

PUBLIC CONTRACTS AND PURCHASING

15.105 DEFINITIONS.

As used in Section 15.105 to 15.165, unless the context requires otherwise:

- (1) "Board" means the Local Contract Review Board designated under Section 15.110.
- (2) "Public Contract" means any purchase, lease, or sale by Polk County of personal property, public improvements, or services other than agreements that are for personal service.
- (3) "Public Improvement" means any project for construction, reconstruction, or major renovation on real property by or for Polk County. However, "Public Improvement" does not include emergency work, minor alteration, ordinary repair, or maintenance necessary to preserve a public improvement.

15.110 AUTHORITY.

The Polk County Board of Commissioners is designated as the Local Contract Review Board under ORS 279.055 and may exercise all powers with respect to public contracts of Polk County that are granted under ORS Chapter 279 and Sections 15.105 to 15.165.

15.115 COMPETITIVE BIDDING.

All public contracts shall be based upon competitive bids except those exempted by state law and others exempted by the Board under Section 15.120 or 15.125.

15.120 GENERAL EXEMPTIONS.

- (1) The Board by resolution may exempt certain public contracts or classes of public contracts from the requirements of Section 15.115 if the Board finds:
 - (a) It is unlikely the exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; and
 - (b) The awarding of public contracts under the exemption will result in substantial cost savings to Polk County. In making this finding, the Board may consider the type, cost, amount of the contract, number of persons available to bid, and other factors the Board considers appropriate.
- (2) In granting exemptions under this section, the Board, when appropriate, shall direct the use of alternate contracting and purchasing practices that take account of market realities and modern or innovative contracting and purchasing methods, which also are consistent with the public policy of encouraging competition.

15.125 EMERGENCY OR SURPLUS PROPERTY EXEMPTION.

(1) The Board by resolution may exempt a public contract from the requirements of Section 15.115 if the Board finds:

- (a) Emergency conditions require prompt execution of the contract; or
- (b) In case of sale of surplus property by Polk County, the number, value and nature of the items to be sold make it probable that the cost of conducting a sale by competitive bid will be such that a liquidation sale will result in substantially greater net revenue to the county.

15.130 EXEMPTION WHEN BIDS OBTAINED BY STATE FOR SAME MATERIALS.

(1) In addition to public contracts exempted from competitive bids by other provisions of Sections 15.105 to 15.165, public contracts for the purchase of materials are exempt if:

- (a) Competitive bids for the same materials were obtained by the State of Oregon; and
- (b) The public contract is awarded to the same party that the State dealt with; and
- (c) The price of the materials is the same as, or lower than, the price paid by the State.

15.135 PROCEDURES.

So far as applicable, actions of the Board shall be governed by the following Oregon Administrative Rules, effective October 1, 1984, which constitute the rules of the Board unless modified by the Board under Section 15.145 or by the Polk County Board of Commissioners through amendment of Sections 15.105 to 15.165:

Chapter 125, Division 300, "Introduction and Definitions."
Chapter 125, Division 310, "General Exemptions."
Chapter 125, Division 320, "Information Systems Contracts."
Chapter 125, Division 340, "Brandnames or Marks."
Chapter 125, Division 350, "Property Disposition."
Chapter 125, Division 360, "Waiver of Security Bid and Performance Bond."
Chapter 137, Division 30, "Public Bidding Rules."
Chapter 137, Division 40, "Public Improvement Contracts."

15.140 SERVICES FOR OTHER PUBLIC AGENCIES.

The Board may serve as the local Contract Review Board for local public agencies that do not create their own boards and that have their principal administrative offices within Polk County. The Board may impose fees upon local public agencies it serves, prescribed by rule under Section 21.145 of this code, and calculated to reimburse Polk County for costs in serving the local public agencies.

15.145 RULES.

The Board by resolution may adopt rules to carry out its powers and duties under Sections 21.105 to 21.165.

15.150 CONFLICT INVOLVING FEDERAL FUNDS.

No officer, employee, or agent of Polk County shall participate in the selection, award, or administration of a public contract supported by federal funds, if a conflict of interest, real or apparent, would be involved. By way of illustration, but not limitation, a conflict might arise if the officer, employee or agent, or any member of their immediate family or a partner, or an organization employing or about to employ any such individuals has a financial or other interest in the entity selected for the award.

15.155 OFFICIAL MISCONDUCT.

No officer, employee, or agent of Polk County shall solicit or accept a gratuity, favor, or anything of value from a contractor, potential contractor, or party to a subcontract.

15.160 CIVIL PENALTIES.

(1) The Polk County Board of Commissioners may impose a civil penalty not to exceed \$1,000 for violation of Section 15.150 or 15.155. An officer, employee or agent of Polk County who has benefited financially in violation of Section 15.150 or 21.155 may be required by the Polk County Board of Commissioners to forfeit to Polk County twice the amount of the benefit realized by such violation.

(2) The procedure for collecting penalties provided under this section shall conform to ORS 244.370, except that the Polk County Board of Commissioners shall act as the hearing body and all money recovered shall be paid to the County General Fund.

15.165 APPEAL OF DISQUALIFICATION.

(1) A person who has been disqualified as a bidder may appeal such disqualification to the Polk County Board of Commissioners by written notification filed not later than the third business day after receiving Notice of Disqualification.

(2) On receiving a Notice of Appeal, the Polk County Board of Commissioners shall notify the person appealing of the time and place for a hearing. The Board shall conduct the hearing in compliance with ORS 279.045 and decide the Appeal not later than the 10th day after receiving Notification of Appeal, setting forth in writing the reasons for its decision.

Note: Sections 15.105 to 15.165 were adopted by Ordinance No. 87-14.