

PASSED

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON  
SITTING AS THE LOCAL CONTRACT REVIEW BOARD AND LOCAL CONTRACTING AGENCY

ORDER NO.  
05-2-2-8

IN THE MATTER OF AMENDING CHAPTER 20 OF  
THE LANE MANUAL TO ADOPT RULES FOR PRO-  
TESTING SPECIAL PROCUREMENTS IN PUBLIC  
CONTRACTING(LM 20.265)

The Board of County Commissioners of Lane County orders as follows:

Lane Manual Chapter 20 is hereby amended by removing, substituting, and adding the following section:

**REMOVE THIS SECTION**

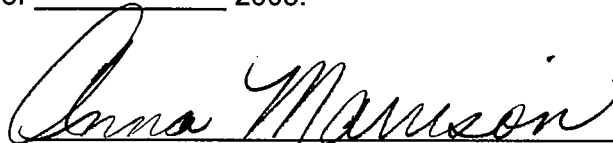
20.265  
as located on pages 20-12 through 20-13  
(a total of 2 pages)

**INSERT THIS SECTION**

20.265  
as located on pages 20-12 through 20-13  
(a total of 2 pages)

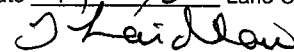
Said section is attached hereto and incorporated herein by reference. The purpose of this substitution and addition is to adopt rules for protesting special procurements in public contracting (LM 20.265).

Adopted this 2nd day of February 2005.

  
Chair, Lane County Board of Commissioners

APPROVED AS TO FORM

Date 1/20/05 Lane County



OFFICE OF LEGAL COUNSEL

**20.265 LCRB Exemption for Other Public Improvement Contracts and Special Procurements.**

(1) The LCRB may exempt a particular public improvement contract, or a category of contracts, from the bidding requirements of ORS 279C.335, which are not otherwise exempt under these rules. The request for exemption shall contain the following information where appropriate:

- (a) The nature of the project;
- (b) The financial impact including estimated cost of the project, operational, budget and financial data and funding sources;
- (c) A narrative description of the cost savings anticipated by the exemption from competitive bidding, and the reasons competitive bidding would be inappropriate;
- (d) Public benefits;
- (e) Value engineering;
- (f) Specialized expertise required;
- (g) Public safety;
- (h) Market conditions;
- (i) Technical complexity;
- (j) Funding sources;
- (k) Proposed alternative contracting and purchasing practices to be employed; and
- (l) The estimated date by which it would be necessary to let the contract.

(2) The LCRB may require such additional information as it deems necessary to determine whether a specific contract, or a category of contracts, is to be exempt from competitive bidding.

(3) Application of the information in LM 20.265(1) and (2) must demonstrate that the exemption would meet the following standard:

(a) It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; and

(b) The awarding of public contracts pursuant to the exemption will result in substantial cost savings to the public contracting agency considering the type, cost, amount of the contract, number of persons available to bid and such other factors as may be deemed appropriate.

(4) The LCRB may approve a special procurement for a particular non-public improvement contract, or a category of contracts, to allow procurement other than through an otherwise applicable process including competitive bidding (ORS 279B.055), request for proposals (ORS 279B.060), small procurement (ORS 279B.065), and intermediate procurement (ORS 279B.070). The written request for approval of a special procurement shall include:

(a) A description of the goods or services or the class of goods or services to be acquired; and,

(b) A description of the proposed contracting procedure; and,

(c) A description of the circumstances that justify the use of a special procurement.

(5) The LCRB may require such additional information as it deems necessary to determine whether a specific contract, or category of contracts under (4), should be procured by a process other than one that would be applicable.

(6) Application of the information in LM 20.265(4) and (5) must demonstrate that the special procurement would meet the following standard:

(a) It is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts; and

(b) Either result in substantial cost savings to the contracting agency or to the public, or otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with requirements under ORS 279B.055, 279B.060, 279B.065, 279B.070, including any rules adopted thereunder.

(7) Public Notice. Public notice of a request for special procurement shall be provided through the standard public notice for Lane County Board of Commissioners/LCRB meetings. Public notice of the approval of a special procurement shall be the date of the oral decision to approve at the LCRB meeting, unless otherwise provided by the LCRB.

(8) A person or entity who is adversely affected may protest the County's request for approval of a special procurement. The affected person or entity shall deliver a written protest to the County department proposing the special procurement within ten days after the public notice of the request for special procurement, unless a different protest period is provided in the public notice in (7) above.

(9) An affected person or entity may protest the LCRB's decision to approve a special procurement. The affected person or entity shall deliver a written protest to the County department within ten days after the public notice of the oral decision to approve, unless the LCRB provides a different protest period in its public notice.

(10) Untimely filed protests in (8) or (9) will not be considered.

(11) A written protest shall include a statement of the legal and factual grounds for the protest, a description of the resulting harm to the affected person, and the relief requested.

(12) For protests covered by (8) or (9) above, the County department may prepare a response within three days. If the County department concurs with the protest, in whole or in part, it may revise the proposed special procurement accordingly, or withdraw the request. If it does not concur, the LCRB will consider the protest at the time set for considering the request for special procurement for a protest under (8), and for a protest under (9), on a future LCRB agenda as soon as reasonably practicable. The LCRB shall consider the written record, including but not limited to, any County department analysis and submissions by the affected person or entity, and any oral testimony. The LCRB may revise the special procurement, in whole or in part, or deny or sustain the protest.

(13) A contract may not be awarded until after the running of the protest period or completion of protest process in (9) above. *(Revised by Order No. 98-12-2-1; Effective 12.2.98; 04-6-30-12, 6.30.04)*

## **BID SECURITY AND PERFORMANCE BOND**

### **20.270 Bid and Performance Security.**

(1) Contracts, other than those for public improvements, are exempt from the bid security requirements of ORS 279.027 and performance security requirements of ORS 279.029 provided that the County may require bid, performance, or payment security, in its discretion, regardless of this exemption.

(2) Contracts for public improvements which are equal to or less than \$50,000 are exempt from bid and performance security requirements provided that the County may require such security in its discretion, regardless of this exemption. *(Revised by Order No. 98-12-2-1; Effective 12.2.98)*

**20.265 LCRB Exemption for Other Public Improvement Contracts and Special Procurements.**

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| At right margin indicates changes  
**Bold** indicates material being added  
~~Strike through~~ indicates material being deleted  
~~20.27020.270~~ Lane Manual

**LEGISLATIVE  
FORMAT**  
~~20.27020.270~~ |

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