

Linn Benton Lincoln Education Service District

Code: **DJC**
Adopted: 10/12/2005
Revised: 7/17/24

Bidding Requirements

The Board is the Local Contract Review Board (LCRB) for the ESD. The LCRB has adopted its own rules of procedure that will govern ESD purchasing.¹ Consequently, the model rules² adopted by the Attorney General shall not apply to the ESD. The ESD shall review its rules each time the Attorney General adopts a modification of the model rules to determine whether any modifications need to be made to ESD rules, as required by ORS 279A.065(6)(b). New rules, as necessary, shall be adopted by the LCRB. In the event it is unnecessary to adopt new rules, Board minutes will reflect that the review process was completed as required.

Additionally, the ESD may include as part of its procedures portions of the Oregon Department of Administrative Services administrative rules governing Public Contract Exemptions, OAR Chapter 125, Divisions 246 - 249.

The LCRB may make the written findings required by law for exemptions from competitive bidding. Such findings shall be maintained by the ESD and made available on request.

The ESD may not artificially divide or fragment a procurement to reduce the procurement requirements.

The superintendent may develop administrative regulations or procedures to assist with the implementation of this policy and applicable procurement rules.

Goods and Services

The ESD will purchase goods and services through the following procedures, unless an exception applies:

1. **Small Procurement.** For purchases of goods and services with a contract price not exceeding \$25,000, the ESD can use any manner deemed practical or convenient, including direct selection or award. Amendments to a contract awarded through small procurement must be in accordance with OAR 137-047-0800.
2. **Intermediate Procurement.** For purchases of goods and services with a contract price exceeding \$25,000, but not exceeding \$250,000, the ESD shall seek at least three informally solicited competitive price quotes or competitive proposals from prospective contractors. The ESD will keep record of the request and quotes. If three quotes are not reasonably available, fewer will suffice, but the ESD will make a written record of the effort made. The ESD may negotiate with a prospective contractor to clarify the quote or offer, or to effect modifications. Amendments to a contract awarded through intermediate procurement must be in accordance with OAR 137-047-0800.
3. **Regular Procurement.** For purchases exceeding \$250,000, the ESD will use competitive sealed bids (OAR 137-047-0255) or competitive sealed proposals (OAR 137-047-0260). Amendments to contracts awarded through regular procurement must be in accordance with OAR 137-047-0800.

¹ Policy DJ was adopted on 5/9/2007 and revised on 2/13/2018. Updated policy is available on the LBLESD website.

² Oregon Administrative Rules (OAR) 137-045 - 049

4. Emergency Procurements. In situations of emergency³, the LCRB or designee may authorize an emergency procurement. In an emergency procurement, the ESD is not required to follow general procurement requirements. The ESD must ensure competition for the contract that is reasonable and appropriate under the circumstances. The ESD must document the nature of the emergency and the method used for the selection of the contractor.
5. Sole-source Procurements. If the LCRB or designee determines that the goods or services are available from only one source, the ESD may award a contract without competition. To the extent reasonably practicable, the ESD shall negotiate with the sole source to obtain contract terms that are advantageous to the ESD. The determination of sole source must be based on written findings and may include:
 - a. That the efficient utilization of existing goods requires acquiring compatible goods or services;
 - b. That the goods or services required to exchange software or data with other public or private agencies are available from only one source;
 - c. That the goods or services are for use in a pilot or experimental project; or
 - d. Other findings that support the conclusion that the goods or services are available from only one source.⁴
6. Special Procurements. “Special procurement” means a contract or class of contracts that use a contracting procedure other than competitive sealed proposals, competitive sealed bidding, small procurement or intermediate procurement. Special procurements require LCRB approval and will be conducted in accordance with ORS 279B.085, OAR 137-047-0285, and this policy and administrative regulation DJC-AR - Exemptions from Competitive Bidding and Special Procurement.⁵
7. Personal Services Contracts. “Personal services contract,” as used in this policy, means a contract 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.⁶ Unless otherwise designated by the LCRB, personal services contracts will be procured in accordance with applicable procurement laws. The LCRB may designate certain service contracts or classes of service contracts as personal services contracts and exempt them from competitive bidding.⁷ All personal services contracts shall be based on demonstrated qualifications and competence to perform the required services, encourage competition, discourage

³ “Emergency” means circumstances that:

1. Could not have been foreseen;
2. Create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and
3. Require prompt execution of a contract to remedy the condition.

⁴ If the contract does not exceed \$250,000, using intermediate procurement is likely less burdensome than sole source.

⁵ If the LCRB has designated contracts or classes of contracts as special procurements, include this information along with reference to the LCRB action.

⁶ This includes, but is not limited to, contracts for the services of an accountant, physician or dentist, educator, consultant (including a provider under an Architectural and Engineering Service Contract), broadcaster, or artist (including a photographer, filmmaker, painter, weaver or sculptor (OAR 137-045-0010(19))). Also includes architectural, engineering, photogrammetric mapping, transportation planning or land surveying services procured under ORS 279C.105 (ORS 279C.100) and related services procured under ORS 279C.120 (ORS 279C.100(5)).

⁷ If the LCRB has designated contracts or classes of contracts as personal services contracts, include this information along with reference to the LCRB action.

favoritism and obtain services at a fair and reasonable price. Personal service contractors may be required to qualify as independent contractors in accordance with applicable laws.⁸

Procurements for services estimated to be in excess of \$250,000 shall go through the cost analysis and feasibility process in accordance with ORS 279B.030.

Public Improvements

“Public improvement” means a project for construction, reconstruction or major renovation on real property by or for the ESD.⁹ The ESD will contract for public improvements using the following procedures, unless an exception applies.

1. Public improvements contracts with a value of less than \$25,000 are exempt from competitive bidding.
2. Intermediate Procurements. For public improvement contracts not exceeding \$100,000, the ESD may utilize three quotes¹⁰:
 - a. The request for the quotes shall be in writing (unless not reasonably practicable)¹¹;
 - b. The request for quotes shall include the selection criteria and if the criteria are not of equal value, their relative value or ranking.

The ESD shall award the contract to the prospective contractor whose quote will best serve the interest of the ESD, based on the selection criteria. If the award is not made to the offeror and quote with the lowest price, the ESD will make a written record of the basis for the award. Amendments to a contract awarded via intermediate procurement may be increased in accordance with OAR 137-049-0160(6)-(7).

3. Regular Procurements. For purchases exceeding \$100,000, the ESD will use invitation to bid or request for proposals except as otherwise allowed by law. See OAR 137-049-0130 and OAR 137-049-0640. Amendments to contracts awarded through regular procurement must be in accordance with OAR 137-049-0910.
4. Emergency Procurements. Emergency contracts for construction services are not considered public improvement contracts and will be procured in accordance with OAR 137-049-0140 and OAR 137-049-0150.
5. Community Benefit Contracts. “Community benefit contract” means a public improvement contract that includes, but is not limited to, terms and conditions that require the contractor to:
 - a. Qualify as a training agent, as defined in ORS 660.010, or provide apprenticeship training that meets applicable federal and state standards for apprenticeship training;

⁸ See ORS 670.600 and OAR 459-005-0020.

⁹ Public improvement does not include:

1. Projects for which no funds of the ESD are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or
2. Emergency work, minor alternation, ordinary repair or maintenance necessary to preserve a public improvement.

¹⁰ If three quotes are not reasonably available, the ESD shall make a written record of the effort made to obtain these quotes.

¹¹ For Public Works Contracts, oral quotations may only be utilized in the event that written copies of prevailing wage rates are not required by the Bureau of Labor and Industries.

- b. Employ apprentices to perform a specified percentage of work hours that workers in apprenticeable occupations perform on the community benefit project;
- c. Provide employer-paid family health insurance; and
- d. Meet any other requirements that the LCRB sets forth.

Community benefits contracts may be procured in accordance with ORS 279C.308.

- 6. Construction Manager/General Contractor (CM/GC) Procurement. The ESD shall procure CM/GC services in accordance with model rules the Attorney General adopts under Oregon Revised Statute (ORS) 279A.065(3) and OAR 137-049-0690, which requires “the assistance of legal counsel with substantial experience and necessary expertise in using the CM/GC Method, as well as knowledgeable staff, consultants or both staff and consultants who have demonstrated capability of managing the CM/GC process in the necessary disciplines of engineering, construction scheduling and cost control, accounting, legal, Public Contracting and project management.”

END OF POLICY

Legal Reference(s):

ORS Chapter 279

ORS Chapter 279A

ORS Chapter 279B

ORS Chapter 279C

ORS 670.600

OAR Chapter 125,

Divisions 246 - 249

OAR Chapter 137,

Divisions 045 - 049

OAR 459-005-0020

OREGON PROCUREMENT

MANUAL, Oregon Department of
Administrative Services.

