



1 from the competitive bid requirements. The exemptions are set
2 forth in the attached rules, and are based upon the following
3 findings of the Agency:

- 4 a) It is unlikely that the exemptions will encourage
5 favoritism in the awarding of public contracts, or
6 substantially diminish competition for public
7 contracts.
- 8 b) The awarding of public contracts pursuant to the
9 exemptions will result in substantial cost savings to
10 the Agency.

11 PASSED AND ADOPTED THIS 31ST DAY OF JULY, 1991.

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Chairperson

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16 ATTEST:


Recording Secretary

RULES OF THE COLUMBIA GATEWAY
URBAN RENEWAL AGENCY
OF THE CITY OF THE DALLES

Section 1. Purpose. These rules are promulgated by the local contract review board, pursuant to the authority granted to that board under ORS 279.055, for the purpose of establishing the rules and procedures for public contracts entered into by the Columbia Gateway Urban Renewal Agency of the City of The Dalles.

Section 2. Definitions. The following words and phrases mean:

Agency. The Columbia Gateway Urban Renewal Agency of the City of The Dalles.

Board. The local contract review board as created by Resolution No. 91-008.

Competitive bidding. The issuing of invitations to bid which follow the formal process for advertising, bid, and bid opening required by ORS Chapter 279, and the applicable rules of the Board.

Competitive quotes. The solicitation by the Agency of offers from competing vendors. The solicitation may be by advertisement or by the Agency initiating a request to vendors to make an offer. The solicitation and the offer may be in either oral or written form.

Personal Property. Everything subject to ownership which is not real property and has exchangeable value.

Price agreement. The same as requirements contract defined below.

Public agency or Public contracting agency. Any agency of the State of Oregon or any political subdivision thereof authorized by law to enter into public contracts and any public body created by intergovernmental agreement.

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

Public improvement. Projects for construction, reconstruction or major renovation on real property by or for the Agency. "Public improvement" does not include emergency work, minor alteration, ordinary repair or maintenance necessary in order to preserve a public improvement.

Requirements contract. An agreement in which the vendor agrees to supply all the purchaser's requirements that arise for an item or items within a specified time period.

Request for Proposal. The solicitation of competitive proposals, or offers, to be used as a basis for making an acquisition, or entering into a contract when specification and price will not necessarily be the predominant award criteria.

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

Section 3. Competitive Bids; Exemptions. All public contracts shall be based upon competitive bids except:

1. Public Agencies. Contracts made with other public agencies or the Federal government.

2. Life Cycle Costing. In determining the lowest responsible bidder, in the award of a contract, the Agency may use the concept of life cycle costing if it complies with the provisions of this rule. As used in this rule, life cycle costing means determining the cost of a product for its useful life.

- a. Prior to the time of writing specifications for the product, the Agency shall identify those factors which will have cost implications over the life of the product.
- b. The Invitation to Bid shall set out clearly the factors and methodology to be used in life cycle cost adjustments.
- c. At or after the formal bid opening, the results of life cycle costing adjustments shall be applied to the base bid, and the bidder whose total bid results in the lowest ownership cost, taking into account the life cycle costing adjustments, shall be considered the lowest responsible bidder.

3. Contracts Under Certain Dollar Amounts. Any public contract where the amount of purchase exceeds \$15,000.00 shall be subject to competitive bid requirements. Any public contract where the amount of purchase is \$15,000.00 or less shall be subject to the following requirements:

- a. For purchases up to the sum of \$500.00, an authorized Agency employee or staff member may use a field purchase order to purchase needed items, without any other approval.
- b. For purchases in an amount in excess of \$500.00, and up to \$2,500.00, an authorized staff member can approve a purchase only after obtaining at least three (3) competitive quotes by telephone from responsible and responsive bidders.
- c. For purchases in an amount in excess of \$2,500.00 and up to \$7,500.00, an authorized staff member can approve a purchase only after obtaining at least three (3) written quotes from responsible and responsive bidders.

- d. For purchases in an amount in excess of \$7,500.00, and up to \$15,000.00, a purchase order must be approved by the Board only after three (3) written quotes have been obtained from responsible and responsive bidders.

4. Request for Proposal. The Agency may, at its discretion, use request-for-proposal competitive procurement methods subject to the following conditions:

- a. Contractual requirements are stated clearly in the solicitation document.
- b. Evaluation criteria to be applied in awarding the contract and the role of an evaluation committee are stated clearly in the solicitation document. Criteria used to identify the proposal that best meets the public contracting needs may include but are not limited to cost, quality, service, compatibility, product reliability, operating efficiency and expansion potential.
- c. Solicitation document states the provisions made for vendors to comment on any specifications which they feel limit competition.

5. Emergency Contracts Under \$25,000.00. Pursuant to ORS 279.015 (3) and (4), the contract review board may, in its discretion, let public contracts without formal competitive bidding if an emergency exists, and the emergency consist of circumstances creating a substantial risk of loss, damage, interruption of services or threat to public health or safety that could not have been reasonably foreseen, which requires prompt execution of a contract to remedy the condition.

- a. The Chair of the Agency may declare the existence of an emergency, which shall authorize the Agency to enter into an emergency contract with a price under \$25,000.00. The Chair of the Agency, or his duly authorized designee, must make written findings describing the emergency conditions necessitating prompt execution of the contract.
- b. Any contract awarded under this exemption shall be awarded within 60 days following declaration of the emergency unless an extension is granted by the contract review board.

6. Emergency Contracts in Excess of \$25,000.00. The Agency may enter into a public contract in excess of \$25,000.00, without competitive bidding when circumstances that could not reasonably be anticipated necessitate the prompt establishment

and performance of the contract in order to preserve public funds, property, or the uninterrupted provision of government services. In exercising its authority under this exemption, the Agency shall:

- a. To the extent reasonable under the circumstances, encourage competition by attempting to make informal solicitations or to obtain informal quotes from potential suppliers of goods or services;
- b. Make written findings describing the circumstances that require the prompt performance of the contract, and of the harm anticipated to result from failing to establish the contract on an expedited basis;
- c. Record the measures taken under Subsection (a) of this section to encourage competition, the amounts of the quotes or proposals obtained, if any, and the reason for selecting the contractor; and
- d. Not contract pursuant to this exemption in the absence of a substantial risk of loss, damage, or interruption of services that would occur if contract performance awaited the time necessary, given the complexity of the project, to solicit, receive and analyze bids or proposals.

7. Contracts for Price Regulated Items. 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.

8. Gasoline, Diesel Fuel, Heating Oil, Lubricants and Asphalts. Contracts for the purchase of gasoline, diesel fuel, hearing oil, lubricants and asphalts are exempt from formal competitive bidding requirements if the Agency seeks competitive quotes from a majority of vendors in the area, makes its purchases from the least expensive source, and retains written justification for the purchase made.

9. Copyrighted Materials. If the contract is for the purchase of copyrighted materials and there is only one known supplier available for such goods, the Agency may contract for the purchase of the goods without competitive bidding.

10. Periodicals. The Agency may purchase subscriptions for periodicals, including journals, magazines, and similar publications without competitive bidding.

11. Investment Contracts. The Agency may, without competitive bidding, contract for the purpose of the investment of public funds or the borrowing of funds by the Agency when such investment or borrowing is contracted pursuant to duly enacted statute, ordinance, charter, or constitution.

12. Advertising Contracts. Contracts for the purchase of advertising, including that intended for the purpose of giving public notice.

13. Personal Service Contracts. The following are personal service contracts exempted from the competitive bidding requirements:

- a. Contracts for services performed as an independent contractor, including but not limited to the services of an accountant; attorney; architectural or land use planning consultant; bond underwriter; physician or dentist; registered professional engineer; appraiser or surveyor; passenger aircraft pilot; aerial photographer; timber cruiser; data processing consultant or broadcaster.
- b. Contracts for services as an artist in the performing or fine arts, including but not limited to persons identified as photographer, filmmaker, painter, weaver, or sculptor.
- c. Contracts for services of a specialized, creative and research-oriented, noncommercial nature.
- d. Contracts for services as a consultant.
- e. Contracts for educational and human custodial services.

14. Single Seller of Product Required. The Agency may purchase without competitive bidding if there is only one seller of a product of the quality required, or if the efficient utilization of existing equipment or supplies requires specifications of a compatible product for which there is only one seller.

15. Insurance Contracts. Contracts for the purchase of insurance.

16. Contract Amendments (Including Change Orders and Extra Work). Any contract amendment for additional work including change orders, extra work, field orders, or other changes in the original specifications which increases the original contract

price, may be made with the contractor without competitive bidding subject to the following conditions:

- a. The original contract was let by competitive bidding, unit prices or bid alternates were provided that established the cost for additional work, and a binding obligation exists on the parties covering the terms and conditions of the additional work; or
- b. The amount of the aggregate cost increase resulting from all amendments shall not exceed 20% of the initial contract. Contracts for the renovation or remodeling of buildings may have aggregate amendments not exceeding 33% of the initial contract. Amendments made pursuant to section (a) of this rule are not included in computing the aggregate amount under this section.

17. Requirements Contracts. The Agency may enter into requirements contracts whereby it is agreed to purchase requirements for an anticipated need at a pre-determined price. The contract must be let in accordance with competitive bid requirements.

- a. When the price of goods and services has been established by a requirements contract, the Agency may purchase the goods and services from the supplier without subsequent competitive bidding.

18. Exemptions for Additional Contracts. The board may by resolution exempt certain public contracts or classes of public contracts from the competitive bid requirements, not otherwise exempted by these rules, based upon the following findings:

- a. It is unlikely that granting of the exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; and
- b. The awarding of the public contract pursuant to the exemption will result in substantial cost savings to the Agency. In making this finding, the board may consider the type, cost, amount of the contract, number of persons available to bid, and such other factors as may be deemed appropriate.

19. Oil or Hazardous Material Removal. The Agency may enter into public contracts without competitive bidding when ordered to cleanup oil or hazardous waste pursuant to the authority granted the Department of Environmental Quality (DEQ)

under ORS 466.605 through 466.680 and this order necessitates the prompt establishment and performance of the contract in order to comply with the statutes regarding spill or release of oil or hazardous materials. In exercising its authority under this exemption, the Agency shall:

- a. To the extent reasonable under the circumstances, encourage competition by attempting to make informal solicitations or to obtain informal quotes from potential suppliers of goods or services;
- b. Make written findings describing the circumstances requiring cleanup or a copy of the DEQ order ordering such cleanup;
- c. Record the measures taken under subsection (a) of this section to encourage competition, the amount of the quotes or proposals obtained, if any, and the reason for selecting the contractor selected; and
- d. Not contract pursuant to this exemption in the absence of an order from the Department of Environmental Quality to cleanup a site with a time limitation that would not permit hiring a contractor under the usual competitive bidding procedures.

20. Brand Name Specification in Contracts. Specifications for public contracts shall not expressly or implicitly require any product by any brand name or mark, nor the product of any particular manufacturer or seller unless the product is exempt under this section. However, this section shall not be construed to prevent reference in the specification to a particular product as a description of the type of item required.

The board may exempt certain products or classes of products from the requirements of this section upon any of the following findings:

- a. It is unlikely that such exemption will encourage favoritism in awarding of public contracts or substantially diminish competition for public contracts;
- b. The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings to the public agency;

- c. There is only one manufacturer or seller of the product of the quality required; or
- d. Efficient utilization of existing equipment or supplies requires the acquisition of compatible equipment or supplies.

21. Goods purchased through the State of Oregon. Contracts for the purchase of goods or materials if competitive bids for the same goods or materials have been obtained by the State of Oregon, the contract is awarded to the same party that the State dealt with, and the price of the goods or materials is the same or lower than that paid by the State.

22. Auction Sales of Personal Property. Personal property may be sold at auction if the Agency determines that the auction contemplated will probably result in a higher net return than if the property were sold by competitive written bid.

23. Sales of Personal Property. The Agency may sell personal property, including recyclable or reclaimed materials, without formal competitive bidding if the Agency has determined that a negotiated sale will result in increased net revenue and the following conditions are complied with:

- a. When the current market value per item is deemed to be less than \$1,000.00, the Agency may establish a selling price, schedule and advertise a sale date, and sell to the first qualified buyer meeting the sale terms; or
- b. When the current value per item is deemed to exceed \$1,000.00, the personal property must be offered for competitive written bid and be advertised in accordance with ORS 279.025, or be offered for sale at public auction. If no bids are received or if a determination is made that the market value of the property exceeds the offer of the highest responsible bidder, all bids may be rejected and the Agency may negotiate a sale subject to the following conditions:
 - i. An appraisal of the market value of the property is obtained and documented and the negotiated sale price exceeds the market value; or
 - ii. The sale amount exceeds the highest bid received through the bidding or auction process.

24. Donations of Personal Property. (1) The Agency may transfer personal property, including recyclable or reclaimed materials, without remuneration or only nominal remuneration without competitive bids to the following activities;

- a. Another public agency; or
- b. Any sheltered workshop, work activity center or group care home which operates under contract or agreement with, or grant from, any state agency and which is certified to receive federal surplus property; or
- c. Any recognized non-profit activity which is certified to receive federal surplus property.

(2) The Agency may donate or sell, without competitive bids, surplus personal property to recognized private non-profit social or health service activities, subject to the following conditions:

- a. A determination has been made that the property is not needed for other public purposes;
- b. If the property has a current market value of \$250.00 or more, the donation or sale shall:
 - i. Be approved by the Agency;
 - ii. Be documented by the Agency to be clearly in the public interest;
- c. The Agency determines this is the most efficient and cost-effective method for disposing of the property.

(3) The Agency shall maintain a record of all transfers, donations or sales authorized by sections (1) and (2) of this rule.

Section 4. Exemption Hearing. Whenever the board is considering an exemption to the requirements for competitive bids or brand name specification, it shall provide seven (7) days notice to the public, and shall schedule a public hearing to consider testimony and evidence as to whether the exemption should or should not be allowed.

Section 5. Rejection of Bids. The Agency may reject any bid not in compliance with all prescribed public bidding procedures and requirements, and may, for good cause, reject any or all bids upon a finding that it is in the public interest to do so. In any case where competitive bids are required and all

bids are rejected, and the proposed contract is not abandoned, new bids may be called for as in the first instance.

Section 6. Disqualification of Bidders. The Agency may disqualify any person as a bidder on a public contract if the Agency finds:

- a. The person does not have sufficient financial ability to perform the contract. If a bond is required to insure performance of a contract, evidence that the person can acquire a surety bond in the amount and type required shall be sufficient to establish financial ability;
- b. The person does not have equipment available to perform the contract;
- c. The person does not have key personnel available of sufficient experience to perform the contract; or
- d. The person has repeatedly breached contractual obligations to public and private contracting agencies.
- e. The person has been disqualified as a bidder by the Bureau of Labor and Industries or other appropriate State agency.

The Agency may make such investigation as is necessary to determine whether a person is qualified. If a bidder or prospective bidder fails, in a prompt manner, to supply information requested by the Agency, such failure can be grounds for disqualification.

If the prospective bidder is disqualified, the notice shall specify the reasons for the disqualification and shall advise the person that any appeal of the disqualification must be filed by giving written notice to the Agency within three (3) business days after receipt of the notice.

Section 8. Appeals. The procedures for appeals shall be as follows:

- a. Any person who wishes to appeal disqualification as a bidder shall, within three (3) business days after receipt of notice of disqualification, notify the Agency that the person appeals the disqualification.
- b. Notices of appeal need not be in any particular form so long as they are in writing addressed to the Agency.

- c. Upon receipt of notice of appeal, the board shall notify the person appealing of the time and place of the hearing.
- d. The board shall conduct the hearing according to the provisions of ORS 279.045 (3) and shall decide the appeal within thirty (30) days after receiving the notification and shall set forth in writing the reasons for its decisions.