for a period not to exceed 3 years, it may so state in the documentation required in (1) above and such documentation shall be sufficient notice as to subsequent purchases.

(4) Department directors, or their designee, are delegated authority to make the written findings in (1) and (3) above for contracts equal to or less than $50,000.

(5) For sole source contracts exceeding $50,000, Departments shall provide the County Administrator with proposed written findings in (1) and (3) above and the County Administrator has authority to approve written findings in (1) and (3) of this rule. The proposed findings and the County Administrator’s determination shall be documented and maintained by the respective department.

(6) Except as provided in (7) of this rule, if the amount of the purchase exceeds $100,000, public notice of the determination that goods or services are available from only one source shall be published in accordance with LM 21.105(3) or through other public notice reasonably likely to reach at least as many potential sellers/providers. Unless otherwise specified in the public notice of the sole source procurement, a person or entity whose interests are adversely affected must deliver a written protest within 5 days of the public notice to the County Administrator and to be decided by the Board. The written protest shall include a detailed statement of the legal and factual grounds for the protest based on (1) above, a description of the resulting harm and the relief requested. Unless otherwise specified in the public notice of the sole source procurement, the Board may consider the written record, and any other testimony provided at the public meeting and shall issue its decision by Board Order.

(7) To the extent purchases meeting the circumstances in (1) are covered by an approved special procurement, the terms of the special procurement instead apply. Discretionary use of the LOI process in accordance with LM 21.108 satisfies the public notice and protest requirements for purchases covered by (1)(a) and (b) of this rule in addition to other circumstances where the fundamental nature of the purchase is so limiting that it is likely only one seller/providers exists.
21.112 Brand Name.
This rule applies to non-public improvement contracts, and LM-20.210 and LM-20.215 applies to public improvement contracts. Specifications shall not expressly or implicitly require any product of a particular manufacturer or seller except pursuant to this rule or the class specific authorizations in LM Chapter 20. The County may identify products by brand names so long as it includes language similar to "or equal," "or equivalent," or "equal or superior to." The County shall determine, in its sole discretion, whether an offeror's alternative product is "equal" or "equivalent," or "superior." The Department directors shall be delegated authority to determine that only an identified brand name will meet the County's needs and shall document such decision in writing, subject to any review and reversal by the County Administrator, in his or her discretion. Any written decision must be based on one or more of the criteria in ORS 279B.215(2). (Revised by Order No. 05-2-16-S, Effective 2.28.05)

21.112A Cooperative Procurements.
The County may participate in, sponsor, conduct, or administer cooperative procurements as set forth in ORS 279A.200 through ORS 279A.225. (Revised by Order No. 05-2-16-S, Effective 2.28.05; 08-2-13; 2.13.08)

21.112B Exhaustion of Remedies.
An adversely affected bidder, proposer, quoter, or person affected by a sole source procurement requiring public notice and opportunity to protest, must exhaust all avenues of administrative review and relief applicable to the purchase as set forth in these rules before seeking judicial review of the County's selection or contract award decision. Such review and relief includes, but is not limited to, opportunities to protest or to submit comments or objections to the County through a Letter of Interest process. (Revised by Order No. 09-12-15-2, Effective 12.15.09)

TYPES OF CONTRACTS

21.113 Goods, Materials and/or Services Contracts.
— (1) A goods or materials contract (excluding personal services) is one that calls primarily for an end product and in which the County purchases, obtains some interest in, or leases personal property. A service contract is one that calls primarily for a contractor's time and effort, and does not include work connected with manufacturing a product or personal service. A service contract includes one for a trade related activity to accomplish routine functions of a type that can generally be done by any competent worker, even though a specific license is required. A contract may be a combination of goods, materials and services.
— (2) Goods and/or service contracts may only be executed after appropriate competitive selection has been completed.
— (3) Title to all personal property shall be described on all formal title documents and bills of sale as: Lane County, Lane County Public Service Building, Eugene, Oregon 97401.
21.114 Maintenanee-nnd Repair Cefitraets.
Contracts for the maintenanee or repair of equipment or public improvements are subjeet to the publie contract
laws and regulations.

21.115 Publie Improvement and Construction Contracts.
(1) When the County procures personal services for the purpose of administering, managing, monitoring, inspecting, evaluating compliance with or otherwise overseeing a public contract that is subject to ORS 279C, the County will not:
   (a) Procure the personal services from a contractor or an affiliate of a contractor who is a party to the public contract that is subject to administration, management, monitoring, inspection, evaluation or oversight by means of the personal services; or
   (b) Procure the personal services through the public contract that is subject to administration, management, monitoring, inspection, evaluation or oversight by means of the personal services.
(2) Section (1) of this rule does not apply to a procurement that qualifies as a construction manager/general contractor procurement or a design build procurement. "Affili ate" means a person that, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the contractor.
(3) Public improvements shall usually be performed by contract. When the project is estimated to cost more than $125,000, the provisions of ORS 279C.305 and LM 21.105(3) shall be followed. Unless otherwise approved by the Board, public improvement projects shall be performed according to the capital improvements list adopted by the Board pursuant to ORS 279C.305.
(4) Public improvement and construction contracts must comply with a number of requirements. Care should be taken to see that any applicable requirements including, but not limited to, from those among the following list are met:
   (a) Advertisement (including Asbestos Abatement) ORS 279C.360 and LM 21.105(3) above. See, OAR 137 049 0210.
   (b) Bid security ORS 279C.365(4), LM 20.275, LM 21.106 above.
   (d) Public Works Bond LM 21.106.
   (e) Responsibility Determination Form ORS 279C.375, LM 21.105(16).
   (f) Prevailing rates of wage ORS 279C.800 to 279C.855.
   (g) Retainage For project completion, ORS 279C.555 to ORS 279C.565, LM 21.116 below. For untimely filed certified statements of payment of prevailing wages, ORS 279C.845.
   (h) Prompt payment policies ORS 279C.505, ORS 279C.515.
21.116 Retainage

(1) Retainage of five percent of the contract price of the work completed shall be withheld on all public improvements contracts until the project is at least 50 percent complete, after which the retainage may be reduced, upon the County Administrator's approval, in accordance with ORS 279C.570(7).

(2) Deposit of Securities in Lieu of Retainage.

(a) Notwithstanding LM 21.116(1) above, Lane County shall reduce the retainage in an amount equal to the market value of bond, securities or other instruments deposited by the contractor in accordance with the procedures set out below. The types of bonds, securities or instruments which may be accepted include those in OAR 137-049-0820(4). Bonds or securities, or other instruments offered for deposit in lieu of retainage shall be as authorized in OAR 137-049-0820(2), which is hereby adopted.

(b) All bonds, securities, or instruments in lieu of retainage shall be deposited with a bank or trust company in Lane County, Oregon, in an account for the benefit of Lane County established for this purpose. Upon deposit, the bank or trust company shall prepare an Assignment and Safekeeping Receipt in the form set out in Exhibit "A." The contractor shall deliver in person one copy of this receipt to the Department of Management Services.

(i) Bonds or securities deposited shall be in fully transferable form. Any nonnegotiable bonds or securities shall have all necessary instruments attached to enable the County to effect transfer of title should the contractor be unable to fulfill the contract obligations.

(ii) Bonds or securities deposited in lieu of retainage shall be released only upon the written instructions and authorization of the County. Upon default, the County may elect to authorize the bank or trust company to transfer any securities deposited under these provisions, rather than undertake to transfer such securities itself.
(6) If at any time the market value of the bonds or securities deposited in lieu of retainage drops below five percent of the contract price of the work completed, the County may withhold from payments due the contractor an amount sufficient to maintain its appropriate retainage protection. Withheld amounts shall only be released to the extent of the market value of additional bonds or securities deposited by the contractor in accordance with this section.

(3) Retainage Deposited in Interest Bearing Account. In accordance with ORS 279C.560(4), cash retainage may be deposited upon the request of the contractor in an interest bearing account with earnings allocable to the contractor.

(4) Surety Bond in Lieu of Retainage. In accordance with ORS 279C.560(6), upon approval of the County Administrator, the contractor may deposit a surety bond for all or a portion of the retainage. The bond shall be in a form acceptable to the County Administrator. The retainage shall be accordingly reduced, and the contractor shall accept like bonds from subcontractors and suppliers.

(5) All retainage on public contracts for public improvements, less costs as allowed by statute, shall be released within 30 days after the work under the contract has been completed and the County Administrator or the Board has authorized final acceptance thereof. If not so released, interest shall be paid in accordance with ORS 279C.570(8).

ASSIGNMENT AND SAFEKEEPING RECEIPT

THIS ASSIGNMENT is to satisfy the requirements for deposits of bonds or securities in lieu of retainage on public improvements contracts set out in LM 21.116.

Subject to the conditions below, the undersigned does hereby assign, transfer and set over to Lane County all right, title and interest in and to the bonds and securities listed in the attached Schedule "A" for the use and purpose of retainage on the public contract between Lane County and the undersigned, identified as

(Project Identification)

agrees that the bonds or securities listed in Schedule "A" will be held in trust for the purposes stated here, and shall be released only upon the written instructions and authorization of Lane County.

Periodic interest payments or other disbursements which do not reduce the face amount of the bonds or securities shall accrue and may be credited or paid to the undersigned.

If a bond or security deposited under this assignment reaches maturity while subject to these conditions, it may be disbursed to the undersigned without specific authorization from Lane County, if, and only if, the undersigned replaces the matured bond or security with an identical one of equal or greater value.

If the bonds or securities deposited are to be credited to more than one public contract, the distribution shall be as stated on Schedule "A."
SCHEDULE "A"

1. DESCRIPTION OF THE BONDS OR SECURITIES.

2. NAME OF CONTRACTOR/ASSIGNOR.

3. IDENTIFICATION NUMBER OF THE CONTRACT OR PROJECT.

4. PAR VALUE OF SECURITIES OR BONDS (AND THE MARKET VALUE, IF DIFFERENT).

5. MATURITY DATES OF SECURITIES OR BONDS.

Signed and dated at ___, Lane County, Oregon, this ___ day of ____, 20__.

(Signature of Depositor/Assignor)
Address: __________________________________________________________

ACCEPTANCE

__________ (Bank or Trust Company) hereby accepts the foregoing Assignment and Safekeeping Receipt No. __, in the total amount of $______, this ___ day of ____, 20__, and hereby acknowledges receipt of the bonds or securities listed in Schedule "A" above to hold in trust for Lane County for the uses and purposes above-stated.

__________________________
(Authorized Signature)

Exhibit "A" to LM 21.116(2)
(Revised by Order No. 98-12-2-4, Effective 12.2.98; 01.6.30.12; 6.30.01; 05.2.16.5; 2.28.05)

21.117 Personal Service Contracts:

(1) Personal service contracts are those described in LM 20.097.

(2) Personal service contracts may only be used to engage independent contractors, and not used to hire persons who would be under the direction and control of County staff and deemed County employees. All personal services contractors must meet the independent contractor standards of ORS 670.600, and furnish required documentation of insurance and independent status.
21.118 Selection of Personal Service Contractor.
The following procedures apply to the selection of personal service contractors unless an exemption, special procurement, or other LM Chapter 20 or 21 rule would allow a different competitive selection under the circumstances:

(1) Direct Contracting:

(a) Personal service contracts in the amount of $10,000 or less. The County may, without competitive selection, contract directly for services meeting the requirements of LM 20.097(2) or (3) or LM 20.250.

(b) Personal service contracts in the amount of $25,000 or less. The County may contract directly, without any competitive selection, with a contractor providing personal services meeting the requirements of LM 20.097(2) or (3) or LM 20.250, upon a finding that the Department Director that direct contracting is in the best interests of the County.

(c) Personal service contracts in the amount of $50,000 or less. The County may contract directly, without competitive selection, with a contractor providing personal services meeting the requirements of LM 20.097(2) or (3) or LM 20.250, upon a finding of the County Administrator that direct contracting is in the best interests of the County.

(d) Personal service contracts in an amount greater than $50,000. Board approval is required before the County may contract directly, without competitive selection, with a contractor providing personal services meeting the requirements of LM 20.097(2) or (3) or LM 20.250, upon a finding of the Board that direct contracting is in the best interests of the County.

(2) Dollar Amounts Greater Than (1) (a) or (b) But Equal to or Less Than $50,000. For contracts greater than the amounts in (1)(a) or (b) above and up to $50,000, the County shall solicit at least three prospective contractors who appear to meet the minimum requirements for the proposed contract, inform each in reasonable detail of the contract and determine the prospective contractor's interest and ability to perform the contract. If three quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes. The contract should be awarded to the offeror whose quote or proposal will best serve the interests of the County in the discretion of the County after considering any applicable criteria such as in (5) below. Pricing information may also be solicited and considered. For all such contracts, quotations shall be solicited from appropriate minority, women and emerging small business enterprises certified by the State pursuant to ORS Chapter 200, and as specified through County administrative procedures. The Department shall keep a written record
of the prospective contractors contacted, their responses, and basis for recommending the award.

(3) Dollar Amounts Greater than $50,000 But Equal to or Less Than $100,000. Where the contract is greater than $50,000 and equal to or less than $100,000, the County shall comply with (2) above, except that they will prepare a written solicitation, including but not limited to specification/scope of work and receive written offers. The contract should be awarded to the offerer whose quote or proposal will best serve the interests of the County, in the discretion of the County after considering any applicable criteria such as in (5) below. Pricing information may also be solicited and considered. The County shall keep the written solicitation and response documents and written basis for recommending the award. Unsuccessful offerers shall have the right to protest the award decision to the Board of County Commissioners in accordance with procedures set forth in LM 21.105(13).

(4) Greater Than $100,000 and Qualification Based Selection. Where a contract fee (except for a qualification based consultant) is estimated to be greater than $100,000, the County shall comply with (3) above, and conduct interviews of at least the two most qualified prospective contractors, if two or more are available. Interviews may be either by telephone, in person or by written questions. Unsuccessful quoters shall have the right to protest the award decision to the Board of County Commissioners in accordance with procedures set forth in LM 21.105(13). For contracts with qualification based consultants, the County shall comply with (3) above except that it shall not solicit or use pricing information to determine the compensation until after initially selecting the highest ranked proposer. In addition, the County will begin negotiating with the highest ranked proposer on a fair and reasonable price in addition to any other contract provisions it believes are in the County's best interest to negotiate. If agreement is not reached within a reasonable time, County may move to the second highest ranked proposer for a similar negotiation, and continue the process with the next in line until agreement is reached. See OAR 137-048 0210(4).

(5) Criteria. The following criteria shall be considered, as appropriate, in the evaluation and selection of personal service contractors:

(a) Specialized experience in the type of work.
(b) Capacity and capability to perform the work within necessary time and other limitations.
(c) Educational and professional record, including past record of performance on contracts with governmental agencies and private parties with respect to cost control, quality of work, ability to meet schedules and contract administration.
(d) Availability to and familiarity with the area in which the specific work is located.
(e) Any other factors relevant to the particular contractor.

(6) Requests for Professional Services (RFPS).

(a) Description. A request for professional services (RFPS) is a selection procedure used when the County requires the services of the most highly qualified professional based on demonstrated competence and qualifications, and where a fair and reasonable price rather than lowest competitive price is the focus. It may be used in the discretion of the County, on a project by project basis, except when a qualifications based process is required for selecting qualification based consultants.
Such a process is required for public improvement projects where the estimated fee to be paid any of these consultants under a contract exceeds $100,000.

(b) Requirements:

(i) An advertisement shall appear at least once in at least one newspaper of general circulation in the area where the project is to be located and/or published electronically in compliance with LM 21.105(2), and shall briefly describe the project, the services sought, where copies of the solicitation may be obtained and the deadline for submitting a response.

(ii) The solicitation document shall contain, at a minimum, the information in LM 21.118(6)(b)(i) above, specifications, project requirements, a statement of the particular professional qualifications for the project, the evaluation criteria, and the screening or evaluation method to be used. It shall also reserve the County's right, at any time during the solicitation or contract process, to reject any or all proposals or cancel the solicitation, without liability, if there is good cause or if doing so would be in the public interest. The contract terms should also be included.

Proposals may be opened so as to avoid disclosure of contents during, when applicable, the process of negotiation. Proposals are not required to be open for public inspection until after the notice of intent to award; however, the County may continue to withhold trade secrets as defined in ORS 192.501 and information submitted to a public body in confidence as described in ORS 192.502.

(iii) An evaluation committee shall review, score and rank the proposals according to solicitation criteria and results of any oral interviews. Criteria may include, but is not limited to, specialized experience, capabilities and technical competence to meet project requirements, methodology to meet project requirements, availability and resources to perform the work, proportion of candidate staff's time spent on project, experience of key staff, demonstrated ability to successfully complete similar projects, references and recommendations, history in meeting deadlines, submitting accurate estimates, producing quality work, meeting financial obligations, contract administration status of licensing, proposed solutions to any perceived design or construction problems, ownership status and employment practices regarding minority, women, and emerging small businesses or historically underutilized businesses; availability and familiarity with project locale, and project management approach. Proposed compensation may be included as evaluation criteria except for solicitations for qualification-based consultants where the estimated contract fee exceeds $100,000.

(iv) Contract negotiations, including refining scope of services, with the highest ranked professional shall be directed toward an agreement on a compensation level which is fair and reasonable, taking into account the estimated value, scope, complexity, and nature of the personal services. County may solicit or use a compensation proposal for services covered by ORS 279C.110 and exceeding a fee estimate of $100,000 only after evaluating and ranking candidates.

(v) If an agreement is not reached in a reasonable time, the County may terminate negotiations with the highest ranked proposer and begin with the second ranked, and then to the third, if applicable. If no agreement is reached, the solicitation may be terminated.

(vi) A prospective contractor may protest the solicitation process or document in accordance with LM 21.105(6). Contractor may protest the
contract award in accordance with process in LM 21.105(13). A proposer submitting a protest of the award must demonstrate that the protesting proposer is the highest ranked proposer because the proposals of all higher ranked proposers failed to meet the requirements of the RFPs or because the higher ranked proposers otherwise are not qualified to perform the services. Untimely protests will not be considered.

(7) Other Competitive Processes. Except when qualification based selection is required, County may use other methods of selection for personal service contractors including, but not limited to, formal bid, RFP, sole source, emergency, special procurement, or any other exemption in LM Chapter 20.

(8) Amendments. The selection procedures stated in LM 21.118(1) above shall be utilized for any amendment of a personal services contract which is more than 50 percent of the original contract amount, or when the aggregate of amendments are more than 50 percent of the original amount. However, they need not be used if the scope of the amendment was clearly included in the original selection such that prospective contractors understood this amendment may occur. In addition, they need not be used if the project described in the personal service contract consists of work that has been substantially described, planned or otherwise previously studied or rendered in an earlier contract with the consultant that was awarded pursuant to LM Chapter 20 and 21 rules and the amendment (or new contract) is a continuation of that project. A contract may be awarded directly under this circumstance pursuant to the waiver criteria in (9) below.

(9) Waiver. The selection procedures described above may be waived by the County Administrator prior to selection of the personal services contractor or to permit an amendment in excess of the 50 percent limit of LM 21.118(8) above for any of the following reasons:

(a) An emergency exists which could not have been reasonably foreseen and which requires prompt execution of a contract, or

(b) The contractor is the only person within a reasonable area who performs this type of work, or

(c) When good cause is demonstrated to the County Administrator, such that he or she believes award of the contract without utilizing the selection procedures is in the public’s interest.

(d) This subsection (9) does not apply to initial contracts with qualification based consultants. (Revised by Order No. 98-12-24, Effective 12-30-98; 01-03-04; 03-13-04, 03-13-08; 11-24-04, 11-21-07, 11-04-07, 12-14-07, 01-04-08, 01-05-08, 01-02-11)

21.120 Requirements and Pricing Contracts.
Requirements contracts, or pricing agreements, provide for the establishing of unit prices for goods or services (including personal services) when the County knows it will need them, but is unable to determine the quantity in advance. Generally, the vendor agrees to supply some or all of the County’s requirements within a specified period of time. Competitive selection and contract/amendment execution authority is governed by the rules which apply to the underlying contract type, i.e., materials, materials and services, services, personal or professional services.

(1) In conducting competitive selection, the County shall inform all potential bidders/proposers:

[Continued text]
21.120 Lane Manual 21.120

(a) Whether it will consider awarding and executing more than one requirements contract for a single type of service or good; and

(b) If it anticipates awarding more than one contract, the method to be used in selecting which contractor will perform specific services or provide certain goods.

(2) All requirements contracts shall provide that:

(a) The County will purchase a specified minimum amount of goods or services; or

(b) A maximum, not to exceed amount of goods or services; and

(c) The contract may be canceled upon 30 days written notice by the County; and

(d) The term of the contract, including renewals, shall not exceed three years.

(3) The County shall determine a reasonable estimate of the total dollar amount of a requirements contract, including from all amendments, throughout the term of the contract. That dollar figure shall be the basis for determining contract/amendment execution authority under LM 21.145 and 21.147.

(4) When the price of goods and services has been established by a requirements contract including standard contract provisions such as County protection from risk and liability as appropriate, and has been processed and approved by the Board or County Administrator, the County may purchase the goods and services from the supplier without subsequent competitive selection. In order to purchase or pay for goods and/or services under an executed requirements contract, the following steps apply:

(a) For a services/requirements contract, if the scope of work is originally defined in general terms, and the parties anticipate further defining of the work as it arises, i.e., personal services on a project by project basis, the additional defining of the scope of work shall be in writing and executed as an amendment. For contracts approved by the Board, the County Administrator shall have authority to execute any amendment which does not exceed $100,000. Subject to (b) below, for contracts with a total estimated cost of less than $300,000, the County Administrator may delegate authority to execute an amendment for a project not exceeding $50,000 to a Director of the department originating the contract, and for Public Works also to the County Engineer for transportation projects. Subject to (b) below, for contracts with a total estimated cost of $300,000 or greater, the County Administrator may delegate authority to execute an amendment for a project not exceeding $100,000 to a Director of a department originating the contract, and for Public Works also to the County Engineer for transportation projects. For contracts approved by the County Administrator, the County Administrator may delegate authority to execute an amendment not exceeding $50,000 to the County employees designated above, subject to (b) below.

(b) The County Administrator may delegate authority in writing as set forth in (a) if the amendment:

(i) supplements, and is not inconsistent with the main requirements contract which continues to apply; and

(ii) the amendment covers only such topics as scope of work, roles and responsibilities, tasks, costs, names of persons assigned to each task, criteria for work acceptance, deliverables, and due dates that are within the time period of the main contract; and
(iii) there are no other added provisions which affect risk to the County or public. The County Administrator's written delegation shall include the limitations in this provision and any others deemed necessary, in his or her discretion, or as directed by the Board.

(c) The delegation of authority in (a) and (b) applies only to amendments that are within the approved total contract amount. Authority to execute amendments that increase the total contract amount is governed by LM 21.147.

(d) For all other requirements contracts where the services and/or goods and costs are specifically defined in the original contract, i.e., delivery of rock, specific purchases may be made pursuant to the parties' agreement. (Revised by Orderno. 98. 12. 2. 4. Effective 12.3.98; 03-26-05; 3.28 05; 08-2-13.1; 2.11.08; 11-12-14; 12.11.11)

21.122 Revenue Contracts.
Revenue contracts must comply with all public contract laws and regulations and LM Chapter 21.

(1) The County Administrator and the Director of the Department of Management Services each individually are delegated the authority to execute certificates of title and bills of sale for County owned personal property duly sold under established procedures and may further delegate this authority in writing.

(2) A revenue contract which involves elements of an interest in real property (for example, a caretaker or concessionaire agreement or a lease), may also have to comply with laws regarding the disposition of publicly owned real property. The Department considering such a contract should consult with the Office of Legal Counsel regarding appropriate procedures and contract terms.

(3) Disposition of personal property must comply with LM 60.405. (Revised by Order No. 98. 12.2.4. Effective 12.3.98; 01-16-01; 12. 6.30.01)

21.124 Intergovernmental Agreements.

(1) Intergovernmental agreements are exempt from competitive selection.

(2) Under the authority of Chapter II, Section 8 of the Lane County Home Rule Charter and ORS Chapter 190, it is the policy of Lane County to offer services to other public agencies where feasible. Lane County must be compensated for the complete cost of providing all intergovernmental services. An intergovernmental agreement should be utilized whenever possible as the implementing document. The Board in its discretion may approve waivers to the policy of complete compensation. (Revised by Order No. 98. 12.2.4. Effective 12.3.98)

21.126 Grants.
"Grant" means a federal, state or other agreement in which the County receives and disburses funding for purposes itemized in the grant, and subject to ORS 279A.010(1)(g) and to the conditions set forth in the grant. A "Grant" includes a County sub-grant when the subcontractor was identified and approved by the grantor (including after any appropriate County competitive selection) and the County merely passes through the grant funds received, in whole or in part, without modifying any terms or conditions of the original grant, except as related to County administration and oversight of the grant conditions. A subcontract may not be a sub-grant if the County does modify, and may be more appropriately analyzed as a service contract, or a materials and service contract,
intergovernmental agreement, etc., depending upon the subject matter. (Revised by Order No. 98-12-2-4, Effective 12-2-98; 05-2-16-8, 2-28-05)

21.127 Amendments.

(1) Selection Procedures. All amendments including but not limited to change orders, extra work, and modifications, shall comply with public contract laws and regulations regarding competitive bidding and selection procedures. The selection procedures of LM 21.118(1)-(7) above shall not apply to amendments to personal services contracts, except when the total of all amendments exceed 50 percent of the original amount. A waiver of the selection procedure pursuant to LM 21.118(9) above may nonetheless be sought in those cases.

(2) Generally, a contract amendment should include a reference to the original contract by title and/or date, terms of amendment including citation to specific provisions in the original contract being amended, and ending with a provision that "except as set forth above, all provisions of the original contract dated _____ remain unchanged." (Revised by Order No. 98-12-2-4, Effective 12-2-98; 05-2-16-8, 2-28-05; 11-12-11, 12-14-11)

21.128 Emergency Contracts.

(1) An emergency is generally defined, but not limited to, a set of circumstances creating a substantial risk of loss, damage, interruption of services or threat to public health or safety that could not have been reasonably foreseen or is beyond the control of the County or its employees. If such an emergency exists which requires the prompt execution of a contract to remedy the situation, the provisions of LM 20.255 shall be appropriately followed.

(2) In exercising authority under LM 20.255, and in order to declare an emergency the County shall:

(a) Make written findings describing the circumstances which support a substantial risk of loss, damage, interruption of services or threat to public health or safety that could not have been reasonably foreseen or is beyond the control of the County or its employees, and describing the harm anticipated to result from failing to establish the contract on an expedited basis.

(b) For all construction services, the County shall use a competition that is reasonable and appropriate under the emergency circumstances. For other goods or services, the County shall to the extent reasonable under the circumstances, encourage competition by attempting to make informal solicitations from potential suppliers of goods or services. The County may make direct appointments without competition in cases of extreme necessity, as determined by the County in its discretion.

(c) Record the measures taken under (b) above to encourage competition, the amounts of the quotes or proposals obtained, if any, and the reason for selecting the contractor.

(d) Limit the work or subject of purchase under the resulting contract to what is necessary and appropriate, including a time period, to address the conditions creating the emergency. No dollar limit applies to emergency contracts.

(e) Execute the contract within 60 days following the declaration that an emergency exists, unless the LCRB grants an extension.
Emergency contracts may be modified or amended to address the conditions described in the original declaration or the declaration may be amended to describe additional work or purchases which are necessary.

For public improvement contracts, the emergency declaration may also state that the County waives the requirement of furnishing a performance or payment bond under ORS 279C.380(4) or public works bond under ORS 279C.836(9). Such bonding requirements are excused once the emergency is declared. (Revised by Order No. 05-2-16-8, Effective 2-28-05; 08-2-13-1; 2-13-08)

21.129 Purchase Orders:

(1) Purchase orders may be used to:
   (a) Obtain goods and materials.
   (b) Implement a separate written contract for services, or for goods and services, so long as the written contract meets the requirements of County-contract procedures.
   (c) Implement a purchase pursuant to a requirements contract.
   (d) Implement a purchase utilizing a cooperative procurement contract pursuant to ORS 279A.200 et seq.
   (e) Implement a purchase from a qualified rehabilitation facility pursuant to ORS 279.850.
   (f) Purchase price regulated items when the rate or price has been set by Federal, State or local regulatory authority.

(1) For purchase orders greater than $10,000, the appropriate selection procedures in LM Chapters 20 and 21 must be followed. Purchase orders may not be utilized to circumvent the public contract law or regulations.

(2) The Financial Services Manager is delegated authority to prescribe the form to be used for purchase orders, and to dispatch all purchase orders authorized in this section. The Financial Services Manager may further delegate such authority by signed written document. (Revised by Order No. 08-12-2-4, Effective 12-2-08; 05-2-16-8; 2-28-05; 12-12-14; 12-14-14; 03-13-14; 03-19-14)

STANDARD PROVISIONS


The following standard public contract clauses must be included expressly or by reference in every contract of the County:

(1) Contractor shall make payment promptly, as due, to all persons supplying to such Contractor labor or material for the prosecution of the work provided for in the contract, and shall be responsible for payment to such persons supplying labor or material to any subcontractor.

(2) Contractor shall pay promptly all contributions or amounts due to the State Industrial Accident Fund and the State Unemployment Compensation Fund from contractor or any subcontractor in connection with the performance of the contract.

(3) Contractor shall not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished, shall assume responsibility for satisfaction of any lien so filed or prosecuted and shall defend against, indemnify and hold the County harmless from any such lien or claim.
(4) Contractor and any subcontractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

(5) Contractor shall make payment promptly, as due, to any person, copartnership, association or corporation furnishing medical, surgical, hospital or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums which Contractor agreed to pay or collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing payment for such service.

(6) With certain exceptions listed below, Contractor shall not require or permit any person to work more than 10 hours in any one day, or 40 hours in any one week except in case of necessity, emergency, or where public policy absolutely requires it, and in such cases Contractor shall pay the person at least time and a half for:

(a) All overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday,

(b) All overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday, and

(c) All work performed on the days specified in ORS 279B.020(1) for non-public improvement contracts or ORS 279C.540(1) for public improvement contracts.

For personal/professional service contracts as designated under ORS 279A.055, instead of (a) and (b) above, Contractor shall pay a laborer at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under these contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. Sections 201 to 209, from receiving overtime.

Contractor shall follow all other exceptions, pursuant to ORS 279B.235 (for non public improvement contracts) and ORS 279C.540 (for public improvement contracts), including contracts involving a collective bargaining agreement, contracts for services, and contracts for fire prevention or suppression. For contracts other than construction or public improvements, this subsection (6) does not apply to contracts for purchase of goods or personal property.

Contractor shall give written notice to employees who work on a public contract of the number of hours per day and days per week that the employees may be required to work. This notice must be given in writing either at the time of hire or before commencement of work on the contract, or must be posted as a notice in a location frequented by employees.

(7) Contractor, any subcontractors, and all employers working under the contract are subject employers under the Oregon Workers' Compensation Law and must comply with ORS 656.017, unless exempt under ORS 656.027.

(8) Unless otherwise provided by the contract or law, the County has a right to exercise the following remedies for Contractor's failure to perform the scope of work or failure to meet established performance standards:

(a) Reduce or withhold payment;

(b) Require Contractor to perform, at Contractor's expense, additional work necessary to perform the identified scope of work or meet the established performance standards; or
(e) Declare a default, terminating the public contract and seeking damages and other relief available under the terms of the public contract or other applicable law.

(9) The contract may be canceled at the election of the County for any substantial breach, willful failure or refusal on the part of Contractor to faithfully perform the contract according to its terms. The County may terminate the contract by written order or upon request of Contractor, if the work cannot be completed for reasons beyond the control of either Contractor or the County, or for any reason considered to be in the public interest other than a labor dispute, or by reason of any third-party judicial proceeding relating to the work other than one filed in regards to a labor dispute, and when circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the work.

(10) If the County does not appropriate funds for the next succeeding fiscal year to continue payments otherwise required by the contract, the contract will terminate at the end of the last fiscal year for which payments have been appropriated. The County will notify Contractor of such non appropriation not later than 30 days before the beginning of the year within which funds are not appropriated. Upon termination pursuant to this clause, the County will have no further obligation to Contractor for payments beyond the termination date. This provision does not permit the County to terminate the contract in order to provide similar services or goods from a different contractor.

(11) Unless otherwise provided by the contract or law, Contractor agrees that the County and its duly authorized representatives may have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Agreement for the purpose of making audits, examinations, excerpts, copies and transcripts. Contractor shall retain and keep accessible such books, documents, papers, and records for a minimum period of (6) six years after the County makes final payment on this Agreement. Copies of applicable records must be made available upon request, and payment of copy costs is reimbursable by the County.

(12) By execution of this contract, Contractor certifies, under penalty of perjury that:

(a) To the best of Contractor's knowledge, Contractor is not in violation of any tax laws described in ORS 305.380(4), and

(b) Contractor has not discriminated against minority, women or small business enterprises or one that is owned or controlled by or that employs a disabled veteran as defined in ORS 408.225.

(13) Contractor shall meet the highest standards prevalent in the industry or business most closely involved in providing the goods or services or personal services covered by this Agreement, except if the County has good cause and the contract provides otherwise.

(14) Contractor shall not assign this contract or any payments due hereunder without the proposed assignee being first approved and accepted in writing by County.

(15) Contractor shall make all provisions of the contract with the County applicable to any subcontractor performing work under the contract.

(16) The County will not be responsible for any losses or unanticipated costs suffered by Contractor as a result of the contractor's failure to obtain full information in advance in regard to all conditions pertaining to the work.
21.129 Lane Manual 21.129

(17) All modifications and amendments to the contract will only be effective only if in writing and executed by both parties.

(18) Contractor certifies that Contractor has all necessary licenses, permits, or certificates of registration necessary to perform the contract and further certifies that all subcontractors will likewise have all necessary licenses, permits or certificates before performing any work. The failure of Contractor to have or maintain such licenses, permits, or certificates is grounds for rejection of a bid or immediate termination of the contract.

(19) Unless otherwise provided, data which originates from this contract constitutes "works for hire" as defined by the U.S. Copyright Act of 1976 and is owned by the County. Data includes, but is not limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights. Data which does not originate from this contract, but which is delivered under the contract, is transferred to the County with a nonexclusive, royalty free, irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so; provided that such license will be limited to the extent which Contractor has a right to grant such a license. Contractor shall exert all reasonable effort to advise the County, at the time of delivery of data furnished under this contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this contract. Contractor shall give the County prompt written notice of any notice or claim of copyright infringement received by Contractor with respect to any data delivered under this contract. The County will have the right to modify or remove any restrictive markings placed upon the data by Contractor.

(20) If as a result of this contract, Contractor produces a report, paper, publication, brochure, pamphlet or other document on paper which uses more than a total 500 pages of 8 1/2" by 11" paper, Contractor shall conform to the Lane County Recycled Paper Procurement and Use policy, LM 2.140 through 2.148, by using recycled paper with at least 25% post-consumer content which meets printing specifications and availability requirements.

(21) The Oregon Standard Specifications for Construction adopted by the State of Oregon, and the Manual on Uniform Traffic Control Devices, each as is currently in effect, are applicable to all road construction projects except as modified by the bid documents.

(22) As to contracts for lawn and landscape maintenance, Contractor shall salvage, recycle, compost or mulch yard waste material in an approved site, if feasible and cost effective.

(23) When a public contract is awarded to a nonresident bidder and the contract price exceeds $10,000, Contractor shall promptly report to the Department of Revenue on forms to be provided by the department the total contract price, terms of payment, length of contract and such other information as the department may require before the County will make final payment on the contract.

(Revised by Order No. 98-12-2-4, Effective 12.3.98; 05-6-30-12, 6.30.04; 05-2-16-8, 2.28.05; 05-12-14-9, 1.1.06; 08-2-13-1; 2.13.08; 09-12-15-2, 12.15.09; 10-6-9-4, 6.9.10, 11-12-14-1, 12.14.11; 11-26-03, 11.26.12)
STANDARD CONDITIONS FOR PUBLIC IMPROVEMENTS

The following standard public contract clauses must be included expressly or by reference in every contract for public improvements:

(1) If Contractor fails, neglects or refuses to pay promptly a person's claim for labor or services that the person provides to Contractor or a subcontractor in connection with the public contract as the claim becomes due, the County may pay the amount of the claim to the person that provides the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of the contract. The payment of a claim in the manner authorized hereby will not relieve the Contractor or its surety from the obligation with respect to any unpaid claim. If the County is unable to determine the validity of any claim for labor or services furnished, the County may withhold from any current payment due Contractor an amount equal to said claim until its validity is determined, and the claim, if valid, is paid by Contractor or the County. There will be no final acceptance of the work under the contract until all such claims have been resolved.

(2) If Contractor or a first-tier subcontractor of Contractor fails, neglects or refuses to pay a person that provides labor or materials in connection with the public improvement contract within 30 days after receiving payment from the County or the Contractor, the Contractor or first-tier subcontractor owes the person the amount due plus interest charges that begin at the end of the 10 day period within which payment is due under ORS 279C.580 (4) and that end upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580.

(3) If Contractor or any subcontractor of Contractor fails, neglects or refuses to pay a person that provides labor or materials in connection with the public improvement contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580. Contractor and any subcontractors shall include this condition in every contract related to the public improvement contract.

(4) The hourly rate of wage to be paid by any contractor or subcontractor or other persons who are parties to the contract to workers used in performing all or part of the work contemplated by the public works contract must be not less than the applicable prevailing rate of wage for an hour's work in the same trade or occupation in the locality where such labor is performed, in accordance with ORS 279C.838 and ORS 279C.840. For projects also covered by the federal Davis-Bacon Act (40 USC §3141 et seq.), workers on the public works must be paid by contractors and subcontractors or other such contracting parties the higher of the applicable state or federal prevailing rate of wage.

(5) Contractor shall comply with all applicable federal, state, and local laws and regulations, including but not limited to those dealing with the prevention of environmental pollution and the preservation of natural resources that affect the performance of the contract. A list of entities who have enacted such laws or regulations is found in the Oregon Standard Specifications for Construction, Section 00170.01 currently in effect and published through Oregon Department of Transportation. If new or amended statutes, ordinances, or regulations are adopted, or Contractor encounters a condition not referred to in the bid document not caused by Contractor and not discoverable by reasonable site inspection which requires compliance with federal, state,
or local laws or regulations dealing with the prevention of environmental pollution or the preservation of natural resources, Contractor shall immediately give notice to the County. The County and Contractor will have all the rights and obligations specified in ORS 279C.525 to handle the situation.

(6) If the County suspends Contractor’s work but does not terminate the contract, Contractor is entitled to a reasonable time extension, costs and overhead per ORS 279C.655. Unless otherwise stated in the contract, if the contract is terminated, Contractor will be paid per ORS 279C.660 for a public improvement contract.

(7) Contractor shall salvage or recycle construction waste and demolition debris, if feasible and cost effective.

(8) Contractor certifies that Contractor has all necessary licenses, bonds, permits, or certificates of registration necessary to perform the contract, including those issued by the Construction Contractors Board and Landscape Contractors Board, and further certifies that all subcontractors must likewise have all necessary licenses, bonds, permits or certificates necessary to perform their work, before performing any work.

AUTHORITY TO AWARD, EXECUTE, CANCEL

21.135 Contract Awards.

(1) The award of contracts shall be made by the public officer delegated the authority to execute the contract or, if no delegation has been made, the Board. The authority to award may be further delegated by the public officer to a representative and should generally be evidenced by a writing.

(2) In an RFP process, the evaluation committee’s recommendation for award of the contract shall be considered and finally decided by either the Board or the County Administrator, depending upon authority to execute the contract per County rules.

(3) Generally, where the County is the purchaser in a bid or RFP process a contract should be awarded to the responsible bidder submitting the lowest responsive bid or to the responsible proposer submitting the best responsive proposal. Where the County is the seller, the award will generally be made to the highest quote or highest responsible proposal. Where interviews or substantive proposals have been sought, the award shall generally be made to the party submitting the quote or proposal which best meets the needs of the County based on the criteria established by the County in any solicitation, and in conformity with prescribed selection procedures, rules and law. An award may be made as a whole, or by item or groups of items as long as consistent with any solicitation documents.

21.137 Grant Applications.

(1) For grants from $0 — $5,000, the Department Directors are delegated authority to approve and execute all documents in the application process and the acceptance of the award. For grants exceeding $5,000 — $100,000, the County Administrator is delegated authority to approve and execute all documents in the application process and the acceptance of the award.

(2) For grants over $100,000, the Board shall approve the preliminary application and acceptance of the grant. This may be done in one Board action if the application contains complete information, and the grant is ultimately awarded without
unusual conditions, or there may be separate Board actions to approve grant application submittal and grant award acceptance. The County Administrator is delegated authority to approve and execute all other grant documents in the application process.

(3) The County Administrator is delegated authority to approve and execute all documents to continue a grant that was approved by the Board pursuant to LM 21.137(2), so long as the continuation is substantially similar to the original proposal approved by the Board.

(4) The County Administrator may further delegate the authority in (1), (2), and (3) to a representative by a signed written agreement. (Revised by Order No. 98-12-2-I, Effective 12-2-98; 11-12-11-I, 12-14-11)

21.139 - Fair Board.

Pursuant to ORS 565.230 the Fair Board may conduct contracting activities for contracts relating to fairground facilities and operations, except those contracts which transfer an interest in real property. Pursuant to ORS 565.230, the Fair Board has authority to award and execute all contracts relating to fairground facilities and operations, except those contracts which transfer an interest in real property. It is also delegated authority to cancel or terminate such contracts as provided in the contract or by law. The Fair Board may further delegate authority under this provision to a representative by signed written document. (Revised by Order No. 98-12-2-I, Effective 12-2-98; 11-12-11-I, 12-14-11)

21.141 - Construction and On-Site Construction Change Orders.
The Director of the Department of Public Works has authority over construction or renovation of roads and other transportation facilities. The Director for Department of Management Services has authority over the construction, renovation, remodeling and maintenance of County facilities and related capital expenditures. These Directors are delegated the authority to execute an on site construction change order to a contract for the construction within their authority, if all of the following conditions are met:

(1) The change would not increase the cost of the project by more than 10 percent of the contract price or $25,000, whichever is less;

(2) The change order is necessary for completion of the contract;

(3) Failure to immediately authorize the change could result in a work stoppage or severe slowdown, causing undue and unnecessary costs, or result in a hazard to the public and

(4) It is in the best interest of the County to authorize the order and facilitate completion of the project. (Revised by Order No. 98-12-2-I, Effective 12-2-98; 11-12-11-I, 12-14-11)

21.143 - Cancellation of Award.

(1) The Board reserves the right to cancel the award of any contract at any time prior to the execution of said contract by all parties without any liability against the Board or Lane County. (Revised by Order No. 98-12-2-I, Effective 12-2-98)
21.145 Delegation of Authority to Execute Contracts and Amendments

(1) The County Administrator is delegated authority to execute all contracts and agreements that do not exceed $100,000 in cost or revenue nor three years in length.

(2) The County Administrator is further delegated authority to execute contracts that exceed three years in length, only if:
   (a) The cost or revenue for the first three years does not exceed $50,000, and
   (b) The contract contains a provision allowing the County to terminate the contract upon not more than one year's notice.

(3) The County Administrator is further delegated authority to execute contracts that exceed three years in length, only if:
   (a) All contracts that have been awarded or expressly approved by the Board.
   (b) Contracts specifically identified in a budget adoption order or supplemental budget order approved by the Board.
   (c) Insurance nonwaiver agreements and insurance endorsements to original policies.
   (d) Land use improvement agreements, Building Program Quick Start Agreements and acceptance and release of land use performance bonds.
   (e) Contracts and assignments for the collection of County judgments.
   (f) All contracts with terms of three years or less that implement public improvement projects described on the adopted Public Works five year Capital Improvement Program list, the adopted Parks Capital Improvement Program priorities list, and the Public Works and Management Services public improvement lists prepared for filing with the Commissioner of the Bureau of Labor and Industries (BOLI) pursuant to ORS 279C.305. This delegation includes, without limitation, those contracts reflecting the County paid portion of the project, those reflecting any amount to be paid by other governmental agencies or housing development entities for assisted housing projects, and those covering environmental mitigation responsibility.

(4) The Financial Services Manager and each Department Director is delegated authority to execute all contracts that do not exceed $25,000 in cost of revenue or three years in length. (Revised by Order No. 08-12-2-1, Effective 12-2008; 04-16-12; 6-30-12; 6-30-04; 05-2-12; 12-13-08; 03-31-08; 03-31-04; 03-30-10; 5-7-08; 13-03-11; 04-11-04; 03-10-14)

21.147 County Administrator’s Delegation of Authority to Execute Amendments.

(1) The County Administrator is delegated authority to execute amendments to contracts that do not cause the contract amount to exceed $100,000 in cost or revenue nor three years in length.

(2) The County Administrator is further delegated authority to execute amendments to contracts, without limitation of amount or length, if the amendment amount or length is within limits authorized by the Board for that specific contract or class of contracts.
(3) The County Administrator is further delegated authority to execute amendments to contracts where the original contract amount exceeds $100,000, subject to the following limitations:

(a) If the original contract amount is greater than $500,000, the total of all amendments to that contract may not exceed 25 percent of the original contract amount;
(b) If the original contract amount is $500,000 or less, the total of all amendments may not exceed 50 percent of the original contract amount, and
(c) The amendment does not extend the length of the contract beyond three years, unless the original contract contained a provision for a longer duration and was awarded or expressly approved by the Board.

(Raised by Order No. 98-12-2-1, Effective 12.2.98, 02-1-30-1, 1.30.02, 01-6-30-12, 6.30.04; 08-2-13-1; 2.13.08, 12.03-11-04, 03-19.14)

21.148 Department Directors’ Authority to Execute Contracts and Amendments.

(1) The Financial Services Manager and each Department Director is delegated authority to execute contracts that do not exceed $25,000 or three years in length.

(2) The Financial Services Manager and each Department Director is delegated authority to execute amendments that do not exceed $25,000, subject to the following limitations:

(a) The amendment, in combination with all prior amendments, does not cause the contract amount to exceed $100,000 in cost or revenue nor three years in length, and
(b) The amendment, in combination with all prior amendments, does not exceed 25% of either the original contract amount, or the amount expressly approved by the Board, whichever is greater.

(Raised by Order No. 95-2-16-8, Effective 2.28.95, 13.03-11-04, 03.19.14)

21.149 Further Delegation and Termination.

(1) Contract Termination. The County Administrator is delegated the authority to cancel or terminate contracts, including amendments, as provided in the contract or by law.

(2) Additional Delegation. The County Administrator, Financial Services Manager, and each Department Director may further delegate authority under LM 21.145, 21.147, and 21.149(1) to a representative by signed written document. (Raised by Order No. 98-12-2-1, Effective 12.2.98, 13.03-11-04, 03.19.14)

INSURANCE

21.300 Generally.

(1) In all contracts involving work upon a County facility or County-owned property, and in contracts involving a significant risk of liability to the County, the department handling the contract shall consult with the Risk Manager prior to advertising for bid, RFP, RFPS or obtaining quotes to determine whether the contractor will be required to provide an additional named insured endorsement in favor of Lane County for the life of the contract. If such endorsement is not obtainable, a certificate of insurance directed to the County may be substituted.
INSURANCE
21.300 Generally.

REAL PROPERTY
21.400 Real Property Acquisition, Management and Disposition Policy.
21.410 Real Property Acquisition.
21.420 Management of County-Owned or County-Utilized Real Property.
21.425 Disposition of County-Owned Real Property.
21.430 Donation of Tax-Foreclosed Property for Low-Income Housing, Social Services or Child Care.
21.435 Designation of County Forests, Parks, and Recreational Areas
21.440 Sale of County Timber & Log Export Regulations
21.300 Generally.

(1) In all contracts involving work upon a County facility or County-owned property, and in contracts involving a significant risk of liability to the County, the department handling the contract shall consult with the Risk Manager prior to advertising for bid, RFP, RFPS or obtaining quotes to determine whether the contractor will be required to provide an additional named insured endorsement in favor of Lane County for the life of the contract. If such endorsement is not obtainable, a certificate of insurance directed to the County may be substituted.
LOCAL CONTRACT REVIEW BOARD

PUBLIC CONTRACT EXEMPTIONS, DESIGNATIONS, SPECIAL PROCUREMENTS, AND RULES
20.085 Purpose and Authority.
20.090 Findings.
20.091 Construction and Interpretation.
20.095 Definitions.

DESIGNATIONS, EXEMPTIONS AND AUTHORIZATIONS
20.096 Sole Source Designation.
20.097 Personal Service Contracts Designation.
20.098 Electronic Advertising.

GENERAL EXEMPTIONS
20.100 General Statutory/Regulatory Exemptions and Exclusions.
20.105 Dollar Amount of Contract — Not to Exceed $100,000.
20.115 Life Cycle Costing.
20.120 Price Regulated Items or Services.
20.125 Price Set by Federal Contracts.
20.128 Client/Patient Services.
20.130 Request for Proposal.
20.135 Requirements and Price Agreements and Cooperative Purchases.

EXEMPTIONS, SPECIAL PROCUREMENTS, AND AUTHORIZATIONS BY TOPIC
20.155 Advertising Contracts.
20.165 Copyrighted Materials.
20.170 Election Supplies and Services.
20.175 Equipment Repair and Overhaul.
20.180 Food Service Contracts.
20.185 Gasoline, Diesel Fuel, Heating Oil, Lubricants and Asphalts.
20.190 Oil or Hazardous Material Removal.
20.195 Office Copier Purchases.
20.200 Laboratory and Medical Supplies.
20.205 Purchases of Hospital and Medical Supplies and Equipment.
20.206 Library and Reading Materials.
20.207 Purchases of Used Personal Property.

PRODUCTS SPECIFYING BRAND NAME
20.210 Specification of Particular Brand Names or Products.
20.215 Brand Name or Mark Exemption Applications.
20.220 Copyrighted Materials.
20.225 Single Manufacturer or Service Provider.
20.230 Product Pre-Qualification.

COUNTY ADMINISTRATIVE SERVICES
20.235 Insurance Contracts.
Lane Manual
CHAPTER 20 CONTENTS

20.240 Employee Benefit Insurance
20.245 Investment Contracts
20.250 Litigation Services

ALTERNATIVE CONTRACTING METHODS
20.251 Purpose and Evaluation
20.252 Construction Manager/General Contractor
20.253 Design/Build
20.254 Energy Savings Performance Contracting

EXEMPTIONS AND AUTHORIZATIONS AS CIRCUMSTANCES ARISE
20.255 Emergency Contracts
20.265 LCRB Exemption for Other Public Improvement Contracts and Special Procurements

APPEALS ARISING FROM PREQUALIFICATION, DEBARMENT, DISQUALIFICATION, AND SOLE SOURCE

APPEALS ARISING FROM PREQUALIFICATION, DEBARMENT, DISQUALIFICATION, AND SOLE SOURCE
20.270 Prequalification, Debarment, and Disqualification Appeals
20.271 Protests of Sole Source Contract Exceeding $100,000

BID SECURITY AND BONDS
20.275 Bid Security and Bonds

CONTRACT POLICIES AND LOCAL CONTRACT REVIEW BOARD

PUBLIC CONTRACT AUTHORITY, RULES, AND INTERPRETATION
20.010 Purpose and Authority
20.015 Fair Board
20.020 Definitions

CONTRACTING POLICIES
20.050 Policy on Competition
20.055 Policy on Electronic Advertising
20.060 Policy on Performing Services for Other Public Agencies
20.065 Policy on Bid Security and Bonds

GENERAL EXEMPTIONS FROM COMPETITIVE SELECTION
20.110 General Statutory and Regulatory Exemptions and Exclusions
20.115 Products or Services of Qualified Rehabilitation Facilities

March 2014
Lane Manual

CHAPTER 20 CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.120</td>
<td>Price Regulated Items or Services.</td>
</tr>
<tr>
<td>20.125</td>
<td>Price Set by Federal Contracts.</td>
</tr>
<tr>
<td>20.130</td>
<td>Future Purchase and Retainer Agreements.</td>
</tr>
<tr>
<td>20.135</td>
<td>Cooperative Procurements.</td>
</tr>
</tbody>
</table>

**SPECIFIC EXEMPTIONS FROM COMPETITIVE SELECTION**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.210</td>
<td>Advertising.</td>
</tr>
<tr>
<td>20.220</td>
<td>Election Supplies and Services.</td>
</tr>
<tr>
<td>20.225</td>
<td>Equipment Repair and Overhaul.</td>
</tr>
<tr>
<td>20.235</td>
<td>Client/Patient Services.</td>
</tr>
<tr>
<td>20.240</td>
<td>Laboratory and Medical Supplies.</td>
</tr>
<tr>
<td>20.245</td>
<td>Food Services.</td>
</tr>
<tr>
<td>20.250</td>
<td>Used Personal Property.</td>
</tr>
<tr>
<td>20.255</td>
<td>Litigation Services.</td>
</tr>
<tr>
<td>20.260</td>
<td>Employee Benefit Insurance.</td>
</tr>
<tr>
<td>20.265</td>
<td>Investments.</td>
</tr>
<tr>
<td>20.270</td>
<td>Insurance.</td>
</tr>
<tr>
<td>20.275</td>
<td>Oil or Hazardous Material Removal.</td>
</tr>
</tbody>
</table>

**CONDITIONAL EXEMPTIONS FROM COMPETITIVE SELECTION**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.310</td>
<td>Small Procurements.</td>
</tr>
<tr>
<td>20.315</td>
<td>Sole Source Contracts.</td>
</tr>
<tr>
<td>20.320</td>
<td>Emergency Contracts.</td>
</tr>
<tr>
<td>20.325</td>
<td>Personal Services Contracts</td>
</tr>
</tbody>
</table>

**EXEMPTIONS FROM COMPETITIVE SELECTION FOR ALTERNATIVE CONTRACTING METHODS**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.350</td>
<td>Special Procurements.</td>
</tr>
<tr>
<td>20.355</td>
<td>Competitive Bidding Exemptions for Public Improvement Contracts</td>
</tr>
<tr>
<td>20.360</td>
<td>Construction Manager/General Contractor.</td>
</tr>
<tr>
<td>20.365</td>
<td>Design/Build.</td>
</tr>
<tr>
<td>20.370</td>
<td>Energy Savings Performance Contracting.</td>
</tr>
</tbody>
</table>

**SOLICITATION PROCEDURES**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.410</td>
<td>Preliminary Procedures and Prequalification.</td>
</tr>
<tr>
<td>20.420</td>
<td>Methods of Source Selection.</td>
</tr>
<tr>
<td>20.430</td>
<td>Personal Services Contract Selection Procedures.</td>
</tr>
<tr>
<td>20.440</td>
<td>Requirements Contract Selection Procedures.</td>
</tr>
<tr>
<td>20.450</td>
<td>Bidding and Proposal Procedures.</td>
</tr>
</tbody>
</table>
Lane Manual

CHAPTER 20 CONTENTS

TYPES OF CONTRACTS AND AGREEMENTS
20.510 County Contracts, Generally.
20.515 Purchase Orders.
20.520 Goods and/or Services Contracts.
20.525 Construction and Public Improvement Contracts.
20.530 Requirements Contracts and Price Agreements.
20.535 Future Purchase and Retainer Contracts.
20.540 Intergovernmental Agreements.
20.545 Memoranda of Understanding.
20.550 Grant and Sub-Grant Agreements.
20.555 County Grants.
20.560 Revenue Contracts.

STANDARD CONTRACT PROVISIONS

AUTHORITY TO AWARD, APPROVE, AND CANCEL CONTRACTS
20.610 Contract Award and Approval.
20.615 Cancellation of Award.

CONTRACT AMENDMENTS AND ACCEPTANCE
20.625 Requirements for Contract Amendments.
20.630 Limitations on Contract Amendments.
20.640 Construction Change Orders.
20.645 Contract Completion and Acceptance.

AUTHORITY TO EXECUTE CONTRACTS, AMENDMENTS, GRANT APPLICATIONS, AND GRANTS
20.650 Delegation of Authority to Execute Grant Applications.
20.660 County Administrator's Authority to Execute Contracts.
20.665 County Administrator's Authority to Execute Amendments.
20.670 Department Directors' Authority to Execute Grants and Amendments.
20.680 County Administrator's Authority to Cancel Awards and Terminate Contracts.
20.685 Further Delegation.

PROTESTS OF PREQUALIFICATION, DEBARMENT, AND DISQUALIFICATION
Lane Manual
CHAPTER 20 CONTENTS

20.710 Protest of Solicitation Process.
20.720 Protest of Award Based on Competitive Bidding or Quotes.
20.730 Protest of Award Based on a Request for Proposals (RFP).
20.740 Appeals of Prequalification, Debarment, and Disqualification.
20.780 Other Protests Referred to the LCRB.
20.085 Purpose and Authority.

(1) The Board of County Commissioners for Lane County shall serve as the Local Contract Review Board (LCRB) for Lane County. The powers and duties of the LCRB set forth in ORS 279A, B, and C (Public Contracting Code) shall be exercised and performed by the Board of County Commissioners on behalf of Lane County. The LCRB may delegate these powers and duties as long as not in conflict with the Public Contracting Code.

(2) The rules in Lane Manual Chapters 20, 21 and 60 (regarding sale of personal/surplus property) are the public contracting rules for Lane County (County Rules). The model rules adopted by the Oregon Attorney General (Model Rules) under the Public Contracting Code do not apply, unless specifically adopted in these County Rules.

(3) Generally, Lane Manual (LM) Chapter 20 rules implement LCRB statutory powers and duties including, but not limited to, establishing public contracting exemptions, class special procurements, designations, alternative contracting methods, certain protest and appeal processes.

(4) The County Administrator, with the assistance of the Office of Legal Counsel as requested, is delegated the authority to review future amendments to the Model Rules to evaluate the need to modify County Rules in order to comply with statutory changes. If the evaluation suggests modifications may be necessary, proposed amendments shall be submitted to the LCRB for consideration. See ORS 279A.065.

(5) The County Administrator and Department Directors are authorized to further delegate the authority provided to them by these rules.

(6) Statutory Authority. These rules are authorized by ORS 279C.335(2) and ORS 279B.085 and the Lane County Charter.

(7) An adversely affected party must file any available protest or appeal under LM Chapter 20 or 21 before seeking judicial review of the County's process, solicitation, contractor selection or award decisions. All administrative protests must be exhausted prior to judicial review. (Revised by Order No. 08-12-2-1, Effective 12-2-98; 05-2-16-8, 2-28-05; 05-3-9-21, 3-9-03; 11-08-17-8, 08-17-11)

20.090 Findings.

Adoption of these rules and the exemptions herein are supported by the findings of the Board of County Commissioners adopted by Order 05-2-16-8. (Revised by Order No. 08-12-2-1, Effective 12-2-98; 05-2-16-8, 2-28-05; 08-2-13-1, 2-13-08; 11-08-17-8, 08-17-11)

20.091 Construction and Interpretation.

OAR Chapter 137, including but not limited to OAR 137 Divisions 46, 47, 48, and 49 may be used to further interpret Lane County's public contracting rules in Lane Manual Chapters 20 and 21, when an ambiguity exists or to further explain the manner in which the County may interpret its rule. When used as such, the reference shall be: "See OAR
20.095 Definitions.

As used hereafter, unless the context requires otherwise:

- Authorization is used to reflect the LCRB's decision to approve a special procurement. It may instead, or in addition, be used to describe a particular County employee's delegated authority to act.
- Bid is a competitive offer in which price, delivery (or project completion) and conformance to specifications and invitation to bid will be the predominant award criteria.
- Board means the Board of Commissioners of Lane County.
- Change Order means a written order authorizing a change in either plans, specifications, or quantities within the scope of the original contract.
- Competitive Bidding means the issuing of invitations to bid which follow the formal process for advertising, bid, and bid opening required by ORS Chapter 279 and these rules.
- Competitive Quotes or Quotes means the solicitation by the County of offers from competing vendors. The solicitation may be by advertisement or by the County initiating a request to vendors to make an offer. The solicitation and the offer may be in writing or oral.
- Cost includes not only the product price but also other items of expense such as the actual or reasonably estimated costs related to quality or conversion, and may include such actual or estimated items as shipping, delivery, set up, installation and training.
- County means the County of Lane, a political subdivision of the State of Oregon. Unless the context requires otherwise, "County" also shall refer to the officer or employee empowered to authorize a purchase.
- Department means County department which is implementing the public contracting rule or law, including conducting a procurement on the County's behalf. "Department" also means the Department Director who is authorized to conduct such a procurement, and any employee or officer authorized by the Director to conduct such a procurement.
- Extra Work means item(s) of work not provided for in the original contract as awarded, but determined by the County to be essential to the proper completion of the contract.
- Invitation to Bid means the solicitation of competitive offers in which specification, price and delivery (or project completion) will be the predominant award criteria.
- LCRB means the Lane County Board of County Commissioners, acting as the local contract review board for Lane County.
- Personal Property means everything subject to ownership which is not real property and has exchangeable value.
- Personal Service Agreements means the types of agreements described in LM Chapter 21.
- Project means a specific plan or task with clearly defined limits.
- Public Agency or Public Contracting Agency means any agency of the State of Oregon or any political subdivision thereof, including Lane County, and any public body
20.096 Lane Manual

created by intergovernmental agreement which is authorized by law to conduct a procurement under the Purchasing Code.

Public Contract means any purchase, lease or sale by the County of personal property, public improvements or services including agreements which are for personal services.

Request for Proposal (RFP) means the solicitation of written competitive proposals, or offers, to be used as a basis for making an acquisition, or entering into a contract when specification and price will not necessarily be the predominant award criteria. Also includes as preliminary phases of an RFP process, the "Request for Information" (RFI), "Request for Qualifications" (RFQ), and "Letter of Intent" (LOI) processes.

Requirements Contract means an agreement in which the contractor agrees to supply some or all of the County's requirements that arise for item(s) or service within a specified time period.

Service means work performed to meet a demand or need, especially work that is not connected with manufacturing a product.

Service Contract means a contract that calls primarily for a contractor's time and effort rather than for an end product.

Special Procurement means a contracting procedure for non-public improvement contracts that differs from bidding, request for proposals, small procurements, and intermediate procurements which might otherwise apply. It refers to "less special procurement" and "contract specific" special procurement as defined in ORS 279A.055, unless otherwise specified. (Revised by Order No. 98-12-21, Effective 12.2.12; 11F 8.17.11)

DESIGNATIONS, EXEMPTIONS AND AUTHORIZATIONS

20.096 Sole Source Designation.

A contract for a public improvement project may be awarded based on sole-source when covered by another LM Chapter 20 exemption or in accordance with LM 20.265(1). For non-public improvement contracts, if there is only one source for goods or services, or a class of goods or services of the quality required by the County, a contract may be awarded to that source without competition. Department Directors are delegated authority to make sole source determinations for contracts equal to or less than $50,000, subject to any review and reversal by the County Administrator, in his or her discretion. This authority may be further delegated. The County Administrator, or his or her designee, is delegated authority to make sole source determinations for contracts exceeding $50,000. Sole source determinations shall be made in accordance with procedures established in LM 21.111. (Revised by Order No. 05-2-16-8, Effective 2.28.05; 11F 8.17.11)

20.097 Personal Service Contracts Designation.

Certain contracts may be designated by the County as personal service contracts. Selection of a personal service contractor must be made by competitive selection, in accordance with LM 21.117 and 21.118, unless exempted under LM 20.250 or 21.118

(1) Pursuant to ORS 279A.055, a contract may be designated as a personal service contract if:
(a) The contractual relationship is based primarily on a special trust and confidence between the County and contractor; or

(b) The type and quality of services to be provided under the contract are based primarily on the contractor's special or unique expertise or knowledge; particular experience; or the exercise of discretionariry judgment skills unique to the service provider.

(2) Each Department Director is delegated the authority to determine whether a particular type of contract or service falls within the following, except that the County Administrator may, at the Administrator's discretion, review and reverse a Department's determination:

(a) Examples of contracts that may be designated personal service contracts include contracts for: expert consulting, appraisal, timber cruising, licensed professionals (including attorneys, auditors, accountants, physicians, physician assistants, nurse practitioners, nurses, therapists, realtors and engineers) research, polling, education, and artwork.

(b) Services that can generally be performed by an experienced competent person are not considered personal services, whether required to be licensed or not, such as: trade related activity including plumbing and electrical work, custodial services, document filing and storage, general labor, and repairs and maintenance services for buildings or equipment.

(3) Pursuant to ORS 279C, certain contracts relating to public improvements contracts are designated as personal services: architectural, engineering, photogrammetric mapping, transportation planning or land surveying services, that are related to planning, designing, engineering or overseeing public improvement projects or components of public improvement projects, including but not limited to landscape architectural services, facilities planning services, energy planning services, space planning services, hazardous substances or hazardous waste or toxic substances testing services, cost estimating services, appraising services, material testing services, mechanical system balancing services, commissioning services, project management services, construction management services and owner's representation services or land-use planning services. (Revised by Order No. 05-2-16-8, Effective 2.28.05; 11-08-17-8, 08.17.11; 13-03-11-04, 03.11.14)

20.098 - Electronic Advertising.
It is likely to be more cost effective for the County to publicly advertise bid and request for proposal competitive processes, including for public improvement contracts, by publishing the ad electronically on the web, rather than paying the cost of advertising in a newspaper of general circulation in Lane County. The same conclusion applies to other public notices required to be provided under LM Chapter 20 or LM Chapter 21. The County is authorized to electronically advertise as long as procedures in LM 21.105(3) are followed. (Revised by Order No. 05-2-16-8, Effective 2.28.05; 05-3-9-21; 3-9-05; 11-08-17-8, 08.17.11)

GENERAL EXEMPTIONS
20.100 General Statutory/Regulatory Exemptions and Exclusions:

(1) County contracts are not required to be based upon a County competitive selection process if a state or federal statute or regulation provides otherwise, or directs that another selection process be used. Contracts exempt or excluded from competitive selection include:

(a) Contracts between contracting agencies or between contracting agencies and the federal government;

(b) Contracts between entities covered by ORS 190.010, or intergovernmental agreements;

(c) Contracts for public improvements if the value of the contract is less than $5,000;

(d) Public improvement contracts not exceeding $100,000, or $50,000 in the case of a contract for a highway, bridge or other transportation project, made pursuant to competitive quotes;

(e) Intermediate procurements;

(f) Grants;

(g) Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which County is or may become interested;

(h) Acquisitions or disposals of real property or interests in real property;

(i) Sole source expenditures when rates are set by law or ordinance for purposes of source selection;


(k) Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145;

(l) Contracts for repair, maintenance, improvement or protection of property obtained by the Director of Veterans' Affairs under ORS 407.135 and 407.145(1);

(m) Contracts specifically exempt or authorized as a special procurement under LM Chapter 20 or under state law;

(n) Cooperative procurements covered by ORS 279A.200, et seq;

(o) Personal service contracts exempted under LM 20.250 and 20.118; and

(p) Contracts in which County is permitted to award without bidding or request for proposals provided that it adopts its own rules covering the selection process (e.g., ORS 279B.065 (small procurements), ORS 279C.335(5) (emergency), ORS 279A.180 (purchases through certain federal government programs). (Revised by Order No. 98-12-21, Effective 12.2.98; 04-6-30-12, 6.30.04; 05-2-16-8, 2.28.05; 05-12-14-9, 1.1.06; 11-08-17-8, 08.17.11; 13-03-11-04, 03.11.14)

20.105 Dollar Amount of Contract—Not to Exceed $100,000.

(1) The County may let public contracts not to exceed $100,000 for the purchase of goods, materials, supplies, and/or services without formal competitive bidding when the following conditions are complied with:
20.110

(a) The contract is for a single project and is not a component of or related to any other project in any one single year; and

(b) When the amount of the contract does not exceed $5,000 for non-public improvements or is less than $5,000 for public improvements, the County may contract by direct selection, without competitive selection, subject to the requirements and procedures in LM 21.109. However, competitive quotes in accordance with (c) below are encouraged, particularly for new purchases or projects.

(c) When the amount of the contract exceeds the amounts in (b), but do not exceed $100,000, the County shall obtain a minimum of three (3) competitive quotes or proposals, subject to the requirements and procedures in LM 21.110. If three (3) quotes are not available for purchases covered by this rule, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes. The County shall keep a written record of the source and amount of quotes received.


(1) Any contract amendment or change order (except for personal services) which increases the original contract price may be made with the contractor without further competitive process if either of the following conditions are met:

(a) The original contract was let by competitive process authorized by these rules; rates, unit prices or bid alternates were provided that established the cost for extra or additional work; and a binding obligation exists on the parties covering the terms and conditions of the extra or additional work; or

(b) The amount of the aggregate cost increase resulting from all amendments does not exceed 25 percent of the amount approved through competitive selection and does not exceed a reasonable cost estimate by the County; with the exception of contracts for the renovation or remodeling of buildings which may have aggregate amendments not exceeding 33 percent of this amount. Amendments made pursuant to LM 20.110(1)(a) above of this rule are not included in computing the aggregate amount under this section.

(2) Subject to any waiver, an amendment to a personal service contract may be executed without further competitive process when it is equal to or less than 50 percent of the original competitively selected amount, or in the event of multiple amendments, where the aggregate of the amendments is equal to or less than 50 percent. In addition, if the amendment is related to continuation of a project as provided in LM 21.118(3), no additional competitive process is required.

(3) Amendments that result from a separate competitive selection are not included in computing the aggregate amounts under subsection (1)(b) or (2) of this rule. The competitive selection used for the amendment should be appropriate based on the type of procurement and dollar amount of the amendment. See LM 21.105 (competitive bidding); LM 21.107 (requests for proposals); LM 21.108 (letters of interest); LM 21.109 (small procurements); LM 21.110 (intermediate procurements); LM 21.111 (sole sources); LM 21.112A (cooperative procurements); LM 20.265 (special procurements); LM 21.118 (personal services). The competitively-selected amendment amount(s) may be added to
the original competitively selected amount to determine a new base amount. The aggregate cost increase resulting from all amendments which have not been covered by a competitive selection cannot exceed the percentages listed above in (1)(b) and (2) of the new base amount. It is the department’s responsibility to maintain documentation concerning the competitive selection used for any such amendments and for which time periods. (Revised by Order No. 98-12-2, Effective 12.2.98; 05-2-16-8, 2.28.05; 08-2-13-1, 2.13.08; 09-1-23-6, 1.28.09; 11-08-17-8, 08:17.11)

20.115 Life Cycle Costing.

(1) In determining the lowest responsible competitor in the award of a contract, the County may use the concept of life cycle costing if it complies with LM 20.115(2) below. As used in this rule, life cycle costing means determining the cost of a product for its useful life.

(2) (a) Prior to the time of writing specifications for the product, the County shall identify those factors which will have cost implications over the life of the product;

(b) The written solicitation or invitation shall set out clearly the factors and methodology to be used in life cycle cost adjustments;

(c) The results of life cycle costing adjustments shall be applied to the base and any applicable alternate bids, proposals or quotes, and the competitor whose total results in the lowest ownership cost, taking into account the life cycle costing adjustments, shall be considered the lowest responsible competitor. (Revised by Order No. 98-12-2-1, Effective 12.2.98; 11-08-17-8, 08:17.11)

20.120 Price Regulated Items or Services.
The County, without competitive bidding or quotes, contract for the purchase of goods or services, where the rate or price for the goods or services being purchased is established by Federal, State, or regulatory authority. (Revised by Order No. 98-12-2-1, Effective 12.2.08)

20.125 Price Set by Federal Contracts.

(1) When the price of goods and services has been established by a contract with an agency of the federal government pursuant to a federal contract award, the County may purchase the goods and services from the supplier without subsequent competitive bidding. In exercising this authority under this exemption, the County shall:

(a) Include in the contract file a letter or memoranda from the appropriate federal agency granting permission to purchase under federal contract;

(b) Include in the contract file documentation showing the cost savings to be gained from anticipated purchases from the federal contract, based on at least two (2) other quotes, or if two are not available, one will suffice provided that a written record is made of the effort to obtain the quotes. (Revised by Order No. 98-12-2-1, Effective 12.2.98; 05-2-16-8, 2.28.05; 11-08-17-8, 08:17.11)

20.128 Client/Patient Services.
The County may contract for direct client services without competitive selection where the Department:
20.130  Lane Manual  20.135

(1) Reasonably believes after inquiring that no qualified providers are likely to participate in competitive selection; and
(2) Will include on a list all qualified providers willing to consider taking client referrals on an as needed basis; and
(3) Will select a qualified provider from the list as a client need arises, based on criteria including, but not limited to, client and family needs, quality/type of appropriate care, availability of service at the time it is needed, and cost. (Revised by Order 02-12-1-4, Effective 12.04.02; 11-08-17.8, 08.17.11)

20.130  Request for Proposal.
The County may, at its discretion, use a request for proposal competitive selection process for:
(1) Procuring goods or services relating to non-public improvement contracts for any amount, or
(2) Personal service contracts, except as otherwise required for qualification based selection, or
(3) Public improvement contracts as authorized by ORS 279C.335 or by separate exemption covered by LM Chapter 20 rule, if not covered by (1), (2), or (3), or
(4) For any other contract which is not required to be formally competitively bid. The RFP process is set forth in LM 21.107. (Revised by Order No. 08-12-2-1, Effective 12.2.98, 05-2-16.8, 2.28.05; 11-08-17.8, 08.17.11)

20.135  Requirements and Price Agreements and Cooperative Purchases.
(1) The County may enter into requirements contracts whereby it agrees to purchase requirements for an anticipated need at a predetermined price providing the following conditions are complied with:
   (a) The contract must be let by a competitive procurement process pursuant to the County's public contracting rules.
   (b) The term of the contract including renewals does not exceed three years.
(2) When the price of goods or services has been established by a requirements contract, the County may purchase the goods and services from the supplier without subsequent competitive process:
(3) Where the County anticipates an ongoing business relationship with a particular contractor, i.e. computer company, and where the contractor requests an umbrella contract with general terms which only apply if specific purchases are made and reflected in a separately executed attachment, the umbrella contract is exempt from competitive bidding or quote requirements if:
   (a) It provides that the contract may be canceled upon 30 days written notice by the County at its discretion; and
   (b) Each specific purchase is considered separately for competitive selection pursuant to the applicable County public contracting rules.
(4) The County may enter into requirements contracts and price agreements through cooperative purchases pursuant to ORS 279A.200 through ORS 279A.225, with the administering agency being a governmental body in Oregon or another jurisdiction.
   (a) The County may participate in, sponsor or administer joint cooperative procurements to establish contracts or price agreements for goods or services through cooperative purchases.
or personal services that use source selection methods substantially equivalent to those set forth in ORS 279B.055, 279B.060, or 279B.085 or to establish contracts for public improvements that use a competitive bidding process substantially equivalent to that set forth in ORS 279C.005 through ORS 279C.870.

(b) The County may participate in, sponsor, conduct or administer permissive cooperative procurements to establish contracts or price agreements for the acquisition of goods or services or personal services that use source selection methods substantially equivalent to those set forth in ORS 279B.055 or ORS 279B.060.

c) The County may participate in, sponsor, conduct or administer interstate cooperative procurements to establish contracts or price agreements for the acquisition of goods or services or personal services that use source selection methods substantially equivalent to those set forth in ORS 279B.055 or ORS 279B.060.

(5) Any protest of the procurement process, the contents of the solicitation document or the proposed award or award of a proposed contract through cooperative purchase, shall be in accordance with ORS 279B.400 through ORS 279B.125 unless the administering agency is not subject to the Oregon statutes; then in such case, the bidder or proposer shall make the protest in accordance with the processes and procedures established by the administering contracting agency. Any other protest related to a cooperative procurement, or disputes related to a contract arising out of a cooperative procurement shall be made and resolved as set forth in ORS 279A.225. (Revised by Order No. 98-12-2-1, Effective 12.2.98; 03-2-16.8, 2.28.05; 08-2-13.1, 2.13.08; 11-08-17.8, 08.17.11)

EXEMPTIONS, SPECIAL PROCUREMENTS, AND AUTHORIZATIONS BY TOPIC

20.155 Advertising Contracts.
The County may purchase advertising without competitive bidding or quotes. This includes, but is not limited to, space for advertising and legal notices in newspapers and other publications, and radio and television spots. (Revised by Order No. 98-12-2-1; Effective 12.2.98; 11-08-17.8, 08.17.11)

20.165 Copyrighted Materials.
The County may contract for the purchase of copyrighted materials without competitive bidding or quotes if there is only one known supplier. (Revised by Order No. 98-12-2-1; Effective 12.2.98)

20.170 Election Supplies and Services.
The County is exempt from competitive bidding or quote requirements for the printing of official ballots, including sample and test ballots, ballot envelopes, ballot counting equipment and software, and drop site signs. (Revised by Order No. 98-12-2-1; Effective 12.2.98; 04-6-30.12, 6.30.04; 10-6-23.3, 06.23.10)

20.175 Equipment Repair and Overhaul.
(1) Contracts for equipment repair, overhaul, or maintenance may be let without formal competitive bidding or quotes, subject to the following conditions:
20.180 Food Service Contracts.

(1) For purposes of this rule, food service means a contract in which the contractor agrees to perform for the County all of the following functions: the purchase, preparation, and service of meals and related services.

(2) Contracts for food services (excluding for jail and juvenile detention facilities) may be let without formal competitive bidding subject to the following conditions:

(a) Prior to the selection of a contractor, the County has made reasonable efforts to inform known companies providing food services of the subject matter of the contract and solicits proposals including public advertisement pursuant to LM 21.105(3).

(b) The contractor is selected on the basis of the most competitive offer considering cost, quality of the product and the service to be rendered.

(2) Contracts for jail and juvenile detention facility food items are exempt from competitive bidding. The County should, where feasible, obtain competitive quotes. (Revised by Order No. 98-12-2-1, Effective 12.2.98; 05-2-16-8, 2.28.05)

20.185 Gasoline, Diesel Fuel, Heating Oil, Lubricants and Asphalts.

The County is exempt from formal competitive bidding requirements for the purchase of gasoline, diesel fuel, heating oil, lubricants and asphalts, if the County seeks a minimum of three (3) competitive quotes, makes its purchases from the least expensive source, and retains written justification for the purchase made. (Revised by Order No. 98-12-2-1, Effective 12.2.98; 11-8-17-8, 08.17.11)

20.190 Oil or Hazardous Material Removal.

(1) The County may enter into public contracts without competitive bidding when ordered to cleanup oil or hazardous waste pursuant to the authority granted the Department of Environmental Quality (DEQ) under ORS Chapter 466, especially ORS 466.605 through 466.680 and this order necessitates the prompt establishment and performance of the contract in order to comply with the statutes regarding spill or release of oil or hazardous material that have created an emergency condition. Comprehensive cleanup rules are set forth at OAR 340-122-0205 to 340-122-0360. In exercising its authority under this exemption the County shall:

(a) To the extent reasonable under the circumstances, encourage competition by attempting to make informal solicitations or to obtain informal quotes from potential suppliers of goods or services;

(b) Make written findings describing the circumstances requiring cleanup or a copy of the DEQ order ordering such cleanup;
20.195 Office Copier Purchases.

(1) The County may enter into multiple price agreements or requirements contracts for either the purchase or lease of office copying equipment. Except for this multiple award exemption, such agreements shall otherwise conform to the requirements of LM 20.135(1) above.

(2) In exercising this exemption the County shall fully consider the operating capabilities, limitations and cost of each brand or model and select that brand which will produce the best combination of performance and cost per copy for each application. (Revised by Order No. 98-12-2-1, Effective 12.2.98; 11.08.17-8, 08.17.11)

20.200 Laboratory and Medical Supplies.

The County is not required to purchase laboratory and medical supplies on the basis of a single award to the lowest responsible bidder, but instead may purchase different brands of the same item by awarding contracts, after competitive bidding, to the lowest responsible bidder for each brand. The County may specify medical and laboratory supplies by brand name if the County finds a medical or scientific basis for the specification. (Revised by Order No. 98-12-2-1, Effective 12.2.98; 11.08.17-8, 08.17.11)

20.205 Purchases of Hospital and Medical Supplies and Equipment.

Purchases of hospital and medical supplies and equipment through a legally established purchasing cooperative are exempt from competitive bidding or quotes if the County is a member of such cooperative. (Revised by Order No. 98-12-2-1, Effective 12.2.98)

20.206 Library and Reading Materials.

(1) The County may purchase library circulation materials, such as books, videos, tapes and CDs, without competitive bidding or quotes.

(2) The County may purchase subscriptions for newspapers and periodicals, including journals, magazines, and similar publications without competitive bidding or quotes. (Revised by Order No. 98-12-2-1, Effective 12.2.98)

20.207 Purchases of Used Personal Property.

The County may purchase used personal property for $50,000 or less without competitive bidding or quotes if the County has determined that the direct purchase without competitive bidding will result in cost savings. For purchases of used personal property over $50,000, three (3) competitive quotes shall be obtained. If three (3) quotes are not available, a written record must be made of the attempt to obtain quotes. (Revised by Order No. 98-12-2-1, Effective 12.2.98; 11.08.17-8, 08.17.11)
20.210 - Specification of Particular Brand Names or Products.

(1) Specifications for public improvement contracts shall not expressly or implicitly require any product of any particular manufacturer or seller except pursuant to an exemption under LM 20.215 below (Brand Name or Mark Exemption Applications), LM 20.220 below (Copyrighted Materials), LM 20.225 below (Single Manufacturer or Service Provider), LM 20.230 below (Product Pre-qualification), and LM 20.200 above (Laboratory and Medical Supplies).

(2) If there is no other practical method of specification, the County may designate a particular brand name, make, or product supplied by, or "approved equal," or "equivalent," or similar language, "or equal," but this practice should be avoided whenever practicable. (Revised by Order No. 98 12 2 1 , Effective 12.2.98; 01 6 30 12; 6 30 04; 05 2 16 8, 2 28 05)

20.215 - Brand Name or Mark Exemption Applications.

(1) LM 21.112 covers brand name procedures for non-public improvement contracts. This rule covers the LCRB granting an exemption for a brand name or make for current and contemplated future purchases for public improvement contracts. Applications shall contain the following information:

(a) A brief description of the contract or contracts to be covered. The description should include contemplated future purchases.

(b) The brand name, mark, or product to be specified.

(c) The reasons the County is seeking the exemption.

(2) The LCRB may grant exemptions if any of the following conditions are met:

(a) The exemption is not likely to encourage favoritism in awarding public improvement contracts or substantially diminish competition, or

(b) The specification of a product by brand name or mark, or the product of a particular manufacturer or seller would result in substantial cost savings to the County, or

(c) There is only one manufacturer or seller of the product of the quality required, or efficient utilization of existing equipment or supplies requires acquisition of compatible equipment or supplies, or

(d) Efficient utilization of existing equipment or supplies requires acquisition of compatible equipment or supplies. (Revised by Order No. 98 12 2 1 , Effective 12.2.98; 03 2 16 8, 2 28 03; 11 08 17 8, 08 17 11)


The County may specify a copyrighted product. This exemption does not include patented or trademark goods. (Revised by Order No. 98 12 2 1 , Effective 12.2.98; 11 08 17 8, 08 17 11)

20.225 - Single Manufacturer or Service Provider.

(1) If there is only one manufacturer or seller of a product or service of the quality required or if the efficient utilization of the existing equipment or supplies requires a compatible product of a particular manufacturer or seller, the County may specify such particular product subject to the following conditions:
20.230 Product Pre-Qualification.

(1) When it is impractical to create specific design or performance specifications for a type of product to be purchased, the County may specify a list of approved products by reference to particular manufacturers or sellers in accordance with the following product pre-qualification procedure:

(a) The County has made reasonable efforts to notify known manufacturers or vendors of competitive products of its intention to accept applications for inclusion in its list of pre-qualified products. Notification shall be in accordance with LM 21.105(3) and may include advertisement in a trade journal of statewide distribution when possible. In lieu of advertising, the County may notify vendors and manufacturers appearing on an appropriate list maintained by the County.

(b) The County permits application for pre-qualification of similar products up to 5 days prior to advertisement for bids on the product.

(2) Manufacturers and vendors shall have the opportunity to submit goods where testing or examination is necessary or desirable. The decision to pre-qualify the goods shall be based on the results of tests or examinations. If an application for inclusion in a list of pre-qualified products is denied, or an existing pre-qualification is revoked, the County shall notify the applicant in writing. The applicant may appeal to the County Administrator. The appeal must be filed with the department soliciting the product within 5 days of mailing of the denial or revocation. The appeal must state the grounds for appeal. The County Administrator shall decide the matter on the written record within 7 days. (Revised by Order No. 98-12-2, Effective 12-2-98, 05-2-16-8, 2.28.05., 11-08-17-8, 08.17.11)

COUNTY ADMINISTRATIVE SERVICES

20.235 Insurance Contracts.

(1) Contracts for insurance where either the annual or aggregate premium exceeds $100,000 must be let by formal competitive bidding or by one of the following:

(a) Agent of Record: The public contracting agency may appoint a licensed insurance agent (agent of record) to perform insurance services in connection with more than one insurance contract. Among the services to be provided is the securing of competitive proposals from insurance carriers for all coverages for which the agent of record is given responsibility.

(i) Prior to the selection of an agent of record, the County shall make reasonable efforts to inform known insurance agents in the competitive market area that it is considering such selection. These efforts shall include a public advertisement pursuant to LM 21.105(3). The advertisement shall generally describe the nature of the insurance that the public contracting agency will require. If the amount of the annual premium for insurance, other than employee benefits insurance, is likely to exceed $100,000 per year, such notice shall also include a public advertisement in at least one insurance trade publication of general circulation in the state.
20.240 Lane Manual 20.250

Any appointment period shall not exceed three years. Agents may serve more than one appointment period. Agents must qualify for appointment prior to each period as if each appointment period were the first;

(iii) In selecting an agent of record, the County shall select the agent(s) most likely to perform the most cost-effective services;

(b) Specific Proposals for Insurance Contracts: The County may solicit proposals from licensed insurance agents for the purpose of acquiring specific insurance contracts subject to the following conditions:

(i) The County shall make reasonable efforts to inform known insurance agents in the competitive market area of the subject matter of the contract, and to solicit proposals for providing the services required in connection with the contract. Such efforts shall include public advertisements pursuant to LM.21.105(3). If the amount of annual premium for insurance, other than employee benefits insurance is likely to exceed $100,000 per year, such notice shall also include a public advertisement in at least one insurance trade publication of general circulation in the state;

(ii) The County shall select an agent on the basis of the most competitive offer considering coverage, premium cost, and service to be provided;

(2) Contracts for insurance where either the annual or aggregate premium is less than or equal to $100,000 may be let by informal quotes. (Revised by Order No. 98-12-2-1, Effective 12.2.98; 11-08-17-8, 08.17.11)

20.240 Employee Benefit Insurance.

The County may purchase employee benefit insurance without competitive bidding or quotes. (Revised by Order No. 98-12-2-1, Effective 12.2.98; 11-08-17-8, 08.17.11)

20.245 Investment Contracts.

The County may, without competitive bidding, contract for the purpose of the investment of public funds or the borrowing of funds when such investment or borrowing is contracted pursuant to duly enacted statute, order, ordinance, charter, or constitution. (Revised by Order No. 98-12-2-1, Effective 12.2.98; 11-08-17-8, 08.17.11)

20.250 Litigation Services.

(1) The County may purchase personal services related to litigation or legal matters without a competitive process when County Counsel deems it necessary to do so, including outside legal representation, expert witnesses, consultants, arbitrators, mediators, investigators or other specialized personnel.

(2) Selection criteria may include, but are not limited to, education and specialized training, experience, demeanor, cost and availability.

(3) Multiple contracts for similar services are authorized. (Revised by Order No. 98-12-2-1, Effective 12.2.98; 05-2-16-8, 2.28.05; 11-08-17-8, 08.17.11; 13-03-11-04, 03.11.14)

ALTERNATIVE CONTRACTING METHODS

20.251 Competitive Bidding Exemptions for Public Improvement Contracts
20.250 Lane Manual 20.250

(1) Contracts Subject to Exemption. Upon approval of the findings in (2)(e) below, the LCRB may authorize an exemption from competitive bidding requirements for any of the following types of public improvement contracts:

(a) Construction Manager/General Contractor (CM/GC), as defined in ORS 279C.332 and OAR 137-049-0610;
(b) Design Build, as defined in OAR 137-049-0610; and
(c) Energy Savings Performance Contracting (ESPC), as defined in ORS 279A.010 and OAR 137-049-0610.

(2) Approval of Findings. Prior to exempting a contract from competitive bidding requirements, the LCRB must:

(a) Hold a public hearing, in accordance with ORS 279C.335(5);
(b) Give at least 14 days' notice of the public hearing, in accordance with ORS 279C.335(5)(b) and (e); and
(c) Approve written findings that:

(i) It is unlikely that the exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts; and

(ii) The awarding of public improvement contracts under the exemption will likely result in substantial cost savings to the County or the public. In making this finding, the LCRB may consider the type, cost and amount of the contract, the number of persons available to bid, and must consider all required factors in ORS 279C.335(2)(b), to the extent applicable.

(3) Post Project Evaluation. Upon completion and final payment for any public improvement project in excess of $100,000 for which an exemption was authorized under this section, the contracting Department shall prepare and deliver to the LCRB an evaluation of the public improvement contract. The evaluation must, at a minimum, meet the requirements of ORS 279C.335(b) and (e), and should include:

- financial information including comparing estimates with actual cost; any Guaranteed Maximum Price (GMP) changes and actual costs; successes and failures during design, engineering and construction; and assessment of the use of method as compared to any exemption findings. (Revised by Order No. 11-08-17-8, Effective, 08.17.11; 14-07-22-03, 08/04/14)

20.252 Construction Manager/General Contractor.

If the County conducts a procurement for a Construction Manager/General Contractor pursuant to an exemption granted under LM 20.251, the procurement must be conducted in accordance with model rules adopted by the Attorney General under ORS 279A.065(3). (Revised by Order No. 11-08-17-8, Effective, 08.17.11; 14-07-22-03, 08/04/14)

20.253 Design/Build.

If the County conducts a procurement for a Design/Build contractor pursuant to an exemption granted under LM 20.251, the procurement may be conducted following a request for proposal procedure in accordance with LM 21.107 and utilizing the criteria in OAR 137-049-0670. (Revised by Order No. 11-08-17-8, Effective, 08.17.11; 14-07-22-03, 08/04/14)
20.254 Energy Savings Performance Contracting.

If the County conducts a procurement for an Energy Savings Performance Contractor (ESPC) pursuant to an exemption granted under LM 20.251, the procurement may be conducted following a request for proposal procedure in accordance with LM 21.107 and utilizing the criteria in OAR 137-049-0680. *(Revised by Order No. 11-08-17-8, Effective, 08/17/11; 11-07-22-03, 08/04/14)*

**EXEMPTIONS AND AUTHORIZATIONS AS CIRCUMSTANCES ARISE**

20.255 Emergency Contracts.

The County may execute contracts without a competitive process if an emergency exists and requires prompt execution of a contract to remedy the condition. An emergency is generally defined, but not limited to, a set of circumstances creating a substantial risk of loss, damage, interruption of services or threat to public health or safety that could not have been reasonably foreseen or is beyond the control of the County or its employees. The resulting contract would be necessary under these circumstances to preserve public funds, property, or the uninterrupted provision of government services. The County Administrator is delegated authority to declare an emergency and execute a contract(s) to remedy it not to exceed $100,000. The Board of County Commissioners, sitting as the local contracting agency, shall declare an emergency and award any contract exceeding $100,000. The contract shall be executed within 60 days unless the LCRB grants an extension. The procedures in LM 21.128 shall be followed in exercising the authority delegated under this rule. *(Revised by Order No. 05-2-16-8, Effective 2-28-05; 11-08-17-8, 08/17/11)*

20.265 LCRB Exemptions for Special Procurements.

(1) The LCRB may approve a special procurement for a particular non-public improvement contract, or a category of contracts, to allow procurement other than through an otherwise applicable process including competitive bidding (ORS 279B.055), request for proposals (ORS 279B.060), small procurement (ORS 279B.065), and intermediate procurement (ORS 279B.070). The written request for approval of a special procurement shall include:

   (a) A description of the goods or services or the class of goods or services to be acquired; and,
   (b) A description of the proposed contracting procedure; and,
   (c) A description of the circumstances that justify the use of a special procurement.

(2) The LCRB may require such additional information as it deems necessary to determine whether a specific contract, or category of contracts under (5), should be procured by a process other than one that would be applicable.

(3) Application of the information in LM 20.265(5) must demonstrate that the special procurement would meet the following standard:

   (a) It is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts; and
   (b) Either is reasonably expected to result in substantial cost savings to the contracting agency or to the public, or otherwise substantially promote the public interest in a manner that could not practically be realized by complying with
20.270 Lane Manual 20.270

requirements under ORS 279B.055, 279B.060, 279B.065, 279B.070, including any rules adopted thereunder.

(4) Public Notice. Public notice of a request and intent to approve a special procurement shall be provided through the standard public notice for Lane County Board of Commissioners/LCRB meetings, including on the County's website. Public notice of the approval of a special procurement shall be the date of the decision to approve at the LCRB meeting, unless otherwise provided by the LCRB.

(5) An affected person or entity may protest the LCRB's decision to approve a special procurement. The affected person or entity shall deliver a written protest to the County department within ten days after the public notice of the decision to approve, unless the LCRB provides a different protest period in its public notice.

(6) Untimely filed protests in (9) will not be considered.

(7) A written protest shall include a statement of the legal and factual grounds for the protest, a description of the resulting harm to the affected person, and the relief requested.

(8) For protests covered by (9) above, the County department may prepare a response within three days. If the County department concurs with the protest, in whole or in part, it may revise the proposed special procurement accordingly, or withdraw the request. If it does not concur, the LCRB will consider the protest at the time set for considering the request for special procurement for a protest under (9) on a future LCRB agenda as soon as reasonably practicable. The LCRB shall consider the written record, including but not limited to, any County department analysis and submissions by the affected person or entity, and any oral testimony. The LCRB may revise the special procurement, in whole or in part, or deny or sustain the protest.

(9) A contract may not be awarded until after the running of the protest period or completion of protest process in (10) above. (Revised by Order No. 98-12-2-1, Effective 12-2-98; 04-6-30-12, 6-30-12, 05-2-2-8, 2-2-05; 05-12-1-9, 11-1-06; 08-2-13-1, 2-13-09; 11-17-08, 07-07-22-03, 08/04/14)

APPEALS ARISING FROM PREQUALIFICATION, DEBARMENT, DISQUALIFICATION, AND SOLE SOURCE

20.270 Prequalification, Debarment, and Disqualification Appeals.
A prospective bidder or proposer may appeal a Department's decision to debar (non-public improvement) or disqualify (public improvement), or deny, revise or revoke prequalification. See ORS 279B.425 and ORS 279C.450.

(1) A prospective bidder or proposer shall file a written appeal within 3 days after receiving notice of the County's decision. The appellant shall include a detailed statement of the grounds for the appeal.

(2) The Department shall schedule the appeal to be heard before the LCRB, or a designee, as soon as reasonably possible, notify the appellant of the time and place for the hearing, prepare a written response, and provide it to the appellant and to the LCRB. The Department shall also submit the written record to the LCRB.

(3) There shall be a de novo review of the notice of denial, revocation or revision of prequalification or notice of debarment or disqualification and any evidence provided by the parties. The LCRB shall apply the standards of responsibility in deciding
an appeal of a denial, revision or revocation of a prequalification in (5) below and criteria for debarment or disqualification in (6) below:

(4) The hearing and appeal decision shall occur within 30 days after receiving the notice from the Department. The LCRB shall provide written reasons for the decision in a final order, and include any allocation of costs for the hearing.

(5) In determining whether the standards of responsibility have been met, the LCRB shall consider whether one or more of the criteria in ORS 279C.375 for public contracts and in ORS 279B.110 for non-public contracts have been met: Generally, this criteria includes:

(a) Non-availability of appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain resources and expertise necessary to indicate capability to meet contractual responsibilities;

(b) Unsatisfactory record of performance;

(c) Unsatisfactory record of integrity;

(d) Not legally qualified to contract;

(e) Failure to supply all necessary information in connection with the inquiry concerning responsibility;

(f) Whether contractor has been debarred (non-public improvement) or disqualification (public improvement).

(6) In determining whether to debar or disqualify a prospective bidder or proposer from consideration of award of the County's contracts for up to 3 years, the decision maker shall consider whether one or more of the following have been met:

(a) Conviction of a criminal offense as an incident in obtaining or attempting to obtain or performing pursuant to a public or private contract or subcontract;

(b) Conviction under state or federal law or embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating lack of business integrity or business honesty that currently, seriously and directly affects responsibility as a contractor;

(c) Conviction under state or federal antitrust statutes;

(d) Violation of a contract provision and debarment was listed as a potential penalty in the terms of the contract;

(e) Failure to carry workers' compensation or unemployment insurance as required by statute. (Revised by Order No. 05-2-16-S, Effective 2.28.05; 11-08-17-S, 08.17.11; 11-12-14-1, 12-14-11.)

20.271 Protests of Sole Source Contract Exceeding $100,000

The LCRB shall decide any protests to sole source contracts exceeding $100,000 in accordance with LM 21.111(6).

BID SECURITY AND BONDS

20.275 Bid Security and Bonds.

(1) Contracts, other than those for public improvements and construction contracts as defined in ORS 279C.320(1), are exempt from the bid security requirements of ORS 279B.050 and performance and payment bond requirements provided that the
County may require bid, performance, or payment security, in its discretion, regardless of this exemption.

(2) Contracts for public improvements and construction contracts as defined in ORS 279C.320(1) which do not exceed $100,000 (except for highway, bridge and other transportation projects which do not exceed $50,000) are exempt from bid security, and performance and payment bond requirements provided that the County may require such security in its discretion, regardless of this exemption. ORS 279C.390. (Revised by Order No. 98-12-2-1; Effective 12.2.98; 05-2-16-8; 05-3-9-21; 3-9-05; 11-6-8-17-8; 08-17-14)

CONTRACT POLICIES AND LOCAL CONTRACT REVIEW BOARD

PUBLIC CONTRACT AUTHORITY, RULES, AND INTERPRETATION

20.010 Purpose and Authority.

(1) The Board of County Commissioners for Lane County is the Local Contract Review Board (LCRB) for Lane County, with the powers and duties of an LCRB set forth in ORS Chapters 279A, 279B, and 279C (the Public Contracting Code). The LCRB may delegate these powers and duties as long as not in conflict with the Public Contracting Code.

(2) The public contracting rules for Lane County are those rules in Lane Manual Chapter 20 and section 60.410 of Chapter 60 regarding the sale of personal and surplus property ("County Rules") which implement County policy and the requirements of the Oregon Public Contracting Code.

(3) The model rules adopted by the Oregon Attorney General (OAR Chapter 137) do not apply to Lane County, unless specifically required by statute or adopted in the County Rules. When referenced in these Rules, OAR Chapter 137 may be used to further interpret the County Rules when an ambiguity exists or to further explain the manner in which the County may interpret its rule. When referenced, the reference is stated as: "See OAR____.

(4) Authority.

(a) Lane County's powers and duties as a contracting agency under the Public Contracting Code and "contracting agency" powers and duties may be exercised and performed by those employees who have been expressly delegated authority in the County Rules. These express delegations include, but are not limited to, authority to award and execute contract documents.

(b) Absent an express delegation, the County Administrator and those Department Directors authorized by the County Administrator may determine which public officers have authority to exercise the powers and duties of the contracting agency under the County Rules.

(c) Any delegation of authority under the County Rules may be further delegated by the delegee to a County employee. Such delegation should generally be evidenced by a writing.
(d) Nothing in this subsection is intended to modify the authority of the County Administrator and Department Directors for contract matters after contract execution.

(5) In addition to the specific delegations of authority contained in these County Rules, the County Administrator is delegated authority to adopt all procedures necessary to implement the provisions of the County Rules.

(6) An adversely affected party must file any available protest or appeal under LM Chapter 20 before seeking judicial review of the County's process, solicitation, contractor selection or award decisions. All administrative protests must be exhausted prior to judicial review.

20.015 Fair Board.
(1) Pursuant to ORS 565.230, the Fair Board may conduct contracting activities for contracts relating to fairground facilities and operations, except those contracts which transfer an interest in real property.
(2) The Fair Board is delegated authority to cancel or terminate such contracts as provided in the contract or by law.
(3) The Fair Board may further delegate authority under this provision to a representative by signed written document.
(4) The Fair Board, in conducting contracting activities, must comply with the applicable requirements of the County Rules.

20.020 Definitions.
As used in this Chapter, the following words and phrases mean:
Change Order. A written order authorizing a change in the contract, plans, specifications, quantities, price, or time.
Competitive bidding. The formal process of advertising, bidding, and bid opening required by the Public Contracting Code and these rules.
Competitive quotes. Offers made by competing offerors in response to an informal solicitation of offers by the County. A solicitation may be made by advertisement or by direct request to vendors.
Competitive selection. The process of selecting a vendor for goods and services based upon competition. Steps common to all competitive selection processes include:
(a) A method for identifying and encouraging multiple potential vendors,
(b) Providing each vendor with an adequate description of the County's requirements for offers on the quantity and type of goods and services requested, and the method by which a vendor will be chosen,
(c) Receiving proposals or bids in a controlled manner that prevents competing vendors from knowing the contents of competitors' offers until all proposals or bids are received, and
(d) A transparent process of making a selection from among properly-submitted proposals or bids that is based upon the selection method stated.
Contract. Any agreement to purchase, lease, sell, or provide goods or services. A purchase order, once accepted, is a Contract.

County grant. An agreement under which the County provides money, property, or other assistance, including loans, loan guarantees, credit enhancements, gifts, bequests, commodities, or other assets, to a recipient for the purpose of supporting or stimulating a program or activity of the recipient and in which no substantial involvement by the County is anticipated other than involvement associated with monitoring compliance with the grant conditions, as defined in ORS 279A.010(k)(ii). Distinguish from Grant.

Goods. Tangible or intangible items of personal property, whether furnished separately or combined with Services, such as installation, including both "goods" and "future goods" as defined in ORS 72.1050. See ORS 279A.010(i).

Grant. An agreement under which the County receives money, property, and other assistance, as defined in ORS 279A.010(k)(i). Distinguish from County Grant.

Invitation to Bid. The complete set of documents used to solicit and receive competitive bids, as defined in ORS 279B.005(1)(a).

LCRB. The Lane County Board of County Commissioners, sitting as the local contract review board.

Offeror. A term used to describe a vendor or person that submits a bid, proposal, quote, or other type of offer.

Personal property. Property, other than real estate, consisting generally of movable or temporary things, as defined in ORS 307.020.

Personal services. Those services described in LM 20.530(2).

Procurement. The process by which the County conducts its purchases of goods and services.

Project. A specific plan or undertaking with defined objectives or limits.

Public contract. See ORS 279A.010(1)(z).

Public improvement. See ORS 279A.010(1)(cc).

Public officer. Any person authorized to conduct a procurement on the County's behalf.

Requirements contract. An agreement in which the contractor agrees to supply to the County the specific goods or services identified in the agreement for a specific time period, based upon the quantity required or ordered by the County during the time period.

Retainage. The difference between the amount earned by a contractor on a public contract and the amount paid, held to guarantee full performance. See ORS 279C.550.

Services. Work performed to meet a demand or need, as distinguished from Goods. See ORS 279A.010(1)(kk).

CONTRACTING POLICIES

20.050 Policy on Competition.
It is the policy of Lane County to encourage open and impartial competition in the procurement of goods and services, in accordance with the requirements of ORS Chapter 279 and the Public Contracting Code.
The LCRB has determined that it is more cost effective for the County to publicly advertise bids and other competitive procurement processes, including those for public improvement contracts, by publishing the advertisement electronically using the internet, except where Oregon law requires advertising in a newspaper of general circulation in Lane County or a statewide trade publication. The same determination applies to all other public notices required to be provided under the County Rules or the Public Contracting Code.

20.060 Policy on Performing Services for Other Public Agencies.
Under the authority of Chapter II, Section 8 of the Lane County Home Rule Charter and ORS Chapter 190, it is the policy of Lane County to offer services to other public agencies where feasible, providing that the County must be compensated for the complete cost of providing all intergovernmental services. The Board must approve any waiver of the policy for compensation.

20.065 Policy on Bid Security and Bonds.
(1) All contracts, other than those for public improvements and construction contracts as defined in ORS 279C.320(1), are exempt from the bid security requirements of ORS 279B.050 and performance and payment bond requirements, provided that the County may, in its discretion, require bid security or performance and payment security.

(2) Contracts for public improvements and construction contracts as defined in ORS 279C.320(1) which do not exceed $100,000 (except for highway, bridge and other transportation projects which do not exceed $50,000) are exempt from bid security, and performance and payment bond requirements, provided that the County may require such security in its discretion, regardless of this exemption.

GENERAL EXEMPTIONS FROM COMPETITIVE SELECTION

20.110 General Statutory and Regulatory Exemptions and Exclusions.
County contracts are not required to be based upon a County competitive selection process if a state or federal statute or regulation provides otherwise, or directs that another selection process be used. Contracts exempt or excluded from competitive selection include:

(1) Contracts with the State of Oregon, other Oregon units of local government, or the federal government (Intergovernmental Agreements);

(2) Grants or County Grants;

(3) Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which County is or may become interested;

(4) Acquisitions or disposals of real property or interests in real property;

(5) Sole source expenditures when rates are set by law or ordinance for purposes of source selection;
20.275 Lane Manual 20.275


(7) Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145;

(8) Contracts for repair, maintenance, improvement or protection of property obtained by the Director of Veterans' Affairs under ORS 407.135 and 407.145(1);

(9) Contracts specifically exempt or authorized as a special procurement under LM Chapter 20 or under state law;

(10) Contracts in which County is permitted to award without bidding or request for proposals provided that it adopts its own rules covering the selection process.

20.115 Products or Services of Qualified Rehabilitation Facilities.

If the product or service meeting the County's requirements is available from a Qualified Rehabilitation Facility (QRF), the County must purchase such products or services from a QRF, in accordance with ORS 279.835 through 279.855.

20.120 Price-Regulated Items or Services.

The County may, without competitive bidding or quotes, contract for the purchase of goods or services, where the rate or price for the goods or services being purchased is established by Federal, State, or regulatory authority.

20.125 Price Set by Federal Contracts.

When the price of goods and services has been established by a contract with an agency of the federal government pursuant to a federal contract award, the County may purchase the goods and services from the supplier without subsequent competitive bidding.

20.130 Future Purchase and Retainer Agreements.

The County may without competitive bidding enter into a contract that establishes general terms for the future purchase of goods or services, the terms of which will only apply if subsequent purchases are made, provided that:

(1) The contract is non-exclusive,

(2) The contract by its terms may be canceled upon 30 days written notice by the County at its discretion, and

(3) Each specific purchase is considered separately for competitive selection pursuant to the applicable County Rules.

20.135 Cooperative Procurements.

(1) The County may participate in, sponsor, conduct, or administer joint cooperative procurements pursuant to ORS 279A.200 through 279A.225.

(2) Any protest of the procurement process, the contents of the solicitation document or the proposed award or award of a proposed contract through cooperative purchase, shall be in accordance with ORS 279B.400 through ORS 279B.425 unless the administering agency is not subject to the Oregon statutes; then in such case, the bidder or proposer shall make the protest in accordance with
the processes and procedures established by the administering contracting agency. Any other protest related to a cooperative procurement, or disputes related to a contract arising out of a cooperative procurement shall be made and resolved as set forth in ORS 279A.225.

**SPECIFIC EXEMPTIONS FROM COMPETITIVE SELECTION**

20.210 Advertising.
The County may purchase advertising without competitive selection. This includes, but is not limited to, advertising and legal notices placed in general communications media such as newspapers, publications, radio, television, and on the internet.

(1) The County may purchase library circulation materials, such as books and recordings, whether delivered in hard copy or electronically, without competitive selection.
(2) The County may purchase subscriptions for newspapers and periodicals, whether delivered in hard copy or electronically, without competitive selection.
(3) The County may purchase copyrighted materials without competitive selection when there is only one known supplier.

20.220 Election Supplies and Services.
The County may purchase election supplies and services without competitive selection. This includes, but is not limited to, printing of official ballots, sample or test ballots, ballot envelopes, ballot counting equipment and software, and signs.

20.225 Equipment Repair and Overhaul.
(1) The County may contract for equipment repair, overhaul, or maintenance without competitive bidding or quotes, subject to the following conditions:
   (a) The service and/or parts required are unknown, and the cost cannot be determined without extensive preliminary dismantling or testing; or
   (b) The service and/or parts required are for equipment for which specially trained personnel are required, and such personnel are available from only one source.
   (2) If a contract under this exemption exceeds $100,000, the County shall document in its procurement file the reasons why competitive bids or quotes were deemed to be impractical.

The County may enter into contracts for the purchase of gasoline, diesel fuel, heating oil, lubricants, and asphalts without formal competitive bidding, provided that:
(1) The County has solicited a minimum of three (3) competitive quotes,
(2) Makes its purchases from the least expensive source, taking into consideration the costs of delivery or transportation, and
20.275 Lane Manual 20.275

(3) Retains written justification for the source selected for the purchase.

20.235 Client/Patient Services.
The County may contract for direct client services without competitive selection where the Department:
(1) Reasonably believes after inquiring that no qualified providers are likely to participate in competitive selection; and
(2) Will include on a list all qualified providers willing to consider taking client referrals on an as-needed basis; and
(3) Will select a qualified provider from the list as a client need arises, based on criteria including, but not limited to, client and family needs, quality/type of appropriate care, availability of service at the time it is needed, and cost.

20.240 Laboratory and Medical Supplies.
The County may specify or select laboratory and medical supplies on the basis of brand name, provided that:
(1) The purchase is made from the lowest priced vendor for the specific product and brand, and
(2) The County has a reasonable medical or scientific basis for the selection.

20.245 Food Services.
(1) The County may contract for food services without formal competitive selection, subject to the following conditions:
   (a) Prior to the selection of a contractor, the County has made reasonable efforts to inform known companies providing food services of the subject matter of the contract,
   (b) The County advertises for proposals in accordance with LM 21.105(3), and
   (c) The contractor is selected on the basis of the most competitive offer considering cost, quality of the product and the service to be rendered, and
(2) The County may contract for food services for jail and juvenile detention facilities without competitive bidding.

20.250 Used Personal Property.
The County may purchase used personal property for $50,000 or less without competitive selection, provided that:
(1) The County has determined that the direct purchase without competitive bidding will result in cost savings, and
(2) For purchases of used personal property over $50,000, at least 3 competitive quotes have been obtained, if available. If 3 quotes are not available, a written record must be made of the attempt to obtain quotes.

20.255 Litigation Services.
The County may contract for personal services related to litigation or legal matters without competitive selection when County Counsel deems it necessary to do so,
including but not limited to outside legal representation, expert witnesses, consultants, arbitrators, mediators, investigators or other specialized personnel.

20.260 Employee Benefit Insurance.  
The County may purchase employee benefit insurance without competitive selection.

20.265 Investments.  
The County may contract for the purpose of the investment of public funds or the borrowing of funds without competitive selection, when such investment or borrowing is contracted pursuant to an enacted statute, order, ordinance, charter, or constitution.

20.270 Insurance.  
(1) The County may purchase insurance without a formal competitive selection when the annual or aggregate premium is less than or equal to $100,000.
(2) Contracts for insurance where either the annual or aggregate premium exceeds $100,000 must be let by competitive selection or through an agent of record.
(3) Agent of Record. The County may appoint a licensed insurance agent as its agent of record to perform insurance services in connection with more than one insurance contract, including the securing of proposals from insurance carriers for all coverages for which the agent of record is given responsibility, provided that:
   (i) The County has made reasonable efforts to inform known insurance agents in the competitive market area that it is considering such appointment, including a public advertisement describing the nature of the agent of record services,
   (ii) The appointment does not exceed three years, and
   (iii) In making the appointment, the County has selected the agent most likely to perform cost-effective services.

20.275 Oil or Hazardous Material Removal.  
The County may enter into contracts without competitive selection when necessary to comply with a cleanup order issued under the authority granted the Department of Environmental Quality (DEQ) under ORS Chapter 466, especially ORS 466.605 through 466.680, provided that:
(1) The order necessitates the prompt establishment and performance of the contract in order to comply with the statutes regarding spill or release of oil or hazardous material that have created an emergency condition,
(2) The order contains time limitations that do not permit hiring a contractor under the usual competitive selection procedures,
(3) To the extent reasonable under the circumstances, the County has encouraged competition by attempting to make informal solicitations or to obtain informal quotes from potential suppliers of goods or services, and
(4) The cleanup is conducted in accordance with the rules set forth at OAR 340-122-0205 to 340-122-0360.
20.275 Lane Manual 20.275

CONDITIONAL EXEMPTIONS FROM COMPETITIVE SELECTION

20.310 Small Procurements.
(1) Where possible, selection of a vendor for small procurements should be made by competitive selection, unless impracticable. However, the County may award a contract for goods or services without competitive selection, provided that:
   (a) For public improvement projects, the amount does not exceed $5,000 or 3 years in length, pursuant to ORS 279C.335.
   (b) For all other small procurements, the amount does not exceed $10,000 or 3 years in length.
(2) No contract may be considered a small procurement under this rule if it is a component of a larger purchase, set of purchases, or project, all taking place in one year, and which when taken together as a whole would exceed $10,000 in contract amount.

20.315 Sole Source Contracts.
The County may award a contract for goods or services without competitive selection, when there is only one source for goods or services, or a class of goods or services of the quality required by the County, providing that:
(1) The County makes a reasonable effort to identify and notify any potential offerors regarding the intended purchase or project. Such efforts may include, but are not limited to: direct vendor contacts, requests for information, requests for letters of interest, or requests for qualifications. If the County intends to make multiple purchase of the product or services over a period of time, that information must be included in any information given to potential offerors.
(2) A sole source determination is made based on written findings, pursuant to ORS 279B.075(2). Authority to make the determination is granted to:
   (a) For contracts not greater than $50,000, to the Department directors or their designees.
   (b) For contracts not greater than $100,000, to the County Administrator, based upon proposed written findings prepared by the Department, along with such other information as the Administrator may require.
   (c) For contracts in excess of $100,000, public notice of the proposed determination must be published electronically on the website designated by the County for advertisements for bids or through another public notice placed so as to be reasonably able to reach potential offeror of such goods or services. The notice must provide that any person that believes its interests would be adversely affected by the determination must deliver a written protest to the County Administrator and within 5 days of the public notice. The written protest shall include a detailed statement of the legal and factual grounds for the protest, a description of the resulting harm, and the relief requested. Unless otherwise specified in the public notice of the sole source procurement, the LCRB may consider the written record, and any other testimony provided at the public meeting and must make its determination by Board Order.
(3) Following a determination under part (2) of this rule, the County negotiates with the sole source to obtain contract terms advantageous to the County, to the extent practicable.

(4) To the extent purchases under this rule are part of an approved special procurement under LM 20.240 through 20.254, the terms of the special procurement prevail over this rule.

20.320 Emergency Contracts.
Certain contracts may be awarded without competitive selection, if an emergency exists that requires prompt execution of those contract(s) to preserve public funds, property, or the uninterrupted provision of government services.

(1) As used in this section, an emergency is generally defined as circumstances that could not have been reasonably foreseen, create a substantial risk of loss, damage, or interruption of services, or a threat to property, public health, or safety. ORS 279A.010(1).

(2) A written determination must be made documenting the nature of the emergency, the method of contractor selection, and designating the contract(s) to be awarded. The County Administrator is delegated authority to make the determination for one or more contracts, in an aggregate amount not to exceed $100,000 for a single occurrence or event. A determination for emergency contracts in excess of $100,000 for a single occurrence or event must be made by the LCRB.

(3) The County must ensure competition for the contract that is reasonable and appropriate under the emergency circumstances, which may include, but are not limited to:
   (a) Limiting the scope or duration of the contract to the amount necessary under the emergency conditions,
   (b) Providing a limited solicitation period and limiting required documentation,
   (c) Waiver of a performance or payment bond pursuant to ORS 279C.380(4) or of a public works bond pursuant to ORS 279C.836(9).

20.325 Personal Services Contracts.
Where possible, selection of a personal service contractor must be made by competitive selection, unless impracticable. However, the County may award a contract for personal services without competitive selection, providing that:

(1) The Department Director makes a written determination that the services to be provided in the particular contract are personal services, as defined in LM 20.530(1), and

(2) The County has made a finding that direct contracting is in the best interests of the County for the contract. Authority to make the finding is granted to:
   (a) Each Department Director, for contracts not greater than $50,000.
   (b) The County Administrator, for contracts not greater than $100,000.
   (c) The LCRB, for contracts greater than $100,000.
20.275 Lane Manual 20.275

EXEMPTIONS FROM COMPETITIVE SELECTION FOR ALTERNATIVE CONTRACTING METHODS

20.350 Special Procurements.

The LCRB may approve a special procurement for a particular non-public improvement contract, or a category of contracts, to allow procurement other than through an otherwise applicable process including competitive bidding (ORS 279B.055), request for proposals (ORS 279B.060), small procurement (ORS 279B.070), and intermediate procurement (ORS 279B.076). Approval of a special procurement must be made in accordance with the requirements of ORS 279B.055, and any protest of such approval must be made in accordance with ORS 279B.400.

20.355 Competitive Bidding Exemptions for Public Improvement Contracts

(1) Contracts Subject to Exemption. Upon approval of the findings in (2)(c) below, the LCRB may authorize an exemption from competitive bidding requirements for any of the following types of public improvement contracts:

(a) Construction Manager/General Contractor (CM/GC), as defined in ORS 279C.332 and OAR 137-049-0610;
(b) Design Build, as defined in OAR 137-049-0610; and
(c) Energy Savings Performance Contracting (ESPC), as defined in ORS 279A.010 and OAR 137-049-0610.

(2) Approval of Findings. Prior to exempting a contract from competitive bidding requirements, the LCRB must:

(a) Hold a public hearing, in accordance with ORS 279C.335(5);
(b) Give at least 14 days' notice of the public hearing, in accordance with ORS 279C.335(5)(b) and (e), and
(c) Approve written findings that:
   (i) It is unlikely that the exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts, and
   (ii) The awarding of public improvement contracts under the exemption will likely result in substantial cost savings to the County or the public.
In making this finding, the LCRB may consider the type, cost and amount of the contract, the number of persons available to bid, and must consider all required factors in ORS 279C.335(2)(b), to the extent applicable.

(3) Post Project Evaluation. Upon completion and final payment for any public improvement project in excess of $100,000 for which an exemption was authorized under this section, the contracting Department shall prepare and deliver to the LCRB an evaluation of the public improvement contract. The evaluation must, at a minimum, meet the requirements of ORS 279C.335(b) and (e), and should include: financial information including comparing estimates with actual cost; any Guaranteed Maximum Price (GMP); changes and actual costs; successes and failures during design, engineering and construction; and assessment of the use of method as compared to any exemption findings.

20.360 Construction Manager/General Contractor.
20.275 Lane Manual 20.275

If the County conducts a procurement for a Construction Manager/General Contractor pursuant to an exemption granted under LM 20.251, the procurement must be conducted in accordance with the model rules adopted by the Attorney General under ORS 279A.065(3).

20.365 Design/Build.
If the County conducts a procurement for a Design-Build contractor pursuant to an exemption granted under LM 20.251, the procurement may be conducted following a request for proposal procedure in accordance with LM 21.107 and utilizing the criteria in OAR 137-049-0670.

20.370 Energy Savings Performance Contracting.
If the County conducts a procurement for an Energy Savings Performance Contractor (ESPC) pursuant to an exemption granted under LM 20.251, the procurement may be conducted following a request for proposal procedure in accordance with LM 21.107 and utilizing the criteria in OAR 137-049-0680.

SOLICITATION PROCEDURES

20.410 Preliminary Procedures and Prequalification.
In preparation for competitive selection, the County may:

(1) Issue a request for information, request for letters of interest, request for qualifications, or other preliminary documents, for the purpose of determining the availability and interest of possible vendors for the goods or services proposed.

(2) Allow or require prequalification of bidders or proposers, either through an advertised process setting forth the procedure and criteria for prequalification prior to issuance of competitive procurement, or by inclusion of the requirements in the invitation to bid. The public officer has authority to determine when prequalification may be required for a specific contract or class of contracts, and may determine the prequalification procedure in accordance with the requirements of ORS 279B.120 and 279B.125, and the requirements of ORS 279C.430 for public improvements projects. Determination of prequalification must be made in accordance with ORS 279B.120(2), or the requirements of ORS 279C.375(3)(b) for public improvements projects.

20.420 Methods of Source Selection.
Unless exempted under LM 20.110 to 20.450, all contracts for goods or services must be awarded by competitive selection. Notwithstanding such exemption, the public officer may use competitive selection to select a vendor for any type of goods or services except those relating to purchases from qualified rehabilitation facilities in accordance with LM 20.115.

(1) Competitive Selection. The County may use any of the following procedures to procure goods and services through competitive selection:

(a) Competitive Bidding pursuant to the requirements for competitive sealed bidding in ORS 279B.055.
(b) Request for Proposals (RFP) pursuant to the requirements for competitive sealed proposals in ORS 279B.060.

(c) Competitive Quotes (CQ) pursuant to the requirements for intermediate procurements in ORS 279B.070. CQs for contracts greater than $50,000 in value, the County must prepare a written solicitation document. The written solicitation document must:

(i) Require that the quote be made in writing, and identify any other forms or documentation that must be submitted with the quote,
(ii) State the date, time, and method of submission for quotes, which must be not less than 7 days from the date the solicitation is delivered,
(iii) Include, or include by reference, the County's standard bidding and proposal procedures, and
(iv) Include the contract terms applicable to the contract.

(2) Direct Selection Subject to an Exemption. For procurement of goods or services that are exempt from the requirement for competitive selection pursuant to the requirements of LM 20.110 to 20.450, the public officer is authorized to make the selection that best serves the County's interests, taking into account price, qualifications, schedule, and other factors.

(3) Contracts Relating to Public Improvements. Specific requirements apply to procurements and contracts relating to both the design or the construction of public improvements:

(a) Construction. Contracts relating to the construction of public improvements may be awarded using any competitive selection procedure described in subsection (1) of this section, and must also comply with the requirements of ORS 279C.300 through 279C.870 and with the County Rules.

(b) Design-Related Services. Contracts relating to the design of public improvements must comply with the requirements of ORS 279C.100 through 279C.120, in addition to the requirements of the County Rules.

20.430 Personal Services Contract Selection Procedures.

(1) Pursuant to ORS 279A.055, a contract may be designated as a personal service contract if the contractual relationship is based primarily on a special trust and confidence between the County and contractor; or the type and quality of services to be provided under the contract are based primarily on the contractor's special or unique expertise or knowledge; particular experience; or the exercise of discretionary judgment skills unique to the service provider.

(a) Contracts that may be designated personal service contracts include, but are not limited to, contracts for: expert consulting, appraisal, timber cruising, licensed professionals (including attorneys, auditors, accountants, physicians, physician assistants, nurse practitioners, nurses, therapists, realtors and engineers), research, polling, education, and artwork.

(b) Contracts that are not personal services contracts include contracts for services that can generally be performed by an experienced competent person, whether the person is required to be licensed or not, including but not limited to contracts for: trade-related activity (including plumbing and electrical work), custodial services, document filing and storage, general labor, and repairs and maintenance services for buildings or equipment.
(c) Pursuant to ORS 279C.100 through 279C.120, contracts for services relating to planning, designing, engineering, or overseeing of public improvements are designated by law as personal services. These include architectural, engineering, photogrammetric mapping, transportation planning, and land surveying services, and related services as defined in ORS 279C.100(8).

(2) If a contract has been designated as a personal services contract, the County may use an RFP process or a CQ process, depending upon the contract amount.

(a) Evaluation factors should include, but not limited to, the proposed contractor's qualifications, abilities, licenses and certifications, capacity and capability, past record of performance, cost control, quality of work, financial resources, availability, and familiarity with the area.

(b) The process may include, as appropriate, written submissions, demonstrations, and interviews. For contracts in excess of $100,000, the process should include interviews of not fewer than 2 of the most qualified prospective contractors.

(3) For personal services related to the planning, designing, engineering, or overseeing of public improvements, the RFP or CQ process must comply with the requirements of ORS 279C.100 through 279C.120, including the prohibition on soliciting information regarding price until after a contractor has been selected.

20.440 Requirements Contract Selection Procedures.
If the contract for goods or services will be a requirements contract, the County may use any competitive selection process for selection of a contractor, provided the process is in compliance with the requirements of this rule.

(1) In conducting competitive selection, the Invitation or Request must:

(a) State whether the County will consider awarding and executing more than one contract for a single type of service or good, and

(b) If the awarding of more than one contract is anticipated, state the method to be used in selecting which contractor will perform specific services or provide certain goods.

(2) In addition, the conditions of the Invitation or Request must provide:

(a) A stated minimum or maximum value of goods or services to be purchased under the contract,

(b) The term of the contract, which, including renewals, may not exceed 3 years, and must allow the County to cancel the contract upon 30 days written notice, and

(c) An estimated dollar amount of purchases to be made during the term of the contract.

20.450 Bidding and Proposal Procedures.
The bidding and proposal procedures in this section are applicable to Competitive Bidding, RFPs, and CQs under LM 20.520(1). When applied to the procedures for RFPs or CQs, the terms related to "proposals" or "quotes" must be substituted for the terms related to "bids" as used in this section.
20.275 Lane Manual 20.275

(1) Clarifications to Bidding Documents. If a bidder finds discrepancies or omissions in the drawings or bid documents, or is in doubt as to their meaning, the bidder must immediately notify the public officer. If the public officer believes a clarification is necessary, an addendum will be issued in writing not less than 48 hours prior to the deadline for bid. The terms of any addenda issued are to be included in the bidder's proposal, and will become part of the contract documents.

(2) Submission and Receipt of Bids.

(a) To be received and considered, all bids must be in writing and signed by the bidder or the bidder's authorized representative. Bids required or allowed to be submitted as sealed bids in paper copy must be submitted in a sealed envelope. Bids required or allowed to be submitted electronically must be submitted in the manner specified in the invitation to bid.

(b) By signing and returning a bid, the bidder acknowledges it has read and understands the terms and conditions applicable to the solicitation document and that it accepts and agrees to be bound by the terms and conditions of the contract, including to perform the scope of work and meet the performance standards.

(c) A bidder may not modify its bid after submission. A bidder may withdraw its bid at any time prior to the deadline set for receipt of bids, and may submit a replacement bid in accordance with the required bid submission procedures. The County may release an unopened bid which has been withdrawn to the bidder or authorized representative after voiding any date and time stamp mark.

(d) The County will not consider any bid received after the time and date stated for bid opening in the invitation to bid.

(e) Bids Irrevocable. All bids must be irrevocable for 30 days from the deadline for submission, unless otherwise stated in the invitation to bid. In addition, the bids of the three lowest bidders will be irrevocable and binding, and any bid securities may be retained by the public officer, until a contract has been executed contract and the contractor has provided any and all required performance bonds and insurance certificates.

(3) Opening of Bids and Proposals.

(a) The public officer may not examine any bid prior to opening. Bids properly submitted will be opened publicly by the public officer at the time, date and place designated in the invitation to bid. To the extent practicable, the public officer must read aloud the amount of the bid, the name of the bidder and such other information as the public officer considers appropriate, and record the same. If the offers are a proposals submitted in response to an RFP, the proposals may be opened in a manner to avoid revealing contents to competing proposers in accordance with ORS 279B.060(6)(a).

(b) All bids submitted are subject to public inspection, with the exception of:

(i) Information covered by an exception in public records law pursuant to ORS 279B.055(5)(e). Each bidder, by submitting a bid, acknowledges that it is the bidder's responsibility to defend and indemnify the County for any costs associated with establishing such an exemption. The bidder's act in submitting a bid constitutes its acceptance of this responsibility.
(ii) Proposals submitted in response to a request for proposals under LM 21.113, in accordance with ORS 279B.060(6).

c) The bid record must be open to public inspection immediately following the issuance of a notice of intent to award.

(4) Evaluation of Bids and Proposals. Bid evaluation will be conducted by the public officer in cooperation with the department requesting the bid, if any, based on compliance with the requirements established in the invitation to bid and these Rules, including:

(a) Application of preferences for Oregon goods and services, resident bidders, recycled goods, and printing, pursuant to ORS 279A.120 to 279A.128 and ORS 282.210.

(b) Investigation and determination of responsibility requirements pursuant to ORS 279B.110.

(c) Where the bid includes more than one price or alternative, any calculation and evaluation necessary to determine the lowest responsive bid. The County may use the methods described in OAR 137-049-0380(2) or such other method as the public officer deems reasonable.

(d) For public improvement contracts, the criteria enumerated in LM 21.122(5).

(e) Proposals submitted in response to an RFP will be evaluated in accordance with the criteria stated in the RFP.

(5) Mistakes in Bids. Minor informalities may be waived. Mistakes discovered in bids after opening where the intended correct bid is clearly evident or properly substantiated may be corrected. Where the intended correct bid is not clearly evident or cannot be substantiated by accompanying documents, the bid may not be accepted. The County reserves the right to waive technical defects, discrepancies and minor irregularities, and to not award a contract when it finds such action to be in the public interest. See OAR 137-049-0350 and OAR 137-047-0470.

(6) Rejection.

(a) The County reserves the right to cancel a solicitation, or reject any or all bids in whole or in part when the cancellation or rejection is in the County’s best interests as determined by the County. This includes rejecting any bid not in compliance with all prescribed public bidding procedures and requirements, and for good cause, rejecting all bids upon a finding that it is in the public interest to do so. See OAR 137-049-0440(5), OAR 137-047-0640, OAR 137-047-0650.

(b) If all bids are rejected in whole or in part, the County may:

(i) Advertise for new bids, or

(ii) Solicit supplemental information only from those bidders that submitted bids, if in the public officer’s judgment it is unlikely re-issuing publicly would lead to greater competition.

(7) Notice of Intent to Award. The County must provide written notice of its intent to award a contract to a particular bidder or bidders at least seven (7) days before the award, unless the public officer determines that a shorter notice period is necessary under the circumstances.
20.510 County Contracts, Generally.
Except for small purchases, all County contracts require a written contract signed by a duly authorized delegate, or a purchase order authorized under these rules.

(1) Identification of Contract Parties.
   (a) The name "Lane County" must be used as the County's title when entering into any agreement, preferably followed by the words, "a political subdivision of the State of Oregon". If the circumstances of the contract require that the name of the County Department be included as part of the County's name, the correct form is: "Lane County, acting through its __________ Department".
   (b) The County requires that the name of the party or parties with whom the County is entering into a contract be the parties' correct legal names. Verification of parties' legal names through the Oregon Secretary of State's website is encouraged.

(2) Contract Considerations.
   (a) All contracts must contain, either expressly or by reference, the County's standard contract provisions contained in LM 20.695, except as approved by the Office of Legal Counsel.
   (b) Consideration should be given, in all contracts, to the risks involved in the specific work of the contract. Consultation with the County's Risk Manager is advised concerning the County's insurance requirements for a specific contract.
   (c) Title to all personal property obtained through a contract must be described on all formal title documents and bills of sale as: Lane County, Lane County Public Service Building, 125 E. 8th Avenue, Eugene, Oregon 97401.

(3) The Office of Legal Counsel is required to maintain standard forms for common contracts that comply with these rules, and make the forms available to County Departments.

20.515 Purchase Orders.
(1) Unless otherwise provided, County purchase orders are not contracts until the purchase order is agreed to by the recipient. Once accepted, a purchase order becomes a contract according to its terms.
(2) The County Administrator is delegated authority to prescribe rules for the types of contracts or purchases that may be made using a purchase order, and the form to be used.

20.520 Goods and/or Services Contracts.
Goods and/or Services contracts are the County's standard method of contracting for goods, services, or a combination of goods and services. Such contracts may only be used to engage independent contractors meeting the requirements of ORS 670.600, and may not provide for the contractor or contractor's staff to be under the direction and control of the County.

20.525 Construction and Public Improvement Contracts.
20.275 Lane Manual 20.275

(1) All contracts relating to construction must comply with the requirements of ORS 279C.300 through 279C.870, in addition to these rules. Except as provided in these rules, the requirements of ORS chapter 279B do not apply to contracts for construction.

(2) All contracts must contain, either by inclusion or by reference, the County's standard contract provisions contained in LM 20.695 and the standard contract provisions for construction contained in LM 20.696, except as approved by the Office of Legal Counsel.

20.530 Requirements Contracts and Price Agreements.
Requirements contracts and price agreements must meet the requirements of ORS 279B.140 and this rule.

(1) The terms of the resulting contract or contracts must state the method to be used to authorize a purchase of goods or services under the agreement.

(a) If set prices for defined goods or services are stated in the contract, the County may purchase such goods and services from the contractor.

(b) If the goods or scope of work to be purchased are described in general terms in the contract, requiring further definition for a specific scope or project, such additional definition must be made in writing and executed as an amendment to the contract.

(2) The contract may not be amended to encompass goods or services not reasonably anticipated in the terms of the original competitive procurement.

20.535 Future Purchase and Retainer Contracts.
Future purchase and retainer contracts establish general terms for the future purchase of goods or services, the terms of which will apply only if subsequent purchases are made.

(1) Each contract must comply with the requirements of LM 20.130, and:

(a) Contain a description of the method that the County will use to initiate a purchase under the agreement, which must include a writing, and

(b) State that the County makes no guarantee that any purchase will be made or any minimum amount paid under the contract.

(2) The contract may not be amended to encompass goods or services not reasonably anticipated in the terms of the original competitive procurement.

(3) Any purchase made under the agreement must be considered separately for requirements for competitive selection, unless exempt from competitive selection under these Rules.

20.540 Intergovernmental Agreements.
Intergovernmental agreements (IGA) are contracts made between the County and other agencies of State, local, or federal government. IGAs are exempt from competitive selection, and generally do not require inclusion of the standard terms required for public contracts. IGAs involving significant obligations of funds, services, property, or allocation of risks must be made in writing, and are subject to the same approval and authorization as other County contracts.
20.545 Memorandum of Understanding.
A memorandum of understanding (MOU) is an agreement, generally between the County or a County Department and another agency, that captures the agencies' common desire to work together to pursue specified common objectives. An MOU can be entered into with multiple parties, and the parties may include different County departments. Use of an MOU is appropriate when there is no exchange of funds, goods, or services between the parties.

20.550 Grant and Sub-Grant Agreements.
   (1) Grant agreements. The County may enter into agreements with public agencies or private parties in which the County receives and disburses funding for purposes specified in the grant agreement, and subject to the conditions set forth in the grant.
   (2) Sub-grants.
      (a) The terms of a grant agreement may specify that specific sub-grants be entered into by the County with third parties identified in the grant application or agreement. The grant may provide that the County merely passes through the grant funds received, in whole or in part, without modifying any terms or conditions of the original grant, except as related to County administration and oversight of the grant conditions.
      (b) If the terms of a grant do not specify the sub-grantees, and the County is entering into an agreement with a vendor to perform services defined by the County, then that agreement between the County and the vendor generally will be a goods and/or services contract or, if with a public agency, an intergovernmental agreement.

20.555 County Grants.
The County may grant funds to a private entity for the purposes of supporting objectives or activities proposed by the entity. If the County requires no further obligation from the grantee beyond use of the funds in compliance with the restrictions placed upon the use of the funds, documentation of the County Grant may be provided in the grant award letter, in a form approved by the Office of Legal Counsel.

20.560 Revenue Contracts.
The County may enter into contracts to provide services in exchange for payment using an agreement appropriate for the type of services to be provided, in a form approved by the Office of Legal Counsel. However, a contract that includes obligations of the other party that extend beyond payment or documentation must include the County's standard contract conditions.

STANDARD CONTRACT PROVISIONS

The following standard public contract clauses must be included expressly or by reference in every County contract:
Pursuant to ORS 279B.220 or ORS 279C.505, as applicable, Contractor must:

(a) Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract.

(b) Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract.

(c) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.

Pursuant to ORS 279B.230 and 279C.530, as applicable:

(a) Contractor must promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.

(b) All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

Pursuant to ORS 279B.235, 279C.520, and 279C.540, as applicable, in performing the work of this Contract:

(a) A person may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services designated under ORS 279A.055, the employee shall be paid at least time and a half pay:

(i) For all overtime in excess of eight hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or

(ii) For all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and

(iii) For all work performed on Saturday and on any legal holiday specified in ORS 279B.020.

(b) An employer must give notice in writing to employees who work on a public contract, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

(c) If this Contract is for personal services as described in ORS 279A.055, an employee shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime.
(d) If this Contract is for services at a county fair or for other events authorized by a county fair board, employees must be paid at least time and a half for work in excess of 10 hours in any one day or 40 hours in any one week. An employer shall give notice in writing to employees who work on such a contract, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that employees may be required to work.

(e) Except as provided in subsection (d) of this section, if this Contract is for services, all persons employed under the Contract shall receive at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279B.020 (1)(b)(B) to (G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater. An employer shall give notice in writing to employees who work on a contract for services, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

(f) This section (3) does not apply if the Contract is strictly for goods or personal property.

(4) Contractor may not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished, shall assume responsibility for satisfaction of any lien so filed or prosecuted and shall defend against, indemnify and hold the County harmless from any such lien or claim.

(5) Contractor and any subcontractor must pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

(6) Contractor, any subcontractors, and all employers working under the contract are subject employers under the Oregon Workers' Compensation Law and must comply with ORS 656.017, unless exempt under ORS 656.027.

(7) Unless otherwise provided by the contract or law, the County has a right to exercise the following remedies for Contractor's failure to perform the scope of work or failure to meet established performance standards:
   (a) Reduce or withhold payment;
   (b) Require Contractor to perform, at Contractor's expense, additional work necessary to perform the identified scope of work or meet the established performance standards; or
   (c) Declare a default, terminating the public contract and seeking damages and other relief available under the terms of the public contract or other applicable law.

(8) The Contract may be canceled at the election of the County for any substantial breach, willful failure or refusal on the part of Contractor to faithfully perform the contract according to its terms. The County may terminate the contract by written order or upon request of Contractor, if the work cannot be completed for reasons beyond the control of either Contractor or the County, or for any reason considered to be in the public interest other than a labor dispute, or by reason of any third party judicial proceeding relating to the work other than one filed in
regards to a labor dispute, and when circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the work.

(9) If the County does not appropriate funds for the next succeeding fiscal year to continue payments otherwise required by the contract, the contract will terminate at the end of the last fiscal year for which payments have been appropriated. The County will notify Contractor of such non-appropriation not later than 30 days before the beginning of the year within which funds are not appropriated. Upon termination pursuant to this clause, the County will have no further obligation to Contractor for payments beyond the termination date. This provision does not permit the County to terminate the contract in order to provide similar services or goods from a different contractor.

(10) Unless otherwise provided by the contract or law, Contractor agrees that the County and its duly authorized representatives may have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Agreement for the purpose of making audits, examinations, excerpts, copies and transcripts. Contractor shall retain and keep accessible such books, documents, papers, and records for a minimum period of (6) six years after the County makes final payment on this Agreement. Copies of applicable records must be made available upon request, and payment of copy costs is reimbursable by the County.

(11) Contractor must meet the highest standards prevalent in the industry or business most closely involved in providing the goods or services or personal services covered by this Agreement, unless the County has good cause and the contract provides otherwise.

(12) Contractor shall make all provisions of the contract with the County applicable to any subcontractor performing work under the contract.

(13) The County will not be responsible for any losses or unanticipated costs suffered by Contractor as a result of the contractor's failure to obtain full information in advance in regard to all conditions pertaining to the work.

(14) Contractor certifies that Contractor has all necessary licenses, permits, or certificates of registration necessary to perform the contract and further certifies that all subcontractors will likewise have all necessary licenses, permits or certificates before performing any work. The failure of Contractor to have or maintain such licenses, permits, or certificates is grounds for rejection of a bid or immediate termination of the contract.

(15) Contractor may not commence any work until Contractor obtains, at Contractor's own expense, all required insurance as specified by Lane County. Such insurance must have the approval of Lane County as to limits, form, and amount.

(16) Pursuant to ORS 279A.120, if Contractor is a nonresident bidder and the Contract price exceeds $10,000, Contractor must promptly report to the Department of Revenue on forms to be provided by the department the total contract price, terms of payment, length of contract and such other information as the department may require before the County will make final payment on the contract.
(17) Pursuant to ORS 279B.225, if the Contract includes lawn and landscape maintenance Contractor must salvage, recycle, compost or mulch yard waste material at an approved site, if feasible and cost-effective.

(18) Contractor may not commence any work until provides and furnishes evidence of all required insurance specified by the County, and has obtained the County’s approval as to limits, form, and amount. Coverage must include an Additional Insured Endorsement that includes completed operations, and which is primary and non-contributory with any other insurance and self-insurance.

The following standard public contract clauses must be included expressly or by reference in every County contract for public improvements.

(1) Pursuant to ORS 279C.505, Contractor must:
(a) Pay to the Department of Revenue all sums withheld from employees under ORS 316.167.
(b) Demonstrate that an employee drug testing program is in place.

(2) Pursuant to ORS 279C.510(1), Contractor must salvage or recycle construction waste and demolition debris, if feasible and cost-effective.

(3) Pursuant to ORS 279C.515:
(a) If Contractor fails, neglects or refuses to pay promptly a person’s claim for labor or services that the person provides to the contractor or a subcontractor in connection with the public improvement contract as the claim becomes due, the County may pay the amount of the claim to the person that provides the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of the contract.
(b) If Contractor or a first-tier subcontractor fails, neglects or refuses to pay a person that provides labor or materials in connection with the public improvement contract within 30 days after receiving payment from the contracting agency or Contractor, Contractor or first-tier subcontractor owes the person the amount due plus interest charges that begin at the end of the 10-day period within which payment is due under ORS 279C.580 (4) and that end upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest on the amount due is 9 percent per annum. The amount of interest may not be waived.
(c) If Contractor or a subcontractor fails, neglects or refuses to pay a person that provides labor or materials in connection with the public improvement contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.
(d) Paying a claim in the manner authorized in this section does not relieve the contractor or the contractor’s surety from obligation with respect to an unpaid claim.

(4) Pursuant to ORS 279C.540:
(a) A person may not be required or permitted to labor more than 10 hours in any one day, or 40 hours in any one week, except in cases of
necessity or emergency or when the public policy absolutely requires it, in which event, the person so employed for excessive hours shall receive at least time and a half pay in accordance with ORS 279C.540(1) to (5).

(5) Contractor shall comply with all applicable federal, state, and local laws and regulations, including but not limited to those dealing with the prevention of environmental pollution and the preservation of natural resources that affect the performance of the contract. A list of entities that have enacted such laws or regulations is found in the Oregon Standard Specifications for Construction, Section 00170.01 currently in effect and published through Oregon Department of Transportation. If new or amended statutes, ordinances, or regulations are adopted, or Contractor encounters a condition not referred to in the bid document not caused by Contractor and not discoverable by reasonable site inspection which requires compliance with federal, state, or local laws or regulations dealing with the prevention of environmental pollution or the preservation of natural resources, Contractor shall immediately give notice to the County. The County and Contractor will have all the rights and obligations specified in ORS 279C.525 to handle the situation.

(6) If the County suspends Contractor’s work but does not terminate the contract, Contractor is entitled to a reasonable time extension, costs and overhead in accordance with ORS 279C.655. If the contract is terminated by mutual agreement, Contractor will be paid in accordance with ORS 279C.660.

(7) The Oregon Standard Specifications for Construction adopted by the State of Oregon, and the Manual on Uniform Traffic Control Devices, each as is currently in effect, are applicable to all non-building construction projects, except as modified by the bid documents.

(8) Retainage of five percent (5%) of the amount of any progress payment on a public improvement contracts will be reserved until the project is at least 50 percent complete, after which the retainage may be reduced, upon the approval of the Department Director, in accordance with ORS 279C.570(7). The accumulated retainage withheld, less any costs as allowed by statute, will be paid as part of final payment to the contractor in accordance with ORS 279C.570(8).

(a) Deposit of Retainage in Interest Bearing Account. Upon request of the contractor, the County will deposit the accumulated retainage accumulated in an interest-bearing account in accordance with ORS 279C.560(5). Any interest earned on the retainage deposited will accrue to the contractor.

(b) Surety Bond in Lieu of Retainage. The County may, at its discretion, accept a surety bond from the contractor for all or a portion of the retainage, in accordance with ORS 279C.560(7).

(c) Deposit of Securities in Lieu of Retainage. The County will reduce the retainage amount in an amount equal to the market value of bonds, securities, or other instruments deposited by the contractor in accordance with ORS 279C.560(1), providing that the following requirements are met:

(i) The bonds, securities or instruments offered for deposit in lieu of retainage must:

(A) Be of a type described in OAR 137-049-0820(4),
(B) Be in fully transferable form, with any non-negotiable bonds or securities having attached all instruments necessary to enable the County to effect transfer of title should the contractor be unable to fulfill the contract obligations, and

(C) Be deposited with a bank or trust company in Lane County, Oregon, in an account for the benefit of Lane County established for this purpose. Upon deposit, the bank or trust company must prepare an Assignment and Safekeeping Receipt in the form set out in Exhibit "A" to this section, which must be delivered to the County Treasurer.

(ii) Bonds or securities deposited in lieu of retainage will be released only upon the written instructions and authorization of the County. Upon default, the County may elect to authorize the bank or trust company to transfer any securities deposited under these provisions, rather than undertake to transfer such securities itself.

(iii) If at any time the market value of the bonds or securities deposited in lieu of retainage drops below the accumulated retainage amount, the County may withhold from payments due the contractor an amount sufficient to offset any shortfall in the retainage withheld. A contractor may provide additional bonds or securities to remedy such shortfall, in accordance with this section.

FORM OF ASSIGNMENT AND SAFEKEEPING RECEIPT

This Assignment is to satisfy the requirements for deposits of bonds or securities in lieu of retainage on public improvement contracts set out in LM 21.126. Subject to the conditions below, the undersigned does hereby assign, transfer and set over to Lane County all right, title and interest in and to the bonds and securities listed in the attached Schedule "A" for the use and purpose of retainage on the public contract between Lane County and the undersigned, identified as:

______________________________
(Project Identification)

__________________________________ (Bank or Trust Company)

agrees that the bonds or securities listed in Schedule "A" will be held in trust for the purposes stated here, and shall be released only upon the written instructions and authorization of Lane County. Periodic interest payments or other disbursements which do not reduce the face amount of the bonds or securities will accrue and may be credited or paid to the undersigned.

If a bond or security deposited under this assignment reaches maturity while subject to these conditions, it may be disbursed to the undersigned without specific authorization from Lane County provided that the undersigned replaces the matured bond or security with an identical one of equal or greater value.
20.275 Lane Manual 20.275

If the bonds or securities deposited are to be credited to more than one public contract, the distribution will be allocated as stated on Schedule "A."

SCHEDULE "A"

1. DESCRIPTION OF THE BONDS OR SECURITIES.
2. NAME OF CONTRACTOR/ASSIGNOR.
3. IDENTIFICATION NUMBER OF THE CONTRACT OR PROJECT.
4. PAR VALUE OF SECURITIES OR BONDS (AND THE MARKET VALUE, IF DIFFERENT).
5. MATURITY DATES OF SECURITIES OR BONDS.

Signed and dated at ___, Lane County, Oregon, this ___ day of ___, 20__.

__________________________
(Signature of Depositor/Assignor)
Address:

ACCEPtANCE

__________________________ (Bank or Trust Company) hereby accepts the foregoing Assignment and Safekeeping Receipt No. ___, in the total amount of $____, this ___ day of ___, 20___, and hereby acknowledges receipt of the bonds or securities listed in Schedule "A" above to hold in trust for Lane County for the uses and purposes stated above.

(Authorized Signature)

AUTHORITY TO AWARD, APPROVE, AND CANCEL CONTRACTS

20.610 Contract Award and Approval.

(1) Contract award may be made by the public officer delegated the authority to execute the contract or, if no delegation has been made, by the Board.

(2) All contracts must be processed through procedures prescribed by the County Administrator, including review by legal, risk management, budget and other staff, except as expressly stated otherwise by these rules.

(3) Contracts for personal services for, or related to, legal services and investigations will be processed and archived in the Office of Legal Counsel. However, the authority to execute or amend such contracts must be exercised in accordance with the requirements of LM 20.650 through 20.670.

20.615 Cancellation of Award.
The County may cancel the award of any contract at any time prior to the execution of said contract by all parties without any liability to the County.

**CONTRACT AMENDMENTS AND ACCEPTANCE**

**20.625 Requirements for Contract Amendments.**

(1) Each contract amendment must include, at a minimum, the title of the original contract, names of the parties, clear references to the original contract or prior amendment terms that are being modified, and execution of the amendment by all parties.

(2) Each contract amendment should include, in addition, the date of original contract, the number of prior amendments and number of the current amendment, a restated contract amount and completion date, and a provision that "except as set forth above, all provisions of the original contract remain unchanged."

**20.630 Limitations on Contract Amendments.**

A contract may only be amended if the amendment, taken together with all prior amendments, does not result in a final contract that no longer bears a reasonable relationship to the contract contemplated in the original procurement.

(1) **Limitations on Cumulative Amount of Contract Amendments.** In addition to the limitations on execution authority contained in LM 20.665 and 20.670, all contracts are subject to limitations on the cumulative amount that a contract can be amended, after which a new contract must be awarded in accordance with these Rules, unless exempted under subsection (3) of this section. These limitations apply to:

- Small Procurement, if awarded without competitive procurement: $12,500 total contract amount
- Intermediate Procurement, if award using amount, or competitive quotes under LM 20.420(1): 200% of original amount: $150,000, whichever is less
- All other contracts: 200% of original amount

(3) **Limitations on Amendments to Public Improvements Contracts.** Contracts for public improvements are subject to statutory limitations on amendments:

(a) A public improvement contract awarded as a small procurement under ORS 279C.335 may not be amended to an amount of $5,000 or greater.

(b) A public improvement contract with an original contract amount of $50,000 or less may not be amended to exceed $50,000 unless the
requirements of ORS 279C.800 through 279C.870 regarding the payment of prevailing wage rates are incorporated into the contract.

(4) **Exceptions to Limitations on the Cumulative Amount of Contract Amendments:**

(a) Contracts awarded under a specific exemption to competitive procurement pursuant to LM 20.110 to 20.375 are not subject to the limitations stated in subsections (1) to (3) of this section.

(b) The County Administrator is delegated authority to execute an amendment to a contract that exceeds the limitations in this section when, in the Administrator's judgment, the increase in the contract amount is necessary to provide continuity of services or is necessitated by conditions outside the County's control.

20.640 **Construction Change Orders.** The Director of a Department with authority to contract for public improvements, construction, or the renovation of roads and transportation facilities is granted authority to authorize and execute construction change orders, providing that all of the following conditions are met:

(1) The change would not increase the cost of the project by more than 10 percent of the contract price,

(2) The change order is reasonably related to the purpose of the project,

and

(3) The Director has determined that it is in the best interest of the County to authorize the order to facilitate completion of the project.

20.645 **Contract Completion and Acceptance.** Each Department Director is granted authority to determine that all obligations under the contract have been met and the contract is completed and accepted.

**AUTHORITY TO EXECUTE CONTRACTS, AMENDMENTS, GRANT APPLICATIONS, AND GRANTS**

20.650 **Delegation of Authority to Execute Grant Applications and Accept Grants.**

(1) Each Department Director is delegated the authority to approve and execute all documents in application for or acceptance of a grant not exceeding $25,000.

(2) The County Administrator is delegated authority to approve and execute all documents in application for and acceptance of a grant not exceeding $100,000.

(3) The County Administrator is delegated authority to approve and execute all documents in application for a grant in excess of $100,000, provided that the application does not obligate the County to accept the grant if awarded.

(4) The Board must approve the acceptance of a grant exceeding $100,000. If an application for a grant in excess of $100,000 obligates the County to accept the award as a condition of application, the Board must approve the application for the grant. Following Board approval of a grant or grant application, the Administrator is delegated authority to approve and execute all other grant documents.
20.275 Lane Manual 20.275

(5) The County Administrator is delegated authority to approve and execute all documents to continue a grant that was approved by the Board, so long as the continuation is substantially similar to the original grant approved by the Board.

20.660 County Administrator's Authority to Execute Contracts.

(1) The County Administrator is delegated authority to execute all contracts and agreements that do not exceed $100,000 in cost or revenue nor three years in length.

(2) The County Administrator is further delegated authority to execute contracts that exceed three years in length, or are by their terms self-renewing, but only if:
   (a) The cost or revenue for the first three years does not exceed $50,000, and
   (b) The contract contains a provision allowing the County to terminate the contract upon not more than one year's notice.

(3) The County Administrator is further delegated authority to execute, without limitation of amount or length:
   (a) All contracts that have been awarded or expressly approved by the Board.
   (b) Contracts specifically identified in a budget adoption order or supplemental budget order approved by the Board.
   (c) Insurance nonwaiver agreements and insurance endorsements to original policies.
   (d) Land use improvement agreements, Building Program Quick Start Agreements and acceptance and release of land use performance bonds.
   (e) Contracts and assignments for the collection of County judgments.
   (f) All contracts with terms of three years or less that implement public improvement projects described on the adopted Public Works five-year Capital Improvement Program list, the adopted Parks Capital Improvement Program priorities list, and the Public Works and Management Services public improvement lists prepared for filing with the Commissioner of the Bureau of Labor and Industries (BOLI) pursuant to ORS 279C.305. This delegation includes, without limitation, those contracts reflecting the County paid portion of the project, those reflecting any amount to be paid by other governmental agencies or housing development entities for assisted housing projects, and those covering environmental mitigation responsibility.

(4) Each Department Director is delegated authority to execute all contracts that do not exceed $25,000 in cost of revenue nor 3 years in length.

20.665 County Administrator’s Authority to Execute Amendments.

Subject to the limitations on cumulative contract amount in LM 20.630, the County Administrator is delegated authority to:

(1) Execute amendments to contracts that do not cause the contract amount to exceed $100,000 in cost or revenue nor three years in length,
20.275  Execute amendments to contracts, without limitation of amount or length, if the amendment amount or length is within limits authorized by the Board for that specific contract or class of contracts, and
(3) Execute amendments to contracts where the original contract amount exceeds $100,000, subject to the following limitations:
   (a) If the original contract amount is greater than $500,000, the total of all amendments to that contract may not exceed 25 percent of the contract amount approved by the Board.
   (b) If the original contract amount is $500,000 or less, the total of all amendments may not exceed 50 percent of the contract amount approved by the Board, and
   (c) The amendment does not extend the length of the contract beyond three years, unless the original contract contained a provision for a longer duration and was awarded or expressly approved by the Board.

20.670  Department Directors' Authority to Execute Contracts and Amendments.
(1) Each Department Director is delegated authority to execute contracts that do not exceed $25,000 nor three years in length.
(2) Subject to the limitations on cumulative contract amount in LM 20.630, each Department Director is delegated authority to execute amendments that do not exceed $25,000, subject to the following limitations:
   (a) The amendment, in combination with all prior amendments, does not cause the contract amount to exceed $100,000 in cost or revenue nor three years in length, and
   (b) The amendment, in combination with all prior amendments, does not exceed 25% of either the original contract amount, or the amount expressly approved by the Board, whichever is greater.

20.680  County Administrator's Authority to Cancel Awards and Terminate Contracts.
The County Administrator is delegated the authority to cancel awards and terminate contracts and grants, including amendments, as provided in the contract or by law.

20.685  Further Delegation.
The County Administrator and each Department Director's authority under LM 20.650, 20.655, 20.660, 20.665, and 20.670 may only be delegated through a writing.

PROTESTS OF PREQUALIFICATION, DEBARMENT, AND DISQUALIFICATION

20.710  Protest of Solicitation Process.
Protest of Solicitation Documents. A prospective bidder or proposer may file a protest of an competitive bidding or RFP process, or CQ process for a contract in excess of $50,000 pursuant to ORS 279B.405. To be considered, the protest must be received by the County not less than seven 7 calendar days prior to bid opening and
must contain the information and statements required in ORS 279B.405(4)(a) through (d). The County will issue a determination in accordance with ORS 279B.405(5) and (6).

20.720 Protest of Award Based Upon Competitive Bidding or Quotes. A bidder that submitted a responsive bid, or a competitive quote for a contract greater than $50,000 in value, may protest the award of a contract based on the bids received for that contract. Any protest must be received by the County within seven 7 days of the date of the notice of intent to award or, if no notice of award is given, of the date of actual award. Protests of award or intent to award will be considered by the LCRB, if the Board's action were required to award the contract. All other protests of intent of award will be considered by the County Administrator, or the Administrator's designee.

(1) Requirements for protest.
   (a) A protest of award of a public improvement contract must specify the applicable grounds for protest set forth in OAR 137-049-0450(4)(c), which is hereby adopted into this rule.
   (b) All other protests of award must be in writing and specify the applicable grounds for the protest as set forth in ORS 279B.410(1).
   (c) Any protest not in compliance with these rules may be rejected.

(2) Review and determination.
   (a) Contracts Requiring Board Action to Award. If the public officer determines there is sufficient merit to reject bids, the public officer may do so. If, following any action by the public officer, any portion of the protest remains, the LCRB must be provided with, and may consider, a complete copy of the written record, and any other evidence provided, at a public meeting. The LCRB may affirm, reverse, or revise an award, or may send the matter back to the Department for further action, and must issue its decision by Board Order.

   (b) Contracts Not Requiring Board Action to Award. The County Administrator has authority to reject bids, or to affirm, reverse, or revise the award, or send the matter back to the department for further action. The Administrator must deliver this decision to the LCRB. If, within seven 7 days, the LCRB elects to review the matter, the LCRB must be provided with and may consider a complete copy of the written record, and any other evidence provided, at a public meeting. The LCRB may affirm, reverse, or revise an award, or may send the matter back to the Department for further action, and must issue its decision by Board Order. If the LCRB does not elect to review the matter within seven 7 days, the Administrator's decision will be final.

(3) The procedures in this rule are mandatory to the extent they establish the time and manner for protests to be submitted to the County, including that the protest be in writing specifying the grounds and timely filed, and that there be a written response. The other protest procedures above are directory, and failure to follow or complete the action in the manner provided will not invalidate the County's decision.

20.730 Protest of Award Based Upon a Request for Proposals (RFP).
A respondent to an RFP that submitted a responsive proposal, and is not selected for award, may protest the award or recommendation for award of a contract based on RFPs submitted. Any protest must be received by the County within seven days of the notice of recommendation or intent to award or, if no notice is given, of actual award. Protests of award or intent to award will be considered by the LCRB, if the Board's action were required to award the contract. All other protests of intent of award will be considered by the County Administrator, or the Administrator's designee.

(1) Requirements for protest.
   (a) A protest of award of a public improvement contract must specify the applicable grounds for protest set forth in OAR 137-049-0450(4)(c), which is hereby adopted into this rule.
   (b) All other protests of award must be in writing and specify the applicable grounds for the protest as set forth in ORS 279B.410(1).
   (iii) Any protest not in compliance with these rules may be rejected.

(2) Review and determination.
   (a) Upon receipt of a protest, the department must promptly notify both the evaluation committee and the proposer recommended for award that a protest has been received, and furnish each with a copy of the protest. Both the recommended proposer and the committee may, within three calendar days from the date the protest was received, respond to the protest in writing.
   (b) After a protest has been received, the Department that issued the RFP must prepare a written analysis of the protest and make a recommendation to the decision maker as to appropriate action to be taken.
   (c) Contracts Requiring Board Action to Award. If the public officer determines there is sufficient merit to reject proposals, the public officer may do so. If, following any action by the public officer, any portion of the protest remains, the LCRB must be provided with, and may consider, a complete copy of the written record, and any other evidence provided, at a public meeting. At the public meeting the LCRB may, at the LCRB's discretion, allow the department that issued the RFP and the appellant an opportunity to address the protest. The LCRB may affirm, reverse, or revise an award, or may send the matter back to the Department for further action, and must issue its decision by Board Order.
   (d) Contracts Not Requiring Board Action to Award. The County Administrator has authority to reject proposals, or to affirm, reverse, or revise the award, or send the matter back to the department for further action. The Administrator must deliver this decision to the LCRB. If, within seven 7 days, the LCRB elects to review the matter, the LCRB must be provided with and may consider a complete copy of the written record, and any other evidence provided, at a public meeting. The LCRB may affirm, reverse, or revise an award, or may send the matter back to the Department for further action, and must issue its decision by Board Order. If the LCRB does not elect to review the matter within seven 7 days, the Administrator's decision will be final.

(3) The procedures in this rule are mandatory to the extent they establish the time and manner for protests to be submitted to the County, including that the protest be in writing specifying the grounds and timely filed, and that there
be a written response. The other protest procedures above are directory, and failure to follow or complete the action in the manner provided will not invalidate the County’s decision.

20.740 Appeals of Prequalification, Debarment, and Disqualification
A prospective bidder or proposer may appeal a department's decision to debar (non-public improvement) or disqualify (public improvement), or deny, revise or revoke prequalification. See ORS 279B.425 and ORS 279C.450.

  (1) A prospective bidder or proposer must file a written appeal, including a detailed statement of the grounds for the appeal, within 3 days after receiving notice of the County’s decision.

  (2) The department must schedule the appeal to be heard before the LCRB, or its designee, as soon as reasonably possible, and notify the appellant of the time and place for the hearing.

  (3) The Department must prepare a written response, provide a copy to the appellant and to the LCRB, and submit the written record to the LCRB.

  (4) The LCRB must provide a de novo review of the notice of denial, revocation or revision of prequalification or notice of debarment or disqualification and any evidence provided by the parties, and apply the standards of responsibility in deciding an appeal of a denial, revision or revocation of a prequalification in (5) below and criteria for debarment or disqualification in (6) below.

  (4) The hearing and appeal decision must occur within 30 days after receiving the notice from the department, and the LCRB must provide written reasons for the decision in a final order, and include any allocation of costs for the hearing.

  (5) In determining whether the standards of responsibility have been met, the LCRB consider the criteria in ORS 279C.375 for public contracts and in ORS 279B.110 for non-public contracts have been met.

20.780 Other Protests Referred to the LCRB.
The LCRB shall decide any protests referred to the LCRB under the County Rules.
CHAPTER 20 CONTENTS

CONTRACT POLICIES AND LOCAL CONTRACT REVIEW BOARD

PUBLIC CONTRACT AUTHORITY, RULES, AND INTERPRETATION
20.010 Purpose and Authority.
20.015 Fair Board.
20.020 Definitions.

CONTRACTING POLICIES
20.050 Policy on Competition.
20.060 Policy on Performing Services for Other Public Agencies.
20.065 Policy on Bid Security and Bonds.

GENERAL EXEMPTIONS FROM COMPETITIVE SELECTION
20.110 General Statutory and Regulatory Exemptions and Exclusions.
20.115 Products or Services of Qualified Rehabilitation Facilities
20.120 Price Regulated Items or Services.
20.125 Price Set by Federal Contracts.
20.130 Future Purchase and Retainer Agreements.
20.135 Cooperative Procurements.

SPECIFIC EXEMPTIONS FROM COMPETITIVE SELECTION
20.210 Advertising.
20.220 Election Supplies and Services.
20.225 Equipment Repair and Overhaul.
20.235 Client/Patient Services.
20.240 Laboratory and Medical Supplies.
20.245 Food Services.
20.250 Used Personal Property.
20.255 Litigation Services.
20.260 Employee Benefit Insurance.
20.265 Investments.
20.270 Insurance.
20.275 Oil or Hazardous Material Removal.

CONDITIONAL EXEMPTIONS FROM COMPETITIVE SELECTION
20.310 Small Procurements.
20.315 Sole Source Contracts.
20.320 Emergency Contracts.
20.325 Personal Services Contracts

EXEMPTIONS FROM COMPETITIVE SELECTION FOR ALTERNATIVE CONTRACTING METHODS
20.350 Special Procurements.
20.355 Competitive Bidding Exemptions for Public Improvement Contracts
CHAPTER 20 CONTENTS

20.360 Construction Manager/General Contractor.
20.365 Design/Build.
20.370 Energy Savings Performance Contracting.

SOLICITATION PROCEDURES
20.410 Preliminary Procedures and Prequalification.
20.420 Methods of Source Selection.
20.430 Personal Services Contract Selection Procedures.
20.440 Requirements Contract Selection Procedures.
20.450 Bidding and Proposal Procedures.

TYPES OF CONTRACTS AND AGREEMENTS
20.510 County Contracts, Generally.
20.515 Purchase Orders.
20.520 Goods and/or Services Contracts.
20.525 Construction and Public Improvement Contracts.
20.530 Requirements Contracts and Price Agreements.
20.535 Future Purchase and Retainer Contracts.
20.540 Intergovernmental Agreements.
20.545 Memoranda of Understanding.
20.550 Grant and Sub-Grant Agreements.
20.555 County Grants.
20.560 Revenue Contracts.

STANDARD CONTRACT PROVISIONS

AUTHORITY TO AWARD, APPROVE, AND CANCEL CONTRACTS
20.610 Contract Award and Approval.
20.615 Cancellation of Award.

CONTRACT AMENDMENTS AND ACCEPTANCE
20.625 Requirements for Contract Amendments.
20.630 Limitations on Contract Amendments.
20.640 Construction Change Orders.
20.645 Contract Completion and Acceptance.

AUTHORITY TO EXECUTE CONTRACTS, AMENDMENTS, GRANT APPLICATIONS, AND GRANTS
20.650 Delegation of Authority to Execute Grant Applications.
20.660 County Administrator's Authority to Execute Contracts.
20.665 County Administrator's Authority to Execute Amendments.
20.670 Department Directors' Authority to Execute Grants and Amendments.
20.680 County Administrator's Authority to Cancel Awards and Terminate Contracts.
20.685 Further Delegation.
## CHAPTER 20 CONTENTS

### PROTESTS OF PREQUALIFICATION, DEBARMENT, AND DISQUALIFICATION

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.710</td>
<td>Protest of Solicitation Process.</td>
</tr>
<tr>
<td>20.720</td>
<td>Protest of Award Based on Competitive Bidding or Quotes.</td>
</tr>
<tr>
<td>20.730</td>
<td>Protest of Award Based on a Request for Proposals (RFP).</td>
</tr>
<tr>
<td>20.740</td>
<td>Appeals of Prequalification, Debarment, and Disqualification.</td>
</tr>
<tr>
<td>20.780</td>
<td>Other Protests Referred to the LCRB.</td>
</tr>
</tbody>
</table>
20.010 Purpose and Authority.
(1) The Board of County Commissioners for Lane County is the Local Contract Review Board (LCRB) for Lane County, with the powers and duties of an LCRB set forth in ORS Chapters 279A, 279B, and 279C (the Public Contracting Code). The LCRB may delegate these powers and duties as long as not in conflict with the Public Contracting Code.
(2) The public contracting rules for Lane County are those rules in Lane Manual Chapter 20 and section 60.410 of Chapter 60 regarding the sale of personal and surplus property ("County Rules") which implement County policy and the requirements of the Oregon Public Contracting Code.
(3) The model rules adopted by the Oregon Attorney General (OAR Chapter 137) do not apply to Lane County, unless specifically required by statute or adopted in the County Rules. When referenced in these Rules, OAR Chapter 137 may be used to further interpret the County Rules when an ambiguity exists or to further explain the manner in which the County may interpret its rule. When referenced, the reference is stated as: "See OAR______.”
(4) Authority.
(a) Lane County's powers and duties as a contracting agency under the Public Contracting Code and “contracting agency” powers and duties may be exercised and performed by those employees who have been expressly delegated authority in the County Rules. These express delegations include, but are not limited to, authority to award and execute contract documents.
(b) Absent an express delegation, the County Administrator and those Department Directors authorized by the County Administrator may determine which public officers have authority to exercise the powers and duties of the contracting agency under the County Rules.
(c) Any delegation of authority under the County Rules may be further delegated by the delegee to a County employee. Such delegation should generally be evidenced by a writing.
(d) Nothing in this subsection is intended to modify the authority of the County Administrator and Department Directors for contract matters after contract execution.
(5) In addition to the specific delegations of authority contained in these County Rules, the County Administrator is delegated authority to adopt all procedures necessary to implement the provisions of the County Rules.
(6) An adversely affected party must file any available protest or appeal under LM Chapter 20 before seeking judicial review of the County’s process, solicitation, contractor selection or award decisions. All administrative protests must be exhausted prior to judicial review.

20.015 Fair Board.
(1) Pursuant to ORS 565.230, the Fair Board may conduct contracting activities for contracts relating to fairground facilities and operations, except those contracts which transfer an interest in real property.
(2) The Fair Board is delegated authority to cancel or terminate such contracts as provided in the contract or by law.

(3) The Fair Board may further delegate authority under this provision to a representative by signed written document.

(4) The Fair Board, in conducting contracting activities, must comply with the applicable requirements of the County Rules.

20.020 Definitions.

As used in this Chapter, the following words and phrases mean:

Change Order. A written order authorizing a change in the contract, plans, specifications, quantities, price, or time.

Competitive bidding. The formal process of advertising, bidding, and bid opening required by the Public Contracting Code and these rules.

Competitive quotes. Offers made by competing offerors in response to an informal solicitation of offers by the County. A solicitation may be made by advertisement or by direct request to vendors.

Competitive selection. The process of selecting a vendor for goods and services based upon competition. Steps common to all competitive selection processes include:

(a) A method for identifying and encouraging multiple potential vendors,

(b) Providing each vendor with an adequate description of the County's requirements for offers on the quantity and type of goods and services requested, and the method by which a vendor will be chosen,

(c) Receiving proposals or bids in a controlled manner that prevents competing vendors from knowing the contents of competitors' offers until all proposals or bids are received, and

(d) A transparent process of making a selection from among properly-submitted proposals or bids that is based upon the selection method stated.

Contract. Any agreement to purchase, lease, sell, or provide goods or services. A purchase order, once accepted, is a Contract.

County grant. An agreement under which the County provides money, property, or other assistance, including loans, loan guarantees, credit enhancements, gifts, bequests, commodities, or other assets, to a recipient for the purpose of supporting or stimulating a program or activity of the recipient and in which no substantial involvement by the County is anticipated other than involvement associated with monitoring compliance with the grant conditions, as defined in ORS 279A.010(k)(ii). Distinguish from Grant.

Goods. Tangible or intangible items of personal property, whether furnished separately or combined with Services, such as installation, including both "goods" and "future goods" as defined in ORS 72.1050. See ORS 279A.010(i).

Grant. An agreement under which the County receives money, property, and other assistance, as defined in ORS 279A.010(k)(i). Distinguish from County Grant.

Invitation to Bid. The complete set of documents used to solicit and receive competitive bids, as defined in ORS 279B.005(1)(a).

LCRB. The Lane County Board of County Commissioners, sitting as the local contract review board.

Offeror. A term used to describe a vendor or person that submits a bid, proposal, quote, or other type of offer.

Personal property. Property, other than real estate, consisting generally of movable or temporary things, as defined in ORS 307.020.

Personal services. Those services described in LM 20.530(2).

Procurement. The process by which the County conducts its purchases of goods and services.
**Project.** A specific plan or undertaking with defined objectives or limits.

**Public contract.** See ORS 279A.010(1)(z).

**Public improvement.** See ORS 279A.010(1)(cc).

**Public officer.** Any person authorized to conduct a procurement on the County's behalf.

**Requirements contract.** An agreement in which the contractor agrees to supply to the County the specific goods or services identified in the agreement for a specific time period, based upon the quantity required or ordered by the County's during the time period.

**Retainage.** The difference between the amount earned by a contractor on a public contract and the amount paid, held to guarantee full performance. See ORS 279C.550.

**Services.** Work performed to meet a demand or need, as distinguished from Goods. See ORS 279A.010(1)(kk).

## CONTRACTING POLICIES

### 20.050 Policy on Competition.
It is the policy of Lane County to encourage open and impartial competition in the procurement of goods and services, in accordance with the requirements of ORS Chapter 279 and the Public Contracting Code.

### 20.055 Policy on Electronic Advertising.
The LCRB has determined that it is more cost effective for the County to publicly advertise bids and other competitive procurement processes, including those for public improvement contracts, by publishing the advertisement electronically using the internet, except where Oregon law requires advertising in a newspaper of general circulation in Lane County or a statewide trade publication. The same determination applies to all other public notices required to be provided under the County Rules or the Public Contracting Code.

### 20.060 Policy on Performing Services for Other Public Agencies.
Under the authority of Chapter II, Section 8 of the Lane County Home Rule Charter and ORS Chapter 190, it is the policy of Lane County to offer services to other public agencies where feasible, providing that the County must be compensated for the complete cost of providing all intergovernmental services. The Board must approve any waiver of the policy for compensation.

### 20.065 Policy on Bid Security and Bonds.
1. All contracts, other than those for public improvements and construction contracts as defined in ORS 279C.320(1), are exempt from the bid security requirements of ORS 279B.050 and performance and payment bond requirements, provided that the County may, in its discretion, require bid security or performance and payment security.

2. Contracts for public improvements and construction contracts as defined in ORS 279C.320(1) which do not exceed $100,000 (except for highway, bridge and other transportation projects which do not exceed $50,000) are exempt from bid security, and performance and payment bond requirements, provided that the County may require such security in its discretion, regardless of this exemption.
GENERAL EXEMPTIONS FROM COMPETITIVE SELECTION

20.110 General Statutory and Regulatory Exemptions and Exclusions.
County contracts are not required to be based upon a County competitive selection process if a state or federal statute or regulation provides otherwise, or directs that another selection process be used. Contracts exempt or excluded from competitive selection include:

1. Contracts with the State of Oregon, other Oregon units of local government, or the federal government (Intergovernmental Agreements);
2. Grants or County Grants;
3. Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which County is or may become interested;
4. Acquisitions or disposals of real property or interests in real property;
5. Sole source expenditures when rates are set by law or ordinance for purposes of source selection;
7. Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145;
8. Contracts for repair, maintenance, improvement or protection of property obtained by the Director of Veterans' Affairs under ORS 407.135 and 407.145(1);
9. Contracts specifically exempt or authorized as a special procurement under LM Chapter 20 or under state law;
10. Contracts in which County is permitted to award without bidding or request for proposals provided that it adopts its own rules covering the selection process.

20.115 Products or Services of Qualified Rehabilitation Facilities.
If the product or service meeting the County's requirements is available from a Qualified Rehabilitation Facility (QRF), the County must purchase such products or services from a QRF, in accordance with ORS 279.835 through 279.855.

20.120 Price-Regulated Items or Services.
The County may, without competitive bidding or quotes, contract for the purchase of goods or services, where the rate or price for the goods or services being purchased is established by Federal, State, or regulatory authority.

20.125 Price Set by Federal Contracts.
When the price of goods and services has been established by a contract with an agency of the federal government pursuant to a federal contract award, the County may purchase the goods and services from the supplier without subsequent competitive bidding.

20.130 Future Purchase and Retainer Agreements.
The County may without competitive bidding enter into a contract that establishes general terms for the future purchase of goods or services, the terms of which will only apply if subsequent purchases are made, provided that:

1. The contract is non-exclusive,
2. The contract by its terms may be canceled upon 30 days written notice by the County at its discretion, and
3. Each specific purchase is considered separately for competitive selection pursuant to the applicable County Rules.
20.135 Cooperative Procurements.

(1) The County may participate in, sponsor, conduct, or administer joint cooperative procurements pursuant to ORS 279A.200 through 279A.225.

(2) Any protest of the procurement process, the contents of the solicitation document or the proposed award or award of a proposed contract through cooperative purchase, shall be in accordance with ORS 279B.400 through ORS 279B.425 unless the administering agency is not subject to the Oregon statutes; then in such case, the bidder or proposer shall make the protest in accordance with the processes and procedures established by the administering contracting agency. Any other protest related to a cooperative procurement, or disputes related to a contract arising out of a cooperative procurement shall be made and resolved as set forth in ORS 279A.225.

SPECIFIC EXEMPTIONS FROM COMPETITIVE SELECTION

20.210 Advertising.
The County may purchase advertising without competitive selection. This includes, but is not limited to, advertising and legal notices placed in general communications media such as newspapers, publications, radio, television, and on the internet.


(1) The County may purchase library circulation materials, such as books and recordings, whether delivered in hard copy or electronically, without competitive selection.

(2) The County may purchase subscriptions for newspapers and periodicals, whether delivered in hard copy or electronically, without competitive selection.

(3) The County may purchase copyrighted materials without competitive selection when there is only one known supplier.

20.220 Election Supplies and Services.
The County may purchase elections supplies and services without competitive selection. This includes, but is not limited to, printing of official ballots, sample or test ballots, ballot envelopes, ballot counting equipment and software, and signs.

20.225 Equipment Repair and Overhaul.

(1) The County may contract for equipment repair, overhaul, or maintenance without competitive bidding or quotes, subject to the following conditions:

   (a) The service and/or parts required are unknown, and the cost cannot be determined without extensive preliminary dismantling or testing; or

   (b) The service and/or parts required are for equipment for which specially trained personnel are required, and such personnel are available from only one source.

(2) If a contract under this exemption exceeds $100,000, the County shall document in its procurement file the reasons why competitive bids or quotes were deemed to be impractical.

The County may enter into contracts for the purchase of gasoline, diesel fuel, heating oil, lubricants, and asphalts without formal competitive bidding, provided that:

(1) The County has solicited a minimum of three (3) competitive quotes,
(2) Makes its purchases from the least expensive source, taking into consideration the costs of delivery or transportation, and
(3) Retains written justification for the source selected for the purchase.

20.235 Client/Patient Services.
The County may contract for direct client services without competitive selection where the Department:
(1) Reasonably believes after inquiring that no qualified providers are likely to participate in competitive selection; and
(2) Will include on a list all qualified providers willing to consider taking client referrals on an as-needed basis; and
(3) Will select a qualified provider from the list as a client need arises, based on criteria including, but not limited to, client and family needs, quality/type of appropriate care, availability of service at the time it is needed, and cost.

20.240 Laboratory and Medical Supplies.
The County may specify or select laboratory and medical supplies on the basis of brand name, provided that:
(1) The purchase is made from the lowest priced vendor for the specific product and brand, and
(2) The County has a reasonable medical or scientific basis for the selection.

20.245 Food Services.
(1) The County may contract for food services without formal competitive selection, subject to the following conditions:
(a) Prior to the selection of a contractor, the County has made reasonable efforts to inform known companies providing food services of the subject matter of the contract,
(b) The County advertises for proposals in accordance with LM 21.105(3), and
(c) The contractor is selected on the basis of the most competitive offer considering cost, quality of the product and the service to be rendered, and
(2) The County may contract for food services for jail and juvenile detention facilities without competitive bidding.

20.250 Used Personal Property.
The County may purchase used personal property for $50,000 or less without competitive selection, provided that:
(1) The County has determined that the direct purchase without competitive bidding will result in cost savings, and
(2) For purchases of used personal property over $50,000, at least 3 competitive quotes have been obtained, if available. If 3 quotes are not available, a written record must be made of the attempt to obtain quotes.

20.255 Litigation Services.
The County may contract for personal services related to litigation or legal matters without competitive selection when County Counsel deems it necessary to do so, including but not limited to outside legal representation, expert witnesses, consultants, arbitrators, mediators, investigators or other specialized personnel.
20.260 Employee Benefit Insurance.
The County may purchase employee benefit insurance without competitive selection.

20.265 Investments.
The County may contract for the purpose of the investment of public funds or the borrowing of funds without competitive selection, when such investment or borrowing is contracted pursuant to an enacted statute, order, ordinance, charter, or constitution.

20.270 Insurance.
(1) The County may purchase insurance without a formal competitive selection when the annual or aggregate premium is less than or equal to $100,000.
(2) Contracts for insurance where either the annual or aggregate premium exceeds $100,000 must be let by competitive selection or through an agent of record.
(3) Agent of Record. The County may appoint a licensed insurance agent as its agent of record to perform insurance services in connection with more than one insurance contract, including the securing of proposals from insurance carriers for all coverages for which the agent of record is given responsibility, provided that:
   (i) The County has made reasonable efforts to inform known insurance agents in the competitive market area that it is considering such appointment, including a public advertisement describing the nature of the agent of record services,
   (ii) The appointment does not exceed three years, and
   (iii) In making the appointment, the County has selected the agent most likely to perform cost-effective services.

20.275 Oil or Hazardous Material Removal.
The County may enter into contracts without competitive selection when necessary to comply with a cleanup order issued under the authority granted the Department of Environmental Quality (DEQ) under ORS Chapter 466, especially ORS 466.605 through 466.680, provided that:
   (1) The order necessitates the prompt establishment and performance of the contract in order to comply with the statutes regarding spill or release of oil or hazardous material that have created an emergency condition,
   (2) The order contains time limitations that do not permit hiring a contractor under the usual competitive selection procedures,
   (3) To the extent reasonable under the circumstances, the County has encouraged competition by attempting to make informal solicitations or to obtain informal quotes from potential suppliers of goods or services, and
   (4) The cleanup is conducted in accordance with the rules set forth at OAR 340-122-0205 to 340-122-0360.

CONDITIONAL EXEMPTIONS FROM COMPETITIVE SELECTION

20.310 Small Procurements.
(1) Where possible, selection of a vendor for small procurements should be made by competitive selection, unless impracticable. However, the County may award a contract for goods or services without competitive selection, provided that:
   (a) For public improvement projects, the amount does not exceed $5,000 or 3 years in length, pursuant to ORS 279C.335.
   (b) For all other small procurements, the amount does not exceed $10,000 or 3 years in length.
(2) No contract may be considered a small procurement under this rule if it is a component of a larger purchase, set of purchases, or project, all taking place in one year, and which when taken together as a whole would exceed $10,000 in contract amount.

20.315 Sole Source Contracts.
The County may award a contract for goods or services without competitive selection, when there is only one source for goods or services, or a class of goods or services of the quality required by the County, providing that:

(1) The County makes a reasonable effort to identify and notify any potential offerors regarding the intended purchase or project. Such efforts may include, but are not limited to: direct vendor contacts, requests for information, requests for letters of interest, or requests for qualifications. If the County intends to make multiple purchase of the product or services over a period of time, that information must be included in any information given to potential offerors.

(2) A sole source determination is made based on written findings, pursuant to ORS 279B.075(2). Authority to make the determination is granted to:

(a) For contracts not greater than $50,000, to the Department directors or their designees.

(b) For contracts not greater than $100,000, to the County Administrator, based upon proposed written findings prepared by the Department, along with such other information as the Administrator may require.

(c) For contracts in excess of $100,000, public notice of the proposed determination must be published electronically on the website designated by the County for advertisements for bids or through another public notice placed so as to be reasonably able to reach potential offeror of such goods or services. The notice must provide that any person that believes its interests would be adversely affected by the determination must deliver a written protest to the County Administrator and within 5 days of the public notice. The written protest shall include a detailed statement of the legal and factual grounds for the protest, a description of the resulting harm, and the relief requested. Unless otherwise specified in the public notice of the sole source procurement, the LCRB may consider the written record, and any other testimony provided at the public meeting and must make its determination by Board Order.

(3) Following a determination under part (2) of this rule, the County negotiates with the sole source to obtain contract terms advantageous to the County, to the extent practicable.

(4) To the extent purchases under this rule are part of an approved special procurement under LM 20.240 through 20.254, the terms of the special procurement prevail over this rule.

20.320 Emergency Contracts.
Certain contracts may be awarded without competitive selection, if an emergency exists that requires prompt execution of those contract(s) to preserve public funds, property, or the uninterrupted provision of government services.

(1) As used in this section, an emergency is generally defined as circumstances that could not have been reasonably foreseen, create a substantial risk of loss, damage, or interruption of services, or a threat to property, public health, or safety. ORS 279A.010(f).

(2) A written determination must be made documenting the nature of the emergency, the method of contractor selection, and designating the contract(s) to be awarded. The County Administrator is delegated authority to make the determination for
one or more contracts, in an aggregate amount not to exceed $100,000 for a single occurrence or event. A determination for emergency contracts in excess of $100,000 for a single occurrence or event must be made by the LCRB.

(3) The County must ensure competition for the contract that is reasonable and appropriate under the emergency circumstances, which may include, but are not limited to:

(a) Limiting the scope or duration of the contract to the amount necessary under the emergency conditions,
(b) Providing a limited solicitation period and limiting required documentation, and
(c) Waiver of a performance or payment bond pursuant to ORS 279C.380(4) or of a public works bond pursuant to ORS 279C.836(9).

20.325 Personal Services Contracts.
Where possible, selection of a personal service contractor must be made by competitive selection, unless impracticable. However, the County may award a contract for personal services without competitive selection, providing that:

(1) The Department Director makes a written determination that the services to be provided in the particular contract are personal services, as defined in LM 20.530(1), and
(2) The County has made a finding that direct contracting is in the best interests of the County for the contract. Authority to make the finding is granted to:

(a) Each Department Director, for contracts not greater than $50,000.
(b) The County Administrator, for contracts not greater than $100,000.
(c) The LCRB, for contracts greater than $100,000.

EXEMPTIONS FROM COMPETITIVE SELECTION FOR ALTERNATIVE CONTRACTING METHODS

20.350 Special Procurements.
The LCRB may approve a special procurement for a particular non-public improvement contract, or a category of contracts, to allow procurement other than through an otherwise applicable process including competitive bidding (ORS 279B.055), request for proposals (ORS 279B.060), small procurement (ORS 279B.070), and intermediate procurement (ORS 279B.070). Approval of a special procurement must be made in accordance with the requirements of ORS 279B.085, and any protest of such approval must be made in accordance with ORS 279B.400.

20.355 Competitive Bidding Exemptions for Public Improvement Contracts
(1) Contracts Subject to Exemption. Upon approval of the findings in (2)(c) below, the LCRB may authorize an exemption from competitive bidding requirements for any of the following types of public improvement contracts:

(a) Construction Manager/General Contractor (CM/GC), as defined in ORS 279C.332 and OAR 137-049-0610;
(b) Design Build, as defined in OAR 137-049-0610; and
(c) Energy Savings Performance Contracting (ESPC), as defined in ORS 279A.010 and OAR 137-049-0610.
(2) Approval of Findings. Prior to exempting a contract from competitive bidding requirements, the LCRB must:
(a) Hold a public hearing, in accordance with ORS 279C.335(5);
(b) Give at least 14 days' notice of the public hearing, in accordance with ORS 279C.335(5)(b) and (c), and
(c) Approve written findings that:

(i) It is unlikely that the exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts, and
(ii) The awarding of public improvement contracts under the exemption will likely result in substantial cost savings to the County or the public. In making this finding, the LCRB may consider the type, cost and amount of the contract, the number of persons available to bid, and must consider all required factors in ORS 279C.335(2)(b), to the extent applicable.

(3) Post Project Evaluation. Upon completion and final payment for any public improvement project in excess of $100,000 for which an exemption was authorized under this section, the contracting Department shall prepare and deliver to the LCRB an evaluation of the public improvement contract. The evaluation must, at a minimum, meet the requirements of ORS 279C.335(b) and (c), and should include: financial information including comparing estimates with actual cost; any Guaranteed Maximum Price (GMP); changes and actual costs; successes and failures during design, engineering and construction; and assessment of the use of method as compared to any exemption findings.

20.360 Construction Manager/General Contractor.
If the County conducts a procurement for a Construction Manager/General Contractor pursuant to an exemption granted under LM 20.251, the procurement must be conducted in accordance with the model rules adopted by the Attorney General under ORS 279A.065(3).

20.365 Design/Build.
If the County conducts a procurement for a Design-Build contractor pursuant to an exemption granted under LM 20.251, the procurement may be conducted following a request for proposal procedure in accordance with LM 21.107 and utilizing the criteria in OAR 137-049-0670.

20.370 Energy Savings Performance Contracting.
If the County conducts a procurement for an Energy Savings Performance Contractor (ESPC) pursuant to an exemption granted under LM 20.251, the procurement may be conducted following a request for proposal procedure in accordance with LM 21.107 and utilizing the criteria in OAR 137-049-0680.

SOLICITATION PROCEDURES

20.410 Preliminary Procedures and Prequalification.
In preparation for competitive selection, the County may:

(1) Issue a request for information, request for letters of interest, request for qualifications, or other preliminary documents, for the purpose of determining the availability and interest of possible vendors for the goods or services proposed.
(2) Allow or require prequalification of bidders or proposers, either through an advertised process setting forth the procedure and criteria for prequalification prior to issuance of competitive procurement, or by inclusion of the requirements in the invitation to bid. The public officer has authority to determine when prequalification may be
required for a specific contract or class of contracts, and may determine the
prequalification procedure in accordance with the requirements of ORS 279B.120 and
279B.125, and the requirements of ORS 279C.430 for public improvements projects.
Determination of prequalification must be made in accordance with ORS 279B.120(2), or
the requirements of ORS 279C.375(3)(b) for public improvements projects. 20.710
Prequalification, Debarment, and Disqualification Appeals.

20.420 Methods of Source Selection.
Unless exempted under LM 20.110 to 20.450, all contracts for goods or services must be
awarded by competitive selection. Notwithstanding such exemption, the public officer
may use competitive selection to select a vendor for any type of goods or services except
those relating to purchases from qualified rehabilitation facilities in accordance with LM
20.115.

(1) Competitive Selection. The County may use any of the following
procedures to procure goods and services through competitive selection:
   (a) Competitive Bidding pursuant to the requirements for
       competitive sealed bidding in ORS 279B.055.
   (b) Request for Proposals (RFP) pursuant to the requirements for
       competitive sealed proposals in ORS 279B.060.
   (c) Competitive Quotes (CQ) pursuant to the requirements for
       intermediate procurements in ORS 279B.070. CQs for contracts greater than $50,000 in
       value, the County must prepare a written solicitation document. The written solicitation
document must:
           (i) Require that the quote be made in writing, and identify
               any other forms or documentation that must be submitted with the quote,
           (ii) State the date, time, and method of submission for
               quotes, which must be not less than 7 days from the date the solicitation is delivered,
           (iii) Include, or include by reference, the County's standard
               bidding and proposal procedures, and
           (iv) Include the contract terms applicable to the contract.
   (2) Direct Selection Subject to an Exemption. For procurement of goods or
       services that are exempt from the requirement for competitive selection pursuant to the
       requirements of LM 20.110 to 20.450, the public officer is authorized to make the
       selection that best serves the County's interests, taking into account price, qualifications,
       schedule, and other factors.
   (3) Contracts Relating to Public Improvements. Specific requirements apply
to procurements and contracts relating to both the design or the construction of public
improvements:
       (a) Construction. Contracts relating to the construction of public
           improvements may be awarded using any competitive selection procedure described in
           subsection (1) of this section, and must also comply with the requirements of ORS
           279C.300 though 279C.870 and with the County Rules.
       (b) Design-Related Services. Contracts relating to the design of
           public improvements must comply with the requirements of ORS 279C.100 through
           279C.120, in addition to the requirements of the County Rules.

20.430 Personal Services Contract Selection Procedures.
(1) Pursuant to ORS 279A.055, a contract may be designated as a personal
service contract if the contractual relationship is based primarily on a special trust and
confidence between the County and contractor; or the type and quality of services to be
provided under the contract are based primarily on the contractor's special or unique
expertise or knowledge; particular experience; or the exercise of discretionary judgment skills unique to the service provider.

(a) Contracts that may be designated personal service contracts include, but are not limited to, contracts for: expert consulting, appraisal, timber cruising, licensed professionals (including attorneys, auditors, accountants, physicians, physician assistants, nurse practitioners, nurses, therapists, realtors and engineers), research, polling, education, and artwork.

(b) Contracts that are not personal services contracts include contracts for services that can generally be performed by an experienced competent person, whether the person is required to be licensed or not, including but not limited to contracts for: trade-related activity (including plumbing and electrical work), custodial services, document filing and storage, general labor, and repairs and maintenance services for buildings or equipment.

(c) Pursuant to ORS 279C.100 through 279C.120, contracts for services relating to planning, designing, engineering, or overseeing of public improvements are designated by law as personal services. These include architectural, engineering, photogrammetric mapping, transportation planning, and land surveying services, and related services as defined in ORS 279C.100(8).

(2) If a contract has been designated as a personal services contract, the County may use an RFP process or a CQ process, depending upon the contract amount.

(a) Evaluation factors should include, but not limited to, the proposed contractor's qualifications, abilities, licenses and certifications, capacity and capability, past record of performance, cost control, quality of work, financial resources, availability, and familiarity with the area.

(b) The process may include, as appropriate, written submissions, demonstrations, and interviews. For contracts in excess of $100,000, the process should include interviews of not fewer than 2 of the most qualified prospective contractors.

(3) For personal services related to the planning, designing, engineering, or overseeing of public improvements, the RFP or CQ process must comply with the requirements of ORS 279C.100 through 279C.120, including the prohibition on soliciting information regarding price until after a contractor has been selected.

20.440 Requirements Contract Selection Procedures.
If the contract for goods or services will be a requirements contract, the County may use any competitive selection process for selection of a contractor, provided the process is in compliance with the requirements of this rule.

(1) In conducting competitive selection, the Invitation or Request must:

(a) State whether the County will consider awarding and executing more than one contract for a single type of service or good, and

(b) If the awarding of more than one contract is anticipated, state the method to be used in selecting which contractor will perform specific services or provide certain goods.

(2) In addition, the conditions of the Invitation or Request must provide:

(a) A stated minimum or maximum value of goods or services to be purchased under the contract,

(b) The term of the contract, which, including renewals, may not exceed 3 years, and must allow the County to cancel the contract upon 30 days written notice, and

(c) An estimated dollar amount of purchases to be made during the term of the contract.
20.450 Bidding and Proposal Procedures.
The bidding and proposal procedures in this section are applicable to Competitive Bidding, RFPs, and CQs under LM 20.520(1). When applied to the procedures for RFPs or CQs, the terms related to "proposals" or "quotes" must be substituted for the terms related to "bids" as used in this section.

1. Clarifications to Bidding Documents. If a bidder finds discrepancies or omissions in the drawings or bid documents, or is in doubt as to their meaning, the bidder must immediately notify the public officer. If the public officer believes a clarification is necessary, an addendum will be issued in writing not less than 48 hours prior to the deadline for bid. The terms of any addenda issued are to be included in the bidder's proposal, and will become part of the contract documents.

2. Submission and Receipt of Bids.
   (a) To be received and considered, all bids must be in writing and signed by the bidder or the bidder's authorized representative. Bids required or allowed to be submitted as sealed bids in paper copy must be submitted in a sealed envelope. Bids required or allowed to be submitted electronically must be submitted in the manner specified in the invitation to bid.
   (b) By signing and returning a bid, the bidder acknowledges it has read and understands the terms and conditions applicable to the solicitation document and that it accepts and agrees to be bound by the terms and conditions of the contract, including to perform the scope of work and meet the performance standards.
   (c) A bidder may not modify its bid after submission. A bidder may withdraw its bid at any time prior to the deadline set for receipt of bids, and may submit a replacement bid in accordance with the required bid submission procedures. The County may release an unopened bid which has been withdrawn to the bidder or authorized representative after voiding any date and time stamp mark.
   (d) The County will not consider any bid received after the time and date stated for bid opening in the invitation to bid.
   (e) Bids Irrevocable. All bids must be irrevocable for 30 days from the deadline for submission, unless otherwise stated in the invitation to bid. In addition, the bids of the three lowest bidders will be irrevocable and binding, and any bid securities may be retained by the public officer, until a contract has been executed contract and the contractor has provided any and all required performance bonds and insurance certificates.

3. Opening of Bids and Proposals.
   (a) The public officer may not examine any bid prior to opening. Bids properly submitted will be opened publicly by the public officer at the time, date and place designated in the invitation to bid. To the extent practicable, the public officer must read aloud the amount of the bid, the name of the bidder and such other information as the public officer considers appropriate, and record the same. If the offers are a proposals submitted in response to an RFP, the proposals may be opened in a manner to avoid revealing contents to competing proposers in accordance with ORS 279B.060(6)(a).
   (b) All bids submitted are subject to public inspection, with the exception of:
      (i) Information covered by an exception in public records law pursuant to ORS 279B.055(5)(c). Each bidder, by submitting a bid, acknowledges that it is the bidder's responsibility to defend and indemnify the County for any costs associated with establishing such an exemption. The bidder's act in submitting a bid constitutes its acceptance of this responsibility.
(ii) Proposals submitted in response to a request for proposals under LM 21.113, in accordance with ORS 279B.060(6).

(c) The bid record must be open to public inspection immediately following the issuance of a notice of intent to award.

(4) Evaluation of Bids and Proposals. Bid evaluation will be conducted by the public officer in cooperation with the department requesting the bid, if any, based on compliance with the requirements established in the invitation to bid and these Rules, including:

(a) Application of preferences for Oregon goods and services, resident bidders, recycled goods, and printing, pursuant to ORS 279A.120 to 279A.128 and ORS 282.210.

(b) Investigation and determination of responsibility requirements pursuant to ORS 279B.110.

(c) Where the bid includes more than one price or alternative, any calculation and evaluation necessary to determine the lowest responsive bid. The County may use the methods described in OAR 137-049-0380(2) or such other method as the public officer deems reasonable.

(d) For public improvement contracts, the criteria enumerated in LM 21.122(5).

(e) Proposals submitted in response to an RFP will be evaluated in accordance with the criteria stated in the RFP.

(5) Mistakes in Bids. Minor informalities may be waived. Mistakes discovered in bids after opening where the intended correct bid is clearly evident or properly substantiated may be corrected. Where the intended correct bid is not clearly evident or cannot be substantiated by accompanying documents, the bid may not be accepted. The County reserves the right to waive technical defects, discrepancies and minor irregularities, and to not award a contract when it finds such action to be in the public interest. See OAR 137-049-0350 and OAR 137-047-0470.

(6) Rejection.

(a) The County reserves the right to cancel a solicitation, or reject any or all bids in whole or in part when the cancellation or rejection is in the County's best interests as determined by the County. This includes rejecting any bid not in compliance with all prescribed public bidding procedures and requirements, and for good cause, rejecting all bids upon a finding that it is in the public interest to do so. See OAR 137-049-0440(5), OAR 137-047-0640, OAR 137-047-0650.

(b) If all bids are rejected in whole or in part, the County may:

(i) Advertise for new bids, or

(ii) Solicit supplemental information only from those bidders that submitted bids, if in the public officer's judgment it is unlikely readvertising publicly would lead to greater competition.

(7) Notice of Intent to Award. The County must provide written notice of its intent to award a contract to a particular bidder or bidders at least seven (7) days before the award, unless the public officer determines that a shorter notice period is necessary under the circumstances.

**TYPES OF CONTRACTS AND AGREEMENTS**

20.510 County Contracts, Generally.

Except for small purchases, all County contracts require a written contract signed by a duly authorized delegate, or a purchase order authorized under these rules.

(1) Identification of Contract Parties.
(a) The name "Lane County" must be used as the County's title when entering into any agreement, preferably followed by the words, "a political subdivision of the State of Oregon". If the circumstances of the contract require that the name of the County Department be included as part of the County's name, the correct form is: "Lane County, acting through its __________ Department".

(b) The County requires that the name of the party or parties with whom the County is entering into a contract be the parties' correct legal names. Verification of parties' legal names through the Oregon Secretary of State's website is encouraged.

20.515 Purchase Orders.

(1) Unless otherwise provided, County purchase orders are not contracts until the purchase order is agreed to by the recipient. Once accepted, a purchase order becomes a contract according to its terms.

(2) The County Administrator is delegated authority to prescribe rules for the types of contracts or purchases that may be made using a purchase order, and the form to be used.

20.520 Goods and/or Services Contracts.

Goods and/or Services contracts are the County's standard method of contracting for goods, services, or a combination of goods and services. Such contracts may only be used to engage independent contractors meeting the requirements of ORS 670.600, and may not provide for the contractor or contractor's staff to be under the direction and control of the County.

20.525 Construction and Public Improvement Contracts.

(1) All contracts relating to construction must comply with the requirements of ORS 279C.300 though 279C.870, in addition to these rules. Except as provided in these rules, the requirements of ORS chapter 279B do not apply to contracts for construction.

(2) All contracts must contain, either by inclusion or by reference, the County's standard contract provisions contained in LM 20.695 and the standard contract provisions for construction contained in LM 20.696, except as approved by the Office of Legal Counsel.
20.530 Requirements Contracts and Price Agreements.
Requirements contracts and price agreements must meet the requirements of ORS 279B.140 and this rule.

1. The terms of the resulting contract or contracts must state the method to be used to authorize a purchase of goods or services under the agreement.
   a. If set prices for defined goods or services are stated in the contract, the County may purchase such goods and services from the contractor.
   b. If the goods or scope of work to be purchased are described in general terms in the contract, requiring further definition for a specific scope or project, such additional definition must be made in writing and executed as an amendment to the contract.

2. The contract may not be amended to encompass goods or services not reasonably anticipated in the terms of the original competitive procurement.

20.535 Future Purchase and Retainer Contracts.
Future purchase and retainer contracts establish general terms for the future purchase of goods or services, the terms of which will apply only if subsequent purchases are made.

1. Each contract must comply with the requirements of LM 20.130, and:
   a. Contain a description of the method that the County will use to initiate a purchase under the agreement, which must include a writing, and
   b. State that the County makes no guarantee that any purchase will be made or any minimum amount paid under the contract.

2. The contract may not be amended to encompass goods or services not reasonably anticipated in the terms of the original competitive procurement.

3. Any purchase made under the agreement must be considered separately for requirements for competitive selection, unless exempt from competitive selection under these Rules.

20.540 Intergovernmental Agreements.
Intergovernmental agreements (IGA) are contracts made between the County and other agencies of State, local, or federal government. IGAs are exempt from competitive selection, and generally do not require inclusion of the standard terms required for public contracts. IGAs involving significant obligations of funds, services, property, or allocation of risks must be made in writing, and are subject to the same approval and authorization as other County contracts.

20.545 Memoranda of Understanding.
A memorandum of understanding (MOU) is an agreement, generally between the County or a County Department and another agency, that captures the agencies' common desire to work together to pursue specified common objectives. An MOU can be entered into with multiple parties, and the parties may include different County departments. Use of an MOU is appropriate when there is no exchange of funds, goods, or services between the parties.

20.550 Grant and Sub-Grant Agreements.
1. Grant agreements. The County may enter into agreements with public agencies or private parties in which the County receives and disburses funding for purposes specified in the grant agreement, and subject to the conditions set forth in the grant.
2. Sub-grants.
(a) The terms of a grant agreement may specify that specific sub-grants be entered into by the County with third parties identified in the grant application or agreement. The grant may provide that the County merely passes through the grant funds received, in whole or in part, without modifying any terms or conditions of the original grant, except as related to County administration and oversight of the grant conditions.

(b) If the terms of a grant do not specify the sub-grantees, and the County is entering into an agreement with a vendor to perform services defined by the County, then that agreement between the County and the vendor generally will be a goods and/or services contract or, if with a public agency, an intergovernmental agreement.

20.555 County Grants.
The County may grant funds to a private entity for the purposes of supporting objectives or activities proposed by the entity. If the County requires no further obligation from the grantee beyond use of the funds in compliance with the restrictions placed upon the use of the funds, documentation of the County Grant may be provided in the grant award letter, in a form approved by the Office of Legal Counsel.

20.560 Revenue Contracts.
The County may enter into contracts to provide services in exchange for payment using an agreement appropriate for the type of services to be provided, in a form approved by the Office of Legal Counsel. However, a contract that includes obligations of the other party that extend beyond payment or documentation must include the County's standard contract conditions.

STANDARD CONTRACT PROVISIONS

The following standard public contract clauses must be included expressly or by reference in every County contract:

(1) Pursuant to ORS 279B.220 or ORS 279C.505, as applicable, Contractor must:
   (a) Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract.
   (b) Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract.
   (c) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.

(2) Pursuant to ORS 279B.230 and 279C.530, as applicable:
   (a) Contractor must promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.
(b) All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

(3) Pursuant to ORS 279B.235, 279C.520, and 279C.540, as applicable, in performing the work of this Contract:
   (a) A person may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services designated under ORS 279A.055, the employee shall be paid at least time and a half pay:
      (i) For all overtime in excess of eight hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or
      (ii) For all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
      (iii) For all work performed on Saturday and on any legal holiday specified in ORS 279B.020.
   (b) An employer must give notice in writing to employees who work on a public contract, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.
   (c) If this Contract is for personal services as described in ORS 279A.055, an employee shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime.
   (d) If this Contract is for services at a county fair or for other events authorized by a county fair board, employees must be paid at least time and a half for work in excess of 10 hours in any one day or 40 hours in any one week. An employer shall give notice in writing to employees who work on such a contract, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that employees may be required to work.
   (e) Except as provided in subsection (d) of this section, if this Contract is for services, all persons employed under the Contract shall receive at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279B.020 (1)(b)(B) to (G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater. An employer shall give notice in writing to employees who work on a contract for services, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.
   (f) This section (3) does not apply if the Contract is strictly for goods or personal property.

(4) Contractor may not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished, shall assume responsibility for satisfaction of any lien so filed or prosecuted and shall defend against, indemnify and hold the County harmless from any such lien or claim.

(5) Contractor and any subcontractor must pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
Contractor, any subcontractors, and all employers working under the contract are subject employers under the Oregon Workers' Compensation Law and must comply with ORS 656.017, unless exempt under ORS 656.027.

Unless otherwise provided by the contract or law, the County has a right to exercise the following remedies for Contractor's failure to perform the scope of work or failure to meet established performance standards:

(a) Reduce or withhold payment;
(b) Require Contractor to perform, at Contractor's expense, additional work necessary to perform the identified scope of work or meet the established performance standards; or
(c) Declare a default, terminating the public contract and seeking damages and other relief available under the terms of the public contract or other applicable law.

The Contract may be canceled at the election of the County for any substantial breach, willful failure or refusal on the part of Contractor to faithfully perform the contract according to its terms. The County may terminate the contract by written order or upon request of Contractor, if the work cannot be completed for reasons beyond the control of either Contractor or the County, or for any reason considered to be in the public interest other than a labor dispute, or by reason of any third party judicial proceeding relating to the work other than one filed in regards to a labor dispute, and when circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the work.

If the County does not appropriate funds for the next succeeding fiscal year to continue payments otherwise required by the contract, the contract will terminate at the end of the last fiscal year for which payments have been appropriated. The County will notify Contractor of such non-appropriation not later than 30 days before the beginning of the year within which funds are not appropriated. Upon termination pursuant to this clause, the County will have no further obligation to Contractor for payments beyond the termination date. This provision does not permit the County to terminate the contract in order to provide similar services or goods from a different contractor.

Unless otherwise provided by the contract or law, Contractor agrees that the County and its duly authorized representatives may have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Agreement for the purpose of making audits, examinations, excerpts, copies and transcripts. Contractor shall retain and keep accessible such books, documents, papers, and records for a minimum period of (6) six years after the County makes final payment on this Agreement. Copies of applicable records must be made available upon request, and payment of copy costs is reimbursable by the County.

Contractor must meet the highest standards prevalent in the industry or business most closely involved in providing the goods or services or personal services covered by this Agreement, unless the County has good cause and the contract provides otherwise.

Contractor shall make all provisions of the contract with the County applicable to any subcontractor performing work under the contract.

The County will not be responsible for any losses or unanticipated costs suffered by Contractor as a result of the contractor's failure to obtain full information in advance in regard to all conditions pertaining to the work.

Contractor certifies that Contractor has all necessary licenses, permits, or certificates of registration necessary to perform the contract and further certifies that all subcontractors will likewise have all necessary licenses, permits or certificates before
performing any work. The failure of Contractor to have or maintain such licenses, permits, or certificates is grounds for rejection of a bid or immediate termination of the contract.

(15) Contractor may not commence any work until Contractor obtains, at Contractor's own expense, all required insurance as specified by Lane County. Such insurance must have the approval of Lane County as to limits, form, and amount.

(16) Pursuant to ORS 279A.120, if Contractor is a nonresident bidder and the Contract price exceeds $10,000, Contractor must promptly report to the Department of Revenue on forms to be provided by the department the total contract price, terms of payment, length of contract and such other information as the department may require before the County will make final payment on the contract.

(17) Pursuant to ORS 279B.225, if the Contract includes lawn and landscape maintenance Contractor must salvage, recycle, compost or mulch yard waste material at an approved site, if feasible and cost-effective.

(18) Contractor may not commence any work until provides and furnishes evidence of all required insurance specified by the County, and has obtained the County's approval as to limits, form, and amount. Coverage must include an Additional Insured Endorsement that includes completed operations, and which is primary and non-contributory with any other insurance and self-insurance.

The following standard public contract clauses must be included expressly or by reference in every County contract for public improvements.

(1) Pursuant to ORS 279C.505, Contractor must:
   (a) Pay to the Department of Revenue all sums withheld from employees under ORS 316.167.
   (b) Demonstrate that an employee drug testing program is in place.

(2) Pursuant to ORS 279C.510(1), Contractor must salvage or recycle construction waste and demolition debris, if feasible and cost-effective.

(3) Pursuant to ORS 279C.515:
   (a) If Contractor fails, neglects or refuses to pay promptly a person's claim for labor or services that the person provides to the contractor or a subcontractor in connection with the public improvement contract as the claim becomes due, the County may pay the amount of the claim to the person that provides the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of the contract.
   (b) If Contractor or a first-tier subcontractor fails, neglects or refuses to pay a person that provides labor or materials in connection with the public improvement contract within 30 days after receiving payment from the contracting agency or Contractor, Contractor or first-tier subcontractor owes the person the amount due plus interest charges that begin at the end of the 10-day period within which payment is due under ORS 279C.580 (4) and that end upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest on the amount due is 9 percent per annum. The amount of interest may not be waived.
   (c) If Contractor or a subcontractor fails, neglects or refuses to pay a person that provides labor or materials in connection with the public improvement contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.
   (d) Paying a claim in the manner authorized in this section does not relieve the contractor or the contractor's surety from obligation with respect to an unpaid claim.
Pursuant to ORS 279C.540:

(a) A person may not be required or permitted to labor more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity or emergency or when the public policy absolutely requires it, in which event, the person so employed for excessive hours shall receive at least time and a half pay in accordance with ORS 279C.540(1) to (5).

(5) Contractor shall comply with all applicable federal, state, and local laws and regulations, including but not limited to those dealing with the prevention of environmental pollution and the preservation of natural resources that affect the performance of the contract. A list of entities that have enacted such laws or regulations is found in the Oregon Standard Specifications for Construction, Section 00170.01 currently in effect and published through Oregon Department of Transportation. If new or amended statutes, ordinances, or regulations are adopted, or Contractor encounters a condition not referred to in the bid document not caused by Contractor and not discoverable by reasonable site inspection which requires compliance with federal, state, or local laws or regulations dealing with the prevention of environmental pollution or the preservation of natural resources, Contractor shall immediately give notice to the County. The County and Contractor will have all the rights and obligations specified in ORS 279C.525 to handle the situation.

(6) If the County suspends Contractor’s work but does not terminate the contract, Contractor is entitled to a reasonable time extension, costs and overhead in accordance with ORS 279C.655. If the contract is terminated by mutual agreement, Contractor will be paid in accordance with ORS 279C.660.

(7) The Oregon Standard Specifications for Construction adopted by the State of Oregon, and the Manual on Uniform Traffic Control Devices, each as is currently in effect, are applicable to all non-building construction projects, except as modified by the bid documents.

(8) Retainage of five percent (5%) of the amount of any progress payment on a public improvement contracts will be reserved until the project is at least 50 percent complete, after which the retainage may be reduced, upon the approval of the Department Director, in accordance with ORS 279C.570(7). The accumulated retainage withheld, less any costs as allowed by statute, will be paid as part of final payment to the contractor in accordance with ORS 279C.570(8).

(a) Deposit of Retainage in Interest Bearing Account. Upon request of the contractor, the County will deposit the accumulated retainage accumulated in an interest-bearing account in accordance with ORS 279C.560(5). Any interest earned on the retainage deposited will accrue to the contractor.

(b) Surety Bond in Lieu of Retainage. The County may, at its discretion, accept a surety bond from the contractor for all or a portion of the retainage, in accordance with ORS 279C.560(7).

(c) Deposit of Securities in Lieu of Retainage. The County will reduce the retainage amount in an amount equal to the market value of bonds, securities, or other instruments deposited by the contractor in accordance with ORS 279C.560(1), providing that the following requirements are met:

(i) The bonds, securities or instruments offered for deposit in lieu of retainage must:

(A) Be of a type described in OAR 137-049-0820(4),

(B) Be in fully transferable form, with any non-negotiable bonds or securities having attached all instruments necessary to enable the
County to effect transfer of title should the contractor be unable to fulfill the contract obligations, and

(C) Be deposited with a bank or trust company in Lane County, Oregon, in an account for the benefit of Lane County established for this purpose. Upon deposit, the bank or trust company must prepare an Assignment and Safekeeping Receipt in the form set out in Exhibit "A" to this section, which must be delivered to the County Treasurer.

(ii) Bonds or securities deposited in lieu of retainage will be released only upon the written instructions and authorization of the County. Upon default, the County may elect to authorize the bank or trust company to transfer any securities deposited under these provisions, rather than undertake to transfer such securities itself.

(iii) If at any time the market value of the bonds or securities deposited in lieu of retainage drops below the accumulated retainage amount, the County may withhold from payments due the contractor an amount sufficient to offset any shortfall in the retainage withheld. A contractor may provide additional bonds or securities to remedy such shortfall, in accordance with this section.

FORM OF ASSIGNMENT AND SAFEKEEPING RECEIPT

This Assignment is to satisfy the requirements for deposits of bonds or securities in lieu of retainage on public improvement contracts set out in LM 21.126. Subject to the conditions below, the undersigned does hereby assign, transfer and set over to Lane County all right, title and interest in and to the bonds and securities listed in the attached Schedule "A" for the use and purpose of retainage on the public contract between Lane County and the undersigned, identified as:

________________________________________
(Project Identification)

________________________________________
(Bank or Trust Company)

agrees that the bonds or securities listed in Schedule "A" will be held in trust for the purposes stated here, and shall be released only upon the written instructions and authorization of Lane County. Periodic interest payments or other disbursements which do not reduce the face amount of the bonds or securities will accrue and may be credited or paid to the undersigned.

If a bond or security deposited under this assignment reaches maturity while subject to these conditions, it may be disbursed to the undersigned without specific authorization from Lane County provided that the undersigned replaces the matured bond or security with an identical one of equal or greater value.

If the bonds or securities deposited are to be credited to more than one public contract, the distribution will be allocated as stated on Schedule "A."

SCHEDULE "A"

1. DESCRIPTION OF THE BONDS OR SECURITIES.
2. NAME OF CONTRACTOR/ASSIGNOR.
3. IDENTIFICATION NUMBER OF THE CONTRACT OR PROJECT.
4. PAR VALUE OF SECURITIES OR BONDS (AND THE MARKET VALUE, IF DIFFERENT).
5. MATURITY DATES OF SECURITIES OR BONDS.

Signed and dated at _____, Lane County, Oregon, this ____ day of ______, 20___.

______________________________
(Signature of Depositor/Assignor)
Address:

ACCEPTANCE

_______________________________
(Bank or Trust Company) hereby accepts the foregoing Assignment and Safekeeping Receipt No. _____, in the total amount of $_____, this day of _____, 20___, and hereby acknowledges receipt of the bonds or securities listed in Schedule "A" above to hold in trust for Lane County for the uses and purposes stated above.

(Authorized Signature)

AUTHORITY TO AWARD, APPROVE, AND CANCEL CONTRACTS

20.610 Contract Award and Approval.
(1) Contract award may be made by the public officer delegated the authority to execute the contract or, if no delegation has been made, by the Board.
(2) All contracts must be processed through procedures prescribed by the County Administrator, including review by legal, risk management, budget and other staff, except as expressly stated otherwise by these rules.
(3) Contracts for personal services for, or related to, legal services and investigations will be processed and archived in the Office of Legal Counsel. However, the authority to execute or amend such contracts must be exercised in accordance with the requirements of LM 20.650 through 20.670.

20.615 Cancellation of Award.
The County may cancel the award of any contract at any time prior to the execution of said contract by all parties without any liability to the County.

CONTRACT AMENDMENTS AND ACCEPTANCE

20.625 Requirements for Contract Amendments.
(1) Each contract amendment must include, at a minimum, the title of the original contract, names of the parties, clear references to the original contract or prior amendment terms that are being modified, and execution of the amendment by all parties.
(2) Each contract amendment should include, in addition, the date of original contract, the number of prior amendments and number of the current amendment, a
restated contract amount and completion date, and a provision that "except as set forth above, all provisions of the original contract remain unchanged."

20.630 Limitations on Contract Amendments.

A contract may only be amended if the amendment, taken together with all prior amendments, does not result in a final contract that no longer bears a reasonable relationship to the contract contemplated in the original procurement.

1) Limitations on Cumulative Amount of Contract Amendments. In addition to the limitations on execution authority contained in LM 20.665 and 20.670, all contracts are subject to limitations on the cumulative amount that a contract can be amended, after which a new contract must be awarded in accordance with these Rules, unless exempted under subsection (3) of this section. These limitations apply to:

- Small Procurement, if awarded without competitive procurement: $12,500 total contract amount
- Intermediate Procurement, if awarded using amount, or competitive quotes under LM 20.420(1) is less: 200% of original amount, whichever is less: $150,000, whichever is less
- All other contracts: 200% of original amount

3) Limitations on Amendments to Public Improvements Contracts. Contracts for public improvements are subject to statutory limitations on amendments:

(a) A public improvement contract awarded as a small procurement under ORS 279C.335 may not be amended to an amount of $5,000 or greater.
(b) A public improvement contract with an original contract amount of $50,000 or less may not be amended to exceed $50,000 unless the requirements of ORS 279C.800 through 279C.870 regarding the payment of prevailing wage rates are incorporated into the contract.

4) Exceptions to Limitations on the Cumulative Amount of Contract Amendments:

(a) Contracts awarded under a specific exemption to competitive procurement pursuant to LM 20.110 to 20.375 are not subject to the limitations stated in subsections (1) to (3) of this section.
(b) The County Administrator is delegated authority to execute an amendment to a contract that exceeds the limitations in this section when, in the Administrator's judgment, the increase in the contract amount is necessary to provide continuity of services or is necessitated by conditions outside the County's control.

20.640 Construction Change Orders. The Director of a Department with authority to contract for public improvements, construction, or the renovation of roads and transportation facilities is granted authority to authorize and execute construction change orders, providing that all of the following conditions are met:

1) The change would not increase the cost of the project by more than 10 percent of the contract price,
2) The change order is reasonably related to the purpose of the project, and
(3) The Director has determined that it is in the best interest of the County to authorize the order to facilitate completion of the project.

20.645 Contract Completion and Acceptance. Each Department Director is granted authority to determine that all obligations under the contract have been met and the contract is completed and accepted.

AUTHORITY TO EXECUTE CONTRACTS, AMENDMENTS, GRANT APPLICATIONS, AND GRANTS

20.650 Delegation of Authority to Execute Grant Applications and Accept Grants.

(1) Each Department Director is delegated the authority to approve and execute all documents in application for or acceptance of a grant not exceeding $25,000.

(2) The County Administrator is delegated authority to approve and execute all documents in application for and acceptance of a grant not exceeding $100,000.

(3) The County Administrator is delegated authority to approve and execute all documents in application for a grant in excess of $100,000, provided that the application does not obligate the County to accept the grant if awarded.

(4) The Board must approve the acceptance of a grant exceeding $100,000. If an application for a grant in excess of $100,000 obligates the County to accept the award as a condition of application, the Board must approve the application for the grant. Following Board approval of a grant or grant application, the Administrator is delegated authority to approve and execute all other grant documents.

(5) The County Administrator is delegated authority to approve and execute all documents to continue a grant that was approved by the Board, so long as the continuation is substantially similar to the original grant approved by the Board.

20.660 County Administrator's Authority to Execute Contracts.

(1) The County Administrator is delegated authority to execute all contracts and agreements that do not exceed $100,000 in cost or revenue nor three years in length.

(2) The County Administrator is further delegated authority to execute contracts that exceed three years in length, or are by their terms self-renewing, but only if:
   (a) The cost or revenue for the first three years does not exceed $50,000, and
   (b) The contract contains a provision allowing the County to terminate the contract upon not more than one year's notice.

(3) The County Administrator is further delegated authority to execute, without limitation of amount or length:
   (a) All contracts that have been awarded or expressly approved by the Board.
   (b) Contracts specifically identified in a budget adoption order or supplemental budget order approved by the Board.
   (c) Insurance nonwaiver agreements and insurance endorsements to original policies.
   (d) Land use improvement agreements, Building Program Quick Start Agreements and acceptance and release of land use performance bonds.
   (e) Contracts and assignments for the collection of County judgments.
   (f) All contracts with terms of three years or less that implement public improvement projects described on the adopted Public Works five-year Capital
Improvement Program list, the adopted Parks Capital Improvement Program priorities list, and the Public Works and Management Services public improvement lists prepared for filing with the Commissioner of the Bureau of Labor and Industries (BOLI) pursuant to ORS 279C.305. This delegation includes, without limitation, those contracts reflecting the County paid portion of the project, those reflecting any amount to be paid by other governmental agencies or housing development entities for assisted housing projects, and those covering environmental mitigation responsibility.

(4) Each Department Director is delegated authority to execute all contracts that do not exceed $25,000 in cost of revenue nor 3 years in length.

20.665 County Administrator’s Authority to Execute Amendments.
Subject to the limitations on cumulative contract amount in LM 20.630, the County Administrator is delegated authority to:

1. Execute amendments to contracts that do not cause the contract amount to exceed $100,000 in cost or revenue nor three years in length,
2. Execute amendments to contracts, without limitation of amount or length, if the amendment amount or length is within limits authorized by the Board for that specific contract or class of contracts, and
3. Execute amendments to contracts where the original contract amount exceeds $100,000, subject to the following limitations:
   a. If the original contract amount is greater than $500,000, the total of all amendments to that contract may not exceed 25 percent of the contract amount approved by the Board.
   b. If the original contract amount is $500,000 or less, the total of all amendments may not exceed 50 percent of the contract amount approved by the Board, and
   c. The amendment does not extend the length of the contract beyond three years, unless the original contract contained a provision for a longer duration and was awarded or expressly approved by the Board.

20.670 Department Directors’ Authority to Execute Contracts and Amendments.
(1) Each Department Director is delegated authority to execute contracts that do not exceed $25,000 nor three years in length.
(2) Subject to the limitations on cumulative contract amount in LM 20.630, each Department Director is delegated authority to execute amendments that do not exceed $25,000, subject to the following limitations:
   a. The amendment, in combination with all prior amendments, does not cause the contract amount to exceed $100,000 in cost or revenue nor three years in length, and
   b. The amendment, in combination with all prior amendments, does not exceed 25% of either the original contract amount, or the amount expressly approved by the Board, whichever is greater.

20.680 County Administrator’s Authority to Cancel Awards and Terminate Contracts.
The County Administrator is delegated the authority to cancel awards and terminate contracts and grants, including amendments, as provided in the contract or by law.

20.685 Further Delegation.
The County Administrator and each Department Director’s authority under LM 20.650, 20.655, 20.660, 20.665, and 20.670 may only be delegated through a writing.
20.710 Protest of Solicitation Process.

Protest of Solicitation Documents. A prospective bidder or proposer may file a protest of an competitive bidding or RFP process, or CQ process for a contract in excess of $50,000 pursuant to ORS 279B.405. To be considered, the protest must be received by the County not less than seven 7 calendar days prior to bid opening and must contain the information and statements required in ORS 279B.405(4)(a) through (d). The County will issue a determination in accordance with ORS 279B.405(5) and (6).

20.720 Protest of Award Based Upon Competitive Bidding or Quotes.

A bidder that submitted a responsive bid, or a competitive quote for a contract greater than $50,000 in value, may protest the award of a contract based on the bids received for that contract. Any protest must be received by the County within seven 7 days of the date of the notice of intent to award or, if no notice of award is given, of the date of actual award. Protests of award or intent to award will be considered by the LCRB, if the Board's action were required to award the contract. All other protests of intent of award will be considered by the County Administrator, or the Administrator's designee.

(1) Requirements for protest.

(a) A protest of award of a public improvement contract must specify the applicable grounds for protest set forth in OAR 137-049-0450(4)(c), which is hereby adopted into this rule.

(b) All other protests of award must be in writing and specify the applicable grounds for the protest as set forth in ORS 279B.410(1).

(c) Any protest not in compliance with these rules may be rejected.

(2) Review and determination.

(a) Contracts Requiring Board Action to Award. If the public officer determines there is sufficient merit to reject bids, the public officer may do so. If, following any action by the public officer, any portion of the protest remains, the LCRB must be provided with, and may consider, a complete copy of the written record, and any other evidence provided, at a public meeting. The LCRB may affirm, reverse, or revise an award, or may send the matter back to the Department for further action, and must issue its decision by Board Order.

(b) Contracts Not Requiring Board Action to Award. The County Administrator has authority to reject bids, or to affirm, reverse, or revise the award, or send the matter back to the department for further action. The Administrator must deliver this decision to the LCRB. If, within seven 7 days, the LCRB elects to review the matter, the LCRB must be provided with and may consider a complete copy of the written record, and any other evidence provided, at a public meeting. The LCRB may affirm, reverse, or revise an award, or may send the matter back to the Department for further action, and must issue its decision by Board Order. If the LCRB does not elect to review the matter within seven 7 days, the Administrator's decision will be final.

(3) The procedures in this rule are mandatory to the extent they establish the time and manner for protests to be submitted to the County, including that the protest be in writing specifying the grounds and timely filed, and that there be a written response. The other protest procedures above are directory, and failure to follow or complete the action in the manner provided will not invalidate the County's decision.
20.730 Protest of Award Based Upon a Request for Proposals (RFP).
A respondent to an RFP that submitted a responsive proposal, and is not selected for award, may protest the award or recommendation for award of a contract based on RFPs submitted. Any protest must be received by the County within seven 7 days of the notice of recommendation or intent to award or, if no notice is given, of actual award. Protests of award or intent to award will be considered by the LCRB, if the Board's action were required to award the contract. All other protests of intent of award will be considered by the County Administrator, or the Administrator's designee.

(1) Requirements for protest.
(a) A protest of award of a public improvement contract must specify the applicable grounds for protest set forth in OAR 137-049-0450(4)(e), which is hereby adopted into this rule.
(b) All other protests of award must be in writing and specify the applicable grounds for the protest as set forth in ORS 279B.410(1).
(iii) Any protest not in compliance with these rules may be rejected.

(2) Review and determination.
(a) Upon receipt of a protest, the department must promptly notify both the evaluation committee and the proposer recommended for award that a protest has been received, and furnish each with a copy of the protest. Both the recommended proposer and the committee may, within three 3 calendar days from the date the protest was received, respond to the protest in writing.
(b) After a protest has been received, the Department that issued the RFP must prepare a written analysis of the protest and make a recommendation to the decision maker as to appropriate action to be taken.
(c) Contracts Requiring Board Action to Award. If the public officer determines there is sufficient merit to reject proposals, the public officer may so. If, following any action by the public officer, any portion of the protest remains, the LCRB must be provided with, and may consider, a complete copy of the written record, and any other evidence provided, at a public meeting. At the public meeting the LCRB may, at the LCRB's discretion, allow the department that issued the RFP and the appellant an opportunity to address the protest. The LCRB may affirm, reverse, or revise an award, or may send the matter back to the Department for further action, and must issue its decision by Board Order.
(d) Contracts Not Requiring Board Action to Award. The County Administrator has authority to reject proposals, or to affirm, reverse, or revise the award, or send the matter back to the department for further action. The Administrator must deliver this decision to the LCRB. If, within seven 7 days, the LCRB elects to review the matter, the LCRB must be provided with and may consider a complete copy of the written record, and any other evidence provided, at a public meeting. The LCRB may affirm, reverse, or revise an award, or may send the matter back to the Department for further action, and must issue its decision by Board Order. If the LCRB does not elect to review the matter within seven 7 days, the Administrator's decision will be final.

(3) The procedures in this rule are mandatory to the extent they establish the time and manner for protests to be submitted to the County, including that the protest be in writing specifying the grounds and timely filed, and that there be a written response. The other protest procedures above are directory, and failure to follow or complete the action in the manner provided will not invalidate the County's decision.
20.740 Appeals of Prequalification, Debarment, and Disqualification
A prospective bidder or proposer may appeal a department’s decision to debar (non-public improvement) or disqualify (public improvement), or deny, revise or revoke prequalification. See ORS 279B.425 and ORS 279C.450.

1. A prospective bidder or proposer must file a written appeal, including a detailed statement of the grounds for the appeal, within 3 days after receiving notice of the County’s decision.

2. The department must schedule the appeal to be heard before the LCRB, or its designee, as soon as reasonably possible, and notify the appellant of the time and place for the hearing.

3. The Department must prepare a written response, provide a copy to the appellant and to the LCRB, and submit the written record to the LCRB.

4. The LCRB must provide a de novo review of the notice of denial, revocation or revision of prequalification or notice of debarment or disqualification and any evidence provided by the parties, and apply the standards of responsibility in deciding an appeal of a denial, revision or revocation of a prequalification in (5) below and criteria for debarment or disqualification in (6) below.

5. The hearing and appeal decision must occur within 30 days after receiving the notice from the department, and the LCRB must provide written reasons for the decision in a final order, and include any allocation of costs for the hearing.

(5) In determining whether the standards of responsibility have been met, the LCRB consider the criteria in ORS 279C.375 for public contracts and in ORS 279B.110 for non-public contracts have been met.

20.780 Other Protests Referred to the LCRB.
The LCRB shall decide any protests referred to the LCRB under the County Rules.