

**Greater Albany SD 8J**  
**Administrative Regulation**

Code: **DJC-AR**  
Adopted: 8/08/05  
Readopted: 8/13/07; 10/08/08; 7/20/09;  
10/23/15; 6/16/16; 7/26/16;  
10/09/17

**Special Procurements and Exemptions from Competitive Bidding**

***SPECIAL PROCUREMENTS***

The district shall submit a written request to the Board, acting as the Local Contract Review Board (LCRB), that describes the contracting procedure, the goods and services or class of goods and services that are the subject of the special procurement and circumstances that justify the use of a special procurement under the standards as follows: the special procurement is unlikely to encourage favoritism in the awarding of a public contract or to substantially diminish competition for public contracts and, (A) is reasonably expected to result in substantial cost savings to the district or to the public, or (B) otherwise substantially promote the public interest in a matter that could not practicably be realized by complying with requirements that are applicable under ORS 279B.055, 279B.060, 279B.065, 279B.070 or under any related rules. Public notice of the intent to award a special procurement must be given in the same manner as provided in ORS 279B.055(4). If the district intends to award a contract through special procurements that calls for competition among prospective contractors, the district shall award the contract to the contractor it determines to be most advantageous to the district. When the LCRB approves a class special procurement the district may award contracts to acquire goods and services within the class of goods and services in accordance with the terms of the approval without making a subsequent request for a special procurement.

1. Brand Names or Products, "Or Equal," Single Seller and Sole Source
  - a. The district may purchase brand names or products from a single seller or sole source without competitive bidding subject to the limitations of this rule.
  - b. Solicitation specifications for public contracts of the district shall not expressly or implicitly require any product of any particular manufacturer or seller except as expressly authorized in subsections c. and d. of this rule.
  - c. The district may specify a particular brand name or equal specification when the use of a brand name or equal specification is advantageous to the district, because the brand name describes the standard of quality, performance, functionality and other characteristics of the product needed by the district.
    - (1) The district is entitled to determine what constitutes a product that is equal or superior to the product specified, and any such determination is final;
    - (2) The district is not prohibited from specifying one or more comparable products as examples of the quality, performance, functionality or other characteristics of the product needed by the district;
    - (3) A brand name specification may be prepared and used only if the district determines for a solicitation or class of solicitations that only the identified brand name specification will meet the needs of the district based on one or more of the following written determinations:

- (a) The use of a brand name specification is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; or
  - (b) Specification of the brand name, mark or product would result in cost savings to the district; or
  - (c) There is only one manufacturer or seller of the product of the quality, performance or functionality required; or
  - (d) The efficient utilization of existing goods requires the acquisition of compatible goods and services.
- d. The district may award a contract for goods or services without competition when the LCRB determines in writing that the goods or services, or the class of goods or services, are available from only one source. The determination of the source must be based upon written findings that shall include:
- (1) A brief description of the contract or contracts to be covered, including contemplated future purchases;
  - (2) Description of the product or service to be purchased; and
  - (3) The reasons the district is seeking this procurement method, which shall include any of the following:
    - (a) That the efficient utilization of existing goods requires the acquisition of compatible goods or services; or
    - (b) 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; or
    - (c) That the goods or services are for use in a pilot or an experimental project; or
    - (d) To the extent reasonably practical, the contracting agency shall negotiate with the sole source to obtain contract terms advantageous to the contracting agency.
- e. The district may specify a product or service available from only one manufacturer but available through multiple sellers after complying with subsection c. above documenting the procurement file with the following information:
- (1) If the total purchase is over \$10,000 but does not exceed \$150,000, and a comparable product or service is not available under an existing Mandatory Use Contract, the district must obtain informal competitive quotes, bids or proposals and document this process in the procurement file;
  - (2) If the purchase does not exceed \$150,000, and the supplies or services are not available under an existing price agreement for information technology with competing products or Mandatory Use Contract, the district must first request and obtain prior written authorization from the LCRB to proceed with the acquisition.
- f. If the district intends to make several purchases of brand name-specific supplies and services from a particular manufacturer or seller for a period not to exceed five years, the district must so state this in the procurement file and in the solicitation document, if any, or a public notice of a solicitation. If the total purchase amount is estimated to exceed \$150,000, this shall be stated in the advertisement for bids or proposals.

- g. The District will make reasonable effort to notify all known suppliers of the specified product and invite such suppliers to submit competitive bids or proposals; or document the Procurement file with findings of current market research to support the determination that the product is available from only one seller. This Requirement is satisfied by electronically posting a notice as provided in OAR 137-047-0330 for a reasonable period of time or by documenting direct contact with such suppliers in the Procurement file.

2. Advertising Contracts, Purchase of

- a. The district may purchase advertising in any media, regardless of a dollar amount, without competitive bidding.
- b. The Board acting as the LCRB of the district must use competitive methods whenever possible to achieve best value and must document in the procurement file the reasons why a competitive process was deemed impractical and the resulting contract must be in writing.
- c. If the anticipated purchase exceeds \$10,000 and a competitive method is used, the district must post notice on the Oregon Procurement Information Network (ORPIN).

3. Advertising Contracts, Sale of

The district may sell advertising for district publications and activities, regardless of a dollar amount, without competitive bidding, including school newspapers, yearbooks, athletic programs, drama or music programs and the like.

4. Equipment Repair and Overhaul

- a. The district may enter into a public contract for equipment repair or overhaul without competitive bidding, subject to the following conditions:
  - (1) Service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing; or
  - (2) Service or parts required are for sophisticated equipment for which specially trained personnel are required and such personnel are available from only one source; and
  - (3) The purchase is made within the limits and pursuant to the methods in subsection b. of this rule.
- b. The following limitations apply to this rule:
  - (1) If the contract is over \$10,000 but is less than or equal to \$150,000, the school or department shall submit in writing to the superintendent or designee the reasons why competitive bids or quotes are deemed to be impractical. The superintendent or designee will accordingly document in its procurement file and may enter directly into the contract;
  - (2) If the school or department official thinks the contract may exceed \$150,000, he/she shall submit in writing to the superintendent or designee the reasons why competitive bidding is deemed to be impractical and a description of the cost savings to be obtained by a special procurement. The superintendent or designee may prepare a specific request for the anticipated contract to be obtained through special procurement procedures to submit to the LCRB for approval.

5. Copyrighted Materials

The district may, without competitive bidding and regardless of a dollar amount, purchase copyrighted materials where there is only one known supplier available for such goods. Examples of copyrighted materials covered by this special procurement procedure may include, but are not necessarily limited to, newly adopted textbooks/instructional materials, workbooks, curriculum kits, reference materials, audio and visual media and non-mass-marketed software from a particular publisher or their designated distributor.

## 6. Product Prequalification

- a. When specific design or performance specifications must be met or such specifications are impractical to create or reproduce for a type of product to be purchased, the district may specify a list of approved or qualified products by reference to the prequalified product(s) of particular manufacturers or vendors in accordance with the following product prequalification procedure:
  - (1) The district will make reasonable efforts to notify all known manufacturers and vendors of competing products of the district's intent to compile a list of prequalified products. The notice will explain the opportunity manufacturers and vendors of competing products will have to apply to have their product(s) included on the district's list of prequalified products. At its discretion, the district may provide notice by advertisement in a trade paper of general statewide circulation or other appropriate trade publication; or instead of advertising, the district may provide written notice to those manufacturers and vendors appearing on the appropriate list maintained by the district; and
  - (2) The district will accept manufacturer and vendor applications to include products in the district's list of prequalified products up to 15 calendar days prior to the initial advertisement for bids or proposals for the type of product to be purchased, unless otherwise specified in the advertisement or in the district's written notice.
- b. If the district denies an application for including a product on a list of prequalified products, the district shall promptly provide the applicant with a written notice of the denial and include the reason for denial. The applicant may submit a written appeal within seven calendar days to the district business manager to request review and reconsideration of the denial.

## 7. Requirements Contracts (Blanket Purchase Orders, Price Agreements)<sup>1</sup>

- a. The business manager, on behalf of the district, may establish requirements contracts for the purposes of minimizing paperwork, achieving continuity of product, securing a source of supply, reducing inventory, combining district requirements for volume discounts, standardization among school and departments and reducing lead time for ordering.
- b. The district may enter into a requirements contract (also known as a blanket purchase order or price agreement) whereby it is agreed to purchase goods or services for an anticipated need at

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<sup>1</sup>The Oregon Procurement Information Network (ORPIN) allows authorized members to utilize the state's price agreement/contracts to purchase goods and services. Authorized Oregon Cooperative Procurement Program (ORCPP) members can legally attach to a state price agreement and forego the competitive bid process. Access to hundreds of competitive price contracts for a wide variety of goods and services: vehicles, computers, furniture, copiers, fax machines, travel, pharmaceuticals, office products, etc., is available. Counties, cities, schools, municipalities or their public corporate entities having local governing authority, a United States governmental agency or American Indian tribe or agency are eligible to participate.

a predetermined price or price discount from a price list, provided the contract is led by a competitive procurement process pursuant to the requirements of the public contracting code and these rules.

- c. Once a requirements contract is established, schools and departments may purchase the goods and services from the awarded contractor without first undertaking additional competitive solicitation.
- d. School and departments shall use requirements contracts established by the district, unless otherwise specified in the contract, allowed by law or these rules or specifically authorized by the superintendent or designee.
- e. Under the authority of ORS 279A.025 and 279B.085, the district may use the requirements contracts entered into by another Oregon public agency when:
  - (1) The original contract met the requirements of public contracting code; and
  - (2) The original contract allows other public agency usage of the contract; and
  - (3) The original public contracting agency concurs and this is documented by a written interagency agreement between the district and the agency.
- f. The term of any district requirements contract, including renewals, shall not exceed five years unless otherwise permitted under the public contracting code.

8. Used Personal Property or Equipment, Purchase<sup>2</sup>

- a. Subject to the provisions of this rule, the district may purchase used property or equipment without obtaining competitive bids or quotes, if the district has determined that the purchase will result in cost savings to the district and will not diminish competition or encourage favoritism. "Used personal property or equipment" is property or equipment which has been placed in its intended use by a previous owner or user for a period of time recognized in the relevant trade or industry as qualifying the personal property or equipment as "used" at the time of district purchase. Used personal property or equipment generally does not include property or equipment if the district was the previous user, whether under a lease, as part of a demonstration, trial or pilot project or similar arrangement.
- b. For purchases of used personal property or equipment costing over \$10,000 but less than or equal to \$150,000, the district shall, where feasible, obtain three competitive quotes unless the district has determined and documented that a purchase without obtaining competitive quotes will result in cost savings to the district and will not diminish competition or encourage favoritism.
- c. For purchases of used personal property or equipment totaling \$150,000 or more, the district shall attempt to obtain three competitive quotes. The district will keep a written record of the source and amount of quotes received. If three quotes are not available, a written record must be made of the attempt to obtain quotes.

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<sup>2</sup>When contracting with another governmental entity, a district has a statutory exception under ORS 279A.025. The district may purchase state/federal surplus property through the Department of Administrative Services (DAS), State Services Division for Surplus Property. For more information on this program, contact DAS at 503-378-3014.

9. Information Technology Contracts

The district may enter into a contract to acquire information technology hardware and software without competitive bidding subject to the following conditions:

- a. If the contract amount is over \$10,000 but does not exceed \$150,000, the district shall attempt to obtain three competitive quotes pursuant to the rules governing Intermediate Procurements. The district shall keep a written record of the sources of the quotes or proposals received. If three quotes or proposals are not reasonably available, fewer will suffice, but the district shall make a written record of the effort made to obtain the quotes or proposals.
- b. If the contract amount exceeds \$150,000, the district shall determine and use the best procurement method, pursuant to the public contracting code and these rules, and shall solicit written proposals in accordance with the requirements of the Attorney General's Model Public Contract and LCRB Rules. The district shall document the evaluation and award process, which will be part of the public record justifying the award;
- c. If the amount of the contract is estimated to exceed \$150,000, the district shall provide proposers an opportunity to review the evaluation of their proposals before final selection is made.

10. Telecommunications Systems - Hardware and Software Contracts

- a. The district may enter into a contract to acquire telecommunications system hardware and software, without competitive bidding, subject to the following conditions:
  - (1) If the contract amount is over \$10,000 but does not exceed \$150,000, the district shall attempt to obtain three competitive quotes pursuant to the rules governing Intermediate Procurements. The district shall keep a written record of the sources of the quotes or proposals received. If three quotes or proposals are not reasonably available, fewer will suffice, but the district shall make a written record of the effort made to obtain the quotes or proposals.
  - (2) If the contract amount exceeds \$150,000, the district shall determine and use the best procurement method, pursuant to the public contracting code and these rules and shall solicit written proposals in accordance with the requirements of Chapter 137, Divisions 047 and 049 of the Attorney General's Model Public Contract and LCRB Rules. The district shall document the evaluation and award process, which will be part of the public record justifying the award.
- b. The telecommunications solicitation authorized in subsection 10.a.(1) of these rules shall:
  - (1) State the contractual requirements in the solicitation document;
  - (2) State the evaluation criteria to be applied in awarding the contract and the role of any evaluation committee. Criteria that would be used to identify the proposal that best meets the district's needs may include, but are not limited to, cost, quality, service and support, compatibility, product or system reliability, vendor viability and financial stability, operating efficiency and expansion potential;
  - (3) State the provisions made for bidders or proposers to comment on any specifications which they feel limit competition.

## 11. Telecommunications Services

- a. The district shall secure the most competitive, cost-effective telecommunications services of the quality needed to meet all service performance requirements while minimizing administrative and service delivery costs. The district will use routine purchasing procedures whenever possible, but if necessary, the district can consider alternative procurement methods in accordance with this rule.

The district will generally follow the normal competitive procurement processes in obtaining telecommunications services. This process will only be used if necessary where there is a lack of sufficient competition to furnish needed services.

- b. In determining the appropriate procurement method for telecommunications services, the district shall comply with the requirements of ORS 291.038 and determine whether competition exists. In determining whether competition exists, the district may consider the following factors:
  - (1) The extent to which alternative providers exist in the relevant geographic and service market; the greater area of Linn and Benton Counties;
  - (2) The extent to which alternative services offered are comparable or substitutable in technology, service provided and performance. For example, if the district requires digital services, analog services are not comparable or substitutable. If the district requires fiber optic technology, then copper, microwave or satellite transmission technology may not be comparable or substitutable;
  - (3) The extent to which alternative providers can respond to the district's interest in consistency and continuity of services throughout its service area, volume discounts, equitable service for all users, centralized management and limiting district liability. For example, to be considered as the district's long-distance service provider, any long-distance service vendor must be able to meet, support and interface with the district's centralized automated billing requirements. The district must document for the record, its findings on these factors or any other factors used in determining whether competition exists. In developing its findings, the district may solicit the information either through informal telephone or written contacts or through a formal solicitation such as a RFP.
- c. If the district determines that competition does not exist in the area for the relevant service, the district may proceed to secure the service on a sole source basis, as described in the district's rule governing Brand Names or Products, "Or Equal," Single Seller and Sole Source, Section 1. under Special Procurements.

## 12. Hazardous Material Removal; Oil Cleanup

- a. The District may directly acquire services to remove or clean up hazardous material or oil from any vendor when ordered to do so by the Oregon Department of Environmental Quality (DEQ) pursuant to its authority under ORS Chapter 466. In doing so, the following conditions apply:
  - (1) To the extent reasonable under the circumstances, the District will encourage competition by attempting to obtain informal price quotations or proposals from potential suppliers of goods and services.

- (2) The District department responsible for managing or coordinating the clean-up shall prepare a written description of the circumstances that require it and a copy of the DEQ order for the Clean-up to the superintendent, together with a request for contract authorization.
  - (3) The District department responsible for managing or coordinating the clean-up shall record whether there was time for competition, and if so, the measures taken to encourage competition, the amount of the price quotations obtained, if any, and the reason for selecting the contractor to whom the award is made;
  - (4) The timeline for clean-up does not permit use of intermediate procurement procedures.
- b. The district shall not contract pursuant to this special procurement in the absence of an order from the DEQ to clean up a site which includes a time limit that would not allow the district to hire a contractor under normal competitive bidding procedures. Goods and services to perform other hazardous material removal or cleanup will be purchased in accordance with normal competitive bidding procedures as described in Board policy with this administrative regulation.

### 13. Renegotiation of Existing Contracts with Incumbent Contractors

- a. The district may amend or renegotiate contracts with existing vendors, service providers or other parties subject to the limitations of this rule.
- b. The district has determined that value engineering, specialized expertise required, public safety and technical complexity, generally do not apply to this special procurement procedure.
- c. The renegotiated contract falls within a current special procurement procedure, but if not the LCRB must approve a separate special procurement.
- d. The district may renegotiate certain terms, but they must not unreasonably alter the scope of the original contract.

### 14. Financial Transactions

The district may, without competitive Bidding and regardless of dollar amount, contract for the purpose of the investment of public funds or the borrowing of funds by the district when such investment or borrowing is contracted pursuant to a duly enacted statute, ordinance, charter or constitution.

### 15. Purchases under Federal Contracts

When the price of goods and services has been established by a contract of the federal government pursuant to a federal contract award, the District may purchase the goods and services in accordance with the federal contract without subsequent competitive bidding. In exercising its authority under this exemption, the district shall obtain and document permission from the appropriate federal agency to purchase under the federal contract and document the cost savings to be gained for the district from the anticipated purchases under the federal contract. The district shall not contract pursuant to this rule in the absence of a cost savings to the District by using this method.

### 16. Legal Services

The district may, without competitive Bidding and regardless of the dollar amount, contract for legal services with an individual attorney or firm at any time for the particular needs of the District for those services. The Superintendent with the consent of the school Board, may enter into a Public

Contract for the services of legal counsel; the contract shall be reviewed and renewed or terminated at least every five (5) years or as negotiated with provider of services.

#### 17. External Auditing Services

The Superintendent, acting on behalf of the district, may contract for the services of a licensed accountant or accounting firm to provide auditing services as may be required by law or District policy, regardless of dollar value, without competitive bidding. When making the selection, the Superintendent shall consider the firm's knowledge and experience with Oregon Statutes and Federal Law governing the requirements of independent auditing of public agencies and knowledge of the accounting system in use by the District. The contract shall be reviewed and renewed or terminated at least every five (5) years or as negotiated with provider of services.

#### 18. Emergency Contracts

- a. "Emergency" shall be defined as follows: "Circumstances that (a) could not have reasonably been foreseen; (b) create a substantial risk of loss, damage, or interruption of services or a substantial threat to property, public health, welfare or safety; and (c) require prompt execution of a contract to remedy the condition."
- b. The Board Chair or the Superintendent shall have authority to determine when emergency conditions exist sufficient to warrant an emergency contract. The nature of the emergency and the method used for the selection of the contractor shall be documented.
- c. Emergency contracts may be awarded as follows:
  - (1) Goods and services. Emergency contracts for procurement of goods and services may be awarded pursuant to ORS 270B.080 and section B, "Delegation." of these Rules.
  - (2) Public Improvements. The District hereby adopts OAR 137-049-0150 as its contracting rules for awarding public improvement contract under emergency conditions, pursuant to ORS 279B.080.

### ***EXEMPTIONS FROM COMPETITIVE BIDDING***

All public contracts shall be based upon competitive bids or proposals, except the following:

1. Contracts which have been specifically exempted under ORS 279A.025 and 279C.335; and
2. Contracts covered by the class exemptions in the following set of rules developed pursuant to ORS 279C.335 (2) and (5) and based on Oregon Administrative Rules, Chapter 137, Divisions 46 through 49.

The Board, acting as the Local Contract Review Board (LCRB) for the district, has made the findings required by ORS 279C.330, ORS 279C.335 and ORS 279C.345, and determined that awarding a contract under this exemption is unlikely to encourage favoritism or substantially diminish competition for the public contract and will likely result in a substantial cost savings and other substantial benefits to the district.

In approving a finding under this section, the local contract review board shall consider the type, cost and amount of the contract and, to the extent applicable to the particular public improvement contract or class of public improvement contracts, the following:

1. How many persons are available to bid;
2. The construction budget and the projected operating costs for the completed public improvements;
3. Public benefits that may result from granting the exemption;
4. Whether value engineering techniques may decrease the cost of the public improvement;
5. The cost and availability of specialized expertise that is necessary for the public improvement;
6. Any likely increases in public safety;
7. Whether granting the exemption may reduce risks to the district or the public that are related to the public improvement;
8. Whether granting the exemption will affect the sources of funding for the public improvement;
9. Whether granting the exemption will better enable the district to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement;
10. Whether granting the exemption will better enable the district to address the size and technical complexity of the public improvement;
11. Whether the public improvements involves new construction or renovates or remodels an existing structure;
12. Whether the public improvement will be occupied or unoccupied during construction;
13. Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions; and
14. Whether the district has or has retained under contract, and will use district personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the district will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.

Only these findings are required for each class or individual contract exemption, unless the LCRB specifically excludes a finding or includes an additional finding.

Promulgation of these exemptions can only occur after public notification and a public hearing to receive testimony pertaining to the draft exemptions and findings, pursuant to ORS 279C.335.

1. Product Prequalification
  - a. When specific design or performance specifications must be met or such specifications are impractical to create or reproduce for a type of product to be purchased, the district may specify a list of approved or qualified products by reference to the prequalified product(s) of particular manufacturers or vendors in accordance with the following product prequalification procedure:

- (1) The district will make reasonable efforts to notify all known manufacturers and vendors if competing products of the district's intent to compile a list of prequalified products.

The notice will explain the opportunity manufacturers and vendors of competing products will have to apply to have their product(s) included on the district's list of prequalified products. At its discretion, the district may provide notice by advertisement in a trade paper of general statewide circulation or other appropriate trade publication; or instead of advertising, the district may provide written notice to those manufacturers and vendors appearing on the appropriate list maintained by the district; and

- (2) The district will accept manufacturer and vendor applications to include products in the district's list of prequalified products up to 15 calendar days prior to the initial advertisement for bids or proposals for the type of product to be purchased, unless otherwise specified in the advertisement or in the district's written notice.

- b. The district has determined that special expertise required, generally, does not apply to this rule.
- c. If the district denies an application for inclusion of a product on its list of prequalified products, the district shall promptly provide the applicant with a written notice of the denial and include the reason for denial. The applicant may submit a written appeal within 7 calendar days to the district business manager to request review and reconsideration of the denial.

## 2. Requirements Contracts (Blanket Purchase Orders, Price)<sup>3</sup>

- a. The business manager, on behalf of the district, may establish requirements contracts for the purposes of minimizing paperwork, achieving continuity of product, securing a source of supply, reducing inventory, combining district requirements for volume discounts, standardization among schools and departments and reducing lead time for ordering.
- b. The district has determined that value engineering, specialized expertise required and technical complexity, generally, do not apply to this rule.
- c. The district may enter into a requirements contract (also known as a blanket purchase order or price agreement) whereby it is agreed to purchase goods or services for an anticipated need at a predetermined price or price discount from a price list, provided the contract is let by a competitive procurement process pursuant to the requirements of the public contracting code and these rules.
- d. Once a requirements contract is established, schools and departments may purchase the goods and services from the awarded contractor without first undertaking additional competitive solicitation.
- e. Schools and departments shall use requirements contracts established by the district, unless otherwise specified in the contract, allowed by law or these rules or specifically authorized by the superintendent or designee.
- f. Under the authority of ORS 279A.025 and 279C.335, the district may use the requirements contracts entered into by another Oregon public agency when:

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<sup>3</sup>The Oregon Procurement Information Network (ORPIN) allows authorized members to utilize the state's price agreement/contracts to purchase goods and services. Authorized Oregon Cooperative Procurement Program (ORCPP) members can legally attach to a state price agreement and forego the competitive bid process. Access to hundreds of competitive price contracts for a wide variety of goods and services: vehicles, computers, furniture, copiers, fax machines, travel, pharmaceuticals, office products, etc., is available.

- (1) The original contract met the requirements of the public contracting code; and
- (2) The original contract allows other public agency usage of the contract; and
- (3) The original public contracting agency concurs and this is documented by a written interagency agreement between the district and the agency.

g. The term of any district requirements contract, including renewals, shall not exceed five years unless otherwise exempted pursuant to ORS 279C.335.

3. Waiver of Bid Security Requirements (Public Improvement Contracts under \$100,000)

The LCRB may, at its discretion, waive the bid security requirements of ORS 279C.390, if the amount of the contract for the public improvement is less than \$100,000. Although the bid security requirements of ORS 279C.390 are waived for public improvement contracts under \$100,000, the district may impose a bid or quote security requirements for projects under \$100,000, when deemed to be in the best interest of the district.

4. Waiver of Performance and Payment Security Requirements (Public Improvement Contracts under \$100,000)

The LCRB may, at its discretion, waive the performance/payment security requirements of ORS 279C.390 if the amount of the contract for the public improvement is less than \$100,000. Although the performance/payment security requirements of ORS 279C.390 are waived for public improvement contracts less than \$100,000, the district may impose a performance/payment security requirement for projects less than \$100,000 when deemed to be in the best interest of the district.

5. Projects with Complex Systems or Components

- a. For contracts for public improvements with significant components that are inherently complex and are also complex to procure through competitive bid, the district may, at its discretion, use RFP competitive procurement methods subject to the conditions described in ORS 279C.400 and conditions enumerated in this exemption.
- b. Definitions. For purposes of this exemption only: "Complex Systems" are defined as those systems which incorporate the procurement of materials or other components which are difficult, if not impossible, to create in an "equal" specifications basis for competitive bid. Examples of such systems include but are not limited to, contracts for supplying and installing computerized controls for building heating, venting, air conditioning systems; and contracts for artificial surface outdoor multipurpose athletic fields. "Significant" is intended to mean something more than de minimus, but not necessarily the majority of the project as determined by cost.

This class exemption is intended to be used for the types of procurements describe in the findings, where the specific system, materials or components represent a significant portion of the project. This class exemption is not intended to be used for construction manager/general contractor (CM/GC) projects or other methods of alternative procurement unless these projects meet the requirements of this class exemption. The CM/GC and others, not meeting the requirements of this class exemption, may still be procured by RFP, provided that a project or contract specific exemption is promulgated by the LCRB.

6. Purchases from Federal Catalogs.

Subject to applicable Board approval requirements stated in the District's Contracting Rules, the District may purchase goods from federal catalogs without competitive bidding when the procurement is pursuant to 10 USC 381, the Electronic Government Act of 2002 (Public Law 107-347). Purchases under other federal laws will be permitted upon a finding by the LCRB that the law is similar to such Act in effectuating or promoting transfers of property to contracting agencies.

7. Temporary Extensions or Renewals

The District may enter into contracts for a single period of one year or less, for the temporary extension or renewal of an expiring and non-renewable, or recently expired, contracts, other than a contract for public improvements, without competitive bidding.

8. Temporary Use of District 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 a unsolicited proposal to the District based upon the unique attributes of the property or the unique need of the proposer;
- b. The proposed use of the property is consistent with the District's use of the property and the public's interest; and
- c. The District reserves the right to terminate the contract without penalty, in the event that the District determines that the contact is no longer consistent with the District's present or planned use of the property or the public interest.

9. Sponsorship Agreements.

Sponsorship agreements, under which the District receives a gift, donation or consideration in exchange for official recognition of the person making the donation or payment, may be awarded by any method deemed appropriate by the District, including without limitation, by direct appointment, private negotiation, from a qualified pool, or using a competitive process.

10. Concession Agreements

The District may enter into contracts which grant a franchise or concession to a private entity or individual to promote or sell, for its own business purposes, specified types of goods or services from District property and under which the concessionaire or promoter makes payment to the District based, at least in part, on the concessionaire's revenues from the sales or the value of such promotion to the sponsor's business, whether on or off the district property. A Concession Agreement does not include an agreement which represents a rental, lease, permit, or other arrangement for the use of public property. Concession Agreements may be awarded by any method deemed appropriate by the superintendent including without limitation, by direct appointment, private negotiation, from a qualified pool, or using a competitive process.