

BEFORE THE COUNTY COURT
FOR MALHEUR COUNTY, OREGON



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I, Gayle V. Trotter, County Clerk for Malheur County,
Oregon certify that the instrument identified herein was
recorded in the Clerk records.

Gayle V. Trotter - County Clerk

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In the Matter of:

Resolution Adopting Malheur County Local Public)
Contracting Rules, Exempting Certain Classes of Contracts; and) R23-21
Adopting Rules for Personal Service Contracts)
)

SECTION 1. TITLE.

This Resolution shall be known as Malheur County's Local Public Contracting Rules.

SECTION 2. PURPOSE.

A. Pursuant to ORS 279A.065(6), a contracting agency that has not adopted its own rules of procedure in accordance with ORS 2798.065 is subject to the model rules adopted by the Attorney General at OAR Chapter, 125, Divisions 46, 47, 48 and 49 (the "Model Rules"). The County desires to have the Model Rules apply to public contracting by County Agencies, except for Personal Services Contracts, but including contracts for architectural, engineering and land surveying services. Therefore, the County adopts OAR Chapter 125, Division 48 with limited applicability.

B. Pursuant to ORS 279A.070, in addition to adopting Model Rules, a contracting agency may, in the exercise of authority granted under ORS 279A.050, adopt rules necessary to carry out the provisions of the Public Contracting Code (ORS 279A, 279B and 279C), including but not limited to rules for the procurement, management, disposal and control of goods, services, personal services and public improvements under the Public Contracting Code.

C. Pursuant to ORS 279B.085, the County may exempt certain contracts and classes of contracts (special procurements) from the requirements of ORS Chapter 279B.

D. The purpose of this Resolution is to adopt the Model Rules, as they may be amended, to adopt additional local rules necessary to carry out the provisions of the Public Contracting Code, including but not limited to rules for the procurement, management, disposal and control of goods, services, and public improvements under the Public Contracting Code; and to exempt certain contracts and classes of contracts from the requirements of ORS 279B.

SECTION 3. AUTHORITY.

This Resolution is adopted pursuant to ORS 279A.060, ORS 279A.065, ORS 279A.070, 279A.075, 279B.080, and ORS 279B.085.

SECTION 4. HISTORY.

Since approximately 1989, the County Court has adopted local rules governing procedures for solicitations, which have been amended from time to time.

The County's local contracting rules require updating to provide comprehensive rules in one document that are clear to county agencies and the public, as well as to be placed on the County website.

SECTION 5. ADOPTION.

The County Court hereby adopts the Malheur County Local Public Contracting Rules which are attached hereto as Attachment 1, and are incorporated herein by this reference.

SECTION 6. AMENDMENTS.

The County Court may amend the Malheur County Local Public Contracting Rules, attached hereto as Attachment 1, as may be necessary to comply with changes to Federal or Oregon law, or to correct scrivener's errors.

SECTION 7. REPEALER. The following are repealed:

Instrument Number 89-26257

Instrument Number 97-4469.

Resolution R00-24 recorded as instrument number 2000-8133

Resolution R02-18 recorded as instrument number 2002-7481

Resolution R04-13 recorded as instrument number 2004-2492

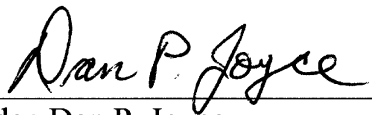
Resolution R05-04 recorded as instrument number 2005-1463

Resolution R08-02 recorded as instrument number 2008- 787

SECTION 8.

EFFECTIVE DATE.

This resolution shall be effective upon its adoption on August ^{9th} 2023.



Judge Dan P. Joyce



County Commissioner Ron Jacobs



County Commissioner Jim Mendiola

Malheur County
Local Contract Review Board Rules
(integrated through July 2023)

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I. Introduction.

A. Purpose of Rules. These rules are adopted by the Malheur County Court as the governing body of the County and as the Local Contract Review Board (LCRB) to establish rules and procedures for contracts entered into and purchases made by Malheur County. These rules apply to all County departments, offices, Malheur County Fair, Ambulance Service District and Malheur County Extension Service District, which are governed by the County Court and whose costs, capital improvements, equipment, materials and supplies are paid from funds held by the Malheur County Treasurer. It is the policy of the County in adopting these rules to utilize public contracting and purchasing practices and methods that maximize the efficient use of County resources and the purchasing power of county funds. by:

1. Promoting impartial and open competition;
2. Using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and
3. Taking full advantage of evolving procurement methods that suit the purchasing needs of the County as they emerge within various industries.

B. Interpretation. Except as specifically provided in these rules, public contracts and purchases shall be awarded, administered and governed according to ORS Chapters 279A, 279B and 279C (the “Public Contracting Code”) and the Attorney General’s Model Public Contract Rules, OAR Chapter 125, Divisions 46, 47, 48, and 49, as amended (“Model Rules”). OAR Chapter 125, Division 48 is adopted for the procurement of Architectural, Engineering, Land Surveying and Related Services if ORS 279C.100 applies to the procurement.

1. It is the County’s intent that these rules be interpreted to authorize the full use of all contracting and purchasing powers described in ORS Chapters 279A, 279B and 279C.
2. The Model Rules shall apply to the contracts and purchases of the County to the extent they do not conflict with the rules and regulations adopted by the LCRB.
3. In the event of a conflict between any provisions of these rules and the Model Rules, the provisions of these rules shall prevail.

C. Specific Provisions’ Precedence over General Provisions. In the event of a conflict between the provisions of these rules, the more specific provision shall take precedence over the more general provision.

- D. Conflict with Federal Statutes and Regulations.** Except as otherwise expressly provided in ORS Chapters 279A, 279B and 279C, applicable federal statutes and regulations govern when federal funds are involved.

II. Definitions.

Unless a different definition is specifically provided herein, or context clearly requires otherwise, the following terms have the meanings set forth herein. Additionally, any term defined in the singular includes the meaning of the plural, and vice versa.

- A. Emergency.** Circumstances that:
1. could not have been reasonably 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 or amendment in order to remedy the condition.
- B. Goods and/or services.** Supplies, equipment, materials and services, other than personal services, and any personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto. The term includes combinations of any of the items identified in the definition.
- C. Personal services.** As defined and classified herein. ORS 279A and in ORS 279C.100.
- D. Public improvement.** A project for construction, reconstruction or major renovation on real property, by or for the County. It does not include projects for which no funds of the County are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or emergency work, minor alteration, or ordinary repair or maintenance necessary to preserve a public improvement.

III. Authority.

- A. **County Court as Local Contract Review Board.** The Malheur County Court is designated as the Local Contract Review Board (LCRB) of the County and has all the rights, powers, and authority necessary to carry out the provisions of these rules, the Public Contracting Code, and/or the Model Rules.
- B. **Inapplicability of Rules.** These rules, the Public Contracting Code and Model Rules do not apply to certain contracts as set out in ORS 279A.025, which are adopted by the LCRB and incorporated herein by reference.
- C. **Authority of County Departments and Offices.** County departments and offices are authorized to:
1. Advertise for bids or proposals, when the purchase is included within the fiscal year budget of the County department or office.
 2. Purchase goods, services and/or property whenever proper procurement methods are utilized as set out in these rules, the expenditure is included in the fiscal year budget of the department or office; the County Administrative Officer is notified in advance and any contract for the expenditure is reviewed by County Counsel. Contracts/procurements for goods and services of \$25,000 and under may be signed the County Department Head or Elected Official; personal services contracts for \$10,000 or less may be signed by the County Department Head or Elected Official. All intergovernmental agreement must be signed by the County Court.
 3. Departments and offices shall timely communicate prospective purchases, contracts and grants to the County Administrative/ Budget Officer in advance.
 4. If the purchase is not budgeted, Department Heads and Officials must obtain authority from the County Court.
 5. Malheur County Fair Board. Pursuant to ORS 565.230, the Fair Board may conduct contracting activities relating to the fairground facilities and operations. Contracts for construction of public improvements or that transfer an interest in real property must be signed by the County Court. The Fair Board or Fair Manager in conducting procurement activities must comply with the applicable requirements of these rules.
 6. Service Districts. The Ambulance Service District and Malheur County Extension Service District must comply with the applicable requirements of these rules.

IV. Preferences.

- A. **Discretionary Oregon Preference pursuant to ORS 279A.128.** Pursuant to ORS 279A.128, the County may give preference to procuring goods that are fabricated or processed or services that are performed entirely within Oregon if the goods or services cost not more than 10% more than goods that are not fabricated or processed, or services that are not performed entirely within Oregon. A higher percentage may be set upon written order and findings of the LCRB. The determination to give preference under this paragraph shall be made on a case by case basis. If the County gives preference under this paragraph, the preference will be specified in the invitation (formal or informal) to bid or request for proposal, and the County shall comply with ORS 279A.128 and the Model Rules in applying the preference. Preference will not apply to emergency work, minor alterations, ordinary repairs or maintenance or to other construction contracts described in ORS 279C.320 (1).
- B. **Preference for emerging small business or business owned or controlled by disabled veterans.** Pursuant to ORS 279A.105, the County may give preference on a case by case basis to contractors that subcontract some part of a contract to, or obtain materials to be used in performing the contract from an emerging small business certified under ORS 200.055 and known to the County to draw its workforce from economically distressed areas, as designated by the Oregon Business Development Department, or a business enterprise that is owned or controlled by a disabled veteran, as defined in ORS 408.225. The County may determine on a case by case basis that "responsible bidder" or "responsible proposer" includes a responsible bidder as defined in ORS 200.005 that has made good faith efforts as prescribed in ORS 200.045(3). If the County determines it will give preference under this paragraph, the preference will be specified in the applicable invitation to bid or request for proposal, and the County shall comply with ORS 279A.105 and the Model Rules in applying the preference.
- C. **Mandatory Tie Breaker Preference for Oregon goods.** If price, fitness, availability, and quality are otherwise equal, preferences for Oregon goods as set out in ORS 279A.120 (2)(a) shall be applied prior to the contract award.
- D. **Reciprocal Preference.** Reciprocal preferences for resident/nonresident bidders must be given when evaluating bids, if applicable under ORS 279A.120 (2)(b).
- E. **Preference for Recycled Materials and Supplies.** Preferences for recycled goods shall be given when comparing goods, if applicable under ORS 279A.125.

V. General Provisions.

- A. **Public Notice.** Unless otherwise specifically provided by these rules, any notice required to be published by these rules may be published using any method appropriate, including but not limited to, mailing notice to persons that have requested notice in writing, placing notice on the county's website, or publishing in statewide trade or local publications.
- B. **Emergency Procurements.** The LCRB delegates to the County Judge and Administrative Officer its authorization to make emergency procurement of goods and services in an emergency pursuant to ORS 279B.080. The nature of the emergency shall be documented along with a description of the method used for selection of the particular contractor.
- C. **Files.** The County department or office soliciting goods or services is required to keep a procurement file for each solicitation. The file will contain requests for quotes, invitations to bid, requests for proposals, any amendments to a solicitation document, all quotes, bids and proposal received. Verbal quotes will be documented. Files will be maintained for a minimum retention period set forth in the Secretary of State's retention schedule or retention schedule (generally 2 – 10 years). Procurement files shall be made available to the County Court, Administrative Officer, auditors and County Counsel.
- D. **Feasibility Determination For Services over \$250,000.** ORS 279B.030 requires that except as provided in ORS 279B.036, before conducting a procurement for services, other than personal services, within an estimated contract price that exceeds \$250,000, the County must demonstrate by means of a written cost analysis in accordance with ORS 279B.033, that the County would incur less cost in conducting the procurement than in performing the services with the County's own personnel and resources; or demonstrate, in accordance with ORS 279B.036, that performing the services with the County's own personnel and resources is not feasible. Prior to issuing a procurement for services with an estimated contract price exceeding \$250,000, the County Department or Office conducting the procurement shall coordinate with County Counsel to draft the appropriate findings of feasibility.

VI. Source Selection Methods for Goods or Services, Other Than Personal Services (Implementing ORS 279B).

A. **Small Procurements.** Contracts for purchases of goods or services with a contract price of \$10,000 or less are small procurements.

1. Purchases \$10,000 or less. County departments and offices may utilize any procurement that is practical or convenient, including direct negotiation or award, for small procurements of goods or services with a contract price of \$10,000 or less.
2. Amendments. Small procurement contracts may be amended if the cumulative amendments do not increase the total contract price to more than twenty-five percent (25%) of the original contract price.
3. Public Notice. No public notice of small procurements is required.

B. **Intermediate Procurements.** Contracts for goods or services with a price greater than \$10,000 and less than or equal to \$150,000 are intermediate procurements.

1. Intermediate procurements shall be made by informal solicitation. When conducting an intermediate procurement, at least three informally solicited competitive quotes or proposals from prospective contractors will be sought. A written record of the sources of the quotes or proposals will be kept. If three quotes or proposals are not reasonably available, fewer will suffice, but a written record of the effort made to obtain the quotes or proposals will be made.
2. Negotiations. County departments and offices may negotiate with an offeror to clarify an informal solicitation, or to make modifications that will make the quote, proposal, or solicitation acceptable or more advantageous to the County.
3. Award. If a contract is awarded, the award will be made to the offeror whose competitive verbal quote or proposal or informal written offer will best serve the interests of the County, considering price or any other relevant considerations, including but not limited to, experience, expertise, product functionality, suitability for a particular purpose, delivery and contractor responsibility.
4. Amendments. Intermediate procurement contracts may be amended if the cumulative amendments do not increase the total contract price by more than twenty-five percent (25%) of the original contract price.
5. Public Notice. No public notice of an intermediate procurement is required.

C. Large Procurements. Contracts for goods or services with a contract price greater than \$150,000 are large procurements.

1. The county may use competitive sealed bidding as set forth in ORS 279B.055, or competitive sealed proposals as set forth in ORS 279B.060.
2. When using either competitive sealed bidding or competitive sealed proposals, the County shall follow the applicable procedures set out in the Model Rules.
3. The County shall apply the applicable procedure set out in the Model Rules for processing protests of large procurements.

D. Sole Source. The County may award a contract for goods and services without competition when the LCRB determines that the goods or services, or class of goods or services are available from only one source. To seek approval of a sole-source purchase, the Department Head or Official, in cooperation with the County Counsel, shall request that the LCRB approve the sole-source procurement. The request shall comply with ORS 279B.075, as amended, and shall provide to the LCRB the following written findings:

1. That the efficient utilization of existing goods requires the acquisition of compatible goods or services;
2. That the goods or services required for the exchange of software or data with other public or private agencies are available from only one source;
3. That the goods or services are for use in a pilot or experimental project; or
4. Other findings that support the conclusion that the goods and services are available from only one source.
5. The County Department or Office shall negotiate with a sole-source contractor to obtain contract terms reasonably advantageous to the County.
6. Public Notice. Required notices will be published and protests documented.

E. Emergency Procurements. The County Court, County Judge or Administrative Officer may make or authorize the procurement of goods and services in an emergency in accordance with ORS 279B.080. The nature of the emergency and description of the method used for the selection of the contractor shall be documented. For an emergency procurement of construction services that is not a public improvement, the County shall ensure competition for the emergency work is reasonable and appropriate under the circumstances. In conducting the procurement, the County shall set a solicitation time period that is reasonable under the circumstances and may issue written or verbal requests for offers and quotes or make direct appointments without competition in cases of extreme necessity.

F. Special Procurements. The LCRB may approve contract or class of contracts as special procurements in accordance with ORS 279B.085. To seek approval for a specific procurement, a Department Head or Official, in cooperation with the County Counsel, shall request that the LCRB approve the special procurement. The request shall comply with ORS 279B.085, as amended, and shall demonstrate how the use of the special procurement:

1. Is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts; and
2. Is reasonably expected to result in substantial cost savings to the County Department or Office or to the public; or
3. Otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with requirements that are applicable under ORS 279B.055 (competitive sealed bidding), 279B. 60 (competitive sealed proposals), 279B.065 (small procurement), 279B.070 (intermediate procurement), and rules adopted thereunder.
4. Public notice for special procurements for goods and services will be provided in the same manner as in ORS 279B.055(4).

G. **Cooperative Procurement.** The County may procure goods and services through Cooperative Procurement in accordance with ORS 279A.200 - 279A.225.

1. State of Oregon Cooperative Purchasing Program The County finds that the State of Oregon cooperative procurement program is an open and impartial competitive process and uses source selection methods substantially equivalent to those specified in ORS 279B.055 or 279B.060. The County may procure goods or services as a government member to the Oregon Cooperative Purchasing Program.
2. Purchasing through Other Jurisdictions' Competitive Procurement. The County may procure goods and services through another entity's permissive cooperative procurement in accordance with ORS 279A.200-279A.225. Notice is required to be given of any purchase over \$250,000. Department Heads or Officials shall coordinate with County Counsel and Administrative Officer regarding cooperative procurements exceeding \$250,000. The Department Head or Official will provide a written determination that its solicitation and award process is substantially equivalent to those identified in ORS 279B.055, 279B.060 or 279B.085, and that all cooperative procurement requirements have been met.

H. **Class of Contracts/Special Procurements.** The LCRB has exempted certain class contracts/special procurements from competitive procurement requirements pursuant to ORS 279B.085.

1. Renegotiations and amendments of existing contracts with incumbent contractors.
2. Advertising contracts. The County may purchase advertising contracts without competitive selection. This includes, but is not limited to, advertising and legal notices placed in general communications media such as newspapers, publications, radio, televisions and on the internet.
3. Election Supplies and Services. The County Clerk may purchase elections supplies and services without competitive selection, including, but not limited to, printing of official ballot, sample or test ballots, ballot envelopes, ballot counting equipment and software, and signs.
4. Equipment repair and overhaul. The County may contract for equipment repair, overhaul, or maintenance without competitive bidding or quotes, subject to the following conditions:
 - a. The services and/or parts required are unknown, and the cost cannot be determined without extensive preliminary dismantling or testing; or

- b. The service and/or parts required are for equipment for which specifically trained personnel are required, and such personnel are available from only one source; and
 - c. If a contract under this exemption exceeds \$150,000, the County must document in the procurement file the reasons why competitive bids or quotes were deemed impractical.
5. Gasoline, Diesel Fuel, Heating Oil, Lubricants, Asphalts and Rock. The County may enter into contracts for the purchase of gasoline, diesel fuel, heating oil, lubricants, asphalts and rock without formal competitive bidding, provided that the County:
- a. Solicits a minimum of three (3) competitive quotes,
 - b. Makes its purchases from the least expensive source, taking into consideration the costs of delivery or transportation; and
 - c. Retains written justification for the source selected for the purchase.
6. Publications and Copyrighted materials.
- a. The County may purchase library circulation materials, such as books and recordings, whether delivered in hard copy or electronically, without competitive selection.
 - b. The County may purchase subscriptions to newspapers and periodicals, whether delivered in hard copy or electronically, without competitive selection.
 - c. The County may purchase copyrighted materials without competitive selection when there is only one known supplier.
7. Laboratory and Medical Supplies (Jail, Health Department, Ambulance Service District). The County may specify or select laboratory and medical supplies on the basis of brand name, provided that the County:
- a. Purchases from the lowest-price vendor for any specific product and brand, and
 - b. Has a reasonable medical or scientific basis for the selection.
8. Investment contracts/ borrowing contracts. The County may contract for the purpose of the investment of public funds or the borrowing of funds without competitive selection. Institutional/residential commissaries and food services.
9. Purchase of used personal property. The County may purchase used personal property for \$150,000 or less without competitive bid, provided that:

- a. The County has determined that the direct purchase without competitive bidding will result in cost savings, and
 - b. For the purchases of used personal property over \$150,000, at least three (3) competitive quotes have been obtained, if available. If three (3) quotes are not available, a written record must be made of the attempt to obtain quotes.
10. Oil or Hazardous Material Removal. The County may enter into contracts without competitive selection when necessary to comply with a cleanup order issued under the authority granted the Department of Environmental Quality (DEQ) under ORS Chapter 466, especially ORS 466.605 through 466.680, provided that:
- a. The order necessitates the prompt establishment and performance of the contract in order to comply with laws regarding spill or release of oil or hazardous material that have created an emergency condition;
 - b. The order contains time limitations that do not permit hiring a contractor under the usual competitive selection procedures;
 - c. To the extent reasonable under the circumstances, the County has encouraged competition by attempting to make informal solicitations or to obtain informal quotes from potential suppliers of goods or services; and
 - d. The cleanup is conducted in accordance with the rules set forth at OAR 340-122-0205 to OAR 340-122-0360.
11. Commissaries and Food Services Malheur County Jail. Commissaries, food and kitchen supplies, food and services may be purchased without competitive quote or bid, when and if practical, three informal quotes are obtained. If three quotes or bids cannot be obtained the procurement file will be documented on attempt and method used to obtain three quotes.
12. Federal agreements where applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of the Oregon Public Contracting Code or these rules.
13. Sponsorship. Sponsorship agreements, under which the County or Fair received a gift or donation in exchange for recognition of the donor or the donor's products and services.

VI. Public Improvements (implementing ORS Chapter 279C).

- A. Competitive procurement procedures for public improvements.** Except as provided in ORS 279C.335, procurement of a public improvement shall be based on competitive bidding. The LCRB may exempt a public improvement contract or class of public improvement contracts from the competitive bidding requirements of ORS Chapter 279C. To seek approval of an exemption the Department Head or Official, in cooperation with County Counsel, shall request that the LCRB approve the exemption. The request shall comply with ORS 279C.335, as amended, and shall demonstrate to the LCRB that the findings required by 279C.335 can be made.
- B. Contracts exempt from performance bonds.** Pursuant to ORS 279C.390, the LCRB exempts contracts for public improvements for which the contract price does not exceed \$50,000 from performance and payment bond requirements unless the advertisement for bid, request for quotes or contract contains a provision that such bonds are required.
- C. Classes of contracts exempt from bid security.** Pursuant to ORS 279C.390, the LCRB exempts the following classes of contracts from bid security requirements unless the advertisement for bid, request for quotes or Contract contains a notification that such is required:
 - 1. Contracts for public improvements for which the Contract price does not exceed \$50,000.
 - 2. Contracts not involving a public improvement.

VII. Personal Services Contracts.

- A. Classification of Services as Personal Services.** The LCRB may classify specific types of services as personal services under ORS 279A.055 and ORS 279C.105.
- B. Definition and classification.** A personal services contract is a contract that calls for specialized skills, knowledge and resources in the application of highly technical or scientific expertise, or the exercise of professional, artistic or management direction or judgment, including but not limited to contracts for the services and related services of: accountants, appraisers, archeological services, artwork, attorneys, auditors, realtors, licensed professionals, and mediators. Contracts that are not personal service contracts include contracts for services that can generally be performed by an experienced competent person, whether the person is required to be licensed or not, including but not limited to contracts for: custodial services, document filing and storage, general labor, and repairs and maintenance services for buildings or equipment.
- C. Criteria.** The County may enter into a personal services contract with an independent contractor when:
 - 1. The work requires specialized skills, knowledge and resources in the

application of technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment;

2. The County intends to rely on the contractor's specialized skills, knowledge and expertise to accomplish the work;
3. The contractor will be selected primarily on the basis of a combination of price, experience, specific expertise, availability, project understanding, qualifications, capacity, responsibility and other factors; and
4. The contractor will indemnify and hold Malheur County harmless for all claims related to the contract and include Malheur County as an additional insured on all applicable insurance policies for the duration of the contract, unless the County Court or County Counsel determines good cause exist to exempt contractor from this provision.
5. The County Court will sign all personal service contracts. Department heads and elected officials may sign personal service contracts not exceeding \$10,000 when funds are authorized for expenditure in the department or office budget.

D. Direct Negotiations. Personal services may be procured through direct negotiations if:

1. The contract price does not exceed \$125,000 in any twelve month consecutive period or for a single project of work and is within a budgetary appropriation or approved by the County Court.
2. Confidential personal services, including special counsel, or professional or expert witnesses or consultants or human resource professionals, who are necessary to assist with pending or threatened litigation or other legal matters (i.e. release and settlement agreements) in which the County may have an interest.
3. The nature of the personal services is not project-driven but requires an ongoing, long-term relationship of knowledge and trust.
4. When the contract is needed in an emergency as authorized by the County Judge, County Court or County Administrative Officer and the nature of the emergency is documented.
5. Contracts for ambulance services for the County's Ambulance Service Area Plan (ASA Plan).
6. Current software and hardware maintenance.
7. Grant writing.
8. Litigation or legal services, which included attorneys, mediators, court reports, expert witnesses, arbitrators, investigators or trial consultants.
9. Consultant for architectural, engineering, photogrammetric mapping, transportation planning or land surveyor services not exceeding

\$100,000 - ORS 279C.110 (10).

10. A contract that does not exceed \$125,000 for the continuation of work by a contractor who performed preliminary studies, analysis or planning for the work under a prior contract may be directly awarded if the prior contract will significantly reduce the costs of, or risks associated with the work.
11. Agent of record for the purpose of acquiring insurance contracts.
12. Sole source. If services are available from only one contractor/provider; or the prospective contractor has specialized skills uniquely required for the performance of the services. Written findings demonstrating why the proposed contractor is the only contractor who can perform the desired services will be made and kept in the procurement file.
13. Technical support/ IS. Purchase of specialized IS Technical Support services, outside the scope of knowledge of the County IS department.
14. Amendments. Personal services contracts procured by direct negotiation pursuant to this section may be amended, provided the amendment is within the scope of the original contract and the cumulative amount of the amendments does not increase the total contract price by more than twenty- five percent (25%) over the original contract price; or the amendment is necessary to complete the work being performed and it would be unreasonable or impracticable to seek another contractor within the time frames needed to complete the work.
15. Public Notice. No public notice of personal services contracts procured by direct negotiations is required.

E. Informal Written Solicitations. An informal written solicitation process may be used for personal services when the contract price is more than \$125,000 but \$150,000 or less per twelve month consecutive period or for a single project.

1. An informal written solicitation shall solicit proposals from at least three (3) qualified contractors/providers. If three (3) qualified providers are not reasonably available, fewer shall suffice if the reasons three providers are not reasonably available are documented in the procurement file. The contractors/providers will be selected consistent with Malheur County's best interests.
2. Amendments. Personal services contracts procured by informal written solicitations or qualifications pursuant to this section may be amended, provided the amendment is within the scope of the original contract and the cumulative amount of the amendments does not increase the total

contract price by more than twenty-five percent (25%) over the original contract price; or the amendment is necessary to complete the work being performed and it would be unreasonable or impracticable to seek another provider within the time frames needed to complete the work.

3. Public Notice. No public notice of personal services contracts procured by informal written solicitations pursuant to this section is required.

F. Request for Proposals or Qualifications. A request for proposals or qualifications shall be used to procure personal services when the contract price is more than \$150,000 or the complexity of the project requires the use of a formal competitive process to determine whether a particular proposal is most advantageous to the County.

1. Request for Proposals or Qualifications. The request may include:
 - a. Notice of any pre-offer conference, including:
 - i. The time, date and location;
 - ii. Whether attendance at the pre-offer conference is mandatory or voluntary; and
 - iii. A provision that statements made by representatives of the County at the pre-offer conference are not binding unless confirmed by written addendum.
 - b. The form and instructions for submission of proposals, including the location where proposals must be submitted, the date and time by which proposals must be received and any other special information, e.g., whether proposals may be submitted by electronic means;
 - c. The name and title of the person designated for the receipt of proposals and the person designated as the contact person for the procurement, if different;
 - d. A date, time and place that pre-qualification applications, if any, must be filed and the classes of work, if any, for which proposers must be pre-qualified;
 - e. A statement that the County may, in its sole discretion, cancel the procurement or reject any or all proposals;
 - f. The date, time and place of opening;
 - g. The office where the request for proposals may be reviewed;
 - h. A description of the personal services to be procured;
 - i. The evaluation criteria;
 - j. The anticipated schedule, deadlines, evaluation process and protest process;

- k. A description of the manner in which proposals will be evaluated;
 - l. If more than one tier of competitive evaluation will be used, a description of the process under which the proposals will be evaluated in the subsequent tiers;
 - m. If contracts will be awarded to more than one personal services contractor, an identification of the manner in which the County will determine the number of contracts to be awarded, or that the manner will be left to the County's discretion at time of award;
 - n. All required contract terms and conditions, including the statutorily required provisions in ORS 279B.220, 279B.230 and 279B.235;
 - o. Any terms and conditions authorized for negotiation; and
 - p. Additional information may be requested by County. Interviews may be conducted. Screening may be made by committee, department head or official. Price will not be the only factor considered for final selection. Selection will be based on factors, such as: a contractor's capability, experience, project approach, references and other factors identified by the County.
 - q. Public Notice. The County shall provide public notice of request for proposals or qualifications for personal services. Public notice shall be given not less than ten (10) calendar days prior to closing for the request for proposals or qualifications, unless it is determined that a shorter interval is in the public's interest, or a shorter interval will not substantially affect competition. The specific reasons for the shorter public notice period will be documented in the procurement file.
2. Amendments. Personal services contracts procured by requests for proposals pursuant to this section may be amended, provided the amendment is within the scope of the original contract and the cumulative amount of the amendments does not increase the total contract price by more than twenty-five percent (25%) over the original contract price; or the amendment is necessary to complete the work being performed and it would be unreasonable or impracticable to seek another provider within the time frames needed to complete the work

G. Multi-year personal service contracts. The County Court may enter into personal services contracts over multiple years, renewable each fiscal year or for such length of time as the County Court determines is necessary.

H. Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, Land Surveying and Related Services. Pursuant to ORS 279C.100 through ORS 279C.120, solicitations and contracting with a consultant for architectural, engineering, photogrammetric mapping, transportation planning, land surveying, and related services as defined in

ORS 279C.100(8) will be conducted as follows:

1. The County may contract directly with a consultant if the estimated fee to be paid under contract does not exceed \$100,000. ORS 279C.110 (10).
2. The County may contract with a consultant using the Informal Selection Procedure set forth in OAR 137-048-0210 if the estimated fee to be paid under the contract does not exceed \$250,000.
3. The County may contract with a consultant under a price agreement established in the manner set forth in OAR 137-048-270.
4. The County may contract with a consultant following the selection procedures set forth in ORS 279C.110.

VIII. Surplus Property.

1. Prior to offering surplus property for public sale, the County Administrative Officer can make surplus property available for sale or direct transfer with or without remuneration to:
 - a. state, federal or other public agencies;
 - b. political subdivisions of the state, which includes municipalities and special districts; any recognized non-profit organization which is eligible to receive surplus
 - c. any sheltered workshop, work activity center, group care home or any other organization which operate under contract or agreement with, or grant, from the state or a federal agency; or
 - d. any governmental agency, public corporation, or public service organization providing a public service or for accomplishing a public purpose.
2. County surplus property acquired by or transferred to the entities listed above may not be used or any purpose other than for the entity's official public programs, and may not be resold or redistributed unless pre-approved by the County.
3. The County Administrative Officer may directly negotiate the sale of surplus property and not offer it for public sale if the property is valued at \$500 or less or is inoperable and not reasonably repairable, the County has unsuccessfully attempted to sell the property, or when in the judgment of the County Administrative Officer the property is of such little value or benefit that it should be disposed of.
4. Unless otherwise stated in these rules, the County will conduct public sales for the disposal of county surplus property. Methods of disposal may include, but not be limited to, internet auctions, oral auctions, sealed bids and/or fixed price retail sales.
5. The County reserves the right to reject any and all bids regarded as not in the best interests of the County.
6. All items will be sold to the highest bidder. All property will be offered "AS IS, WHERE IS" with no warranty or other guarantee as to its condition or fitness for any use or purpose. A purchaser or disappointed bidder will have no recourse against the County, its officers, employees or agents. All sales will be final.

7. For vehicles, receipt of payment of the sale price and deliver of keys to the purchaser constitutes delivery and possession. The County rejects any liability once a purchaser takes possession of a vehicle. The purchaser is responsible for trip permits, driver's license and insurance when driving an unlicensed vehicle.
8. Bid security, tender of payment and other terms and conditions of sales are within the absolute discretion of the County.
9. If no bids are received or accepted by the County for a particular surplus item the County may directly negotiate a sale.