

FILED
YAMHILL COUNTY, OREGON
1985 JUL -9 PM 3:52
CHARLES STERNAL
COUNTY CLERK
M. J. [Signature]

BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

85-404

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of the Adoption)
of an Ordinance Re-establish-)
ing the Yamhill County Local)
Government Contract Review) ORDINANCE 411
Board and Repealing Previous)
Ordinances)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) on the 19th day of June, 1985, sat in special session for the transaction of County business, Commissioners Ted Lopuszynski, Donald D. Porter and David E. Bishop being present.

WHEREAS, ORS 279.055 authorizes the County to adopt an ordinance establishing a local government contract review board; and

WHEREAS, Yamhill County's previous action in establishing a local government contract review board did not specifically authorize rule-making authority as permitted under ORS 279.055 (5); and

WHEREAS, it would be in the best interests of the citizens of Yamhill County to adopt a new ordinance clarifying this authority; NOW THEREFORE

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS as follows:

Section 1. The Yamhill County Board of Commissioners is hereby appointed to serve as the Local Government Contract Review Board pursuant to ORS 279.055(1) with all of the power afforded said Board, pursuant to ORS 279.

Section 2. The rules attached hereto as Exhibit "A" and by this reference incorporated herein shall serve as the rules of the Local Government Contract Review Board until such time as said Board shall amend, modify or change said rules. The Local Government Contract Review Board shall have full rule-making authority as set forth in ORS 279.055(5).

Section 3. The fee to be charged other local governments who chose to utilize the Yamhill County Local Government Contract Review Board, pursuant to ORS 279.055(3), shall be \$100 per application for exemption, provided however that the Local Government Contract Review Board established pursuant to this ordinance shall have under its rule-making authority the authority to modify said fees.

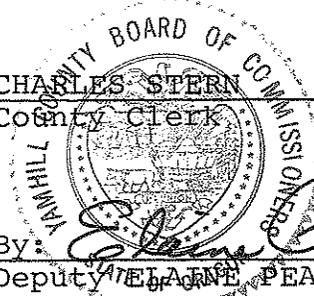
Section 4. All previous ordinances establishing a local government contract review board for Yamhill County are hereby repealed.

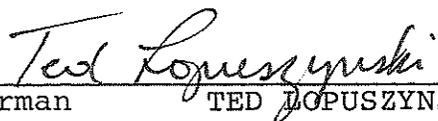
Section 5. This ordinance being necessary for the health, safety and welfare of the citizens of Yamhill County and an emergency having been declared to exist, shall be effective upon passage hereof.

DONE this 19th day of June, 1985 at McMinnville, Oregon.

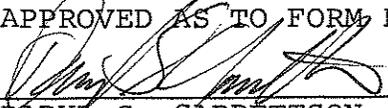
ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS


CHARLES STERN
County Clerk
By: 
Deputy ~~ELAINE~~ PEARCEY


Chairman TED LOPUSZYNSKI


Commissioner DONALD D. PORTER

APPROVED AS TO FORM BY:

DARYL S. GARRETTSON
County Counsel


Commissioner DAVID E. BISHOP

YAMHILL COUNTY LOCAL CONTRACT

REVIEW BOARD RULES

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SECTION 1 - PURPOSE

These Rules are promulgated by the Yamhill County Local Contract Review Board pursuant to the authority granted to that Board by ORS Chapter 279, for the purpose of establishing the rules and procedures for contracts entered into by the County.

SECTION 2 - DEFINITIONS

The following words and phrases mean:

Board: The Board of Commissioners of Yamhill County acting as the Local Contract Review Board for the County of Yamhill.

Commission: The Board of Commissioners of Yamhill County.

Competitive bidding: The solicitation of competitive offers which follow the formal process for advertising, bid and bid opening required by ORS Chapter 279 and applicable rules of the Board.

Competitive quotes: Offers from competing vendors. The solicitation may be by advertisement or by request to vendors to make an offer. The solicitation or the offer may be in writing or oral.

Public Contracting Officer: The Director of the Yamhill County Department of Administrative Services or his designee for general County material requirements, and the Director of Public Works for all construction materials, projects, and vehicles unless the Board should designate another in the case of a particular contract or class of contracts.

Public contract: Any purchase, lease or sale of personal property, public improvements or services other than agreements which are exclusively for personal services.

SECTION 3 - COMPETITIVE BIDS; EXEMPTIONS

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All contracts shall be based upon competitive bids except:

1. Contracts made with, or the cost of which is provided by, other public agencies or the federal government.
2. Contracts which are exclusively for personal services. Such contracts may include incidental materials such as written reports or opinions, architectural or engineering renderings and other supplemental materials required for providing the services.
3. Contracts for the purchase of goods or services where the rate or price for the goods or services being purchased is established by federal, state or local regulatory authority.
4. Contracts for the purchase of copyrighted materials where there is only one supplier available for such goods.
5. Contracts for the purchase of advertising, including that intended for the purpose of giving public notice.
6. Purchases of goods or services from a supplier when the price of the goods and services has been established under a previously competitive bid requirements contract whereby it is agreed to purchase requirements or an anticipated need at a predetermined price per unit.
7. Contracts for the purpose of investment of public funds or the borrowing of funds.
8. Contracts for insurance entered into by an Agent of Record appointed pursuant to the selection process set forth in the Yamhill County Risk Management Policy.
9. Contracts for purchase or acquisition of data processing (hardware or software).
10. Contracts for purchase where there is only one seller or price of a product of the quality required available within a reasonable purchase area.
11. Contracts for purchase where the amount does not exceed \$10,000.
 - a. Where contracts are for more than \$5,000, at least three (3) competitive quotes shall be obtained. If three (3) quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes. A written record shall be made and filed with the Department of Administrative Services containing the source and amount of the quotes received and setting

- forth the reasons for believing that awarding the contract without competitive bidding would result in cost savings.
- b. Where contracts are for more than \$500 but less than \$5,000, competitive quotes should be obtained where practical, considering cost savings which might otherwise be enjoyed.
 - c. No contractor may be awarded, in the aggregate, within the fiscal year, contracts in excess of \$20,000 under this subsection without competitive bidding. In computing the aggregate under this subsection, awards under \$500 need not be included.
12. 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:
- a. The original contract imposes a binding obligation on the parties covering the terms and conditions regarding the changes in the work; or
 - b. The amended contract does not substantially alter the character of the project; or
 - c. If the amendment has the effect of substantially altering the character 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.
13. Contracts for the purchase of services, equipment or supplies for the maintenance, repair or conversion of existing equipment are exempt if required for the efficient utilization of the equipment. Where practicable, competitive quotes shall be obtained.
14. Contracts for the purchase of asphaltic concrete and rock where the material is to be used for maintenance. Where practicable, competitive quotes shall be obtained.
15. Contracts for the purchase of materials where competitive bids for the same materials have been obtained by the State of Oregon, and the contract is to be awarded to the party to whom the contract was awarded by the State so long as the price of the materials is the same or lower than that paid by the State.
16. Contracts for the purchase of food items for the Yamhill County Jail.
17. Purchase of items or services of an artistic nature.

SECTION 4 - EXEMPTIONS FOR ADDITIONAL CONTRACTS

The Board may, by resolution, exempt other contracts from competitive bidding if it finds:

1. The lack of bids will not result in favoritism or substantially diminish competition in awarding the contract; and
2. The exemption will result in substantial cost savings. In making such findings, the Board may consider the type, cost, amount of the contract, number of persons available to bid, and such other factors as the Board may deem appropriate.

SECTION 5 - EMERGENCY CONTRACTS

A contract may also be exempted from competitive bidding if the Commission, by majority vote of members present, determines that emergency conditions require prompt execution of the contract. A determination of such an emergency shall be entered into the record of the meeting at which the determination is made.

SECTION 6 - 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, unless the product is exempt from this requirement under the provisions of subsection 1, 2 or 3. However, this section shall not be construed to prevent reference in the specifications to a particular product as a description of the type of item required.

1. A contract shall be exempt from the requirements of this Section under any of the following conditions:
 - a. The specification is for a specific copyrighted product. This exemption does not include patented or trademark goods.
 - b. If there is only one manufacturer or seller of a product of the quality required, or if the efficient utilization of the existing equipment or supplies requires a compatible product of a particular manufacturer or seller, a contract may specify such particular product subject to the following condition:
 - . If the amount of the purchase exceeds \$5,000, the Public Contracting Officer shall notify the Board of the specification. The notice

shall be written and include a brief description of the proposed contract, a detailed description of the reasons why the product and/or seller was selected and any competing products and/or sellers that were rejected.

2. When it is impractical to create specific design or performance specifications for a type of product to be purchased, a list of approved products by reference to particular manufacturers or sellers may be specified in accordance with the following product prequalification procedure:
 - a. Reasonable efforts shall be made to notify all known manufacturers or vendors of competitive products of the intention to accept applications for inclusion in the list of prequalified products. Notification shall include advertisement in a trade journal of statewide distribution when possible. In lieu of advertising, notification may be made to vendors and manufacturers appearing on the appropriate list maintained by the Department of General Services of the State of Oregon.
 - b. Applications for prequalification of similar products are permitted up to 15 days prior to advertisement for bids on the product.
 - c. If an application for inclusion in a list of prequalified products is denied, or an existing prequalification revoked, the applicant shall be notified in writing. The applicant may, within three days after receipt of the notice, appeal the denial or revocation to the Board according to the procedure in Section 10.
3. The Board may, by resolution, exempt certain additional products or classes of products upon any of the following findings:
 - a. It is unlikely that such exemption will encourage favoritism in the awarding of the contracts or substantially diminish competition.
 - b. The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings.

SECTION 7 - BIDDER DISQUALIFICATION

The Public Contracting Officer may disqualify any person as a bidder on a contract if:

1. The person does not have sufficient financial ability to perform the contract. Evidence that the person can acquire a surety bond in the amount

- and type required shall be sufficient to establish financial ability. If no performance bond is required, the Public Contracting Officer may require such information as he deems necessary to determine the bidder's financial ability;
2. The person does not have equipment available to perform the contract.
 3. The person does not have key personnel of sufficient experience to perform the contract; or
 4. The person has breached contractual obligations to public and private contracting agencies in two or more instances.

SECTION 8 - MANDATORY PREQUALIFICATION

Persons desiring to bid for contracts to perform the classes of public improvements described below shall submit a completed prequalification statement to the Public Contracting Officer at least ten (10) days prior to the opening of bids on any contract for which the person desires to be considered. This requirement shall apply only where the public improvement contract amount exceeds \$25,000.

1. The classes of work for which prequalification is required are as follows:

Air conditioning	Landscaping
Bituminous oiling	Outdoor illumination
Bituminous paving	Painting and decorating
Bridge and overcrossing construction	Plumbing
Building alteration and repair	Reinforced concrete construction
Building construction	Rock crushing
Concrete paving and flatwork	Roofing
Demolition, related excavation and clearing	Sewage pumping stations
Drainage	Sewage treatment plants
Dredging and piledriving	Sewer construction
Electrical wiring	Traffic signalization
Excavation and grading	Water lines
Heating	Water reservoirs
Highway, road and street improvements	Water tanks - concrete
Irrigation and sprinkling systems	Water tanks - steel

2. Applications for prequalification shall be submitted on the forms provided by the Public Contracting Officer.
3. The Public Contracting Officer shall, within thirty (30) days of the receipt of the prequalification statement submitted pursuant to this Section, notify the prospective bidder as to whether or not he is qualified, the nature and type of contracts that he is qualified to bid on and the time period for which the prequalification is valid.

Prequalifications under this Section shall be valid only until the end of the calendar year within which they are issued.

4. Upon establishment of the applicant's prequalification, the Public 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 County promptly if there has been any substantial change of conditions or circumstances which would make any statement contained in the prequalification application a) no longer applicable or b) untrue. If the applicant desires to appeal the conditions of the prequalification, written notice must be given to the Public Contracting Officer within three (3) business days after receipt of the notice.
5. If the Public Contracting Officer does not qualify an applicant, he shall give written notice to the applicant stating the reasons that prequalification has been denied. If the applicant desires to appeal the denial, written notice must be given to the Public Contracting Officer within three (3) business days after receipt of the notice.
6. If a Public Contracting Officer subsequently discovers that a person heretofore prequalified under this Section is no longer qualified under Section 7 of these Rules, the Public Contracting Officer may revoke the prequalification upon notice to the prospective bidder; provided, however, that such revocation shall be invalid as to any contract for which an advertisement for bids has already been made under ORS 279.065. The notice shall state the reason for revocation. The revocation will be effective ten (10) days from the date of the notice unless a notice of appeal has been filed with the officer within three (3) days of the date of the notice or unless it appears to the officer that the deficiency has been corrected. If the person desires to appeal the revocation, written notice must be given to the Public Contracting Officer within three (3) days of the date of the notice of revocation.

SECTION 9 - PERMISSIVE PREQUALIFICATION

1. On public contracts not subject to Section 8 of these rules, a prospective bidder may submit a request for prequalification to the Public Contracting Officer within the time specified by the Public Contracting Officer in the advertisement for bids as required by ORS 279.025, which time shall not be

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- more than 45 days prior to the opening of bids. The prequalification request shall be submitted on the forms provided by the Public Contracting Officer. After investigation, the Public Contracting Officer shall promptly notify the prospective bidder whether or not he is qualified to perform the contract and if not qualified, what subsections of Section 7 of these Rules he has failed to comply with. Such notice shall be given within a reasonable time for the prospective bidder to prepare a bid.
2. In all other cases, the Public Contracting Officer shall make such investigation of bids as it deems necessary to determine whether they are qualified under Section 7 of these Rules. If the investigation is completed prior to the time set for opening of the bids, the Public Contracting Officer shall notify each bidder who is not qualified to perform the contract and identify in the notice the subsection of Section 7 of these Rules which he failed to comply with. If the investigation is not completed until after the time set for opening the bids, the Public Contracting Officer shall notify any bidder who appears to be the lowest bidder if he is not qualified to perform the contract and identify in the notice the subsections of Section 7 of these Rules which the bidder failed to comply with.
 3. Any person desiring to appeal his disqualification as a bidder under Section 8 or 9 of these Rules shall, within three (3) business days after receipt of notice of disqualification, give written notice of appeal to the Public Contracting Officer.

SECTION 10 - APPEALS

The procedures for appeals shall be as follows:

1. Notices of appeal need not be in any particular form so long as they are in writing addressed to the Public Contracting Officer.
2. Upon receipt of such written notice of appeal, the Public Contracting Officer shall inform the Board.
3. Upon receipt of notice of appeal, the Board shall notify the person appealing of the time and place of the hearing.
4. The Board shall conduct the hearing according to the provisions of ORS 279.045 (3) and decide the appeal within ten (10) days after receiving the notification and shall set forth in writing the reasons for its decisions.

SECTION 11 - RETAINAGE ON PUBLIC CONTRACTS

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1. The approved securities which shall be acceptable in lieu of retainage fees are as follows:
 - a. Bills, certificates, notes or bonds of the United States.
 - b. Other obligations of the United States or its agencies.
 - c. Obligations of any corporation wholly owned by the Federal Government.
 - d. Indebtedness of the Federal National Mortgage Association.
 - e. General obligation bonds of the State of Oregon or any political subdivision thereof.
 - f. Time certificates of deposit or savings account passbooks issued by a commercial bank, savings and loan association or mutual savings bank duly authorized to do business in Oregon.
 - g. Corporate bonds rated "A" or better by a recognized rating service.
2. Deposits in lieu of retainage fees on public contracts shall be allowed as follows:
 - a. When a contractor elects to deposit securities with Yamhill County or in a bank or trust company in lieu of retainage on public contracts, the securities shall be held by the custodian in fully transferable form and under the control of the County.
 - b. Non-negotiable securities so deposited shall have proper instruments attached to enable the County to effect transfer of title should the contractor be unable to fulfill the contract obligations.
 - c. The custodian bank or trust company shall issue a safekeeping receipt for the securities to the County. The receipt shall describe the securities, the par value, the name of the contractor, and project number or other project identification.
 - d. Unless otherwise mutually agreed, the value placed upon said securities shall be market value.
 - e. Securities deposited in the manner described above in a bank or trust company shall be released by the bank or trust company only upon the written instructions and authorization of the County.
 - f. In lieu of the above, an escrow agreement mutually acceptable to the contractor and the County and the bank or trust company may be used.
3. For all projects requiring retainage, the retainage shall be at least five percent (5%) of the project cost.