

**CHAPTER 10 - PUBLIC CONTRACTING RULES****DIVISION 000 – PUBLIC CONTRACTS****GENERALLY****10.010 Application of the Public Contracting Code; Exceptions**

- (1) Except as set forth in this section, the County shall exercise all rights, powers and authority in accordance with the Public Contracting Code.
- (2) Nothing stated in this Chapter shall be construed contrary to the Public Contracting Code.
- (3) The Public Contracting Code does not apply to the Contracts or the classes of Contracts described in ORS 279A.025(2), which are as follows:
  - (a) Contracts between the County or between public agencies and the federal government;
  - (b) Insurance and service Contracts as provided for under ORS §§ 414.115, 414.125, 414.135 and 414.145 for purposes of source selection;
  - (c) Grants;
  - (d) Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the County is or may become interested;
  - (e) Acquisitions or disposals of real property or interest in real property;
  - (f) Sole-source expenditures when rates are set by law or ordinance for purposes of source selection;
  - (g) Contracts for the procurement or distribution of textbooks;
  - (h) Procurements by the County from an Oregon Corrections Enterprises program;
  - (i) Contracts for employee benefit plans as provided in ORS 243.860 to ORS 243.886; or
  - (j) Any other public contracting of a public body specifically exempted from the Code by another provision of law.
- (4) When federal funds are involved, applicable federal statutes and regulations take precedence over the rules in Chapters ORS 279A, 279B, and ORS 279C.005 through 279C.670, except as expressly provided in ORS 279C.800 through 279C.870.

**10.015 Organization of Public Contracting Rules**

- (1) Public Contracting involving the procurement of Goods and Services is subject to this division and division 100.
- (2) Public Contracting involving Personal Services Contracts is subject to this division and division 200.

- (3) Public Contracting involving Public Improvements is subject to this division and division 300.
- (4) Disposal of surplus personal property is subject to division 400.

#### **10.020 Application of the Model Rules**

Unless otherwise stated, the Model Rules promulgated by the Attorney General in Oregon Administrative Rule Chapter 137, Divisions 46, 47, 48, and 49 are not adopted as rules for Coos County.

#### **10.025 Previous Rules Repealed**

All previous orders, resolutions, and policies adopted by Coos County relating to public contracting are repealed and shall have no effect.

#### **10.030 Definitions**

Unless the context of a specifically applicable definition in the Code requires otherwise, capitalized terms used in these Rules will have the meaning set forth and if not defined, the meaning set forth in the Code. The following terms, when capitalized in these Rules, shall have the meaning set forth below:

- (1) **“Addenda”** means an addition or deletion to, a material change in, or general interest explanation of a Solicitation Document.
- (2) **“Affected Person”** or **“Affected Offeror”** means a Person whose ability to participate in a Procurement is adversely affected by a County decision.
- (3) **“Alternative Contracting Methods”** means techniques for obtaining Public Improvement Contracts, utilizing processes other than the traditional method of Design-Bid-Build, with Award based solely on price. In industry practice, such methods commonly include variations of Design-Build contracting, CM/GC forms of contracting and ESPCs, general “performance contracting” and “cost plus time” contracting.
- (4) **“Amendment”** means a Written modification to the terms and conditions of a Contract, other than by Changes to the Work, within the general scope of the original Procurement that requires mutual agreement between the County and the Contractor.
- (5) **“Award”** means, as the context requires, either the act or occurrence of the County’s identification of the Person with whom the County will enter into a Contract following the resolution of any protest of the County’s selection of that Person, and the completion of all Contract negotiations.
- (6) **“Bid”** means a response to an Invitation to Bid.
- (7) **“Board”** means the Coos County Board of Commissioners which act as the local Contract Review Board.
- (8) **“Catalog of Federal Domestic Assistance Number”** or **“CFDA Number”** means the number that is assigned by federal government when federal funds are directly or indirectly distributed to the County for domestic assistance programs.

- (9) “**Competitive Sealed Bidding**” means the solicitation by the County of competitive Bids which follow the formal process for advertising, bid and bid opening set forth in ORS 279B.055 for Goods and Services and ORS 279C.360 to ORS 279C.395 for Public Improvements.
- (10) “**Closing**” means the date and time announced in a Solicitation Document as the deadline for submitting Offers.
- (11) “**Code**” means the Public Contracting Code in ORS Chapters 279A, 279B, and 279C.
- (12) “**Competitive Sealed Proposals**” means the solicitation by the County of competitive Proposals which follow the formal process of advertising and evaluation set forth in ORS 279B.060 for Goods and Services and in ORS 279C.400 through ORS 279C.410 for Public Improvements.
- (13) “**Competitive Process**” means the procurement of Goods and Services by Competitive Sealed Bidding, Competitive Sealed Proposals, or Quotes when permitted by these Rules.
- (14) “**Competitive Range**” means the Proposers with whom the County will conduct discussions or negotiations if the County intends to conduct discussions or negotiations.
- (15) “**Consent Calendar**” Items to be approved by the Board that are submitted for ratification or items that are not expected to be substantially opposed, and are therefore scheduled for a vote without debate.
- (16) “**Contract**” means a "Public Contract," as defined in ORS 279A.010.
- (17) “**Contract Price**” means, as the context requires, (i) the maximum payments that the County will make under a Contract, including bonuses, incentives and contingency amounts, if the Contractor fully performs under the Contract, (ii) the maximum not-to-exceed amount of payments specified in the Contract, or (iii) the unit prices for Goods or Services or Personal Services set forth in the Contract.
- (18) “**Contractor**” means the Person with whom the County enters into a Contract
- (19) “**Department Head**” means the appointed head of a County department or office, or their Designee, or the person appointed to fill a vacancy in such a position, but does not include Commissioners.
- (20) “**Elected Official**” means the elected head of a County office or the person appointed to fill a vacancy in such a position, but does not include Commissioners.
- (21) “**Emergency**” means circumstances that:
- (A) Could not have been reasonably foreseen;
  - (B) Create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and
  - (C) Require prompt execution of a contract to remedy the condition.
- (22) “**Goods and Services**” has the meaning set forth in ORS 279A.010(1)(i)&(kk).
- (23) (A) “**Grant**” means:
- (i) An agreement under which the County receives moneys, property or other assistance, including but not limited to federal assistance that is

- characterized as a grant by federal law or regulations, loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other assets, from a grantor for the purpose of supporting or stimulating a program or activity of the County and in which no substantial involvement by the grantor is anticipated in the program or activity other than involvement associated with monitoring compliance with the grant conditions; or
- (ii) An agreement under which the County provides moneys, property or other assistance, including but not limited to federal assistance that is characterized as a grant by federal law or regulations, 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 in the program or activity other than involvement associated with monitoring compliance with the grant conditions.
- (B) **“Grant”** does not include a public Contract for a Public Improvement, for Public Works, as defined in ORS 279C.800, or for emergency work, minor alterations or ordinary repair or maintenance necessary to preserve a public improvement, when under the public Contract the County pays, in consideration for contract performance intended to realize or to support the realization of the purposes for which grant funds were provided to the contracting agency, moneys that the County has received under a grant.
- (24) **“Invitation to Bid”** or **“ITB”** means all documents used for soliciting Bids in accordance with either ORS 279B.055, or ORS 279C.335.
- (25) **“Lowest responsible bidder”** means the lowest bidder who:
- (A) Has substantially complied with all prescribed public contracting procedures and requirements;
- (B) Has met the standards of responsibility as set forth in ORS 279B.110 or 279C.375;
- (C) Has not been debarred or disqualified by the County under ORS 279B.130 or 279C.440; and
- (D) If the advertised contract is a Public Improvement Contract, is not on the list created by the Construction Contractors Board under ORS 701.227.
- (26) **“Offeror”** means a Person who submits an Offer. An offer can be either a Bid or a Proposal.
- (27) **“Opening”** means the date, time and place announced in the Solicitation Document for the public opening of Written sealed Offers.
- (28) **“Multistep Sealed Bids”** is a phased process that seeks necessary information or unpriced technical Bids in the initial phase and regular competitive sealed bidding, inviting Bidders who submitted technically eligible Bids in the initial phase to submit

competitive sealed price Bids on the technical Bids in the final phase. The Contract shall be Awarded to the Lowest Responsible Bidder.

- (29) **“Multistep Sealed Proposals”** means a phased Procurement process that seeks necessary information or un-priced technical Proposals in the initial phase and invites Proposers who submitted technically qualified Proposals in the initial phase to submit competitive sealed price Proposals on the technical Proposers in the final phase. The Contract shall be Awarded to the Responsible Proposer submitting the most Advantageous Proposal in accordance with the terms of the Solicitation Document applicable to the final phase.
- (30) **“Personal Services Contract”** means a Contract, or member of a class of Contracts, whose primary purpose is to acquire specialized skills, knowledge and resources in the application of technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment, including, without limitation, a Contract for the services of an accountant, physician or dentist, educator, information technology or other consultant, broadcaster or artist (including a photographer, filmmaker, painter, weaver or sculptor), as more specifically defined in CR 10.210.
- (31) **“Procurement”** means the act of purchasing, leasing, renting or otherwise acquiring goods or services. “Procurement” includes each function and procedure undertaken or required to be undertaken by a contracting agency to enter into a public contract, administer a public contract and obtain the performance of a public contract under the Public Contracting Code.
- (32) **“Proposer”** means a person that submits a Proposal in response to a Request for Proposals.
- (33) **“Proposal”** means a response to a Request for Proposals.
- (34) **“Public Improvement”** means a project for construction, reconstruction or major renovation on real property by or for the County. “Public improvement” does not include:
- (A) Projects for which no funds of a contracting agency are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or
  - (B) Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement.
- (35) **“Public Works”** includes, but is not limited to, roads, highways, buildings, structures and improvements of all types, the construction, reconstruction, major renovation or painting of which is carried on or contracted for by any public agency to serve the public interest but does not include the reconstruction or renovation of privately owned property that is leased by a public agency.
- (36) **“Quotes”** means the informal process of obtaining either Bids or Proposals. Selection criteria may be price or a combination of other factors. The County shall use written requests for at least three (3) Quotes whenever practicable and shall keep a written record of the Quotes.
- (37) **“Requirements Contract”** means a Contract 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.

- (38) **“Request for Proposals”** or **“RFP”** means all documents used for soliciting Proposals in accordance with ORS.279B.060 (for Goods and Services), 279C.400 through ORS 279C.410 (for Public Improvements) or Attorney General Model Rules OAR 137-049-0650 for Alternative Contracting Method.
- (39) **“Rules”** means the local rules adopted by the Board governing all Contracts or purchases entered into by the County.
- (40) **“Scope”** means the range and attributes of the Goods or Services described in the applicable Procurement document.
- (41) **“Solicitation Document”** means an Invitation to Bid, Request for Proposals or other document issued to invite offers from prospective contractors pursuant to ORS Chapter 279B or 279C.
- (42) **“Specification”** means any description of the physical or functional characteristics, or of the nature of a supply, service or construction item, including any requirement for inspecting, testing or preparing a supply, service or construction item for delivery and the quantities or qualities of materials to be furnished under a Contract. Specifications generally will state the result to be obtained and may, on occasion, describe the method and manner of doing the Work to be performed.
- (43) **“Work”** means the furnishing of all materials, equipment, labor and incidentals necessary to successfully complete any individual item in a Contract and successful completion of all duties and obligations imposed by the Contract.
- (44) **“Written”** or **“Writing”** means conventional paper documents, whether handwritten, typewritten or printed, or their electronic counterparts, in contrast to spoken words.

## COUNTY PROCEDURES

### 10.035 County Procedure Prior to Contract Award

- (1) The Board has the sole authority to award or amend all County Contracts unless expressly delegated by the Board pursuant to CR 10.040.
- (2) The County will endeavor to follow the procedures set forth in these Rules.
- (3) For Competitive Sealed Bidding:
  - (a) The Department Head or Elected Official or Designee shall provide Counsel’s Office with the following information to be included in the Bid Package:
    - (A) Name of the project;
    - (B) Contact person for Department;
    - (C) Scope of Work for Services; or Specifications of Goods;
    - (D) Special conditions to the Contract, if any;
    - (E) Location of the project for Services; or place of delivery for Goods;
    - (F) Start date for work;

- (G) Completion date for Services; or Date of delivery for Goods;
  - (H) Target date for the Award of the Contract.
  - (b) Counsel’s Office will prepare the Bid Package and coordinate the Bid Opening with the Board’s Office.
  - (c) Prior to advertising of the Invitation to Bid, the Department Head or Elected Official or Designee must approve the Bid Package.
  - (d) Counsel’s Office will provide the Invitations to Bid for newspapers/trade journals for advertisement.
  - (e) The Department Head or Elected Official or Designee will provide the Bid Package to all interested persons, and maintain a record thereof.
  - (f) At Bid Opening, the Department Head or Elected Official shall submit to the County Counsel’s office a list of all persons provided a Bid Package.
  - (g) At Bid Opening, the Bids will be reviewed by Counsel to determine compliance with all prescribed procedures and requirements as set out in the Bid Package.
  - (h) Copies of Bids will be distributed to the Department Head or Elected Official or Designee.
  - (i) Upon request from the Department Head or Elected Official or Designee, Counsel’s Office may review the Bids for:
    - (A) Substantial compliance with Oregon law;
    - (B) Application of any preferences;
    - (C) In the case of Public Improvement contracts, whether the Bidder has been Disqualified by the Construction Contractor’s Board or has been Disqualified under ORS 279C.440;
    - (D) In the case of Public Works contracts, whether the Bidder has been declared ineligible by the Commissioner of Bureau of Labor and Industries; and
    - (E) Whether to recommend to the Department Head or Elected Official and Board for an investigation to determine if the Bidder is a Responsible Bidder.
- (4) For Competitive Sealed Proposals for Goods, Services, Personal Services Contracts, or Public Improvements:
- (a) The Department Head or Elected Official or Designee shall provide the County Counsel’s Office with the following information to be included in the Proposal Package:
    - (A) Name of the project;
    - (B) Contact person for Department;
    - (C) Scope of Work for Services, and/or Specifications of Goods;
    - (D) Special conditions to the Contract, if any;

- (E) Location of the project for Services, and/or place of delivery for Goods;
  - (F) Start date for work;
  - (G) Completion date for Services and/or Date of delivery for Goods;
  - (H) Target date for the Award of the Contract.
- (b) Counsel's Office will prepare the Proposal Package and coordinate the Proposal Opening with the Board's Office.
  - (c) Prior to advertising the Request for Proposal, the Department Head or Elected Official or Designee must approve the Proposal Package.
  - (d) Counsel's Office will provide the Request for Proposal for newspapers/trade journals for advertisement.
  - (e) The Department Head or Elected Official or Designee will provide the Request for Proposal to all interested persons, and maintain a record thereof.
  - (f) At Proposal Opening, the Department Head or Elected Official or Designee shall submit to Counsel's Office a list of all persons provided a Request for Proposal.
  - (g) At Proposal Opening, the name of the persons/firms submitting Proposals will be read by Counsel. Counsel will retain the original proposal forms and all required bonds.
  - (h) Copies of Proposals will be distributed to the Department Head or Elected Official or Designee.
  - (i) Upon request from the Department Head or Elected Official or Designee, Counsel may review the Proposals for:
    - (A) Substantial compliance with Oregon law;
    - (B) Application of any preferences;
    - (C) In the case of Public Improvement contracts, whether the Offeror Disqualified under ORS 279C.440;
    - (D) In the case of Public Works contracts, whether the Offeror has been declared ineligible by the Commissioner of Bureau of Labor and Industries; and
    - (E) Whether to recommend to the Department Head or Elected Official and Board for an investigation to determine if the Offeror is a Responsible Offeror.
- (5) For Quotes for Goods, Services, or Public Improvements:
- (a) Prior to obtaining Quotes, the Department shall determine and maintain written documentation of the specifications and selection criteria for the Quote. The selection criteria may be limited to price or some combination of price, experience, specific expertise, availability, project understanding, Contractor capacity and similar factors.

- (b) Prior to obtaining Quotes, the Department shall consult with Counsel to determine the applicable insurance requirements for the Contract.
- (c) The Department shall utilize written requests for Quotes whenever reasonably practicable. Written request for Quotes shall include the selection criteria to be utilized in selecting a Contractor and, if the criteria are not of equal value, their relative value or ranking. The County must describe substantially the same specifications to each of the prospective contractors. When requesting Quotes orally, prior to requesting the price quote the County shall document any additional selection criteria and, if the criteria are not of equal value, their relative value.
- (d) The Department shall document the names of all vendors contacted and the price and/or specifications quoted by each vendor.
- (e) Upon request from the Department, Counsel may review the Quotes for:
  - (A) Substantial compliance with Oregon law;
  - (B) Application of any preferences;
  - (C) In the case of Public Improvement contracts, whether the Bidder has been Disqualified by the Construction Contractor's Board or has been Disqualified under ORS 279C.440;
  - (D) In the case of Public Works contracts, whether the Bidder has been declared ineligible by the Commissioner of Bureau of Labor and Industries; and
  - (E) Whether to recommend to the Department Head or Elected Official and Board for an investigation to determine if the Bidder is a Responsible Bidder.
- (6) Informal Process for Personal Services Contracts:
  - (a) The Department shall consult with Counsel to determine the applicable insurance requirements for the Solicitation Document.
  - (b) The Department Head or Elected Official shall determine and maintain written documentation of the specifications and selection criteria. The selection criteria may be some combination of price, experience, specific expertise, availability, project understanding, Contractor capacity and similar factors.
  - (c) The Department shall utilize written requests for Proposals whenever reasonably practicable. Written request for Proposals shall include the selection criteria to be utilized in selecting a Contractor and, if the criteria are not of equal value, their relative value or ranking. The County must describe substantially the same specifications to each of the prospective contractors. When requesting Proposals orally, prior to requesting the Proposals, the County shall document the selection criteria, and their relative value.
  - (d) The Department shall document the names of all Proposers contacted and the price and/or specifications quoted by each Proposer.

**10.036 County Procedure for Contract Award or Amendment**

The following procedure shall be followed whenever a Contract is submitted to the Board for award, ratification or amendment, unless another procedure has been adopted by the Board concerning a specific class of contracts.

- (1) Prior to execution of the Contract or Amendment of Contract by any party, the Department shall determine whether federal funding is indirectly or directly involved. If federal funding is involved, the Department shall:
  - (a) Identify the applicable Catalog of Federal Domestic Assistance Number.
  - (b) Determine the percentage of federal funding of the overall funding and disclose that percentage on the contract summary form.
  - (c) Determine any special conditions to the federal funding which includes, but is not limited to, records retention, audits, or other reporting.
  - (d) If the Department subcontracts a portion of the Contract, the Department shall disclose the CFDA number to the subcontractor and how much of the funds disbursed are federal funds.
  - (e) For Contract Amendments, determine whether the funding source has changed.
- (2) Prior to the submission of the Contract to the Board, the Department shall obtain all necessary signatures of the contracting parties except in the case of a federal or state Contract where the County must sign prior to the contracting party.
- (3) The Department shall recommend the Award of Contract to the Board by preparing an agenda item cover sheet that identifies the need for review and comment by County Counsel and County Treasurer.
- (4) The Department shall submit the agenda item cover sheet, together with a contract summary form and appropriate solicitation documents, to the County Counsel for review and comment.

If the Contract is for a lease, the Department shall also submit a completed operating or capital lease calculator worksheet. The worksheet aids the Department to determine whether the lease is categorized as an operating lease or a capital lease.

- (5) If the Board Awards the Contract, then:
  - (a) Counsel shall prepare the necessary contract documents.
  - (b) Counsel will provide the person awarded the contract with the appropriate contract documents.
- (6) After a signed Contract is returned to the County:
  - (a) Counsel shall review the Contract and if satisfactory, will forward the original to the Board for their signature.
  - (b) The Board's staff files the original with the County Clerk and returns other originals, if any, to the Department. Copies are provided to the Department.
  - (c) Department shall make copies of the contract for their own files and, if necessary, provide any originals to the Contractor.

- (d) Counsel returns any bid or proposal bond upon the execution of the Contract.

### **DELEGATION OF CONTRACT AUTHORITY**

#### **10.040 Delegation of Authority**

- (1) The Board has authority to delegate its contract and contract amendment authority. Delegated authority shall be in writing and adopted by Resolution.
- (2) Notwithstanding the following delegations of the Board's authority, the Delegatee is governed by the Public Contracting Code, these Rules, and CR 10.041.
- (3) In the following delegations, where the Contract is signed by the Department, the Department shall send a copy of the Contract to the Board within seven (7) days.
- (4) The following delegations of authority in CR 10.042 to 10.061 are granted by the Board.

#### **10.041 Procedure for Delegated Contract Authority**

- (1) Prior to execution of the Contract or Amendment of a Contract, the Department delegated authority to execute contracts shall determine whether federal funding is indirectly or directly involved. If federal funding is involved, the Department shall:
  - (a) Identify the applicable Catalog of Federal Domestic Assistance Number.
  - (b) Determine the percentage of federal funding of the overall funding and disclose that percentage on the contract summary form.
  - (c) Determine any special conditions to the federal funding which includes, but is not limited to, records retention, audits, or other reporting.
  - (d) If the Department subcontracts a portion of the Contract, the Department shall disclose the CFDA number to the subcontractor and how much of the funds disbursed are federal funds.
  - (e) For Contract Amendments, determine whether the funding source has changed to include federal funding.
- (2) If requested, Counsel will provide advice on source selection and contracts.
- (3) If the delegation requires that the Department shall obtain ratification from the Board, the Department shall:
  - (a) Recommend ratification to the Board by preparing an agenda item cover sheet that identifies the need for review and comment by County Counsel and the County Treasurer.
  - (b) The Department shall submit the agenda item cover sheet, together with a contract summary form and appropriate solicitation documents, to County Counsel for review and comment, and placement on the Board's Consent Calendar.
- (4) If the delegation does not require ratification, the Department shall:
  - (a) Prepare a contract summary form and submit the form to the Treasurer; and

- (b) Forward the original Contract for filing with the County Clerk and one copy of the Contract to the Board for notice of the Contract.

#### **10.042 Departmental Spending Authority**

- (1) A Department Head or Elected Official as defined in CR10.010 is required to consult with Counsel's Office regarding required procurement procedures and contracts for all purchases, together with any related purchases, reasonably expected to exceed \$10,000. Counsel's Office shall consult with the Finance office.
- (2) Department Heads or Elected Officials have the authority to make budgeted purchases of goods and services in an amount up to \$10,000 per purchase.
- (3) Department Heads or Elected Officials have the authority to make budgeted purchases of goods and services in amounts exceeding \$10,000 per purchase after first making notification of such intention at an applicable Interdepartmental Work Group Meeting (pre-action notification) prior to the purchase. However, nothing herein prevents any Department Head or Elected Official from requesting additional spending authority at any regularly scheduled Board meeting.
- (4) Department Heads or Elected Officials have the authority to pay invoices of any amount for goods or services provided by another County department or office, provided that payment for these intraorganizational goods or services is reflected in a budget approved by the Board for each respective County department or office.
- (5) In the event of an emergency, Department Heads or Elected Officials have authority to make such purchases without first notifying the Interdepartmental Work Group, as defined in ORS 279A.010(f), and in compliance with CR 10.044.
- (6) All purchases and spending outside of a department's budget, and all transfers within a department's budget, require prior approval by the Board of Commissioners.
- (7) The following departments have additional special spending authority as specified:
  - (a) County Counsel's office: Budgeted spending relating to outside legal services and litigation-related services without pre- or post-action notice and without regard to dollar value, provided, however, that Counsel's Office continues to discuss litigation matters with the Board of Commissioners in executive session as appropriate.
  - (b) District Attorney's office: Budgeted spending relating to evidence, witnesses, and expert services without pre- or post-action notice and without regard to dollar value.
  - (c) Forestry Department: The percentage change in dollar value for renewal and amended contracts to trigger the requirement of Board of Commissioners approval under CR10.043(2) is 20% (or \$50,000, whichever is less).
  - (d) Jail: Budgeted spending relating to medical services for inmates without pre- or post-action notice and without regard to dollar value.
  - (e) Road Department: Budgeted spending relating to needed supplies and materials without pre-action notice and without regard to dollar value.
  - (f) County Clerk's Office: Budgeted purchases of goods necessary for the conduct of elections in amounts not to exceed \$25,000 per purchase.
  - (g) Sheriff's Office: Budgeted purchases of motor vehicle fuel, such as gasoline or diesel, in amounts not to exceed \$25,000 per purchase.

- (8) Department Heads or Elected Officials may delegate their spending authority to employees within their department, provided such delegation is in writing.
- (9) Delegation of authority to Department Heads or Elected Officials does not preclude the Board of Commissioners from holding Department Heads or Elected Officials accountable for unwise or irresponsible use of such authority.
- (10) The Board of Commissioners may require that a particular spending item, or categories thereof, be subject to additional or lesser oversight.

#### **10.043 Departmental Contracting Authority**

- (1) Department Heads or Elected Officials shall consult with Counsel’s office prior to entering into service agreements that are likely to subject the County to increased liability, regardless of the contract amount or whether the contract is in writing.
- (2) All written contracts, including intergovernmental agreements (IGAs), etc., are required to be reviewed and approved by Counsel’s office prior to execution. Counsel’s office shall consult with the Finance office.
- (3) Counsel’s Office shall determine whether the approval of the Board of Commissioners is required for a particular contract based on the nature of the contract and the level of risk it presents.
- (4) After review and approval by Counsel’s office, the following do not require Board of Commissioners approval, and may be executed by the Department Heads or Elected Officials:
  - (a) Grant agreements with a dollar value change no greater than 5% from the original contract, or a \$50,000 annual change to the original contract, whichever is less, provided they are still within budget and will not have a significant impact on departmental programs or staffing;
  - (b) Renewals of, and minor amendments to, contracts and IGAs;
  - (c) Other routine, low-risk contracts.
- (5) All contracts, IGAs, and grant agreements signed by Department Heads or Elected Officials in lieu of signature by the Board of Commissioners shall be placed on the next practicable regular agenda as a “Post-Action Notification” as follows:
  - (a) The Department Head or Elected Official shall complete a “Post-Action Notification Coversheet” and attach a copy of the executed contract, IGA, or grant agreement thereto. A separate coversheet shall be completed for each contract, grant, or IGA subject to the Post-Action Notification process. The form of the “Post Action Notification Coversheet” shall be drafted by the Office of Legal Counsel and made available to all County offices and departments.
  - (b) Prior to noon on the Monday that is eight calendar days before the date of the next regularly scheduled Board Meeting, Department Heads or Elected Officials shall deliver all completed Post Action Notification Coversheets, with the relevant agreements attached, to the Office of Legal Counsel for review. Counsel’s Office shall review all Post-Action notifications and forward them to the Treasurer’s Office prior to noon on the Tuesday that is before the date of the next regularly scheduled Board Meeting.

- (c) Prior to noon on the Wednesday that is six calendar days before the date of the next regularly scheduled Board Meeting, the Treasurer’s Office shall provide all approved Post-Action Notifications to the Board’s Administrative Aide. The Board’s Administrative Aide shall ensure that all such notices appear on the Agenda under “Post-Action Notifications.”
- (6) All contracts, IGAs and grant agreements that include a federal award or that have a federal monetary component must be reviewed by the Finance office prior to execution, and should be accompanied by a “Contract/Grant Summary Form”.
- (7) All fully executed contracts shall be filed with the Coos County Clerk’s office, along with a “Contract/Grant Summary Form,” and filing cover sheet.
- (8) After review and approval by Counsel’s office, the following always require Board of Commissioners’ approval:
  - (a) Grant agreements with a dollar value change greater than 5% or \$50,000, whichever is less, or which will have a significant impact on departmental programs or staffing;
  - (b) New IGAs and grant agreements;
  - (c) Contracts outside a department’s budget;
  - (d) Higher-risk and unusual contracts and contract amendments;
  - (e) Any other contracts as determined by Counsel’s office.
- (9) Department Heads and Elected Officials may not delegate their contracting authority to employees within their department.
- (10) The Board of Commissioners may hold Department Heads or Elected Officials accountable for unwise or irresponsible use of their contracting authority.
- (11) The Board of Commissioners may, require that a particular contract, or categories thereof, be subject to additional or lesser oversight.

#### **10.044 Emergency Authority**

- (1) In the event of an Emergency, as defined in ORS 279A.010(f), when an emergency board meeting is impracticable, the Chair of the Board is granted authority to approve purchases and sign contracts. If the Chair is not available, the following positions are delegated authority, in descending order, only if the preceding positions are unavailable:
  - (a) The Vice Chair of the Board of Commissioners;
  - (b) Remaining Commissioner;
  - (c) The Department Head or Elected Official for whom the Contract is let only upon consultation with Counsel’s Office.
- (2) The Department shall prepare all necessary documentation as required in CR 10.111 and 10.320.
- (3) As soon as practicable, the full Board shall consider the purchase or contract and, upon finding that an Emergency existed as defined in ORS 279A.010(f), ratify the Emergency purchase or contract.

In such cases, Department Heads or Elected Officials shall make a report regarding all such purchases or contracts at the next scheduled applicable Interdepartmental Work Group Meeting (post-action notification).

## **AMENDMENTS AND MISTAKES**

### **10.045 Contract Amendments**

- (1) Any Contract amendment for additional work may be entered without the Competitive Process subject to the following conditions:
  - (a) The original Contract was let by the Competitive Process and imposes a binding obligation on the parties covering the terms and conditions of the additional work;  
or
  - (b) If the amendment has the effect of creating a new Contract, the amount of the aggregate cost increase resulting from all amendments shall not exceed ten (10%) percent of the initial Contract, or twenty (20%) percent of the initial Contract when the initial Contract is for a face amount not exceeding \$100,000 and is for the remodeling, repair, or rehabilitation of a building or buildings. Amendments made pursuant to (a) of this Rule will not be included in computing the aggregate amount under this section.

### **10.046 Mistakes**

- (1) County's Treatment of Mistakes. The County shall not allow a Bidder or Proposer to correct or withdraw an Offer for an error in judgment. If the County discovers certain mistakes in an Offer after Opening, but before Award of the Contract, the County may take the following action:
  - (a) The County may waive, or permit an Offeror to correct, a minor informality. A minor informality is a matter of form rather than substance that is evident on the face of the Offer, or an insignificant mistake that can be waived or corrected without prejudice to other Offerors.
  - (b) The County may correct a clerical error if the error is evident on the face of the Offer or other documents submitted with the Offer, and the Offeror confirms the County's correction in Writing. A clerical error is an Offeror's error in transcribing its Offer.
  - (c) The County may permit an Offeror to withdraw an Offer based on one or more clerical errors in the Offer only if the Offeror shows with objective proof and by clear and convincing evidence:
    - (A) The nature of the error;
    - (B) That the error is not a minor informality under this subsection or an error in judgment;
    - (C) That the error cannot be corrected or waived under subsection (b) of this section;

- (D) That the Offeror acted in good faith in submitting an Offer that contained the claimed error and in claiming that the alleged error in the Offer exists;
  - (E) That the Offeror acted without gross negligence in submitting an Offer that contained a claimed error;
  - (F) That the Offeror will suffer substantial detriment if the County does not grant the Offeror permission to withdraw the Offer;
  - (G) That the County's or the public's status has not changed so significantly that relief from the forfeiture will work a substantial hardship on the County or the public it represents; and
  - (H) That the Offeror promptly gave notice of the claimed error to the County.
- (2) Rejection for Mistakes. The County shall reject any Offer in which a mistake is evident on the face of the Offer and the intended correct Offer is not evident or cannot be substantiated from documents submitted with the Offer.

## **COOPERATIVE PROCUREMENTS**

### **10.047 Cooperative Procurements**

- (1) The County may participate in, sponsor, conduct or administer Cooperative Procurements as follows:
- (a) The County may participate in, sponsor, conduct or administer Joint Cooperative Procurements to establish Contracts or Price Agreements for Goods or Services 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 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 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 279B.060.
- (2) A solicitation and award process uses source selection methods substantially equivalent to those identified in ORS 279B.055, 279B.060 or 279B.085 when it has the characteristics set forth in ORS 279A.200(2).