

**Oregon Coast Community College
Model Contracting and Purchasing Rules**

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**Section One
Competitive Procurement**

Thresholds for Competitive Procurement

1.00

Rule: All purchases by Oregon Coast Community College shall be awarded by competitive procurement except those which total less than the thresholds shown below or those exempted herein. Competitive procurement need not be used for the purchase of goods and services which total, on a *completed project cost basis*, less than \$5,000. However, the College encourages the use of verbal and written quotes, where cost effective, for purchases less than \$5,000.

Competitive procurement shall be used for the purchase of goods and services which total, on a *completed project cost basis*, ~~\$25,000~~[100,000](#) or more.

Comment: *Completed project cost basis* means the total cost of performing one discrete, identifiable totality of work, including all components, shipping, warranty costs, service agreements obtained in conjunction with the purchase contract, reimbursables, and any other associated costs. A "formal process" requires the use of written quote, bid, or RFP. An "informal process" implies the use of verbal or written quotes.

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Rule for Limited Negotiations with Low Bidder

1.01

Definition: For purposes of this rule, the terms below shall be defined, as follows:

"The College" shall mean Oregon Coast Community College.

"Low Bidder" shall mean the responsible bidder who has submitted the lowest responsive bid, as defined in [ORS 279.029](#) ORS 279A.010.

"Competitively Bid" shall mean fixed price competitive bidding under [ORS 279.015](#) ORS 279C.335, where any award is to be made to the responsible bidder which has submitted the lowest responsive bid.

"Bidding Documents" shall mean the bidding documents issued by the College and in force at the time of bid opening, including without limitation, all addenda issued on or before the bid opening date.

"College's Cost Estimate" shall mean the fixed limit of construction cost that has been agreed upon the College and Consultant.

"Value Engineering and Other Options" refers to a process agreed upon by the College, which involves the lowest responsive, responsible bidder and may include other consultants, to identify deletions or adjustments to the project to reduce the cost of such work.

"Significantly Changed," with reference to the scope of the project, shall mean deletion or adjustment of components of the project or elements of the work, which in the aggregate are estimated to cost in excess of twenty-five percent of the College's Cost Estimate as originally designed.

Rule: *Limited Negotiation On Competitively Bid Contracts*

If a project is competitively bid and all the responsive bids from responsible bidders exceed the College's Cost Estimate, the College may, prior to award, negotiate with the Low Bidder utilizing Value Engineering and Other Options to bring the contract price within the College's Cost Estimate.

The College's negotiation with the Low Bidder shall not result in award of the contract to such bidder if the scope of the project is Significantly Changed from that specified in the Bidding Documents at the time of bidding.

If the College elects to use the negotiation process under this rule, the College will not produce for public inspection prior to award or termination of the negotiation process, any records of the Low Bidder. After award of the contract or termination of the negotiation process, the College will produce for public inspection such records as are subject to inspection under any other provision of law.

Negotiation and Award Process

If the Low Bidder's bid exceeds the College's Cost Estimate, the College may but shall not be required to, negotiate with the Low Bidder to bring the cost of the project within the College's Cost Estimate.

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If the College determines to negotiate with the Low Bidder, it shall give written notice to the Low Bidder of its intent, within ten (10) days of bid opening. The notice shall include disclosure to the Low Bidder of the College's Cost Estimate.

During any such negotiations, the Low Bidder's bid shall remain firm for the period prescribed in the Bidding Documents. At all times until such expiration of the bid, and notwithstanding the occurrence of negotiations under this rule, the College shall have the right to accept the original bid.

Upon and within five (5) days of receipt of the College's notice of intent to negotiate, the Low Bidder and the College's representative shall meet and present to each other, in writing, any proposals either may for Value Engineering and Other Options to bring the project within the College's Cost Estimate.

The College and the Low Bidder shall negotiate in good faith regarding Value Engineering and Other Options, exerting their best efforts to bring the cost of the project within the College's Cost Estimate.

If the College and the Low Bidder are able to reach agreement through Value Engineering and Other Options to identify measures which bring the project within the College's Cost Estimate, but do not Significantly Change the scope of the project, such Value Engineering and Other Options shall be reduced to writing and signed by the Low Bidder as an amendment to its bid and will be incorporated into the Contract at the time of award.

Upon award, the terms and conditions of the amendment to the bid shall be made public.

Any protest of this negotiation process shall be subject to the Protest Process specified in the Bidding Documents.

Contract Amendments

1.02

Rule: Contracts for goods and services obtained through competitive procurement, may be amended while in progress. Such amendments shall not exceed a total of thirty-three percent (33%) of the original contract value for goods and services and thirty three percent (33%) of the original contract value for public works (construction).

Comment: Contracts are living entities. The work they represent is subject to change at any moment; contract amendments record and formalize those changes. Options for change orders are needed for contract administrators and contractors to perform the work in the most efficient manner.

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Section Two

Personal/Professional Services

Personal/Professional Services, General

2.00

Definition: (1) A contract for "Personal/Professional Services" calls for specialized skills, knowledge and resources in the application of highly technical or scientific expertise, or the exercise of professional, artistic, or management discretion or judgment. Qualifications and performance history, expertise, knowledge and creativity, and the ability to exercise sound professional judgment are typically the primary considerations when selecting a personal services contractor, with price being secondary.

- (2) "Personal/Professional Services" contracts may include, but are not limited to, the following:
- (a) contracts for services performed by an independent contractor in a professional capacity including, but not limited to, the services of an accountant; auditor; attorney; architect; engineer; land use planner; physician or dentist; commercial pilot; aerial photographer; data processing consultant; broadcaster; or computer services;
 - (b) contracts for services as an artist in the performing of fine arts including, but not limited to, any person identified as a photographer, film maker, painter, weaver or sculptor;
 - (c) contracts for services that are specialized, creative and research oriented;
 - (d) contracts for services as a consultant; and
 - (e) contracts for educational services.

However, Personal/Professional Services providers do not include employees or leased employees.

Rule: Contracts for Personal/Professional Services are not "public contracts" as defined in [ORS 279.011\(5\)](#) and are not subject to the competitive procurement provisions of [ORS 279.005 through 279.111](#). Every contract for Personal/Professional Services shall be based upon screening and selection procedures developed by the College: The Board of Education must approve all Personal/Professional Services Contracts over ~~\$50,000~~ [\\$100,000](#) which are not intergovernmental agreements or with non-profit organizations.

When a particular Personal/Professional Service contractor has unique knowledge or skills, or has specialized knowledge or capabilities gained through years of cumulative service to the College or through specialized events, and it is desirable to retain this body of experience, the College may waive the requirement for a formal selection process and may authorize the award on the basis of single source:

The College also may waive the requirement for a competitive selection process if it is deemed to serve the best interest of the College.

Comment: In general, contracts for Personal/Professional Services should be reviewed at least once every year for the propriety of continuation without a competitive selection process. **Unless there** are compelling reasons not to do so, competitive selection processes for Personal/Professional Services contractors should take place at intervals not greater than five years.

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Architects, Engineers and Related Services

2.01

Definition: "Architects, Engineers, and Related Services" means professional services related to the planning, design, engineering, oversight of public improvement projects or components thereof, including but not limited to architects, landscape architects, engineers, space planners, surveyors, cost estimators, appraisers, material testers, mechanical system balancers, and project managers.

Rule: Contracts with architects, engineers and related services providers are a special class of Personal/Professional Services contracts. The College will select Architects, Engineers and Related Services using the procedures set forth in OAR Chapter 137, Division [35.47](#). In some cases, the College may consolidate an RFQ and RFP process to obtain lists of qualified Architects and Engineers. A simplified RFP process for the qualified listed professionals may follow as projects become available.

Comment: None

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Agents of Record

2.02

Rule: Agents of Record shall be selected using competitive processes for Personal/Professional Services unless otherwise exempted through another portion of this rule. Competitive procurement need not be used for executing the purchase recommendations of Agents of Record who are selected by competitive proposals and who are acting on behalf of the College to provide purchase recommendations. If such agents are not selected by competitive processes, then each procurement an agent recommends on behalf of the College shall comply with these policies for the respective type and dollar value of procurement.

Comment: An agent is selected for and delegated to perform certain tasks on behalf of the College. An Agent of Record is designated to identify and recommend purchases in a certain area of expertise or endeavor. Such an agent may also be designated a "consultant" in special circumstances (although "consultant" is not the technically correct term for agency activities and its use may prevent legal remedies associated with agency activities).

In any case where a selection or recommendation is made by an Agent of Record for procurement on behalf of the College over the quotation threshold, the Agent of Record shall document the file with enough competitive information or reasons for lack thereof and with information which document that, in the Agent's judgement, the procurement is in the best interest of the College.

Agents may be used for the selection and procurement of such commodities and services as:

- Advertising (Radio/TV/Newspaper/Periodical)
- Employee Benefit Insurance
- General Insurance
- Investments
- Real Estate Activities
- Sales of Surplus Property
- Workers Compensation Insurance
- Others

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Speakers, Lecturers, and Performers

2.03

Rule: Competitive procurement need not be used for the procurement of the personal/professional services of Speakers, Lecturers and Performers.

Comment: Because the services of these individuals vary so greatly and are so unique to each individual, it is inappropriate to retain such services based upon any other consideration than the judgement of the College as to which provider best suits the needs of the College.

Travel Services

2.04

Rule: Competitive procurement need not be used for the procurement of travel and related services.

Comment: None.

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**Section Three
Exemptions From Competitive Procurement**

Advertising Services **3.00**

Rule: Competitive procurement need not be used for the procurement of all forms of advertising, regardless of dollar value.

Comment: None

Alcoholic Beverages **3.01**

Rule: Competitive procurement need not be used for the procurement of any type of Alcoholic Beverages.

Comment: Because the purchase of these commodities is so brand-specific, dependent upon subjective tastes, and subject to availability and substitution, it is inappropriate to purchase these items on a competitive selection basis. Where equal competition can be achieved in this field, it is certainly recommended.

Art and Other Products of the Creative Process **3.02**

Rule: Competitive procurement need not be used for the procurement of Art and Other Products of the Creative Process.

Comment: Products of "the creative process" could include such things as miscellaneous written materials, books, periodicals, computer generated art, lesson plans, electronic and electronically generated art, music in all its original forms, etcetera.

See also **Copyrighted Materials**.

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Athletic Supplies

3.03

Rule: Competitive procurement need not be used for the procurement of Athletic Supplies for internal use by college athletes; however, in all cases, educational discounts shall be requested from the selected supplier and costs shall be compared with those being offered to not less than two other similar institutions.

Comment: Athletic Supplies may be purchased by brand name definition in any quantities without competitive processes. In all cases where the value is greater than the quotation threshold, the file shall be documented with information supporting the purchase, the reason that it was inappropriate to obtain competitive information and the fact that an educational discount was sought.

See also **Resale (Purchases For)** and **Brand Names and Proprietary Product Names**

Banking Services

3.04

Rule: Competitive procurement need not be used for the procurement of Banking Services. Banking services shall be reviewed not less than once every five fiscal years. If it is desired to retain the current provider, a written determination shall be made that the current services are competitive, and it is in the best interest of the College to renew the services for up to another five years. If, for any reason a new provider is sought, competitive negotiations may take place between the College and any number of providers until an acceptable provider is selected.

Comment: Much like the selection of personal/professional services, it is generally recommended that banking services be reviewed in detail for competitive pricing not less than every five years and annually evaluated in regard to quality of service. It is recognized that a multiple of financial institutions, such as credit unions, banks and investment firms, be utilized to meet the College's varied need for checking accounts, VISA cards, credit card processing, student loan accounts, and investment accounts.

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Brand Names and Proprietary Product Names

3.05

Rule: Solicitation specifications shall not expressly or implicitly require any product of any particular manufacturer or seller except as authorized in these rules.

- 1) "Or Equal" Specification. The College may specify a particular brand name, make or product suffixed by "or equal", "or approved equal", "or equivalent", "or approved" equivalent", or similar language if there is no other practical method of specification.
- 2) Specifying a Particular Brand Name, Make, or Product. The College may specify a brand name, make, or product without an "or equal" or equivalent suffix if there is no other practical method of specification, after documenting the procurement file with the following information:
 - a) Specification of the brand name, mark or product would result in substantial cost savings to the College; or
 - b) Efficient utilization of existing equipment or supplies requires the acquisition of compatible equipment or supplies; or
 - c) All comments from potential suppliers on the issue (following a good faith effort to notify local or generally known suppliers of the specified product and inviting such suppliers to submit comments); or,
 - d) Findings of current market or product research to support the determination that the product is extremely unique and is available from only one seller.

When a brand name without the "or equal" option is used in a specification, the solicitation shall be documented with the rule under which the brand name is being activated. Use of brand names shall rest with the specifier; prior approval by an outside authority is not required.

Comment: Where there is more than one source of the desired item and the item is not available directly from the manufacturer or original equipment supplier and/or an active market exists for the item, the procurement shall be treated as any other for which there exists an active, competitive market, i.e., the procurement shall not be exempt from competitive processes even though brand names and/or proprietary product names may be used to specify the item.

See also **Sole Source Purchases**.

Commented [KH1]: 'Unique' does not need a qualifier

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Computer Hardware and Software

3.06

Rule: Competitive procurement need not be used for the procurement of Computer System Hardware and Software provided the hardware or software is required to match or be specifically compatible with existing equipment (see *Brand Names and Proprietary Product Names*) or that the items are copyrighted (see **Copyrighted Materials**) and available from only one source.

Comment: Where there are more than one reseller of software and/or hardware and the items are not available directly from the manufacturer or original equipment supplier and an active market exists, the procurement shall be treated as any other for which there exists an active, competitive market, i.e., the procurement shall not be exempt from competitive processes.

Copyrighted Materials

3.07

Rule: Competitive procurement need not be used for the procurement of copyrighted materials, regardless of dollar amount, if there is only one known supplier of such materials, or, the item(s) is/are being purchased directly from the manufacturer or copyright holder.

Comment: Examples of copyrighted materials typically covered by this exemption include, but are not limited to, magazines and other periodicals, textbooks, workbooks, curriculum kits, reference materials, audio tapes, video tapes, calculators such as those used for aircraft navigation, most software and products of the visual, aural and written arts. It should be noted that if there is more than one supplier of copyrighted materials (especially software) and the materials are not being purchased directly from the writer, manufacturer or other original source, every attempt should be made to establish a competitive selection process in order to achieve the greatest economy.

Also note that nothing herein applies to trademarks.

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Educational and Institutional Cooperative Service, Inc.

3.08

Commented [KH2]: We're no longer a member of this cooperative

Rule: Competitive procurement need not be used to conduct procurements through the Educational and Institutional Cooperative Service, Inc. (E & I Cooperative Service, Inc.). Oregon Coast Community College is a member of this legally established purchasing cooperative through its membership with the National Association of Educational Buyers. Purchases through the E & I Cooperative are exempt, regardless of dollar amount, from the requirements of competitive bidding and the requirements contract provisions.

Comment: Educational & Institutional Cooperative Service, Inc. is a not-for-profit buying cooperative which provides goods and services to its members at the best possible value. The Cooperative is owned by its membership of close to 2000 tax-exempt colleges, universities, prep schools, hospitals, medical research colleges and hospital purchasing organizations located throughout the United States.

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Emergencies

3.09

Rule: Competitive procurement need not be used for the procurement of any materials or services if an emergency exists and the emergency consists of circumstances creating a substantial risk of loss, damage, interruption of services, potential preventable loss of public funds or threat to public health or safety that could not have been reasonably foreseen and requires prompt execution of a contract to remedy the condition.

The Board of Education, President or delegate may declare the existence of the emergency, which shall authorize the College to enter into an emergency contract in accordance with [ORS 279.015 \(4\) and \(5\)](#) [ORS 279B.080](#). Immediately after the declaration, the President or delegate shall make written findings describing the emergency conditions that require prompt execution of the contract and of the harm anticipated to result from failing to establish the contract on a timely basis.

To the extent reasonable under the circumstances, competition shall be encouraged by attempting to make informal solicitations or to obtain informal quotations from potential suppliers of goods or services.

Following execution of an emergency contract the responsible representative of the College department requesting the emergency procurement shall:

- a) Record the measures taken to encourage competition, the amounts of the quotations or proposals obtained, if any, and the reason for selecting the contractor.
- b) If the total award exceeds the threshold for formal public bidding, the Board of Education shall be notified at its next available public meeting and provided with an opportunity to discuss the emergency, the award and ratification thereof.

Comment: [ORS 279.015 \(4\) and \(5\)](#) [ORS 279B.080](#) must be interpreted to mean that only the Board of Education may award a contract valued at ~~50,000~~ [\\$100,000](#) or greater on an emergency basis. Internal procedures for determination and award of emergency contracts have been established for contracts less than ~~50,000~~ [\\$100,000](#). The statute implies that an emergency meeting of the Board must be called to affirm the existence of the emergency and approve the award. The rule directly above shall be accepted as fulfilling the requirement in [ORS 279.015 \(5\)](#) for adoption of the required rule.

[OR 279.015\(4\)](#)

"A public contract also may be exempted from the requirements of subsection (1) of this section if:
(a) —Emergency conditions require prompt execution of the contract; or
(b) —In case of sale of surplus property."

[OR 279.015\(5\)](#) [ORS 279B.080](#)

(1) The head of a contracting agency, or a person designated under ORS 279A.075, may make or authorize others to make emergency procurements of goods or services in an emergency. The contracting agency shall document the nature of the emergency and describe the method used for the selection of the particular contractor.

(2) For an emergency procurement of construction services that are not public improvements, the contracting agency shall ensure competition for a contract for the emergency work that is reasonable and appropriate under the emergency circumstances. In conducting the procurement, the contracting agency shall set a solicitation time period that the contracting agency determines to be reasonable under the emergency circumstances and may issue written or oral requests for offers or make direct appointments without competition in cases of extreme necessity.

The director or board shall adopt rules allowing the governing body of a public agency and the officer of a public agency for contracts under \$50,000 to declare

ORS 279.011(4)

"Emergency" means not reasonable foreseeable circumstances that create a substantial risk of loss, damage, interruption of services or threat to the public health or safety that requires prompt execution of a contract to remedy the condition.

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Energy Management Controls Systems

3.10

Rule: Competitive procurement need not be used for Energy Management Controls Systems provided the hardware or software is required to match or be specifically compatible with existing equipment (see *Brand Name and Proprietary Product Name*) or that the items are available from only one source and the College has determined that competition does not exist.

Comment: In determining the appropriate procurement method for Energy Management Controls Systems or whether competition exists, the College may consider the following factors: the extent to which alternative providers exist in the relevant geographic and service market; the extent to which alternative services offered are comparable or substitutable in technology, service provided, and performance; the extent to which alternative providers can respond to the College's interests in consistency and continuity of services throughout its service area, volume discounts, equitable service for all users, centralized management, and limiting College liability.

Exceeding Thresholds for Quotations or Formal Bidding

3.11

Rule: When an award has been appropriately made in compliance with all applicable rules (i.e., a legal contract has been established), the resulting contract may be amended in conjunction with the prevailing rules for such alterations, even though the amended value may rise above a limit for obtaining quotations or for formal public bidding.

Comment: Such contracts need not be re-quoted or re-bid provided that they are amended appropriately and within the limitations of such amendments. If the limitations on amendments will be exceeded by a proposed amendment, either an exemption from public bidding must be sought or the project terminated and re-bid.

Fuels

3.12

Rule: Competitive procurement need not be used for the procurement of automotive and aviation gasoline, diesel fuel and lubricants if the College seeks competitive quotes from local suppliers (if available) and the College makes its purchase from the least expensive source which provides, but is not limited to, the best service in terms of fuel quality, delivery time and safety of delivery and transfer, and retains written justification for the purchase made.

Comment: Requirements contracts or spot purchases may be awarded for fuels. Emphasis should be on total compliance with federal, state and local safety requirements, including but not limited to training of contractor staff, performance evaluations and substance abuse testing when fuels are being delivered to the site of the College (such as would be the case when aircraft are being fueled or when the *in situ* tanks are being filled).

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Insurance 3.13

Rule: Competitive procurement need not be used for the procurement of any type of insurance provided that such insurance is procured through an agent (generally called an "Agent of Record"), who is designated for that purpose, selected through the processes for selection of personal/professional services, and authorized by the College to solicit applications for insurance or to negotiate insurance on its behalf. In all cases, insurance purchases recommended by an Agent shall be documented as to the selection process, the relative costs and reasons for the recommendation.

If an Agent of Record is not utilized, competitive processes involving quotations, bids or proposals shall be used for the procurement of insurance.

Comment: None.

Intergovernmental Purchases

3.14

Rule: Competitive procurement need not be used for the procurement of goods or services from another government agency or political subdivision when the provisions of [ORS 279.015 \(g\) \(A\)](#) [ORS 279A.025 \(2\) \(I\)](#) are satisfied.

Comment: None.

[ORS 279.015 \(g\) \(A\) & \(B\)](#) [ORS 279A.025 \(2\) \(I\)](#)
(I) An intergovernmental entity formed between or among:
(i) Governmental bodies of this or another state;
(ii) The federal government;
(iii) An American Indian tribe or an agency of an American Indian tribe;
(iv) A nation other than the United States; or
(v) A governmental body in a nation other than the United States;
(g)(A) Contracts between public agencies utilizing an existing solicitation or current requirement contract of one of the

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Intergovernmental Cooperative Purchasing Participation

3.15

Rule: Pursuant to ~~ORS 279.015 (g)(A)~~ ORS 279A.200-225 other governmental agencies, bodies or districts (hereinafter, "Participating Agencies" or "Colleges") may participate in any award resulting from any solicitation which has been accomplished in compliance with Oregon Statutes, as if said agencies had generated the solicitation and made the award on their own behalf.

The Contractor shall have the option of declining participation in any such agreement; that is, Contractor participation in work or sales resulting from intergovernmental agreements shall be voluntary.

If the Contractor chooses to participate in such agreements, all agency relationships including those for contract administration, ordering, deliveries, approvals, billing and collections shall be between the Participating College and the Contractor; the Originating Agency shall not participate in any aspects of commercial activity between the Contractor and the Participating Agency.

If the Contractor agrees to participate, all such participation shall be on the basis of the original solicitation, the resulting award and any legal changes thereafter, except that reasonable changes in pricing and terms may be negotiated between the Participating Agency and the Contractor to accommodate differences in delivery distances and local conditions. All such changes shall be solely between the Contractor and the Participating Agency.

Comment: In general, the results of any solicitation, formal or informal, which has taken place under the requirements of Oregon Statutes and has resulted in an award, and is current, i.e., not closed, terminated, in abeyance or in default, may be utilized by any other agency pursuant to ~~ORS 279.015 (g)(A)~~ ORS 279A.200-225. Even though an agreement under ~~ORS 279.015 (g)(B)~~ ORS 279A.215 (b) is not required, it is sound practice for each College to maintain a record of all users of their contracts and all contracts of other Colleges in which they are participating.

Investments

3.16

Rule: Competitive procurement need not be used for investment of public funds or other funds being administered by the College or the borrowing of funds when such investment or borrowing is contracted pursuant to duly enacted statute, ordinance, charter, or constitution.

Comment: The College will check the policies of donors and grantors of funds to ensure that no restrictions apply to interim or long-term investment of funds entrusted to the College.

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Medical, Dental and Scientific Laboratory Instruments and Supplies

3.17

Rule: Competitive procurement need not be used for the procurement of medical, dental and scientific laboratory instruments and supplies (supplies includes cadaveric organs, transplant organs, other transplant organs, other transplants and all medical/dental teaching supplies). Additionally, these supplies may be procured in any quantity and any dollar amount by use of Brand Names and Product Names, provided that such purchases comply with the requirements for use of **Brand Names and Proprietary Product** Names specification.

Comment: Where competition exists, it, is strongly recommended that competitive quotations be solicited and costs be compared.

Perishables (Chemicals, Food, Laboratory Supplies, etc.)

3.18

Rule: Competitive procurement need not be used for the procurement of perishables provided that the perishability and commensurate quality is greater importance than the cost to the College.

Comment: It is the intent to permit such items as foodstuffs and scientific supplies which have definitive shelf lives, and associated attributes such as quality and longevity, to be purchased without strict competitive processes based upon price. Shelf life and the associated attributes may be the determining factors. This exemption enables the buyer to decide on a source based upon time since manufactured, remaining shelf life, interim quality and various states of decay of the product. If longevity is not an issue and multiple sources exist, standard procurement practices shall be utilized.

Price Regulated Items

3.19

Rule: Competitive procurement need not be used for the procurement 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.

Comment: None.

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Professional Services, General

3.20

Rule: Every contract for Professional and Personal Services shall be based upon screening and selection procedures developed by the institution.

Where a particular Professional or Personal Services contractor has unique knowledge or skills, or has specialized knowledge or capabilities gained through years of cumulative service to the institution or through specialized events, and it is desirable to retain this body of experience, the institution may waive the requirement for a formal selection process and may authorize the award on the basis of a single source.

The institution may also waive the requirement for a competitive selection process if it is deemed to serve the best interests of the institution.

Comment: Examples of contractors which could qualify under this waiver are architects and engineers who have designed buildings for the institution and attorneys who have a preponderance of historical knowledge of institutional operations and legal affairs.

In general, sole source contracts for personal and professional services should be reviewed at least once every year for the propriety of continuation without a competitive selection process. Unless there are compelling reasons not to do so, competitive selection processes for personal and professional service contractors should take place at intervals not greater than three years.

Real Estate

3.21

Rule: Competitive procurement need not be used for the procurement and disposal of real estate.

Comment: Many real estate transactions must, of necessity, take place in private in order to ensure that public disclosure will not have negative effects upon price or other contractual considerations. If the College has the statutory authority to perform real estate transactions, all such transactions are considered to be external to the public procurement process (which is limited to the issues of personal property and services and excludes real property).

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Repair & Overhaul of Equipment and Maintenance Agreements

3.22

Rule: Competitive procurement need not be used for the procurement of Repair & Overhaul of Equipment and or Maintenance Agreements subject to the following conditions:

- (a) Service and/or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing; or
- (b) Service and/or parts required are for sophisticated equipment for which specially trained personnel are required and such personnel are available from only one source; or
- (c) Maintenance agreements must be procured from the provider of the equipment being maintained in order to be valid, preserve warranties, provide the best possible service or conform with other similar agreements being provided by the same provider for maximizing economy and/or servicing functions.

Comment: If it is practical to solicit quotations, bids or proposals for equipment repair, overhaul or maintenance agreements, then these processes should be utilized. If not, the file should be documented with the reasons for invoking this exemption and specifically supporting the impracticality of a competitive selection.

Resale (Purchases for)

3.23

Rule: Competitive procurement need not be used for the procurement of items being purchased by the College for resale.

Comment: This exemption applies to materials (goods) only. The exemption is intended to permit College auxiliary funds and like operations to compete on the open market without undue restrictions so that end-user customers can obtain pricing similar to that which characterizes private enterprises. Functions such as bookstores, food services, medical and dental stores, student automotive and mechanical stores, and miscellaneous student stores, (such as the resale of books and computers for instruction) are intended to be exempt from competitive purchasing policies *provided that the items are specifically for resale as opposed to internal use or consumption.*

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Space Rentals (hotels, conferences, temporary offices, etcetera)

3.24

Rule: Competitive procurement need not be used for the rental of real estate, floor space or other short or long-term rentals of physical space.

Comment: Many space rental transactions must, of necessity, take place in private in order to ensure that public disclosure will not have negative effects upon price or other contractual considerations. Additionally, rentals are subject to considerable personal judgement in the selection of the space, its availability, its surrounds, its geographical location, the landlord and the contract terms. Many of these items are not subject to negotiation or are extremely difficult to compare objectively. Moreover, many such rentals must be finalized in extremely short periods, occasionally within minutes, or the arrangement may be lost to another offeror. It is not in the best interest of the public to disadvantage the College by necessitating an arduous selection process for rentals of space which, of necessity, are highly subjective activities.

**Oregon Coast Community College
Model Contracting and Purchasing Rules**

Sole Source Purchases

3.25

Rules: Competitive procurement need not be used for the procurement of goods or services when the kind or type desired is available only from one source. The College may purchase a particular product or service available from only one source, after documenting the procurement file with findings of current market research to support the determination that the product is available from only one seller or source and,

- a) efficient utilization of existing equipment, supplies, or services requires the acquisition of compatible equipment, supplies, or services; or,
- b) instructional parameters suggest that such equipment, supplies, or services are the most appropriate method of achieving the goals and objectives of the courses being offered.

Comment: If there are multiple sellers of a brand named or single manufacturer's products or, services, the file should be documented as to why it is impractical to obtain competitive responses from the multiple sellers.

It is not the intent of this exemption to permit staff to specify their favorite products. Where staff specify a sole source item, the file shall be clearly documented with clear and precise reasons why that product, and that product only, will fulfill the needs and objectives of the instructional process being served.

It is the specific objective of these policies, within the bounds of good business practice and general public procurement requirements, to provide maximum support of all instructional initiatives. Considerable judgement must be exercised in the interpretation of these policies, both by the budget authority in defining the true need, and the procurement officer in permitting the requested exemption.

Where there is more than one source of the desired item and the item is not available directly from the manufacturer or original equipment supplier and an active market exists, the procurement shall be treated as any other for which there exists an active, competitive market, i.e., the procurement shall not be exempt from competitive processes.

See also **Brand Names and Proprietary Product Names**

Student Loan Collection Services

3.26

Rule: Competitive procurement need not be used for the procurement of Student Loan Collection Services provided that not greater than every three years a survey is conducted to ensure that fees being charged by the current provider are generally commensurate with the averages within the industry.

Comment: This exemption is not intended to preclude an informal or formal selection process for Student Loan Collection Services if the College desires such a process.

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Model Contracting and Purchasing Rules**

Used Personal Property

3.27

Rule: Competitive procurement need not be used for the procurement of Used Personal Property if the College has determined that the purchase will result in cost savings and will not diminish competition or encourage favoritism.

For purchases of used personal property or equipment costing \$10,000 or more, the College shall, where feasible, obtain three competitive quotations, unless such comparisons are highly impractical to obtain. Procurement files pertaining to Used Personal Property shall contain documentation of price comparisons and attempts to secure competitive pricing as much as in practical.

When the value of any such purchase exceeds the threshold for public bidding as may be set from time to time by the Board of Education, such purchases shall be authorized and/or delegated only by the College President who shall notify the Board of such purchases at the next regularly scheduled meeting of the Board of Education.

Comment: *Used Personal Property* is property which has been placed in use by a previous owner or user for a period of time recognized in the relevant trade or industry as qualifying the personal property or equipment as "used," at the time of purchase.

Used Personal Property generally does not include property or equipment of which the College' was the previous or current user, whether under a lease, as part of a demonstration, trial or pilot project, or similar arrangement.

The additional liberty for purchasing used personal property is essential for those who participate in auctions or other spot sales where it is impractical to utilize conservative procedures because of the necessities of the selling process.