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SUPPLEMENTAL MATERIAL
SUPPLEMENTAL AGENDA MEMORANDUM

AGENDA DATE: February 13, 2008

TO: Board of Commissioners, sitting as Local Contract Review Board (LCRB) and as Local Contracting Agency

DEPARTMENT: Office of Legal Counsel

PRESENTED BY: Trina Laldlaw, Assistant County Counsel *je2*

AGENDA TITLE: In the Matter of Amending Lane Manual Chapters 20 and 21 Public Contracting Rules To Reflect Changes in Law, Roles and Current Practice

After further discussions with the County Administrator and the Public Works Director, I wish to propose a change to your current Board agenda packet regarding changes to public contracting rules. I request that you delete Legislative Format page 21-25 and regular text page 21-23 from your current packet and replace these 2 pages with the corresponding pages attached to this supplemental memorandum.

The change relates to the LM 21.120 Requirements and Pricing Contracts rule. Requirements contracts are used when the County does not know exactly how much (services or goods) it wants to buy at the time of contract execution – it wants to further define that later. These contracts typically have a not-to-exceed dollar amount. A contract amendment is executed when the County is ready to and does specifically define each subsequent purchase(s).

The proposed change relates to processing these amendments for requirements contracts (typically for professional consultant or engineer services) which are approved by the Board. Public Works had discussions with former County Administrator, Bill Van Vactor, about delegation of authority. The proposal is for the Board to consider two types of delegation to execute these "project work authorization" amendments within the not-to-exceed total contract amount approved by the Board:

1. Delegation of authority to the County Administrator to execute an amendment which does not exceed \$100,000 and as long as all of the amendments do not exceed the total contract amount approved by the Board; the Board would maintain authority to approve amendments exceeding \$100,000. The current rule is \$50,000.
2. Allow the County Administrator to further delegate his authority to a Department Director, on certain conditions. The attached pages also reflect that the only other delegated authority is by the County Administrator to the County Engineer for transportation projects on the same conditions. The dollar limits would be up to \$50,000 for a contract of less than \$300,000; and up to \$100,000 for a contract of \$300,000 or greater. The conditions include:

a. The amendment can only supplement (not be inconsistent with) the terms of the main requirements contract approved by the Board; the terms of the main contract continue to apply, and

b. The amendment covers only such topics as scope of work, roles and responsibilities, tasks, costs, names of persons assigned to the tasks, criteria for work acceptance, deliverables, and due dates that are within the time period of the main contract, and

c. The amendment can not add any other provisions which affect risk to the County or public.

Under the proposed change, the Board can direct the County Administrator to include any additional limitations, and the County Administrator can also add limitations.

The County Administrator would like to discuss ideas for additional limitations at the public hearing next week on February 13 on this matter.

For requirements contracts with contract total of \$100,000 or less (Board has already delegated authority to the County Administrator to execute), the proposed change would allow the County Administrator to further delegate authority to the same persons listed above up to \$50,000.

any amendment which does not exceed \$100,000. Subject to (b) below, for contracts with a total estimated cost of less than \$300,000, the County Administrator may delegate authority to execute an amendment for a project not exceeding \$50,000 to a Director of the department originating the contract, and for Public Works also to the County Engineer for transportation projects. Subject to (b) below, for contracts with a total estimated cost of \$300,000 or greater, the County Administrator may delegate authority to execute an amendment for a project not exceeding \$100,000 to a Director of a department originating the contract, and for Public Works also to the County Engineer for transportation projects. For contracts approved by the County Administrator, the County Administrator may delegate authority to execute an amendment not exceeding \$50,000 to the County employees designated above, subject to (b) below. ~~signed by both parties and processed as an amendment if the total anticipated dollar amount of work on the project exceeds \$50,000. If the total anticipated dollar amount of work on the project is \$50,000 or less, the definition of the scope of work shall be in writing, on or attached to a purchase order and processed as a purchase order.~~

(b) The County Administrator may delegate authority in writing as set forth in (a) if the amendment:

(i) supplements, and is not inconsistent with the main requirements contract which continues to apply; and

(ii) the amendment covers only such topics as scope of work, roles and responsibilities, tasks, costs, names of persons assigned to each task, criteria for work acceptance, deliverables, and due dates that are within the time period of the main contract; and

(iii) there are no other added provisions which affect risk to the County or public. The County Administrator's written delegation shall include the limitations in this provision and any others deemed necessary, in his or her discretion, or as directed by the Board.

(c) The delegation of authority in (a) and (b) applies only to amendments that are within the approved total contract amount. Authority to execute amendments that increase the total contract amount is governed by LM 21.147.

(bd) For all other requirements contracts where the services and/or goods and costs are specifically defined in the original contract, i.e., delivery of rock, specific purchases may be made pursuant to the parties' agreement ~~through a purchase order.~~

~~(4) The County departments shall determine the most reasonable estimate of the dollar amount of a requirements contract, including from all amendments, purchase orders, etc., throughout the term of the contract. That dollar figure shall be the basis for determining contract/amendment execution authority. (Revised by Order No. 98-12-2-4, Effective 12.2.98; 05-2-16-8, 2.28.05)~~

21.122 Revenue Contracts.

Revenue contracts must comply with all public contract laws and regulations and LM Chapter 21.

(1) The County Administrator and the Director of the Department of Management Services each individually are delegated the authority to execute certificates of title and bills of sale for County-owned personal property duly sold under established procedures and may further delegate this authority in writing.

authority to execute an amendment for a project not exceeding \$50,000 to a Director of the department originating the contract, and for Public Works also to the County Engineer for transportation projects. Subject to (b) below, for contracts with a total estimated cost of \$300,000 or greater, the County Administrator may delegate authority to execute an amendment for a project not exceeding \$100,000 to a Director of a department originating the contract, and for Public Works also to the County Engineer for transportation projects. For contracts approved by the County Administrator, the County Administrator may delegate authority to execute an amendment not exceeding \$50,000 to the County employees designated above, subject to (b) below.

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(i) supplements, and is not inconsistent with the main requirements contract which continues to apply; and

(ii) the amendment covers only such topics as scope of work, roles and responsibilities, tasks, costs, names of persons assigned to each task, criteria for work acceptance, deliverables, and due dates that are within the time period of the main contract; and

(iii) there are no other added provisions which affect risk to the County or public. The County Administrator's written delegation shall include the limitations in this provision and any others deemed necessary, in his or her discretion, or as directed by the Board.

(c) The delegation of authority in (a) and (b) applies only to amendments that are within the approved total contract amount. Authority to execute amendments that increase the total contract amount is governed by LM 21.147.

(d) For all other requirements contracts where the services and/or goods and costs are specifically defined in the original contract, i.e., delivery of rock, specific purchases may be made pursuant to the parties' agreement.

(Revised by Order No. 98-12-2-4, Effective 12.2.98; 05-2-16-8, 2.28.05)

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(2) A revenue contract which involves elements of an interest in real property (for example, a caretaker or concessionaire agreement or a lease), may also have to comply with laws regarding the disposition of publicly owned real property. The Department considering such a contract should consult with the Office of Legal Counsel regarding appropriate procedures and contract terms.

(3) Disposition of personal property must comply with LM 60.405. *(Revised by Order No. 98-12-2-4, Effective 12.2.98; 04-6-30-12, 6.30.04)*

21.124 Intergovernmental Agreements.

(1) Intergovernmental agreements are exempt from competitive selection.

(2) Under the authority of Chapter II, Section 8 of the Lane County Home Rule Charter and ORS Chapter 190, it is the policy of Lane County to offer services to other public agencies where feasible. Lane County must be compensated for the complete cost of providing all intergovernmental services. An intergovernmental agreement should be utilized whenever possible as the implementing document. The Board in its discretion may approve waivers to the policy of complete compensation. *(Revised by Order No. 98-12-2-4, Effective 12.2.98)*