

ADMINISTRATIVE REGULATIONS

**BEND - LA PINE SCHOOL DISTRICT NO 1
ADMINISTRATIVE REGULATIONS
CODE: DJ-AR
PUBLIC CONTRACTING RULES AND PROCEDURES
DATED:**

**BEND-LA PINE PUBLIC SCHOOLS
MODEL PROCUREMENT RULES
FOR ADOPTION**

**PUBLIC CONTRACTING RULES AND PROCEDURES
MANUAL**

Pursuant to ORS 279A.065(5) the Bend-La Pine Public School District (“District”) adopts the Attorney General’s Model Public Contract Rules with the exceptions listed below and contained herein is a list of Special Class Exemptions from these rules as allowed by ORS 279B.085 and Division 50, which applies to the acquisition and disposition of surplus property.

PUBLIC CONTRACTING RULES AND PROCEDURES

A. Delegation.

(1) Except as otherwise provided in these rules, the powers and duties of the Local Contract Review Board (“LCRB”) under the Public Contracting Code must be exercised and performed by the Board of Directors.

(2) Pursuant to ORS 332.075(3), the Board delegates to the Superintendent the authority to enter into and approve payment on contracts for products, materials, capital outlay, equipment, and services if the contract is within appropriations made by the Board pursuant to ORS 294.435. The Superintendent shall seek Board approval for any items as outlined in Executive Limitations.

(3) For the purposes of the District’s public contracting rules, “Superintendent” shall mean the District Superintendent of Schools or the Superintendent’s designee. References in the Model Rules to the “Chief Procurement Officer” shall be deemed to refer to the Superintendent.

B. Personal Services.

(1) **Definitions.** “Personal Services” shall be defined to include those services that require specialized technical, creative, professional or communication skills or talents, unique and specialized knowledge, or the exercise of discretionary judgment, and for which the quality of the service depends on attributes that are unique to the service provider. Such services shall include, but are not limited to: architects; engineers; photogrammetrists; transportation planners; surveyors; attorneys, accountants, auditors and other licensed professionals; computer programmers; artists; designers; performers; and consultants. The Superintendent shall have the authority to determine whether any additional service not specifically mentioned in this paragraph is a “personal service” under this definition. “Personal Services Contract” shall mean a contract for the provision of Personal Services.

(2) **Contracts for Personal Services.** Except as required by ORS Chap. 279C, Personal Services Contracts shall be awarded in accordance with the source selection procedures set forth in Division 47 of the Model Rules. Notwithstanding the foregoing:

- (a) OAR 137-047-0250 shall not apply to Personal Services Contracts unless otherwise required by applicable law;
- (b) Contracts for architectural, engineering, photogrammetric mapping, transportation planning or land surveying or related services shall be awarded in accordance with the source selection procedures set forth in Division 48 of the Model Rules; and

- (c) Contracts for architectural, engineering, photogrammetric mapping, transportation planning or land surveying or related services, all as defined by ORS 279C.100, may be awarded pursuant to ORS 279C.115 or 279C.120, when applicable.

C. Special Procurements and Exemptions.

(1) The LCRB may exempt from competitive bidding certain contracts or classes of contracts for the procurement of goods and services according to the procedures described in ORS 279B.085. In accordance with OAR 137-047-0285(2), the District shall give public notice of the District's approval of a special procurement for goods and services in the same manner as public notice of competitive sealed bids under ORS 279B.055(4) and OAR 137-047-0300. The public notice shall describe the goods or services or class of goods or services to be acquired through the special procurement the District shall give affected persons at least seven (7) days from the date of the notice of approval of the special procurement to protest the special procurement.

(2) The LCRB may exempt certain contracts or classes of contracts for public improvements from competitive bidding according to the procedures described in ORS 279C.335. When exempting a public improvement from competitive bidding, the LCRB may authorize the contract to be awarded using a Request for Proposal process for public improvements, according to the processes described in OAR 137-049-0640 through 137-049-0690.

D. Small Procurements (under \$5,000).

(1) Public contracts under \$5,000 are not subject to competitive bidding requirements. The Superintendent shall make a reasonable effort to obtain competitive quotes in order to ensure the best value for the District.

(2) The District may amend a public contract awarded as a small procurement beyond the \$5,000 limit in accordance with OAR 137-047-0800, provided the cumulative amendments do not increase the total contract price to a sum that is greater than one hundred twenty-five percent (125%) of the original contract price.

E. Intermediate Procurements (between \$5,000 and \$150,000).

(1) A contract for procurement of goods and services estimated to cost between \$5,000 and \$150,000, or a contract for a public improvement that is estimated to cost between \$5,000 and \$100,000, may be awarded according to the processes for intermediate procurements described in ORS 279B.070.

(2) The District may amend a public contract awarded as an intermediate procurement beyond the stated limitations in accordance with OAR 137-047-0800, provided the cumulative amendments shall not increase the total contract price to a sum that is greater than one-hundred twenty-five percent (125%) of the original contract price.

F. Methods for Awarding Contracts Using Request for Proposal Process.

In making an award using the request for proposal process in ORS 279B.060, the District may use any evaluation method determined to be most appropriate for the selection process, including, but not limited to, the processes described in ORS 279B.060(6)(b). The evaluation process(es) to be used shall be stated in the Request for Proposals. OAR 137-047-0261 through 137-047-0263 shall apply to evaluation of proposals.

G. Emergency Contracts.

(1) “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.”

(2) 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.

(3) Emergency contracts may be awarded as follows:

- (a) Goods and Services. Emergency contracts for procurement of goods and services may be awarded pursuant to ORS 279B.080 and section B, “Delegation,” of these Rules.
- (b) Public Improvements. The District hereby adopts OAR 137-049-0150 as its contracting rules for awarding a public improvement contract under emergency conditions, pursuant to ORS 279B.080.

H. Appeals of Prequalification Decisions and Debarment Decisions.

(1) Review of the District’s prequalification and debarment decisions shall be as set forth in ORS 279B.425. The following additional procedures shall apply to hearings on such decisions by the LCRB:

- (a) Notices shall be submitted in writing to the Superintendent. Appeals filed after the filing period stated in ORS 279B.425 shall not be heard.
- (b) Upon opening of the hearing, District staff shall explain the District’s decision being appealed and the justification therefor. The appellant shall then be heard. Time for the appellant’s testimony shall be established by the Board Chair. The appellant may submit any testimony or evidence relevant to the decision or the appeal. Any party requesting time to testify in support of the appeal shall then be heard, subject to time limits established by the Board Chair.
- (c) Once all testimony and evidence in support of the appeal is heard, any party requesting time to testify in support of the District’s decision shall be provided time to be heard, subject to time limits established by the Board Chair. Any party testifying in opposition to the appeal may submit any testimony or evidence relevant to the decision or the appeal. Once all testimony in opposition to the appeal has been heard, the appellant may request time to provide rebuttal testimony. At the conclusion of the rebuttal testimony, if any, the Board Chair shall close the hearing.
- (d) When issued in writing according to the requirements of ORS 279B.425, the LCRB’s decision and order shall be final.

I. Electronic Advertising.

Pursuant to ORS 279B.055 and 279C.360, electronic advertisement of public contracts in lieu of publication in a newspaper of general circulation in the area where the contract is to be performed, is authorized when it is likely to be cost-effective to do so. The Superintendent shall have the authority to determine when electronic publication is appropriate, and consistent with the District's public contracting policies. Notwithstanding the foregoing, publication of public improvement contracts shall also be made in at least one trade newspaper of general statewide circulation.

CLASS SPECIAL PROCUREMENTS AND EXEMPTIONS

I. Class Special Procurements:

- A. The District may award a public contract under a Class Special Procurement pursuant to the requirements of ORS 279B.085. Such procurements allow the District to enter into one or more contracts over time without following the requirements of competitive sealed bidding, competitive sealed proposals, or small or intermediate procurements. The Superintendent may request a resolution from the LCRB exempting a particular contract or class of contracts from competitive bidding if the contract or contracts are not otherwise exempted under these rules.
- B. The LCRB declares the following as class special procurements. Unless otherwise specified in a particular special procurement rule, such contracts may be awarded in any manner that the Chief Procurement Officer deems appropriate for the District's needs, including by direct appointment or otherwise. Except as otherwise provided, the Chief Procurement Officer shall make a record of the method of award.
- 1. Advertising Contracts, Purchase of.** The Chief Procurement Officer, acting on behalf of the District, may purchase media advertising, regardless of dollar value, without competitive bidding.
 - 2. Advertising Contracts, Sale of.** The Chief Procurement Officer, acting on behalf of the District, may authorize the sale of advertising in district publications and for district activities, regardless of dollar value, without competitive bidding.
 - 3. Equipment Repair and Overhaul.** The Chief Procurement Officer, acting on behalf of the District, may enter into a Public Contract for equipment repair or overhaul without competitive bidding, subject to the following conditions:
 - (a) Conditions.**
 - (A)** Service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing; or
 - (B)** 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
 - (C)** The District purchases within the limits and pursuant to the methods in (3)(b) of this Rule.
 - (b) Process and Criteria.** The Chief Procurement Officer will use competitive methods wherever possible to achieve best value and must document in the Procurement File the reasons why a competitive process was deemed to be impractical. If the anticipated purchase is \$5,000 or more but less than \$150,000 competitive quotes must be obtained and retained in the Procurement File pursuant to the rules governing Intermediate Procurements.
 - 4. Purchase of Used Personal Property.** The District may directly purchase used personal property and equipment if such property is suitable for the District's needs and can be purchased for a lower cost than substantially similar new property. For

the purpose of this rule, the cost of used property shall be based upon the life-cycle cost of the property over the period for which the property will be used by the District. “Used personal property or equipment” means the 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 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.

- 5. Information Technology Contracts.** The Chief Procurement Officer, acting on behalf of the District, shall comply with the requirements of this rule for the Procurement of information technology Contracts. Competitive methods will be used wherever possible to achieve best value. The reasons why a competitive process was deemed to be impractical must be documented in the Procurement file.

 - (A) If the anticipated purchase is \$5,000 or more but less than \$150,000 competitive quotes will be obtained and retained in the Procurement File pursuant to the rules governing Intermediate Procurements.
 - (B) If the anticipated purchase exceeds \$150,000, the District will solicit written proposals in accordance with District rules governing requests for proposals.

- 6. Telecommunications Systems – Hardware and Software Contracts.** The Chief Procurement Officer, acting on behalf of the District, shall comply with the requirements of this rule for the procurement of telecommunications systems contracts. Competitive methods will be used wherever possible to achieve best value. The reasons why a competitive process was deemed to be impractical must be documented in the Procurement file.

 - (A) If the anticipated purchase is \$5,000 or more but less than \$150,000 competitive quotes will be obtained and retained in the Procurement File pursuant to the rules governing Intermediate Procurements.
 - (B) If the anticipated purchase exceeds \$150,000, the District will solicit written proposals in accordance with District rules governing requests for proposals.

- 7. Telecommunications Services.** The Chief Procurement Officer, acting on behalf of the District, may enter into a Public Contract for telecommunications services without competitive bidding, if no competition exists within the area for the service required. To determine whether competition exists, the Chief Procurement Officer will consider the following factors:

 - (A) Determination of alternative providers available within the geographic and service market area;
 - (B) The extent to which alternative services offered are comparable or substitutable in technology, service provided and performance; and
 - (C) 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.

- (D) The District will use competitive methods wherever possible to achieve best value. If competition exists as defined above and the anticipated purchase is \$5,000 or more but less than \$150,000 competitive quotes will be obtained and retained in the procurement file pursuant to the rules governing Intermediate Procurements. If the anticipated purchase exceeds \$150,000, the District will solicit written proposals in accordance with District rules governing requests for proposals.
- 8. Copyrighted and Library Materials.** The District may purchase copyrighted materials where there is only one known supplier available for such goods. This includes, but is not limited to, new books, periodicals, curriculum materials, reference materials, audio and visual media, and non-mass marketed software from a particular publisher or its designated distributor. Instructional materials are adopted through a statewide process under the authority of the Oregon Department of Education. The District purchases its instructional materials through Northwest Textbook Depository.
- 9. Requirements Contracts.** The Chief Procurement Officer, acting on behalf of the District, may establish requirements contracts for the purposes of minimizing paper work, achieving continuity of products, securing a source of supply, reducing inventory, combining District requirements for volume discounts, standardization among District departments and reducing lead time for ordering. Requirements contracts may be utilized in accordance with the following:
- (A) The contract must have originally been let by competitive procurement procedures;
- (B) District departments may purchase the goods or services from the awarded contractor without first undertaking additional competitive procurement procedures; and
- (C) The term of any District requirements contract, including renewals, will not exceed five years unless otherwise exempted pursuant to ORS 279B.085.
- 10. 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 document its authority 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.
- 11. Hazardous Material Removal and Cleanup.** 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 pursuant to its authority under ORS Chapter 466. In doing so, the following conditions apply:

- (A) 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.
- (B) The District department responsible for managing or coordinating the clean-up shall submit to the Chief Procurement Officer:
 - (i) A written description of the circumstances that require the clean-up;
 - (ii) A copy of the DEQ order for the clean-up; and
 - (iii) A request for contract authorization;
- (C) 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 award is made; and
- (D) The timeline for cleanup does not permit use of intermediate procurement procedures.

12. Tag-on Contracts. The District may enter into a contract for the purchase of goods or services, other than public improvements or personal services, from an entity that is selling substantially identical goods or services by contract with another Oregon public agency (the “Originating Agency”) if:

- (A) The Originating Agency selected the contractor through a competitive process that complied with the District’s public contracting rules;
- (B) The District contract is executed not later than four years after the date of the contract with the Originating Agency; and
- (C) The contract allows the District to purchase the goods and services at the unit prices or rates and under the same conditions as set forth in the Originating Agency’s contract, subject only to price adjustments for minor modifications to customize the goods and services to the District’s specifications and modifications to conform timing and place of performance to the District’s requirements. For the purposes of this rule, a modification of the primary purpose or function of the goods or services shall not result in a unit price or rate adjustment of more than five percent of the unit pricing or rates set forth in the Originating Agency’s contract.

13. Insurance, Employee Benefit and Other. The District may purchase employee benefit insurance and other insurance without competitive bidding, regardless of dollar amount, subject to the terms of any collective bargaining agreement between the District and represented employee groups.

14. Disposal of Abandoned, Seized or Non-owned Property. Contracts or arrangements for the sale or other disposal of abandoned, seized or other personal property not owned by the District at the time the District obtains possession are not subject to competitive procurement procedures. The Chief Procurement Officer may select any method of disposal including, but not limited to, donation to a charitable organization.

15. Disposal of Surplus Property. Surplus property shall be disposed of in accordance with Rules 50-0100 through 50-0200.

16. 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, contract, other than a contract for public improvements, without competitive bidding.

17. 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 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.

18. 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.

19. 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 payments to the District based, at least in part, on the concessionaire's revenues from 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, license, permit or other arrangement for the use of public property. Concession agreements may be awarded by any method deemed appropriate by the Chief Procurement Officer including without limitation, by direct appointment, private negotiation, from a qualified pool, or using a competitive process.

II. Exemptions:

- A. The District may award a public improvement contract under an exemption to competitive procurement pursuant to the requirements of ORS 279C.335. Such procurements allow the District to enter into one or more contracts over time without following the requirements of competitive sealed bidding, competitive sealed proposals, or small or intermediate procurements.
- B. The LCRB declares the following public improvement contracts to be exempt from competitive bidding. Unless otherwise specified in a particular exemption rule, such

contracts may be awarded in any manner that the Chief Procurement Officer deems appropriate for the District's needs, including by direct appointment or otherwise. Except as otherwise provided, the Chief Procurement Officer shall make a record of the method of award.

1. Use of Existing Contractors. When a public improvement is in need of minor alteration, repair or maintenance at or near the site of work being performed by another District contractor, the District may hire that contractor to perform the work, provided:

- (A) The contractor was hired through a selection process permitted by the District's public contracting rules;
- (B) The Chief Procurement Officer first obtains a price quotation for the additional work from the contractor that is competitive and reasonable; and
- (C) The original contract is amended to reflect the new work and is approved by the Chief Procurement Officer before work begins.

2. Brand Names or Products, "or Equal," Single Seller and Sole Source. The District may enter into a public contract for the procurement of Brand Name "or Equal" Products subject to the requirements of this rule.

(A) Specifications. Solicitation specifications for public contracts must not expressly or implicitly require any product of any particular manufacturer or seller except as expressly authorized in Subsections (i) and (ii) of this Rule.

(i) "Or Equal" Specification. The District may specify a particular brand name, make or product suffixed by "or equal", "or approved equal", "or equivalent", "or approved equivalent", or similar language if there is no other practical method of specification.

(ii) Specifying a Particular Make or Product. The District may specify a brand name, make, or product without an "or equal" or equivalent suffix if there is no other practical method of specification, after documenting the procurement file with the following information:

(I) A brief description of the solicitation(s) to be covered including volume of contemplated future purchases;

(II) The brand name, mark, or product to be specified; and

(III) The reasons for seeking this procurement method, which must include at least one of the following findings in the procurement file:

(aa) It is unlikely that Specification of the brand name, mark or product will encourage favoritism in the award of the public contracts or substantially diminish competition; or

(bb) Specification of the brand name, mark or product would result in substantial cost savings to the District; or

(cc) Efficient utilization of existing equipment or supplies requires the acquisition of compatible equipment or supplies.

(B) Public Notice. 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 Rule 47-0330 for a reasonable period of time or by documenting direct contact with such suppliers in the Procurement file.

- (C) Purchasing From Sole Source, Single Seller.** The District may purchase a particular product or service available from only one source if the District meets the Requirements of Subsection (A) and (B) of this rule and a Sole-Source Procurement pursuant to ORS 279B.275. Prior to purchase, the District must document its findings of current market research to support the determination that the product or service is available from only one seller or source and place this information in the procurement file. The District's findings must also include:
- (i) A brief description of the contract or contracts to be covered including volume of contemplated future purchases;
 - (ii) Description of the product or service to be purchased; and
 - (iii) The reasons the District is seeking this procurement method, which must include at least the following:
 - (I) Efficient utilization of existing Goods or Services requires the acquisition of compatible Goods or Services; or
 - (II) The required product is data processing equipment which will be used for research where there are requirements for exchange of software and data with other research establishments; or
 - (III) The particular product is for use in a pilot or an experimental project.
- (D) Single Manufacturer, Multiple Sellers.** The District may specify a product or service available from only one manufacturer, but available through multiple sellers, if the Requirements of Subsection (A) and (B) and the following are met:
- (i) If the total purchase is \$5,000 or more but does not exceed \$150,000 competitive quotes must be obtained and retained in the Procurement File pursuant to the rules governing Intermediate Procurements;
 - (ii) If the purchase exceeds \$150,000, the acquisition shall be made through competitive procurement unless a contract-specific special procurement is authorized by the LCRB.
- (E) Single Manufacturer, Multiple Purchases.** If the District intends to make several purchases of the product of a particular manufacturer or seller for a period not to exceed five (5) years, the District must so state in the Solicitation file, the Solicitation Document, if any, and the public notice described in Subsection (B) of this Rule. Such documentation and public notice constitute sufficient notice as to subsequent purchases. If the total purchase amount is estimated to exceed \$150,000, this must be stated in the advertisement for Bids or Proposals.
- (F) Competitive Solicitations.** If the District competitively solicits, it must comply with the Rules for that method of Solicitation pursuant to ORS 279B.055 through 279B.075.

(3) Waiver of Bid Security Requirements.

Public Improvement Contracts Under \$100,000

- (a) **Authorization.** The Local Contract Review Board hereby grants approval of this rule pursuant to ORS 279C.375 and 279C.390. The Chief Procurement Officer,

acting on behalf of the District, may, at his discretion, waive bid security requirements if the amount of the public improvement contract is less than \$100,000. Although bid security may be waived for contracts under \$100,000, the District may impose a bid or quote security requirement for projects under \$100,000 when deemed to be in the best interest of the District.

- (b) **Findings of Fact/Conclusion of Compliance with the Law.** This rule allows the superintendent to waive bid security requirements for certain public improvement contracts pursuant to ORS 279C. Since this waiver is provided for in statute, findings are not required.

(4) Waiver of Performance Bond and Payment Security Requirements.

Public Improvement Contracts Under \$100,000

- (a) **Authorization.** The Local Contract Review Board hereby grants approval of this rule pursuant to ORS 279C.375 and 279C.390. The Chief Procurement Officer, acting on behalf of the District, may, at his discretion, waive performance and/or payment security requirements if the amount of the public improvement contract is less than \$100,000. Although bid security may be waived for contracts under \$100,000, the District may impose a performance and/or payment security requirement for projects under \$100,000 when deemed to be in the best interest of the District.
- (b) **Findings of Fact/Conclusion of Compliance with the Law.** This rule allows the superintendent, acting on behalf of the District, to waive performance and/or payment security requirements for certain public improvement contracts pursuant to ORS 279C. Since this waiver is provided for in statute, finds are not required.

DIVISION 50

SURPLUS PROPERTY

50-0100

Surplus Property Definitions

In addition to the definitions contained in ORS 279A.250 and Rule 46-0110, the following definitions apply to these Rules on Surplus Property:

- (1) **“Bid”** means a competitive Offer to purchase advertised Surplus Property at a price specified by the bidder.
- (2) **“Cash”** includes U.S. currency, cashier’s checks, certified checks, traveler’s checks, money orders made payable to the District, or approved credit cards.
- (3) **“Direct Labor”** includes all Work required for preparation, production, processing and packing of surplus property, but does not include supervision, administration, inspection and shipping.
- (4) **“Employee’s Household”** means all persons residing with employee.
- (5) **“Employee’s Immediate Family”** means the children, step-children, parents, step-parents, grandparents and spouse of employee, separately or in any combination thereof.
- (6) **“Invitation to Bid”** means a competitive Offer to bid on Surplus Property available for public sale and is also known as a bid advertisement.
- (7) **“Not-for-profit organization”** is defined in ORS 279A.250(2) and means a nonprofit corporation as defined in ORS 307.130.
- (8) **“Photographic Identification”** means a document that shows the bearer’s current name, address, and photographic portrait.
- (9) **“Political Subdivision”** includes divisions or units of Oregon local government having separate autonomy such as Oregon counties, cities, municipalities or other public corporate entities having local governing authority.
- (10) **“Private Not-for-Profit Agencies”** means those Agencies meeting the criteria specified in the Oregon Administrative Rules.
- (11) **“Property”** is defined in ORS 279A.250(3) and means personal property.
- (12) **“State agency”** is defined in ORS 279A.250(4) and means every state officer, board, commission, department, institution, branch or agency of state government whose costs are paid wholly or in part from funds held in the State Treasury, and includes the Legislative Assembly and the courts, including the officers and committees of both, and the Secretary of State and the State Treasurer in the performance of the duties of their constitutional offices.

Stat. Auth.: ORS 283.060; ORS 279A.065(5)(a); ORS 279A.070

Stats. Implemented: ORS 279A.250

50-0110

Eligibility of State Agencies, Political Subdivisions and Non-Profit Organizations

Prior to offering Surplus Property for public sale, the District may make Surplus Property available to the following:

- (1) Public School Districts;

- (2) Private Schools;
- (3) State Agencies;
- (4) Political subdivisions of the State; and
- (5) Any non-profit organization qualified to acquire property as determined by the District.

Stat. Auth.: ORS 283.060; ORS 279A.065(5)(a); ORS 279A.070
Stats. Implemented: ORS 279A.260

50-0120

Surplus Property Acquisition

- (1) Recipients of Surplus Property must have funds available at the time property is acquired, and pay all costs and charges incidental to the acquisition within 30 calendar days from the date of invoice. Invoices outstanding in excess of 90 days may result in suspension of purchasing privileges until such invoices have been paid in full.
- (2) Surplus property may be made available to qualified organizations (those organizations referenced in Rule 50-0110) prior to public sale. Non-qualifying private entities and private citizens, separately or combined, must not be eligible to acquire surplus property except at public sales.
- (3) Surplus Property acquired by qualified organizations must be used in the conduct of their official public programs and not for resale or distribution unless otherwise pre-approved by the District.

Stat. Auth.: ORS 279A.065 (5)(a); ORS 279A.070
Stats. Implemented: ORS 279A.260 and ORS 279A.280

50-0130

Public Sales for Disposal of Surplus Personal Property

- (1) **Conduct.** The District must conduct public sales for the disposal of Surplus Property not sold or transferred pursuant to Rules 50-0110 and 0120. Methods of disposal may include, but are not limited to: internet auctions, oral auctions, sealed bid sales and fixed price retail sales, separately or in any combination thereof.
- (2) **Eligibility.** Members of the general public may participate as buyers at public sales. No employee whether full-time, part-time, temporary or an unpaid volunteer, of the District, member of the employee's household, the employee's immediate family, or any person acting on the employee's behalf may participate in public sales if the employee has had any role in declaring the item surplus, processing the item or related paperwork, or offering it for sale.
- (3) **Conduct of Public Sales, Auctions, and Internet Auctions.**
 - (a) The District may offer Surplus Property for public sale through an internet auction provider, oral auction, sealed bid sale, or fixed price retail sale. The public may inspect Property offered for sale at the time and place specified in the public Invitation to Bid;
 - (b) The District reserves the right to reject any and all bids regarded as not in the best interests of the public;
 - (c) All auction items must be sold to the highest bidder. All Property must be offered "As-Is, Where-Is" with no warranty or other guarantee as to its condition or fitness for any use or purpose. Terms and conditions of the sale will be made a part of the advertisement/posting. A

purchaser or disappointed bidder will have no recourse against the District, or any of its respective officers, employees or agents. All sales will be final.

(4) Payment.

(a) Full payment must be made within ten (10) calendar days from the date of auctions close unless otherwise specified in the public notice of the sale.

(5) Claiming Items Purchased.

(a) Items not paid in full by the time specified in the sales terms and conditions will be canceled;

(b) **Unclaimed Property.** Property paid for but not claimed within the time specified in the sales terms and conditions shall be considered abandoned and ownership shall be retained by the District;

(c) **Title.** Title to Property sold will be transferred to the purchaser when full and final payment is made, unless otherwise specified by the District. For vehicles, receipt of payment of the sale price and delivery of key to the purchaser constitutes delivery and possession. Titles to vehicles must be transferred upon receipt of full payment. The District rejects any liability once a purchaser takes possession of a vehicle.

(6) **Failure to Comply.** The District may establish criteria to debar participants from internet auctions and other sales pursuant to this Rule. Such criteria shall be based on:

(a) Conviction of fraud;

(b) Unsatisfactory Internet auction service ratings;

(c) Failure to claim purchases; or

(d) Other documented activities determined by the District to warrant debarment.

Based upon these criteria, the District may debar participants from Internet auctions and participation in other sales.

(7) Conduct of Auctions and Sealed Bid Sales.

(a) The District must advertise the date, time and location of public auction or sealed bid sales. A public Invitation to Bid shall be available at the auction site or sales location one week before an auction or sealed bid sale. The public may inspect property offered for sale at the time and place specified in the public Invitation to Bid;

(b) The District reserves the right to reject any and all bids regarded as not in the best interests of the public;

(c) All items must be sold to the highest Bidder. All Property will be offered "As-Is, Where-Is" with no warranty or other guarantee as to its condition or fitness for use. A purchaser or disappointed Bidder will have no recourse against the District or any of its respective officers, employees or agents. All sales will be final.

(d) The District may require a bid security check (payable to the "District") equal to at least ten (10) percent of the bid to accompany all sealed bids. The Invitation to Bid shall define any bid security requirements. The bid security of unsuccessful bidders will be returned within 30 days following a Bid Opening. The successful Bidder's bid security will be applied as partial payment on property purchased.

(8) Payment.

(a) Full payment must be made on the day of the sale for all purchases unless the invitation to Bid states otherwise. In those instances where full payment is not required, a ten (10) percent down payment is required on the day of the sale. The time limit for making full payment, and the place where payment must be made will be specified in public Invitation to Bid;

(b) Payment by personal check may be accepted, at the absolute discretion of the District, when presented with two (2) pieces of acceptable identification, one of which must be a photo

identification (“photo I.D.”). Other acceptable identification may include major credit cards, a valid driver’s license, or valid voter’s registration card. The District reserves the right, in its absolute discretion, to refuse any tender of payment by personal check and, further, the right to require that payment be made by cash, cashier’s check or money order.

(9) Claiming Items Purchased.

(a) Items not paid in full by the time specified in the sales terms and conditions will be canceled and bid security forfeited, with ownership being retained by the District;

(b) Property paid for but not claimed within the time specified in the sales terms and conditions shall be considered abandoned and ownership shall be retained by the District unless prior written approval is obtained from the District;

(c) Title to Property sold must be transferred to the purchaser when full and final payment is made, unless otherwise specified by the District. For vehicles, receipt of payment of the sale price and delivery of key to the purchaser constitutes delivery and possession. Titles to vehicles may be transferred upon receipt of full payment. If payment is made by personal check, the title may be released to the vehicle purchaser in 21 calendar days, or when the check clears the bank. The District rejects any liability once a purchaser takes possession of a vehicle;

(10) Failure to Comply. In addition to Section (6) of this Rule, the Department may debar participants from surplus sales based upon the following criteria:

(a) Failure to observe the procedures set forth in the sales terms and conditions; or

(b) Payment for purchase or bid security with a personal check, which is dishonored by a payer’s financial institution.

Stat. Auth.: ORS 279A.065(5)(a); ORS 279A.070

Stats. Implemented: ORS 279A.280

50-0140

Policies for Disposal of Surplus Property

- 1) **Authority to Conduct Sales.** The District’s Chief Procurement Officer is delegated the authority to conduct sales of personal property on behalf the District.
- 2) **Authority to Sell Real Property.** The District’s Assistant Superintendent for Operations is delegated the authority to conduct sale of real property on behalf of the District.
- 3) **Authority to Possess District Property.** District property may not become the property of district employees except through public sale. Employees of the District are not permitted to obtain undue financial gain by virtue of their position in the District, and therefore, must not remove discarded items from the District’s work sites for personal use.
- 4) **Authority to Discard Property.** Administrators/Supervisors in the District are permitted to discard District owned personal property if they have made the determination that the property has “no value”. Property may be thrown away/discarded as having “no value” if the property:
 - a) is past its useful life, or;
 - b) has been damaged beyond repair, or;
 - c) has been determined to be uneconomically repairable, or;
 - d) is an unsafe condition posing a hazard to potential users, or;
 - e) is not acceptable for use by District in any known application, or;
 - f) remains unsold after attempts to sell the property at a public sale.

- 5) **Authorization to Trade-In Equipment.** The District may allow property to be traded-in on a replacement purchase if it is in the best interest of the District to do so. Details of the trade-in provisions and the value of the trade-in equipment are to be made part of the procurement file. Documentation will be added to the procurement file to reflect the reasons for using this method of property disposal.
- 6) **Authority to Donate Equipment.** The Superintendent, or designee, may donate surplus property to local government units, or not-for-profit agencies, if the value of the items is less than \$300.00.
- 7) **Authority to Approve Donations.** The Superintendent, or designee, may approve a school's request to donate surplus property to a charity on behalf of the school or the district, if the principal:
 - a) makes the request in writing, and;
 - b) describes the item (s) to be donated, the distribution plan, the estimated value, and;
 - c) identifies the agency to receive the donation, and
 - d) the reason for this donation.
- 8) **Recycling Surplus Property.** Recycling surplus property is a preferred method over discarding and should be utilized whenever feasible as an alternative to having property be disposed of at the landfill.
- 9) **Disposal of Textbooks.** The sale of textbooks is to be conducted by the District's Chief Procurement Officer. The advertising/public notice of the sale of these books may be made solely on the District's Web page. The sale of surplus textbooks and surplus library books may be made contingent on the successful bidder removing all books in the sale lot. Additionally, the District may require as a condition of sale that the successful Purchaser recycle those books with no re-sale value.
- 10) **Recycling Computer Equipment.** The District may recycle or otherwise dispose of computers and related hardware that are surplus, or obsolete, when the value and condition of the equipment does not warrant the cost of the sale.

Stat. Auth.: ORS 279A.065(5)(a); ORS 279A.070

Stats. Implemented: ORS 279A.280

SELLING GOODS OR SERVICES

50-0200

Policy; Applicability; Methods

(1) **Policy.** A sound and responsive Public Contracting system, pursuant to ORS 279A.015, may include both purchasing and selling activities. By definition, a Public Contract includes sales by Agencies pursuant to ORS 279Z.010(z). The policies of ORS 279A.015 apply to public selling activities.

(2) **Applicability.** This Rule applies to the sales of Goods or Services. The sale of Goods or Services includes but is not limited to: concessions and personal property.

(3) **Methods.** The District must use a method, as feasible for selling, pursuant to ORS 279B.055 through ORS 279B.085. For the sale of Goods, the value of the sale transactions for the purpose

of selecting the appropriate sourcing method must be based on the gross amount of receipts anticipated.

Stat. Auth.: ORS 279A.065(5)(a); ORS 279A.070

Stats. Implemented: ORS 279A.010(x); ORS 279A.015; ORS 279A.050(1) and (2); ORS 279A.065(5)(a)