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For more information on how to be prepared for an outage, visit www.epud.org.

Connect With Us
33733 Seavey Loop, Eugene, OR 97405
Phone: 541-746-1583
Toll-free: 800-422-4086
Fax: 866-284-7953
Website: www.epud.org
Email: customerservice@epud.org

Follow us for the latest news, outage updates, energy saving tips, and more!

Office Hours
Monday through Thursday, 7:30 a.m.-6 p.m., excluding holidays:
- New Year’s Day
- Independence Day
- Thanksgiving
- Memorial Day
- Labor Day
- Christmas Day

2017 Purchasing Authority Manual
Effective January 1, 2017
EMERALD PEOPLE’S UTILITY DISTRICT
Purchasing Policy Manual

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3311 Purchasing Authority
The General Manager or her/his designee shall be the District purchasing authority and shall be responsible for obtaining the maximum quality of needed goods and services at the lowest possible quotations. This authority may be delegated to other administrative officers to meet special needs.

3313 Local Purchasing
If price and quality are the same, the Board allows preference to be given to vendors within the County.

3321 Public Contract Regulations

1. Public Contracts – District Policy.

   A. Short Title. The provisions of this subsection and all rules adopted under this subsection may be cited as Emerald People’s Utility District’s Public Contracting Regulations.

   B. Purpose of Public Contracting Regulations. It is the policy of the District in adopting the Public Contracting Regulations to utilize public contracting practices and methods that maximizes the efficient use of public resources and the purchasing power of public 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 contracting needs of the District as they emerge within various industries.

   C. Interpretation of Public Contracting Rules. In furtherance of the purpose of the objectives set forth in subsection B, it is the District’s intent that Emerald People’s Utility District’s Public Contracting Regulations be interpreted to authorize the full use of all contracting powers and authorities described in ORS Chapters 279A, 279B and 279C.

2. Application of Public Contracting Regulations.

   In accordance with ORS 279A.025, the District’s public contracting regulations and the Oregon Public Contracting Code do not apply to the following classes of contracts.


A. **Between Governments.** Contracts between the District and a public body or agency of the State of Oregon or its political subdivisions, or between the District and an agency of another state or the federal government.

B. **Grants.** A grant contract is an agreement under which the District is either a grantee or a grantor of moneys, property or other assistance, including loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other assets, for the purpose of supporting or stimulating a program or activity of the grantee and in which no substantial involvement by the grantor is anticipated in the program or activity other than involvement associated with monitoring compliance with the grant conditions. The making or receiving of a grant is not a public contract subject to the Oregon Public Contracting Code; however, any grant made by District for the purpose of constructing a public improvement or public works project shall impose conditions on the grantee that ensure that expenditures of the grant to design or construct the public improvement or public works project are made in accordance with the Oregon Public Contracting Code and these regulations.

C. **Legal Witnesses and Consultants.** Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the District is or may become interested.

D. **Real Property.** Acquisitions, leases or disposals of real property or interests in real property.

E. **Oregon Corrections Enterprises.** Procurements from an Oregon corrections enterprises program.

F. **Finance.** Contracts, agreements or other documents entered into, issued or established in connection with:

(1) The incurring of debt by the District, including any associated contracts, agreements or other documents, regardless of whether the obligations that the contracts, agreements or other documents establish are general, special or limited;

(2) The making of program loans and similar extensions or advances of funds, aid or assistance by the District to a public or private Person for the purpose of carrying out, promoting or sustaining activities or programs authorized by law other than for the construction of public works or public improvements;

(3) The investment of funds by the District as authorized by law, or

(4) Banking, money management or other predominantly financial transactions of the District that, by their character, cannot practically be established under the competitive contractor selection procedures, based upon the findings of the Purchasing Manager.

H. **Exempt Under State Laws.** Any other public contracting specifically exempted from the Oregon Public Contracting Code by another provision of law.

I. **Federal Law.** Except as otherwise expressly provided in ORS 279C.800 to 279C.870, 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 regulations, or require additional conditions in public contracts not authorized by the Oregon Public Contracting Code or these regulations.

3. **Public Contracts – Regulation by Local Contract Review Board.**

Except as expressly delegated under these regulations, the District Board reserves to itself the exercise of all of the duties and authority of a local contract review board and a contracting agency under state law, including, but not limited to, the power and authority to:
A. **Solicitation Methods Applicable to Contracts.** Approve the use of contracting methods and exemptions from contracting methods for a specific contract or certain classes of contracts;

B. **Brand Name Specifications.** Exempt the use of brand name specifications for public improvement contracts;

C. **Waiver of Performance and Payment Bonds.** Approve the partial or complete waiver of the requirement for the delivery of a performance or payment bond for construction of a public improvement, other than in cases of emergencies;

D. **Electronic Advertisement of Public Improvement Contracts.** Authorize the use of electronic advertisements for public improvement contracts in lieu of publication in a newspaper of general circulation;

E. **Appeals of Debarment and Prequalification Decisions.** Hear properly filed appeals of the General Manager or purchasing agent’s determination of debarment, or concerning prequalification;

F. **Rulemaking.** Adopt rules under ORS 279A.065 and ORS 279.070 including, without limitation, rules for procurement, management, disposal and control of goods, services and public improvements;

G. **Award.** Award all contracts that exceed the authority of the General Manager or Purchasing Agent.

4. **Public Contracts – Model Rules.**

The Model Rules adopted by the Attorney General under [ORS 279A.065](https://leg.state.or.us/billsearch/) (Model Rules) are hereby adopted as the public contracting rules for the District, to the extent that the Model Rules do not conflict with the provisions of this subsection including any amendments to this subsection, and further provide that, despite the provisions of the Model Rules concerning the selection of architects, engineers, land surveyors and related consultants, the District’s evaluation of architects, engineers, land surveyors and related consultants may include price as a dominant criterion for selection.

5. **Public Contracts – Authority of General Manager and Department Heads.**
A. General Authority. The General Manager shall have purchasing authority for the District and is hereby authorized to award all District contracts for which there is an appropriation. Subject to the provisions of this subsection, the General Manager may adopt and amend all rules, regulations, procedures and forms required or permitted to be adopted by contracting agencies under the Oregon Public Contracting Code or otherwise convenient for the District’s contracting needs. Without limiting the generality of the foregoing, the General Manager shall hear all solicitation and award protests. Notwithstanding the authority of the General Manager, any contract for goods and services or any public improvement contract that exceeds $250,000 must be approved by the local contract review board.

(1) Department Heads. The Department Heads shall have purchasing authority for their departments for goods and services so long as the contract does not exceed $60,000, and the duration of the contract does not exceed 3 years. Department Heads must follow the procedures in ORS 279B.065 or ORS 279B.070 as appropriate.

B. Standards for Contracting Rules. These rules are intended to confirm the District’s policies that:

(1) Do not encourage favoritism or substantially diminish competition;

(2) Allow the District to take advantage of the cost-saving benefits of alternative contracting methods and practices;

(3) Give preference to goods and services that have been manufactured or produced in Lane County and the State of Oregon if price, fitness, availability and quality are otherwise equal; and

(4) Give preference to goods that are certified to be made from recycled products when such goods are available, can be substituted for non-recycled products without a loss in quality, and the cost of goods made from recycled products is not significantly more than the cost of goods made from non-recycled products.
C. **Delegation of General Manager’s Authority.** Any of the responsibilities or authorities of the General Manager under this subsection may be delegated to the Purchasing Agent and or sub-delegated by administrative order. Notwithstanding the above, any contract for goods and services or any public improvement contract that exceeds $150,000 must be approved by the General Manager.

D. **Mandatory Review of Rules.** Whenever the Oregon State Legislative Assembly enacts laws that cause the Attorney General to modify its Model Rules, the General Manager shall review the District’s Public Contracting Regulations and recommend to the Local Contract Review Board or adopt any modifications required to ensure compliance with statutory changes.

6. **Public Contracts – Definitions.** The following terms used in these regulations shall have the meanings set forth below.

**Award** means the selection of a person to provide goods, services or public improvements under a public contract. The award of a contract is not binding on the District until the contract is executed and delivered by District.

**Bid** means a binding, sealed, written offer to provide goods, services or public improvements for a specified price or prices.

**Contract price** means the total amount paid or to be paid under a contract, including any approved alternates, and any fully executed change orders or amendments.

**Contract review board or local contract review board** means the District’s Local Contract Review Board.

**Cooperative procurement** means procurement conducted by or on behalf of one or more contracting agencies.

**Debarment** means a declaration by the General Manager or District under ORS 279B.130 or ORS 279C.440 that prohibits a potential contractor from competing for the District’s public contracts for a prescribed period of time.

**Department Head** means District personnel with direct responsibility for their Department and the budget of the Department.

**Disposal** means any arrangement for the transfer of property by the District under which the District relinquishes ownership.

**Emergency** means circumstances that could not have been reasonable foreseen, creates a substantial risk of loss, damage or interruption of services or a substantial threat to
property, public health, welfare or safety; and require prompt execution of a contract to remedy the condition.

**Findings** are the statements of fact that provide justification for a determination. Findings may include, but are not limited to, information regarding operation, budget and financial data; public benefits; cost savings; competition in public contracts; quality and aesthetic considerations; value engineering; specialized expertise needed; public safety; market conditions; technical complexity; availability, performance, and funding sources.

**Goods** means any item or combination of supplies, equipment, materials or other personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto.

**Informal solicitation** means a solicitation for goods and services made in accordance with the District’s Public Contracting Regulations to a limited number of potential contractors, in an amount less than $150,000., in which the Purchasing Agent attempts to obtain at least three written quotes or proposals. The informal solicitation process may also be used for public improvement contracts that do not exceed $100,000. A procurement may not be artificially divided or fragmented to circumvent competitive bidding requirements under this chapter.

**Invitation to bid** means a publicly advertised request for competitive sealed bids.

**Model Rules** means the public contracting rules adopted by the Attorney General under ORS 279A.065.

**Offeror** means a person who submits a bid, quote or proposal to enter into a public contract with the District.

**Oregon Public Contracting Code** means ORS chapters 279A, 279B and 279C.

**Person** means a natural person or any other private or governmental entity, having the legal capacity to enter into a binding contract.

**Proposal** means a binding offer to provide goods, services or public improvements with the understanding that acceptance will depend on the evaluation of factors other than, or in addition to, price. A Proposal may be made in response to a request for proposals or under an informal solicitation.

**Personal services contract** means a contract with an independent contractor predominantly for services that require special training or certification, skill, technical, creative, professional or communication skills or talents, unique and specialized
knowledge, or the exercise of judgment skills, and for which the quality of the service depends on attributes that are unique to the service provider. Such services include, but are not limited to, the services of architects, engineers, land surveyors, attorneys, auditors, and other licensed professionals, artists, designers, computer programmers, performers, consultants, and property managers. The General Manager or the Local Contract Review Board shall have discretion to determine whether additional types of services not specifically mentioned in this paragraph fit within the definition of personal services.

**Public contract** means a sale or other disposal, or a purchase, lease, rental or other acquisition, by the District of personal property, services, including personal services, public improvements, public works, minor alterations or ordinary repair or maintenance necessary to preserve a public improvement.

**Public improvement** means a project for construction, reconstruction or major renovation on real property by or for the District. “Public improvement” does not include:

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

**General Manager** means the District’s General Manager or designee appointed by the General Manager to exercise the authority of the General Manager under these public contracting regulations.

**Qualified pool** means a pool of vendors who are pre-qualified to compete for the award of contracts for certain types of contracts or to provide certain types of services.

**Quote** means a price offer made in response to an informal or qualified pool solicitation to provide goods, services or public improvements.

**Request for proposals** means a publicly advertised request for sealed competitive proposals.

**Services** means and includes all types of services (including construction labor) other than personal services.

**Solicitation** means an invitation to one or more potential contractors to submit a bid, proposal, quote, statement of qualifications or letter of interest to the District with respect to a proposed project, procurement or other contracting opportunity. The word
“solicitation” also refers to the process by which the District requests, receives, and evaluates potential contractors and awards public contracts.

**Purchasing Agent** means with respect to a particular solicitation, the Purchasing Agent or person designated by the General Manager to conduct solicitation and make award.

**Solicitation documents** means all informational materials issued by the District for a solicitation including, but not limited to, advertisements, instructions, submission requirements and schedules, award criteria, contract terms and specifications, and all laws, regulations, and documents incorporated by reference.

**Standards of responsibility** means the qualifications of eligibility for award of a public contract. An offeror meets the standards of responsibility if the offeror has:

1. Available the appropriate financial, material, equipment, facility, and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to indicate the capability of the offeror to meet all contractual responsibilities;

2. A satisfactory record of performance. The Purchasing Agent shall document the record of performance of an offeror if the Purchasing Agent finds the offeror to be not responsible under this paragraph;

3. A satisfactory record of integrity. The Purchasing Agent shall document the record of integrity of an offeror if the Purchasing Agent finds the offeror to be not responsible under this paragraph;

4. Qualified legally to contract with the District;

5. Supplied all necessary information in connection with inquiry concerning responsibility. If the offeror fails to promptly supply information requested by the Purchasing Agent concerning responsibility, the Purchasing Agent shall base the determination of responsibility upon any available information or may find the offeror non-responsible; and

6. Not been debarred by the District, and, in case of public improvement contracts, has not been listed by the Construction Contractors Board as a contractor who is not qualified to hold a public improvement contract.

**Surplus property** means personal property owned by the District that is no longer needed for use by the department to which such property has been assigned.
7. **Public Contracts - Process for Approval of Special Solicitation Methods and Exemptions.**

A. **Authority of Local Contract Review Board.** In its capacity as contract review board for the District, the Local Contract Review Board, upon its own initiative, or upon request of the General Manager, may create special selection, evaluation, and award procedures for, or may exempt from competition, the award of a specific contract or class of contracts as provided in this section 7.

B. **Basis for Approval.** The approval of a special solicitation method or exemption from competition must be based upon a record before the Local Contract Review Board that contains the following:

1. The nature of the contract or class of contracts for which the special solicitation or exemption is requested;
2. The estimated contract price or cost of the project, if relevant;
3. Findings to support the substantial cost savings, enhancement in quality or performance or other public benefit anticipated by the proposed selection method or exemption from competitive solicitation;
4. Findings to support the reason that approval of the request would be unlikely to encourage favoritism or diminish competition for the public contract or class of public contracts, or would otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the solicitation requirements that would otherwise be applicable under these regulations;
5. A description of the proposed alternative contracting methods to be employed; and
6. The estimated date by which it would be necessary to let the contract(s).

In making a determination regarding a special selection method, the Local Contract Review Board may consider the type, cost, amount of the contract or class of contracts, number of persons available to make offers, and such other factors as it may deem appropriate.
C. Hearing.

(1) The District shall approve the special solicitation or exemption after a public hearing before the Local Contract Review Board following notice by publication in at least one newspaper of general circulation in the District area;

(2) At the public hearing, the District shall offer an opportunity for any interested party to appear and present comment;

(3) The Local Contract Review Board will consider the findings and may approve the exemption as proposed or as modified by the Local Contract Review Board after providing an opportunity for public comment.

D. Special Requirements for Public Improvement Contracts.

(1) Notification of the public hearing for exemption of a public improvement contract, or class of public improvement contracts, shall be published in a trade newspaper of general statewide circulation at least 14 days prior to the hearing;

(2) The notice shall state that the public hearing is for the purpose of taking comments on the District’s draft findings for an exemption from the standard solicitation method. At the time of the notice, copies of the draft findings shall be made available to the public.

E. Commencement of Solicitation Prior to Approval. A solicitation may be issued prior to the approval of a special exemption under this section 7, provided that the closing of the solicitation may not be earlier than five days after the date of the hearing at which the Local Contract Review Board approves the exemption. If the Local Contract Review Board fails to approve a requested exemption or requires the use of a solicitation procedure other than the procedures described in the issued solicitation documents, the issued solicitation may either be modified by addendum, or cancelled.


The following classes of public contracts and the method(s) that are approved for the award of each of the classes are hereby established by the Local Contract Review Board:

A. (Removed.)

B. Public Improvement Contracts.
(1) **Any Public Improvement.** Unless otherwise provided in these regulations, approved for a special exemption, or contained in ORS 279(c), public improvement contracts shall be based on competitive bids;

(2) **Non-Transportation Public Improvements Up to $100,000.** Public improvement contracts other than contracts for a highway, bridge or other transportation project for which the estimated contract price does not exceed $100,000 may be awarded using an informal solicitation for quotes as provided by ORS 279C.412.

A procurement may not be artificially divided or fragmented to circumvent competitive bidding requirements under this chapter.

C. **Personal Services Contracts.** Except as otherwise provided in these regulations, personal service contracts may be awarded in the same manner as contracts for services under ORS 279B.050, and 279B.060 to 279B.085.

(1) **Any Personal Services Contract.** Personal services contracts in any amount may be awarded under a publicly advertised request for competitive sealed proposals;

(2) **Personal Service Contracts Not Exceeding $150,000.** Contracts for personal services for which the estimated contract price does not exceed $150,000 may be awarded using an informal solicitation for proposals;

(3) **Award from Qualified Pool $75,000.** Contracts for personal services for which the estimated contract price does not exceed $75,000 may be awarded by direct appointment without competition from a Qualified Pool;

(4) **Personal Service Contracts Not Exceeding $20,000 Per Year.** Contracts for which the General Manager estimates that payments will not exceed $20,000 in any fiscal year or $150,000 over the full term, including optional renewals, may be awarded under any method deemed in the District’s best interest by the General Manager, including by direct appointment;

(5) **Personal Service Contracts for Continuation of Work.** Contracts of not more than $150,000 for the continuation of work by a contractor who performed preliminary studies, analysis or planning for the work under a prior contract may be awarded without competition if the prior contract was awarded under a competitive process and the General Manager determines that use of the original contractor will significantly reduce the costs of, or risks associated with, the work.

(6) **Local Contract Review Board.** Local contract review board approval is required for any personal services contract that exceeds $150,000.
D. Hybrid Contracts. The following classes of contracts include elements of construction of public improvements as well as personal services and may be awarded under a request for proposals, unless exempt from competitive solicitation.

(1) Design/Build and CM/GC Contracts. Contracts for the construction of public improvements using a design/build or construction manager/general contractor construction method shall be awarded under a request for proposals. The determination to construct a project using a design/build or construction manager/general contractor construction method must be approved by the General Manager or Local Contract Review Board or designee, upon application of the Purchasing Agent, in which the Purchasing Agent submits facts that support a finding that the construction of the improvement under the proposed method is likely to result in cost savings, higher quality, reduced errors or other benefits to the District.

(2) Energy Savings Performance Contracts. Unless the contract qualifies for award under another classification in this section, contractors for energy savings performance contracts shall be selected under a request for proposals in accordance with the District’s Public Contracting Regulations.

E. Contracts for Goods and Services.

(1) Any Procurement. Except as otherwise provided, the procurement of goods or services, or goods and services in any amount may be made under either an invitation to bid or a request for proposals.

(2) Procurements Up to $150,000. The procurement of goods or services, or goods and services for which the estimated contract price does not exceed $150,000, may be made under an informal solicitation for either quotes or proposals.

(3) Procurements of $10,000. or less. The procurement of goods or services that does not exceed $10,000 may be awarded in any manner deemed practical or convenient, including by direct selection or award.
F. Contracts Subject to Award at Purchasing Agent’s Discretion. The following classes of contracts may be awarded in any manner which the Purchasing Agent deems appropriate to the District’s needs, including by direct appointment or purchase. Except where otherwise provided, the Purchasing Agent shall make a record of the method of award.

(1) Advertising. Contracts for the placing of notices or advertisements in any medium.

(2) Amendments and Renewals. Contract amendments and renewals shall not be considered to be separate contracts so long as the amendment/renewal and original contract do not exceed the applicable monetary limitations in ORS 279B.065 or ORS 279B.070 and are otherwise made in accordance with the Public Contracting Regulations.

(3) Copyrighted Materials; Library Materials. Contracts for the acquisition of materials entitled to copyright, including but not limited to, works of art and design, literature and music, or materials even if not entitled to copyright, purchased for use as library lending materials.

(4) Equipment Repair. Contracts for equipment repair or overhauling provided the service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing.

(5) Government Regulated Items. Contracts for the purchase of items for which prices or selection of suppliers are regulated by a governmental authority.

(6) Insurance. Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145.

(7) Non-Owned Property. Contracts or arrangements for the sale or other disposal of abandoned property or other personal property not owned by the District.

(8) Sole Source Contracts. Contracts for goods or services which are available from a single source may be awarded without competition.

(9) Specialty Goods for Resale. Contracts for the purchase of specialty goods by District for resale to consumers.

(10) Sponsor Agreements. Sponsorship agreements, under which the District receives a gift or donation in exchange for recognition of the donor.

(11) Structures. Contracts for the disposal of structures located on District-owned property.

(12) Temporary Use of District-Owned Property. The District may negotiate and enter into a license, permit or other contract for the temporary use of District owned property without using a competitive selection process if:

(a) The contract results from an unsolicited proposal to the District based on the unique attributes of the property or the unique needs of the proposer;
(b) The proposed use of the property is consistent with the District’s use of the property and the public interest; and

(c) The District reserves the right to terminate the contract without penalty, in the event that the District determines that the contract is no longer consistent with the District’s present or planned use of the property or the public interest.

(13) **Used Property.** The Purchasing Agent, for procurements up to $20,000, and the General Manager, for procurements in excess of $20,000 may contract for the purchase of used property by negotiation if such property is suitable for the District’s needs and can be purchased for a lower cost than substantially similarly new property. For this purpose the cost of used property shall be based upon the life-cycle cost of the property over the period for which the District will use the property. The General Manager shall record the findings that support the purchase.

(14) **Utilities.** Contracts for the purchase of steam, power, heat, water, telecommunications services, and other utilities.

G. **Contracts Required by Emergency Circumstances.**

(1) **In General.** When an official with authority to enter into a contract on behalf of the District for goods and services determines that immediate execution of a contract within the official’s authority is necessary to prevent substantial damage or injury to persons or property, the official may execute the contract without competitive selection and award or Local Contract Review Board approval.

(2) **Reporting.** An official who enters into an emergency contract for goods and services shall, as soon as possible in light of the emergency circumstances, (1) document the nature of the emergency, the method used for selection of the particular contractor, and the reason why the selection method was deemed in the best interest of the District and the public; and (2) notify the Local Contract Review Board of the facts and circumstances surrounding the emergency execution of the contract.

(3) **Emergency Public Improvement Contracts.** A public improvement contract may only be awarded under emergency circumstances if the General Manager or the Local Contract Review Board has made a written declaration of emergency. Any Public Improvement Contract award under emergency conditions must be awarded within 60 days following the declaration of an emergency unless the Local Contract Review Board grants an extension of the emergency period. Where the time delay needed to obtain a payment or performance bond for the contract could result in injury or substantial property damage, the General Manager or the Local Contract Review Board may waive the requirement for all or a portion of required performance and payment bonds.
H. Federal Purchasing Programs. Goods and services may be purchased without competitive procedures under a local government purchasing program administered by the United States General Services Administration (GSA) as provided in this subsection.

(1) The procurement must be made in accordance with procedures established by GSA for procurements by local governments, and under purchase orders or contracts submitted to and approved by the General Manager or the Local Contract Review Board. The Purchasing Agent shall provide the General Manager with a copy of the letter, memorandum or other documentation from GSA establishing permission to the District to purchase under the federal program.

(2) The price of the goods or services must be established under price agreements between the federally approved vendor and GSA.

(3) The price of the goods or services must be less than the price at which such goods or services are available under state or local cooperative purchasing programs that are available to the District.

(4) If a single purchase of goods or services exceeds $150,000, the Purchasing Agent must obtain informal written quotes or proposals from at least two additional vendors (if reasonably available) and find, in writing, that the goods or services offered by GSA represent the best value for the District. This paragraph does not apply to the purchase of equipment manufactured or sold solely for military or law enforcement purposes.

I. Cooperative Procurement Contracts. Cooperative procurements may be made without competitive solicitation as provided in the Oregon Public Contracting Code.
J. Surplus Property.

(1) General Methods. Surplus property may be disposed of by any of the following methods upon a determination by the Purchasing Agent that the method of disposal is in the best interest of the District. Factors that may be considered by the Purchasing Agent include costs of sale, administrative costs, and public benefits to the District. The Purchasing Agent shall maintain a record of the reason for the disposal method selected, and the manner of disposal, including the name of the person to whom the surplus property was transferred.

a. Governments. Without competition, by transfer or sale to another District department or public agency.

b. Auction. By publicly advertised auction to the highest bidder.

c. Bids. By public advertised invitation to bid.

d. Liquidation Sale. By liquidation sale using a commercially recognized third-party liquidator selected in accordance with rules for the award of personal services contracts.

e. Fixed Price Sale. The Purchasing Agent may establish a selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, schedule and advertise a sale date, and sell to the first buyer meeting the sales terms.

f. Trade-In. By trade-in, in conjunction with acquisition of other price-based items under a competitive solicitation. The solicitation shall require the offer to state the total value assigned to the surplus property to be traded.

g. Donation. By donation to any organization operating within or providing a service to residents of the District which is recognized by the Internal Revenue Service as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

(2) Disposal of Property with Minimal Value. Surplus property which has a value of less than $1,000, or for which the costs of sale are likely to exceed sale proceeds may be disposed of by any means determined to be cost-effective, including by disposal as waste. The official making the disposal shall make a record of the value of the item and the manner of disposal.

(3) Personal-Use Items. An item (or indivisible set) of specialized and personal use, with a current value of less than $100, may be sold to the employee or retired or terminated employee for whose use it was purchased. These items may be sold for fair market value without bid and by a process deemed most efficient by the General Manager or the Local Contract Review Board.
(4) **Restriction on Sale to District Employees.** District employees shall not be restricted from competing, as members of the public, for the purchase of publicly sold surplus property but shall not be permitted to offer to purchase property to be sold to the first qualifying bidder until at least three days after the first date on which notice of the sale is first publicly advertised.

(5) **Conveyance to Purchaser.** Upon the consummation of a sale of surplus personal property, the District shall make, execute, and deliver a bill of sale signed on behalf of the District, conveying the property in question to the purchaser and delivering possession, or the right to take possession, of the property to the purchaser.

9. **Public Contracts - Informal Solicitation Procedures.** The District may use the following procedure for informal solicitations in lieu of the procedures set forth in the Model Rules.

   A. **Informally Solicited Quotes and Proposals.**

      (1) **Solicitation of Offers.** When authorized by these regulations, an informal solicitation may be made by general or limited advertisement to a certain group of vendors, by direct inquiry to persons selected by the Purchasing Agent, or in any other manner which the Purchasing Agent deems suitable for obtaining competitive quotes or proposals. The Purchasing Agent shall deliver or otherwise make available to potential offerors, a written scope of work, a description of how quotes or proposals are to be submitted, and description of the criteria for award.

      (2) **Award.** The Purchasing Agent shall attempt to obtain a minimum of three written quotes or proposals before making an award. If the award is made solely on the basis of price, the Purchasing Agent shall award the contract to the responsible offeror that submits the lowest responsive quote. If the award is based on criteria other than, or in addition to, price, the Purchasing Agent shall award the contract to the responsible offeror that will best serve the interest of the District, based on the criteria for award.

      (3) **Records.** A written record of all persons solicited and offers received shall be maintained. If three offers cannot be obtained, a lesser number will suffice, provided that a written record is made of the effort to obtain the quotes.

      (4) **Scope.** The informal solicitation process may be used for contracts for goods and services in an amount of less than $150,000. The informal solicitation process may also be used for public improvement contracts that do not exceed $100,000. A procurement may not be artificially divided or fragmented to circumvent competitive bidding requirements under this chapter.
B. Qualified Pools.

(1) **General.** To create a qualified pool, the General Manager or the Local Contract Review Board may invite prospective contractors to submit their qualifications to the District for inclusion as participants in a pool of contractors qualified to provide certain types of goods, services or projects including personal services, and public improvements.

(2) **Advertisement.** The invitation to participate in a qualified pool shall be advertised in the manner provided for advertisements of invitations to bid and requests for proposals by publication in at least one newspaper of general statewide circulation. If qualification will be for a term that exceeds one year or allows open entry on a continuous basis, the invitation to participate in the pool must be re-published at least once per year and shall be posted at the District’s main office and on its website.

(3) **Contents of Solicitation.** Requests for participation in a qualified pool shall describe the scope of goods or services or projects for which the pool will be maintained, and the minimum qualifications for participation in the pool, which may include, but shall not be limited to qualifications related to financial stability, contracts with manufacturers or distributors, certification as an emerging small business, insurance, licensure, education, training, experience and demonstrated skills of key personnel, access to equipment, and other relevant qualifications that are important to the contracting needs of the District.

(4) **Contract.** The operation of each qualified pool may be governed by the provisions of a pool contract to which the District and all pool participants are parties. The Contract shall contain all terms required by the District, including, without limitation, terms related to price, performance, business registration or licensure, continuing education, insurance, and requirements for the submission, on an annual or other periodic basis, of evidence of continuing qualification. The qualified pool contract shall describe the selection procedures that the District may use to issue contract job orders. The selection procedures shall be objective and open to all pool participants and afford all participants the opportunity to compete for or receive job awards. Unless expressly provided in the contract, participation in a qualified pool will not entitle a participant to the award of any District contract.

(5) **Use of Qualified Pools.** Subject to the provisions of these regulations concerning methods of solicitation for classes of contracts, the Purchasing Agent or the Local Contract Review Board shall award all contracts for goods or services of the type for which a qualified pool is created from among the pool’s participants, unless the Purchasing Agent or the Local Contract Review Board determines that best interests of the District require solicitation by public advertisement, in which case, pool participants shall be notified of the solicitation and invited to submit competitive proposals.

(6) **Amendment and Termination.** The General Manager or Purchasing Agent may discontinue a qualified pool at any time, or may change the requirements for eligibility as a participant in the pool at any time, by giving notice to all participants in the qualified pool.
(7) **Protest of Failure to Qualify.** The General Manager shall notify any applicant who fails to qualify for participation in a pool that it may appeal a qualified pool decision to the Local Contract Review Board in the manner described in section 13.

10. **Public Contracts - Use of Brand Name Specifications for Public Improvements.**

A. **In General.** Specifications for contracts shall not expressly or implicitly require any product by one brand name or mark, nor the product of one particular manufacturer or seller, except for the following reasons:

1. It is unlikely that such exemption will encourage favoritism in the awarding of Public Improvement Contracts or substantially diminish competition for Public Improvement Contracts; or
2. 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 District; or
3. There is only one manufacturer or seller of the product of the quality required; or
4. Efficient utilization of existing equipment, systems or supplies requires the acquisition of compatible equipment or supplies.

B. **Authority of General Manager.** The General Manager or the Local Contract Review Board shall have authority to determine whether an exemption for the use of a specific brand name specification should be granted by recording findings that support the exemption based on the provisions of subsection A.

C. **Brand Name or Equivalent.** Nothing in this section 10 prohibits the District from using a “brand name or equivalent” specification, from specifying one or more comparable products as examples of the quality, performance, functionality or other characteristics of the product needed by the District, or from establishing a qualified product list.

11. **Public Contracts - Bid, Performance and Payment Bonds.**
A. **Purchasing Agent May Require Bonds.** The Purchasing Agent may require bid security and a good and sufficient performance and payment bond even though the contract is of a class that is exempt from the requirement.

B. **Bid Security.** Except as otherwise exempted, the solicitations for all contracts that include the construction of a public improvement and for which the estimated contract price will exceed $75,000 shall require bid security. Bid security for a request for proposal may be based on the District's estimated contract price.

C. **Performance Bonds.**

   (1) General. Except as provided in these regulations, all public contracts are exempt from the requirement for the furnishing of a performance bond.

   (2) Contracts Involving Public Improvements. Prior to executing a contract for more than $50,000 that includes the construction of a public improvement, the contractor must deliver a performance bond in an amount equal to the full contract price conditioned on the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. The performance bond must be solely for the protection of the District and any public agency that is providing funding for the project for which the contract was awarded.

   (3) Cash-in-Lieu. The General Manager may permit the successful offeror to submit a cashier’s check or certified check in lieu of all or a portion of the required performance bond.

D. **Payment Bonds.**

   (1) General. Except as provided in these regulations, all public contracts are exempt from the requirement for the furnishing of a payment bond.

   (2) Contracts Involving Public Improvements. Prior to executing a contract for more than $50,000 that includes the construction of a public improvement, the contractor must deliver a payment bond equal to the full contract price, solely for the protection of claimants under [ORS 279C.600](https://www.leg.state.or.us/billsearch/Ors/ORS279C.html).  

E. **Design/Build Contracts.** If the public improvement contract is with a single person to provide both design and construction of a public improvement, the obligation of the performance bond for the faithful performance of the contract must also be for the preparation and completion of the design and related services covered under the contract. Notwithstanding when a cause of action, claim or demand accrues or arises, the surety is not liable after final completion of the contract, or longer if provided for in the contract, for damages of any nature, economic or otherwise and including corrective work, attributable to the design aspect of a design-build project, or for the costs of design revisions needed to implement corrective work.
F. **Construction Manager/General Contractor Contracts.** If the public improvement contract is with a single person to provide construction manager and general contractor services, in which a guaranteed maximum price may be established by an amendment authorizing construction period services following pre-construction period services, the contractor shall provide the bonds required by subsection A of this section upon execution of an amendment establishing the guaranteed maximum price. The District shall also require the contractor to provide bonds equal to the value of construction services authorized by any early work amendment in advance of the guaranteed maximum price amendment. Such bonds must be provided before construction starts.

G. **Surety; Obligation.** Each performance bond and each payment bond must be executed solely by a surety company or companies holding a certificate of authority to transact surety business in Oregon. The bonds may not constitute the surety obligation of an individual or individuals. The performance and payment bonds must be payable to the District or to the public agency or agencies for whose benefit the bond is issued, as specified in the solicitation documents, and shall be in a form approved by the Purchasing Manager.

H. **Emergencies.** In cases of emergency, or when the interest or property of the District probably would suffer material injury by delay or other cause, the requirement of furnishing a good and sufficient performance bond and a good and sufficient payment bond for the faithful performance of any public improvement contract may be excused, if a declaration of such emergency is made in accordance with the provisions of section 8.G, unless the Local Contract Review Board requires otherwise.

12. **Public Contracts - Electronic Advertisement of Public Improvement Contracts.**
   In lieu of publication in a newspaper of general circulation in the District metropolitan area, the advertisement for an invitation to bid or request for proposals for a contract involving a public improvement may be published electronically by posting on the District’s website, provided that the following conditions are met:
A. The placement of the advertisement is on a location within the website that is maintained on a regular basis for the posting of information concerning solicitations for projects of the type for which the invitation to bid or request for proposals is issued; and

B. The Purchasing Agent determines that the use of electronic publication will be at least as effective in encouraging meaningful competition as publication in a newspaper of general circulation in the District metropolitan area and will provide costs savings for the District, or that the use of electronic publication will be more effective than publication in a newspaper of general circulation in the District metropolitan area in encouraging meaningful competition.

13. Appeal of Debarment or Prequalification Decision.

A. **Right to Hearing.** Any person who has been debarred from competing for District contracts or for whom prequalification has been denied, revoked or revised may appeal the District’s decision to the Local Contract Review Board as provided in this section.

B. **Filing of Appeal.** The person must file a written notice of appeal with the District’s General Manager within three business days after the prospective contractor’s receipt of notice of the determination of debarment, or denial of prequalification.

C. **Notification of Local Contract Review Board.** Immediately upon receipt of such notice of appeal, the General Manager shall notify the Local Contract Review Board of the appeal.

D. **Hearing.** The procedure for appeal from a debarment or denial, revocation or revision of pre-qualification shall be as follows:

(1) Promptly upon receipt of notice of appeal, the District shall notify the appellant of the time and place of the hearing; and

(2) The Local Contract Review Board shall conduct the hearing and decide the appeal within 30 days after receiving notice of the appeal from the General Manager; and

(3) At the hearing, the Local Contract Review Board shall consider de novo the notice of debarment, or the notice of denial, revocation or revision of pre-qualification, the standards of responsibility, upon which the decision on pre-qualification was based, or the reasons listed for debarment, and any evidence provided by the parties.
E. **Decision.** The Local Contract Review Board shall set forth in writing the reasons for the decision.

F. **Costs.** The Local Contract Review Board may allocate the Local Contract Review Board's costs for the hearing between the appellant and the District. The allocation shall be based upon facts found by the Local Contract Review Board and stated in the Local Contract Review Board's decision that, in the Local Contract Review Board's opinion, warrant such allocation of costs. If the Local Contract Review Board does not allocate costs, the costs shall be paid as by the appellant, if the decision is upheld, or by the District, if the decision is overturned.

G. **Judicial Review.** The decision of the Local Contract Review Board may be reviewed only upon a petition in the circuit court of Lane County filed within 15 days after the date of the Local Contract Review Board’s decision.