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## **LOCAL CONTRACT REVIEW BOARD RULES FOR DOUGLAS COUNTY, OREGON**

**1 PUBLIC CONTRACTS - DEFINITIONS:** The following terms used in these regulations shall have the meanings set forth below. (amended by resolution dated March 9, 2005)

1.1 Agency means any city, district or other public entity using these rules.

1.2 Award means the selection of a person to provide goods, services or public improvements under a public contract. The award of a contract is not binding on Douglas County until the contract is executed and delivered by Douglas County. (added by resolution dated March 9, 2005)

1.3 Bid means a binding, sealed, written offer to provide goods, services or public improvements for a specified price or prices. (added by resolution dated March 9, 2005)

1.4 Contract price means the total amount paid or to be paid under a contract, including any approved alternates, and any fully executed change orders or amendments. (added by resolution dated March 9, 2005)

1.5 Contract review board or local contract review board means Douglas County Local Contract Review Board. (added by resolution dated March 9, 2005)

1.6 Contracting Officer means in the case of Douglas County the County Accountant or the Accountant's designee and in any other case the person designated by the Agency. (renumbered and amended by resolution dated March 9, 2005)

1.7 County means Douglas County. (renumbered by resolution dated March 9, 2005)

1.8 Emergency means circumstances that create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and require prompt execution of a contract to remedy the condition. (added by resolution dated March 9, 2005)

1.9 Findings are the statements of fact that provide justification for a determination. Findings may include, but are not limited to, information regarding operation, budget and financial data; public benefits; cost savings; competition in public contracts; quality and aesthetic considerations, value engineering; specialized expertise needed; public safety; market conditions; technical complexity; availability, performance and funding sources. (added by resolution dated March 9, 2005)

1.10 Goods means any item or combination of supplies, equipment, materials or other personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto. (added by resolution dated March 9, 2005)

1.11 Governing body means in the case of Douglas County its Board of Commissioners and in any other case the council, board or other body or person authorized to make decisions on behalf of the Agency. (renumbered by resolution dated March 9, 2005)

1.12 Invitation to bid means a publicly advertised request for competitive sealed bids. (added by resolution dated March 9, 2005)

1.13 LCRB means the Douglas County Local Contract Review Board. (renumbered by resolution dated March 9, 2005)

1.14 Model Rules means the public contracting rules adopted by the Attorney General under ORS 279A.065. (added by resolution dated March 9, 2005)

1.15 Offeror means a person who submits a bid, quote or proposal to enter into a public contract with the Agency. (added by resolution dated March 9, 2005)

1.16 Oregon Public Contracting Code means ORS chapters 279A, 279B and 279C. (added by resolution dated March 9, 2005)

1.17 Person means a natural person or any other private or governmental entity, having the legal capacity to enter into a binding contract. (added by resolution dated March 9, 2005)

1.18 Project, as used in Rule 3, means a public improvement as defined in ORS 279A.010(1)(aa). (amended by order dated July 14, 1999; renumbered and amended by resolution dated March 9, 2005)

1.19 Proposal means a binding offer to provide goods, services or public improvements with the understanding that acceptance will depend on the evaluation of factors other than, or in addition to, price. (added by resolution dated March 9, 2005)

1.20 Public contract means a sale or other disposal, or a purchase, lease, rental or other acquisition, by the Agency of personal property, services, including personal services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement. (added by resolution dated March 9, 2005)

1.21 Public improvement means a project for construction, reconstruction or major renovation on real property by or for the Agency. "Public improvement" does not include:

1.21.1 Projects for which no funds of the Agency are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or

1.21.2 Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement. (added by resolution dated March 9,

2005)

1.22 Quote means a price offer made in response to an informal solicitation to provide goods, services or public improvements. (added by resolution dated March 9, 2005)

1.23 Request for proposals means a publicly advertised request for sealed competitive proposals. (added by resolution dated March 9, 2005)

1.24 Services means and includes all types of services (including construction labor) other than personal services. (added by resolution dated March 9, 2005)

1.25 Solicitation means an invitation to one or more potential contractors to submit a bid, proposal, quote, statement of qualifications or letter of interest with respect to a proposed project, procurement or other contracting opportunity. The word "solicitation" also refers to the process by which the Agency requests, receives and evaluates potential contractors and awards public contracts. (added by resolution dated March 9, 2005)

1.26 Standards of responsibility as used in ORS 279B.110 means the qualifications of eligibility for award of a public contract. An offeror meets the standards of responsibility if the offeror has:

1.26.1 Available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to indicate the capability of the offeror to meet all contractual responsibilities;

1.26.2 A satisfactory record of performance. The Contracting Officer shall document the record of performance of an offeror if the Contracting Officer finds the offeror to be not responsible under this paragraph;

1.26.3 A satisfactory record of integrity. The Contracting Officer shall document the record of integrity of an offeror if the Contracting Officer finds the offeror to be not responsible under this paragraph;

1.26.4 Qualified legally to contract with the Agency;

1.26.5 Supplied all necessary information in connection with the inquiry concerning responsibility. If an offeror fails to promptly supply information requested by the Contracting Officer concerning responsibility, the Contracting Officer shall base the determination of responsibility upon any available information or may find the offeror non-responsible. (added by resolution dated March 9, 2005)

1.27 Surplus property means personal property owned by the Agency which is no longer needed for use by the department to which such property has been assigned. (added by resolution dated March 9, 2005)

**2 PURPOSE OF PUBLIC CONTRACTING REGULATIONS:** It is the policy of Douglas County in adopting the Public Contracting Rules to utilize public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by:

2.1 Promoting impartial and open competition;

2.2 Using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and

2.3 Taking full advantage of evolving procurement methods that suit the contracting needs of Douglas County as they emerge within various industries. (added by resolution dated March 9, 2005)

2.4 These Rules are adopted in lieu of model rules of procedure prepared by the Attorney General and thus Douglas County specifically opts out of the use of those model rules. These Rules have been adopted after review of the model rules in effect on March 1, 2005. (renumbered and amended by resolution dated March 9, 2005)

### **3 STATUTORY EXEMPTIONS:**

3.1 Except as stated otherwise in particular provisions of these Rules, these Rules are not intended to preclude, abrogate, or restrict any exemptions from competitive bidding established by ORS chapter 279A, 279B or 279C. (amended by order dated September 17, 2003; renumbered and amended by resolution dated March 9, 2005)

3.2 Between Governments. Contracts between the Agency and a public body or agency of the State of Oregon or its political subdivisions, or between the Agency and an agency of the federal government. (added by resolution dated March 9, 2005)

3.3 Grants. A grant contract is an agreement under which the Agency is either a grantee or a grantor of moneys, property or other assistance, including loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other assets, for the purpose of supporting or stimulating a program or activity of the grantee 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. (added by resolution dated March 9, 2005)

3.4 Legal Witnesses and Consultants. 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 Agency is or may become interested. (added by resolution dated March 9, 2005)

3.5 Real Property. Acquisitions or disposals of real property or interests in real property. (added by resolution dated March 9, 2005)

3.6 Textbooks. Contracts for the procurement or distribution of textbooks. (added by resolution dated March 9, 2005)

3.7 Oregon Corrections Enterprises. Procurements from an Oregon corrections enterprises program. (added by resolution dated March 9, 2005)

3.8 Finance. Contracts, agreements or other documents entered into, issued or established in connection with:

3.8.1 The incurring of debt by the Agency, including any associated contracts, agreements or other documents, regardless of whether the obligations that the contracts, agreements or other documents establish are general, special or limited;

3.8.2 The making of program loans and similar extensions or advances of funds, aid or assistance by the Agency to a public or private Person for the purpose of carrying out, promoting or sustaining activities or programs authorized by law other than for the construction of public works or public improvements;

3.8.3 The investment of funds by the Agency as authorized by law, or banking, money management or other predominantly financial transactions of the Agency that, by their character, cannot practically be established under the competitive contractor selection procedures, based upon the findings of the Contracting Officer. (added by resolution dated March 9, 2005)

3.9 Employee Benefits. Contracts for employee benefit plans as provided in ORS 243.105(1), 243.125 (4), 243.221, 243.275, 243.291, 243.303 and 243.565. (added by resolution dated March 9, 2005)

3.10 Exempt Under State Laws. Any other public contracting specifically exempted from the Oregon Public Contracting Code by another provision of law. (added by resolution dated March 9, 2005)

3.11 Federal Law. Except as otherwise expressly provided in ORS 279C.800 to 279C.870, applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of the Oregon Public Contracting Code or these regulations, or require additional conditions in public contracts not authorized by the Oregon Public Contracting Code or these regulations. (added by resolution dated March 9, 2005)

3.12 Insurance. Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145. (renumbered and amended by resolution dated March 9, 2005)

3.13 When an Agency solicits competitive bids for a Project and all responsive bids from responsible bidders exceed the Agency's cost estimate for the Project, the Agency

may negotiate with the lowest responsive, responsible bidder to obtain a price that is equal to or lower than the Agency's cost estimate, subject to the following conditions: (renumbered and amended by resolution dated March 9, 2005)

3.13.1 The Agency must have a written estimate of the cost of the Project at the time the bids are opened. (renumbered by resolution dated March 9, 2005)

3.13.2 In determining whether all responsive bids from responsible bidders exceed the cost estimate, only those bids which have been formally rejected by the Agency in accordance with public contracting laws may be excluded from consideration. (renumbered by resolution dated March 9, 2005)

3.13.3 In determining the amount of the cost estimate and the lowest responsive bid for the project, the Agency has exclusive discretion to include or exclude alternates in accordance with the bidding documents. (renumbered by resolution dated March 9, 2005)

3.13.4 If negotiations with the responsible bidder who submits the lowest responsive bid are not successful, the Agency cannot negotiate a contract with any other responsible bidders who submit responsive bids. (renumbered by resolution dated March 9, 2005)

3.13.5 The lowest responsive bid cannot exceed the cost estimate by more than twenty-five percent (25%). (renumbered by resolution dated March 9, 2005)

3.13.6 The Agency and the lowest responsive, responsible bidder may agree to change the components or constituents of the work that are described in the plans and specifications for the project, the schedule for the project, methods of construction, assignment of risk under the contract documents, and other details of contract performance which affect cost or quality. Negotiations should be consistent with the provisions of the contract documents regarding change orders and standard construction industry practices. (renumbered by resolution dated March 9, 2005)

3.13.7 The negotiations cannot change the essential functions or characteristics of the Project. (renumbered by resolution dated March 9, 2005)

3.13.8 The governing body of the Agency must find that negotiated changes probably would not have substantially increased the number of qualified bidders if such changes had been made before bids for the project were solicited. (renumbered by resolution dated March 9, 2005)

3.13.9 The Agency may agree to refrain from disclosing information submitted by the lowest responsive, responsible bidder during negotiations, subject to applicable laws. (amended by order dated July 14, 1999; renumbered by resolution dated March 9, 2005)



**4 ADDITIONAL EXEMPTIONS:** The LCRB finds the following classes of contracts exempt from competitive bids on the basis that it is unlikely such exemptions will encourage favoritism or substantially diminish competition. The LCRB also finds that the awarding of public contracts pursuant to the exemptions will result in substantial cost savings. (renumbered by resolution dated March 9, 2005)

4.1 Government Regulated Items. Contracts for the purchase of items for which prices or selection of suppliers are regulated by a governmental authority. (renumbered and amended by resolution dated March 9, 2005)

4.2 Copyrighted Materials; Library Materials. Contracts for the acquisition of materials entitled to copyright, including, but not limited to works of art and design, literature and music, or materials even if not entitled to copyright, purchased for use as library lending materials or museum display or educational purposes. (renumbered and amended by resolution dated March 9, 2005)

4.3 Advertising Contracts. Contracts for the purchase of advertising including that intended for the purpose of giving public notice. (renumbered by resolution dated March 9, 2005)

4.4 Requirements Contracts. Purchases of goods or services pursuant to a requirements contract between the agency and a contractor which was established by competitive bidding. Purchases may also be made by one agency through a requirements contract between another public body and a contractor if the requirements contract was established by competitive bidding and there is an intergovernmental agreement authorizing the purchase between the agency and the other public body. (amended by order dated December 20, 1989; renumbered by resolution dated March 9, 2005)

4.5 Single Seller of Product Required (Sole Source). Contracts for purchase where there is only one seller of a product of the quality required available within a reasonable purchase area. (renumbered and amended by resolution dated March 9, 2005)

4.6 Repair or Conversion. Contracts for the purchase of services, equipment or supplies for maintenance, repair or conversion of existing equipment if required for efficient utilization of such equipment. (renumbered by resolution dated March 9, 2005)

4.7 Asphaltic Concrete and Rock. Contracts for the purchase of asphaltic concrete and rock where the material is to be used for maintenance. (renumbered by resolution dated March 9, 2005)

4.8 Contracts under \$50,000. Public contracts for procurement of goods, materials, supplies, services, or public improvements for which the total contract price does not exceed \$50,000, subject to the following conditions: (renumbered and amended by resolution dated March 9, 2005)

4.8.1 The contract is for a single project, and is not a component of or related to any other project; or (renumbered by resolution dated March 9, 2005)

4.8.2 The contract is a blanket contract for discrete small projects, provided that the cost of any project does not exceed \$5,000; and (amended by order dated August 11, 1999; renumbered by resolution dated March 9, 2005)

4.8.3 If the total contract price exceeds \$5,000, the public contracting agency must obtain at least three competitive quotes. (amended by orders dated March 27, 1991; October 4, 1995; August 11, 1999; renumbered by resolution dated March 9, 2005)

4.9 Contract Amendments. Any contract amendment including change orders, extra work, field orders, or other change in the original specifications which changes the original contract price or alters the work to be performed, may be made with the contractor subject to the following conditions:

4.9.1 The original contract imposes a binding obligation on the parties covering the terms and conditions regarding changes in the work; or (renumbered by resolution dated March 9, 2005)

4.9.2 The amended contract does not substantially alter the scope or nature of the project; or (renumbered by resolution dated March 9, 2005)

4.9.3 If the amendment has the effect of substantially altering the scope or nature of the project, the amount of the aggregate cost change resulting from all amendments creating such new obligations shall not exceed 10% of the initial contract. (renumbered by resolution dated March 9, 2005)

4.10 Information Technology Contracts. Contracts for software licensing, purchasing or leasing of information technology hardware, systems software and applications are subject to the following conditions:

4.10.1 Definitions:

4.10.1.1 New Vendor Supplied Systems (most typical when looking for replacement of existing application systems), implies that research for a new vendor package will take place and that the new vendor/contractor will supply the hardware, software, conversion, training and processing of data if required. The vendor also typically maintains the application code, the hardware, the database, and provides technical support for all processing problems. The vendor's application software and system requirements are unique and specific to the manufacturer therefore making them more knowledgeable and better equipped to handle all functions pertaining to the project. (renumbered by resolution dated March 9, 2005)

4.10.1.2 'Off-The-Shelf' computer applications/hardware. This refers to varieties of hardware and application software that many, many vendors market (including but not limited to word processing applications, hand held devices and virus protection software). Information Technology staff typically does installation, any necessary conversion, and training in-house. If Information technology already has the appropriate hardware and if the hardware is neither unique or particular to the vendor's system, and it doesn't in some way invalidate the vendor's warranty, Information Technology always reserves the right to use their own hardware or purchase and install the hardware for use with the new product. (renumbered by resolution dated March 9, 2005)

4.10.1.3 Upgrades to existing Software applications. An upgrade to an existing computerized production system by the vendor of contract will be accepted if, at the discretion of the affected Department head(s) and the Information Technology Director OR any designated/authorized team, it is decided that the best interest of the County be served by the upgrade process. A savings in training, conversion, research/development time and overall cost will be documented as contributing factors in this process and presented to the governing body. (renumbered by resolution dated March 9, 2005)

4.10.2 Software development contracts: If there is a need to contract out for application development, data conversion, training, or on-going hardware maintenance which has not been procured by a selected vendor, Information Technology prepares the spec's, gets competitive bids, and will provide project management over the length of the contract. This shall be considered a personal services contract subject to the procedures adopted pursuant to ORS 279A.070. (renumbered and amended by resolution dated March 9, 2005)

4.10.3 Except when applied to an upgrade to existing software applications, if the contract amount does not exceed \$50,000, informal quotes shall be obtained, from three or more qualified vendors, if recommended by the Information Technology Department. When deciding whether to obtain competitive quotes the Information Technology Department shall consider the operational needs of the Agency department acquiring the product. (renumbered and amended by resolution dated March 9, 2005)

4.10.4 Except when applied to an upgrade to existing software applications, if the contract amount exceeds \$50,000, but does not exceed \$500,000, written proposals from five or more qualified vendors shall be solicited or an advertisement in a major trade publication of general circulation shall be published. If proposals from vendors are solicited without advertisement, the vendors to whom the request for proposals is submitted may be selected from the following sources: (renumbered and amended by resolution dated March 9, 2005)

4.10.4.1 trade journals (renumbered by resolution dated March 9, 2005)

4.10.4.2 user group publications (renumbered by resolution dated March 9, 2005)

4.10.4.3 the list compiled by the Data Systems Division, Executive Department, State of Oregon; (renumbered by resolution dated March 9, 2005)

4.10.4.4 all inclusive generalized searches of the internet documented by the project manager/team. If this method is used the search criteria must be fully recorded (renumbered by resolution dated March 9, 2005)

4.10.4.5 other similar sources available to the County or Information Technology Department. (renumbered by resolution dated March 9, 2005)

4.10.5 If the amount of the contract exceeds \$500,000 and section 4.12.1.3 DOES NOT APPLY then:

4.10.5.1 Written proposals shall be solicited from five or more qualified vendors and an advertisement shall be published in one or more major trade publications of general circulation; (renumbered by resolution dated March 9, 2005)

4.10.5.2 Vendors shall be provided an opportunity to review requirements and, prior to submitting proposals, comment on any specifications which they feel limit competition; (renumbered by resolution dated March 9, 2005)

4.10.5.3 Contractual requirements in the request for proposals shall be clearly stated AND a copy of the County's most recent contract pertaining to this acquisition shall be included as an appendix item; (renumbered by resolution dated March 9, 2005)

4.10.5.4 Residual values shall be considered only if they are clearly ascertainable; (renumbered by resolution dated March 9, 2005)

4.10.5.5 Cost of conversion shall be minimized; and (renumbered by resolution dated March 9, 2005)

4.10.5.6 Vendors shall be provided an opportunity to review the evaluation of their proposal at the conclusion of the review and selection process. (renumbered by resolution dated March 9, 2005)

4.10.6 If the contract amount exceeds \$500,000 and section 4.12.1.3 is

applied regarding system upgrades then; (renumbered by resolution dated March 9, 2005)

4.10.6.1 Documentation clearly stating the savings in time, materials and money shall be on file and may include consideration of existing system functionality where applicable. (renumbered by resolution dated March 9, 2005)

4.10.6.2 The upgrade path must be authorized by the Department Head(s) affected and the Information Technology Director. (renumbered by resolution dated March 9, 2005)

4.10.6.3 Results from the proposal process in section 4.12.5 may be used as supporting documentation for the upgrade process. (renumbered by resolution dated March 9, 2005)

4.10.7 Written proposals and informal quotes shall be evaluated according to clearly stated criteria including any or all of the following as well as any criteria deemed necessary and pertinent to the project by the Information Technology Director:

4.10.7.1 operating performance, (renumbered by resolution dated March 9, 2005)

4.10.7.2 cost, (renumbered by resolution dated March 9, 2005)

4.10.7.3 capacity, (renumbered by resolution dated March 9, 2005)

4.10.7.4 quality, (renumbered by resolution dated March 9, 2005)

4.10.7.5 expansibility of the system, (renumbered by resolution dated March 9, 2005)

4.10.7.6 availability of enhancements and new releases, (renumbered by resolution dated March 9, 2005)

4.10.7.7 availability of maintenance, (renumbered by resolution dated March 9, 2005)

4.10.7.8 support and assistance supplied by the vendor, (renumbered by resolution dated March 9, 2005)

4.10.7.9 vendor's general qualifications including such factors as organization size, financial solvency and time in business, (renumbered by resolution dated March 9, 2005)

4.10.7.10 vendor experience with specific application areas, (renumbered by resolution dated March 9, 2005)

4.10.7.11 reliability, (renumbered by resolution dated March 9, 2005)

4.10.7.12 storage and memory requirements, (renumbered by resolution dated March 9, 2005)

4.10.7.13 support required from Agency's Information Technology staff, (renumbered by resolution dated March 9, 2005)

4.10.7.14 warranties and other contract provisions, (renumbered by resolution dated March 9, 2005)

4.10.7.15 use of current technology, (renumbered by resolution dated March 9, 2005)

4.10.7.16 compatibility with existing systems, (renumbered by resolution dated March 9, 2005)

4.10.7.17 external data access (renumbered by resolution dated March 9, 2005)

4.10.7.18 documentation availability, (renumbered by resolution dated March 9, 2005)

4.10.7.19 data reporting capabilities, (renumbered by resolution dated March 9, 2005)

4.10.7.20 availability and quality of training, (renumbered by resolution dated March 9, 2005)

4.10.7.21 number of public sector clients, (renumbered by resolution dated March 9, 2005)

4.10.7.22 contact information from other clients. (renumbered by resolution dated March 9, 2005)

4.10.8 Acquisition of Information Technology hardware, systems software and applications software shall be subject to review and approval by the Information Technology Director or Agency equivalent. A written recommendation shall be made to the governing body on acquisitions under subsection 4.12.4 and 4.12.5. After receipt of such recommendation, the governing body shall make the final review and selection. (amended by order dated January 23, 1991; September 17, 2003; renumbered by resolution dated March 9, 2005)

4.11 Petroleum Products. Contracts for the purchase of petroleum products. (amended by order dated April 1, 1987; renumbered by resolution dated March 9, 2005)

4.12 Museum Objects or Specimens. Contracts for the purchase, acquisition, sale, or disposal of museum objects or specimens. (renumbered and amended by resolution dated March 9, 2005)

Purchase of museum specimens and objects for the Douglas County Museum shall be exempt from the purchasing procedures set forth in the order of the Board of Commissioners dated February 8, 1984. (renumbered by resolution dated March 9, 2005)

4.13 Fair Service Contracts. Contracts for ticket sales, ticket collection, information booths, parking services and other similar services for fairs subject to the following conditions:

4.13.1 The contractors shall be non-profit public service groups operating within Douglas County. (renumbered by resolution dated March 9, 2005)

4.13.2 All services provided through the contract shall be performed by volunteers without compensation. (renumbered by resolution dated March 9, 2005)

4.13.3 Eligible organizations shall be allowed to submit proposals for performing the service contracts. (renumbered by resolution dated March 9, 2005)

4.14 Concessions to sell or promote food beverages merchandise or services at a single public event shall be awarded based on any method determined by the Fairgrounds Manager to provide a fair opportunity to all non-profit public service groups desiring to operate a concession but in which the promotion of the public interest and success of the event shall be of predominant importance. (added by resolution dated March 9, 2005)

4.15 Sponsor Agreements. Sponsorship agreements, under which the Agency receives a gift or donation in exchange for recognition of the donor. (added by resolution dated March 9, 2005)

4.16 Bridge Materials. Contracts for purchase of bridge maintenance or reconstruction materials if the monetary consideration for the contract is \$100,000 or less. Written requests for quotations shall be used for procurement of such bridge materials. Evaluation of quotations shall be based on both price and quality of engineering services. (amended by order dated February 28, 1985; September 17, 2003; renumbered by resolution dated March 9, 2005)

4.17 Nutrition Services. Contracts for the procurement of nutrition services for older persons within Douglas County. Written requests for proposals shall be used for procurement of such services in accordance with applicable State and Federal laws, rules, and regulations. Evaluation of proposals shall be based on price, quality of service, and the qualifications of prospective contractors. (renumbered by resolution dated March 9, 2005)

4.18 Transportation Services. Contracts for the procurement of transportation services for older or developmentally disabled persons within Douglas County. Written requests for proposals shall be used for procurement of such services in accordance with applicable State and Federal laws, rules, and regulations. Evaluation of proposals shall be based on price, quality of service, and the qualifications of prospective contractors. (renumbered and amended by resolution dated March 9, 2005)

4.19 Galesville Water. Contracts for purchase of irrigation, municipal or industrial water from the Galesville reservoir. (amended by order dated June 4, 1986; renumbered by resolution dated March 9, 2005)

4.20 Used Equipment. The Contracting Officer may contract for the purchase of used equipment by negotiation if such equipment is suitable for the County's needs and can be purchased for a lower cost than substantially similar new equipment. (renumbered and amended by resolution dated March 9, 2005)

4.21 Utilities. Contracts for the purchase of steam, power, heat, water, telecommunications services, and other utilities. (added by resolution dated March 9, 2005)

4.22 Ballot Printing Services. Contracts for printing ballots, including sample ballots, ballot pages and labeling ballot cards. (amended by order dated January 23, 1991; renumbered by resolution dated March 9, 2005)

4.23 Equipment with Credit for Trade-in. Public contracts for procurement of vehicles or equipment, if the total cash price does not exceed \$50,000 after deducting the value of any trade-in. (amended by order dated October 4, 1995; renumbered and amended by resolution dated March 9, 2005)

4.24 ORCPP Agreement Purchases. Contracts for the procurement of goods and services within the scope of a current Oregon Cooperative Purchasing Program ("ORCPP") agreement between Douglas County and the Oregon Department of Administrative Services ("DAS"), that are on a current DAS Price Agreement, Solicitation or Contract, subject to the terms and conditions of the ORCPP agreement and subject to the terms and conditions of the DAS Price Agreement, Solicitation or Contract. (amended by order dated May 27, 1998; renumbered by resolution dated March 9, 2005)

4.25 Non-Owned Property. Contracts or arrangements for the sale or other disposal of abandoned property or other personal property not owned by the Agency. (added by resolution dated March 9, 2005)

4.26 Structures. Contracts for the disposal of structures located on Agency-owned property. (added by resolution dated March 9, 2005)

4.27 Renewals. Contracts that are being renewed in accordance with their terms are not considered to be newly issued Contracts and are not subject to competitive procurement procedures. (added by resolution dated March 9, 2005)

4.28 Temporary Extensions or Renewals. Contracts for a single period of one year or less, for the temporary extension or renewal of an expiring and non-renewable, or recently expired, contract. (added by resolution dated March 9, 2005)

4.29 Temporary Use of Agency-Owned Property. The Agency may negotiate and enter into a license, permit or other contract for the temporary use of Agency-owned property without using a competitive selection process if:

4.29.1 The contract results from an unsolicited proposal to the Agency based on the unique attributes of the property or the unique needs of the proposer; (added by resolution dated March 9, 2005)

4.29.2 The proposed use of the property is consistent with the Agency's use of the property and the public interest; and (added by resolution dated March 9, 2005)



4.29.3 The Agency reserves the right to terminate the contract without penalty, in the event that the Agency determines that the contract is no longer consistent with the Agency's present or planned use of the property or the public interest. (added by resolution dated March 9, 2005)

4.30 Federal Purchasing Programs. Goods and services may be purchased without competitive procedures under a local government purchasing program administered by the United States General Services Administration ("GSA") as provided in this subsection. (added by resolution dated March 9, 2005)

4.30.1 The procurement must be made in accordance with procedures established by GSA for procurements by local governments, and under purchase orders or contracts submitted to and approved by the Contracting Officer. The Contracting Officer shall retain a copy of the letter, memorandum or other documentation from GSA establishing permission to the Agency to purchase under the federal program. (added by resolution dated March 9, 2005)

4.30.2 The price of the goods or services must be established under price agreements between the federally approved vendor and GSA. (added by resolution dated March 9, 2005)

4.30.3 The price of the goods or services must be less than the price at which such goods or services are available under state or local cooperative purchasing programs that are available to the Agency. (added by resolution dated March 9, 2005)

4.30.4 If a single purchase of goods or services exceeds \$50,000, the Contracting Officer must obtain informal written quotes or proposals from at least two additional vendors (if reasonably available) and find, in writing, that the goods or services offered by GSA represent the best value for the Agency. This paragraph does not apply to the purchase of equipment manufactured or sold solely for military or law enforcement purposes. (added by resolution dated March 9, 2005)

## **5 EMERGENCY CONDITIONS:**

5.1 A governing body, by a majority vote of its members, may exempt any contract from competitive bidding if emergency conditions require prompt execution of the contract. A governing body may delegate authority to any officer of the agency to exempt any contract from competitive bidding if an emergency creates a serious threat to persons or property at a time that the governing body is unable to meet to approve execution of a contract. (amended by order dated January 13, 1988; October 4, 1995; renumbered by resolution dated March 9, 2005)

5.2 Before a governing body exempts a contract under this section, such notice as may be required under ORS 192.640 shall be given and the reasons for determining an emergency existed shall be entered into the record of the meeting at which the contract is

exempted. If an officer of an agency acts under the authority delegated to the officer pursuant to Rule 5.1 the officer shall report the action to the governing body at a public meeting. (amended by order dated October 4, 1995; renumbered by resolution dated March 9, 2005)

5.3 If an emergency is declared, any contract awarded under this rule must be awarded within 30 days following the declaration of the emergency unless the LCRB grants an extension. (amended by order dated October 4, 1995; renumbered by resolution dated March 9, 2005)

## **6 ALTERNATIVE PROCUREMENT PRACTICES:**

6.1 Notwithstanding the exemptions from competitive bidding in Rules 3-5, competitive quotes shall be used where feasible. In addition, alternative contracting and purchasing practices that take into account market realities and modern or innovative contracting and purchasing methods which are also consistent with the public policy of encouraging competition shall be considered. (renumbered and amended by resolution dated March 9, 2005)

6.2 Agencies may, at their discretion use request for proposal competitive procurement methods. Criteria that are used to identify the proposal that best meets the public contract needs may include, but are not limited to, cost, quality, service, compatibility, product reliability and operating efficiency. Requests for proposals shall clearly state:

6.2.1 Contractual requirements; (renumbered by resolution dated March 9, 2005)

6.2.2 Evaluation procedures that will be applied in awarding the contract; (renumbered by resolution dated March 9, 2005)

6.2.3 Complaint processes and remedies available. (amended by order dated April 16, 1986; renumbered and amended by resolution dated March 9, 2005)

## **7 SURPLUS PROPERTY:**

7.1 General Methods. Surplus property may be disposed of by any of the following methods upon a determination by the Contracting Officer that the method of disposal is in the best interest of the Agency. Factors that may be considered by the Contracting Officer include costs of sale, administrative costs, and public benefits to the Agency. The Contracting Officer shall maintain a record of the reason for the disposal method selected, and the manner of disposal, including the name of the person to whom the surplus property was transferred. (renumbered and amended by resolution dated March 9, 2005)

7.1.1 Governments. Without competition, by transfer or sale to another

Agency department or public agency. (renumbered and amended by resolution dated March 9, 2005)

7.1.2 Auction. By publicly advertised auction to the highest bidder. (renumbered and amended by resolution dated March 9, 2005)

7.1.3 Bids. By publicly advertised invitation to bid. (renumbered and amended by resolution dated March 9, 2005)

7.1.4 Liquidation Sale. By liquidation sale using a commercially recognized third-party liquidator selected in accordance with rules for the award of personal services contracts. (renumbered and amended by resolution dated March 9, 2005)

7.1.5 Fixed Price Sale. The Contracting Officer may establish a selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, schedule and advertise a sale date, and sell to the first buyer meeting the sales terms. (renumbered and amended by resolution dated March 9, 2005)

7.1.6 Trade-In. By trade-in, in conjunction with acquisition of other price-based items under a competitive solicitation. The solicitation shall require the offer to state the total value assigned to the surplus property to be traded. (renumbered and amended by resolution dated March 9, 2005)

7.1.7 Donation. By donation to any organization operating within or providing a service to residents of the Agency which is recognized by the Internal Revenue Service as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended. (renumbered and amended by resolution dated March 9, 2005)

7.2 Exemptions from General Methods: Surplus property may be disposed of without following the procedures set forth in subsection 7.1 under any of the following conditions: (renumbered and amended by resolution dated March 9, 2005)

7.2.1 Specific statutory procedures exist for the sale of the type of property involved, and the property is disposed of according to the procedures. (renumbered by resolution dated March 9, 2005)

7.2.2 The surplus property is public works materials as defined in Rule 7.6 and is disposed of in the manner prescribed in that rule. (amended by order dated February 12, 1992; renumbered by resolution dated March 9, 2005)

7.2.3 The surplus property consists of recyclable, recycled or reusable materials that are described in Rule 7.7 and is disposed of in the manner prescribed in that rule. (amended by order dated February 12, 1992; January 23, 1991; August 16, 1984; renumbered by resolution dated March 9, 2005)

7.2.4 The surplus property is software developed by an Agency which will be licensed to user for a price established by the Contracting Officer. (amended by order dated May 30, 1990; renumbered by resolution dated March 9, 2005)

7.2.5 The surplus property consists of trees and other wood materials owned by Douglas County and is sold in the manner prescribed in Rule 7.9. (amended by order August 27, 1992; May 26, 1993; renumbered by resolution dated March 9, 2005)

7.3 Certification as Surplus Property. Before personal property may be disposed of, the appropriate Department Head shall certify that such property is surplus as to his or her department. The certification shall be filed in writing with the Contracting Officer. The Contracting Officer or his designee shall establish procedures for storage of property so certified to his department. Before disposing of surplus property, the Contracting Officer shall make appropriate inquiries of other County or Agency departments to determine if such departments may use the surplus property. If another department has a use for the surplus property, the Contracting Officer may transfer the property to such department instead of disposing of it. (by order dated August 16, 1984) (renumbered by resolution dated March 9, 2005)

7.4 Valueless property. The Contracting Officer may discard the property when in his judgment the property is of such little value that it should be discarded. (amended by order dated August 16, 1984; renumbered and amended by resolution dated March 9, 2005)

7.5 Conditions of Disposal of Property. Any sale or disposal of surplus property whether by competitive bidding or otherwise, shall be subject to the following conditions: (amended by order dated August 16, 1984; renumbered and amended by resolution dated March 9, 2005)

7.5.1 Surplus supplies and equipment shall not be made available to any public employee, except through the procedures outlined in section 7.1. (amended by order dated August 16, 1984; renumbered and amended by resolution dated March 9, 2005)

7.5.2 No warranty or guarantee shall be made as to the condition of any item offered for sale or disposal. All surplus property is offered for sale or disposal "as is and where is," without any recourse against seller or transferor. (amended by order dated August 16, 1984; (renumbered by resolution dated March 9, 2005)

7.5.3 All property shall be paid for in full during the sale and legal title of ownership shall pass to the purchaser prior to removal from the site. (amended by order dated August 16, 1984; renumbered by resolution dated March 9, 2005)

7.6 Public Works Materials:

7.6.1 Materials encountered by road or bridge maintenance crews or Agency equivalent in the performance of their duties such as slide material, unmerchantable trees, ditch cleanings or drift and wood chips shall be disposed of in the following manner:

7.6.1.1 The Road Maintenance Foreman or Bridge Superintendent, or Agency equivalent, as the case may be, shall make the determination that the material to be disposed of fits within the examples cited in Rule 7.6.1. (amended by order dated August 16, 1984; renumbered by resolution dated March 9, 2005)

7.6.1.2 Disposal shall be made at the nearest available location or locations at the discretion of the foreman or superintendent. Persons receiving such material shall not be charged. This policy does not authorize disposal of material on property where the County or Agency would be charged. In such cases, express written consent to bind the County or Agency must be obtained from the appropriate governing body. (renumbered by resolution dated March 9, 2005)

7.6.2 Material originated by road or bridge maintenance crews or Agency equivalent, in the performance of their duties, such as salvaged culvert pipe, an occasional tree, salvaged bridge members, etc., shall be disposed of in the following manner:

7.6.2.1 The foreman, superintendent, or Agency equivalent as the case may be, shall make the determination that the material to be disposed of fits within the examples cited in Rule 7.6.2. (amended by order dated August 16, 1984; renumbered by resolution dated March 9, 2005)

7.6.2.2 The foreman, superintendent, or Agency equivalent as the case may be, shall appraise the value of the materials on an "as is, where is" basis and subtract the estimated cost of transporting it to the nearest County (or Agency) shop. If the cost of transportation exceeds the value then he shall dispose of it in the manner provided in Rule 7.6.1. except that merchantable timber shall be charged for where feasible. (amended by order dated August 16, 1984; renumbered by resolution dated March 9, 2005)

7.6.2.3 If the value exceeds the cost of transportation the material shall be transported to the nearest County (or Agency) shop for disposal pursuant to Rules 7.1 through 7.5. (amended by order dated August 16, 1984; renumbered by resolution dated March 9, 2005)

7.7 Sanitary Landfill Materials: Recyclable, recycled and reusable materials, as defined in Chapter 13.48 of the Douglas County Code, which are delivered to disposal sites

may be disposed of in the following manner: (amended by order dated August 16, 1984; renumbered by resolution dated March 9, 2005)

7.7.1 The Douglas County Director of Public Works or his designee shall appraise the value of the material, if any, on an "as is, where is" basis (amended by order dated August 16, 1984; renumbered by resolution dated March 9, 2005)

7.7.2 The material shall be disposed of by written contract that will provide for maximum financial benefits to the County or Agency, efficient utilization of disposal sites and resource recovery in accordance with the legislative policies set forth in ORS 459.015. Contracts for sale or disposal of such materials shall comply with the provisions of the County or Agency Ordinance for solid waste management. (amended by order dated January 23, 1991; August 16, 1984; renumbered by resolution dated March 9, 2005)

7.8 Transfer of Title: The Contracting Officer shall have the authority to sign bills of sale, title documents, sales contracts, or other documents that are necessary to transfer the title or ownership of personal property that is sold or otherwise disposed of in accordance with Rules 7.1 through 7.6. The Contracting Officer shall submit a quarterly written report to the Board on all documents that are executed pursuant to this rule. The reports submitted by the Contracting Officer shall be filed in the County Journal. (amended by order dated August 16, 1984; renumbered by resolution dated March 9, 2005)

7.9 Surplus Wood Materials. (amended by order dated May 26, 1993; renumbered by resolution dated March 9, 2005)

7.9.1 Surplus trees and other wood materials owned by Douglas County may be sold without competitive bidding, provided that the sales price does not exceed the sum of \$5,000. (renumbered by resolution dated March 9, 2005)

7.9.2 The value of such materials under the control of the Land Department shall be set by the Land Department. The Land Department Director shall have the authority to sign bills of sale or other documents that are necessary to transfer ownership. (renumbered by resolution dated March 9, 2005)

7.9.3 The value of such materials under the control of the Park Department shall be set by the Park Department. The Park Department Director shall have the authority to sign bills of sale or other documents that are necessary to transfer ownership. (renumbered by resolution dated March 9, 2005)

7.9.4 If value of the trees or other wood materials is less than the cost the County would incur to dispose of them, ownership may be transferred without monetary consideration. (renumbered by resolution dated March 9, 2005)

7.9.5 Sales pursuant to this exemption shall comply with the conditions set forth in Rule 7.5. (renumbered by resolution dated March 9, 2005)

7.9.6 The Land Department Director and the Park Department Director each shall submit a quarterly written report to the Board on all documents that are executed pursuant to this rule. (amended by order dated May 26, 1993; renumbered by resolution dated March 9, 2005)

**8 BRAND NAME SPECIFICATION IN CONTRACTS:** Specifications for contracts shall not require any product by any brand name or mark, nor the product of any particular manufacturer or seller. However, this rule shall not be construed to prevent reference in the specifications to a particular product as a description of the type of item required. (renumbered by resolution dated March 9, 2005)

8.1 A contract shall be exempt from the requirements of this rule under any of the following conditions:

8.1.1 The specification is for a specific copyrighted product. This exemption does not include patented or trade mark goods. (renumbered by resolution dated March 9, 2005)

8.1.2 If there is only one manufacturer or seller of a product of the quality required within a reasonable purchase area, or if the efficient utilization of the existing equipment or supplies requires a compatible product of a particular manufacturer or seller, a contract may specify such particular product subject to the following conditions:

8.1.2.1 The product is selected on the basis of the most competitive offer considering quality and cost. The term "cost" includes not only the product price but also other items of expense such as costs related to quality or conversion. (renumbered by resolution dated March 9, 2005)

8.1.2.2 Prior to awarding the contract, reasonable efforts have been made to notify all known vendors of competing or comparable products within a reasonable purchase area of the intended specifications; and such vendors have been invited to submit competing proposals. If the amount of the purchase does not exceed \$50,000, such notice and invitation may be informal. If the amount of the purchase exceeds \$50,000, such notice shall include advertisement in at least one newspaper of general circulation in the area where the contract is to be performed and shall be timed to allow competing vendors a reasonable opportunity to make proposals. (amended by order dated March 27, 1991; renumbered by resolution dated March 9, 2005)

8.2 The LCRB may rule exempt certain additional products or classes of products upon any of the following findings:

8.2.1 It is unlikely that such exemption will encourage favoritism in the

awarding of the contract or substantially diminish competition. (renumbered by resolution dated March 9, 2005)

8.2.2 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. (renumbered by resolution dated March 9, 2005)

8.2.3 There is only one manufacturer or seller of the product of the quality required. (renumbered by resolution dated March 9, 2005)

8.2.4 Efficient utilization of existing equipment or supplies require the acquisition of compatible equipment or supplies. (renumbered by resolution dated March 9, 2005)

**9 MANDATORY PREQUALIFICATION:** Persons desiring to bid on contracts for public improvements shall submit a completed prequalification statement to the contracting officer. This requirement shall apply only when required by the contracting officer and notice of such requirement is contained in the advertisement for bid. (renumbered by resolution dated March 9, 2005)

9.1 Applications for prequalification shall be submitted on the forms prescribed by the State of Oregon, Director of the Department of the General Services not less than 24 hours prior to bid opening. If a person is prequalified with the State of Oregon Department of Transportation to perform contracts or the State of Oregon Department of General Services to perform contracts for the same kind of work such person may submit proof of such prequalification in lieu of a prequalification application. (renumbered by resolution dated March 9, 2005)

9.2 Upon establishment of the applicant's qualification, the qualification is valid until March 1 of the following year, and the contracting officer shall issue a qualification statement. The statement shall inform the applicant of any conditions which may be imposed on the qualification and advise the applicant to notify the contracting officer promptly if there has been any substantial change of conditions or circumstance which would make any statement contained in the prequalification application no longer applicable or untrue. The qualification statement shall also inform the applicant that if he desires to appeal the conditions of the prequalification varying his application, written notice must be given to the public contract officer within three business days after receipt of the notice. (renumbered by resolution dated March 9, 2005)

9.3 Hearings before the LCRB for appeals from a disqualification as provided in ORS 279C.445 shall be conducted in the same manner as a contested case under ORS 183.415 (3) to (6) and 183.450. (renumbered and amended by resolution dated March 9, 2005)

**10 CLASSES OF CONTRACTS EXEMPT FROM BID SECURITY:** Contracts for public improvements for which the contract price does not exceed \$25,000 and all other



contracts not involving a public improvement are exempt from bid security requirements unless the advertisement for bid, request for quotes or contract contains a notification that such is required. (amended by order dated March 27, 1991; October 4, 1995; renumbered by resolution dated March 9, 2005)

**11 CLASSES OF CONTRACTS EXEMPT FROM PERFORMANCE AND PAYMENT BONDS:** Contracts for public improvements for which the contract prices does not exceed \$25,000 are exempt from performance and payment bond requirements unless the advertisement for bid, request for quotes or contract contains a provision that such bonds are required. (amended by order dated March 27, 1991; October 4, 1995; renumbered by resolution dated March 9, 2005)

**12 PERSONAL SERVICES CONTRACTS:** Any contracts for services that require specialized technical, artistic, or professional skills or talent shall be classified as personal services contracts, including but not limited to contracts for the services of accountants, advertising consultants, appraisers, arbitrators, architects, artists, attorneys, auctioneers, audiologists, broadcasters, chiropractors, clergy, clinical social workers, computer programmers, concessionaires, dental hygienists, dentists, dieticians, educators, engineers, entertainers, entertainment agents, film makers, home care providers, land surveyors, landscape architects, marriage and family therapists, mediators, medical doctors, medical laboratories, meeting facilitators, naturopaths, nurses, occupational therapists, optometrists, pharmacists, photographers, physical therapists, psychologists, speakers, speech-language pathologists, and veterinarians. (amended by order dated January 16, 1985; renumbered and amended by resolution dated March 9, 2005)

**13 FORFEITED PROPERTY:**

13.1 Inventory: Personal property owned by the county as a result of a civil forfeiture pursuant to Oregon laws 1989 Chapter 791 (further referred to in this rule as "the forfeiture act") shall be inventoried as county property in the Office of Management and Finance immediately upon the entry of the forfeiture judgment. Prior to a forfeiture judgment, such property shall not be used by any person for any reason. After forfeiture judgment, such property shall not be used by any person for any reason except as provided in this rule. (renumbered by resolution dated March 9, 2005)

13.2 Retention by County or Use by Law Enforcement: The county accountant shall dispose of forfeited property in the manner provided in any applicable intergovernmental agreement. If no such agreement applies then, upon application to the county accountant:

13.2.1 by the county department head who wants to retain forfeited property for use by the county, or (renumbered by resolution dated March 9, 2005)

13.2.2 by the federal, state or local law enforcement agency that wants to have the property sold, leased, loaned or transferred to it for its use. (renumbered by resolution dated March 9, 2005)

The county accountant may permit the forfeited property to be retained by the county or sold, leased, loaned or transferred to the law enforcement agency. (renumbered by resolution dated March 9, 2005)

13.3 Competitive Bidding: Forfeited property which is not disposed of under Rule 13.2 shall be sold by competitive bidding unless it is subject to an exemption under Rule 13.4. (renumbered and amended by resolution dated March 9, 2005)

13.4 Exemptions from Competitive Bidding: Forfeited property may be disposed of without competitive bidding under any of the following conditions:

13.4.1 The county accountant determines that a commercially reasonable sale may be made without competitive bidding. (See §10(e)(B) of the Forfeiture Act) (renumbered by resolution dated March 9, 2005)

13.4.2 The property would be exempt from competitive bidding under any exemptions listed under Rule 7 entitled "Surplus Property." Before forfeited property shall qualify under any exemption in this section, it shall be certified as surplus as required in Rule 7.3. (renumbered by resolution dated March 9, 2005)

13.5 Procedures for Disposal of Property that is Exempt from Bidding. Forfeited property exempt from competitive bidding may be sold or otherwise disposed of by any of the methods specified in Rule 7. (renumbered by resolution dated March 9, 2005)

13.6 Conditions of Disposal of Property. Any sale or disposal of forfeited property whether by competitive bidding or otherwise shall be subject to the following conditions:

13.6.1 No public employee shall use forfeited property for personal use while such property is owned by the county. (renumbered by resolution dated March 9, 2005)

13.6.2 Forfeited property shall not be sold to any public employee, except through public auction. (renumbered by resolution dated March 9, 2005)

13.6.3 No warranty or guarantee shall be made as to the condition of any item offered for sale or disposal. All forfeited property shall be offered for sale or disposal "as is and where is," without any recourse against seller or transferor. (renumbered by resolution dated March 9, 2005)

13.6.4 All property shall be paid for in full during the sale and legal title of ownership shall pass to the purchaser prior to removal from the site. (renumbered by resolution dated March 9, 2005)

13.7 Documentation of Disposition; Transfer of Title:

13.7.1 The county accountant shall have the authority to sign bills of sale, title documents, sales contracts, or other documents that are necessary to transfer the title or ownership of personal property that is sold or otherwise disposed of in accordance with this rule. (renumbered by resolution dated March 9, 2005)

13.7.2 The county accountant shall submit a quarterly written report to the Board on all sales, decisions to retain, transfer or other disposition of forfeited property under this rule. The reports submitted by the county accountant shall be filed in the county journal. (amended by order dated September 4, 1991; renumbered by resolution dated March 9, 2005)