

COUNTY COURT JOURNAL

BEFORE THE BOARD
OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY,
OREGON

FILED
AUG 17 1978
JUNE WAGNER
COUNTY CLERK
W. P. ...
DEPUTY

ORDINANCE # 10

AN ORDINANCE ESTABLISHING A LOCAL CONTRACT
REVIEW BOARD TO REVIEW PUBLIC CONTRACTS
UNDER CHAPTER 771, OREGON LAWS 1975; ALLOW-
ING FOR THE APPOINTMENT OF PUBLIC CONTRACT-
ING OFFICER; APPOINTING AN ADVISORY COM-
MITTEE; ADOPTING TEMPORARY RULES FOR THE
BOARD; AND DECLARING AN EMERGENCY.

THE BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON DOES
ORDAIN AS FOLLOWS:

SECTION 1. LOCAL CONTRACT REVIEW BOARD

Pursuant to ORS 279.055 (Section 34 (2), Chapter 771, Oregon Laws 1975) the Board of County Commissioners is hereby designated as the local Contract Review Board for Tillamook County. Relative to contract concerns of this county, the board shall have all the powers granted to the State Public Contract Review Board.

SECTION 2. TEMPORARY RULES

Temporary Rules are hereby adopted governing public contracts in Tillamook County. One copy of the Temporary Rules is filed in the office of the County Clerk. These Temporary Rules shall remain in effect until such time as the Tillamook County Contract Review Board adopts permanent rules pursuant to the authority granted by Chapter 711, Oregon Laws 1975. The permanent rules may be adopted or amended by resolution of the local Contract Review Board. In no case shall any amendment be allowed to act retroactively upon any matter, that at the time of the amendment, is pending for hearing or which the time for appeal has not yet expired.

SECTION 3. PUBLIC CONTRACTING OFFICER

The local Contract Review Board may appoint a Public Contracting Officer to serve at the pleasure of said Board. The duration of the appointment shall be established by resolution of the local Contract Review Board.

SECTION 4. ADVISORY COMMITTEE

The local Contract Review Board shall appoint two citizens at large to serve said Board in an advisory capacity in matters relating to the business of the Board.

SECTION 5. SEVERABILITY

Any provision of this ordinance inconsistent with rules and procedures adopted hereunder, pursuant to Section 2 hereof, shall, unless illegal by statute, supersede said rules. Any rule or section hereunder declared hereafter by a Court of competent jurisdiction to be invalid for any reason whatsoever shall not thereby void this ordinance in its entirety nor shall said decision void any rules hereunder except the specific one declared invalid.

SECTION 6. EMERGENCY

This ordinance being deemed by the Board of County Commissioners of Tillamook County, Oregon, necessary for the immediate preservation and protection of the public peace, health, safety and general welfare of Tillamook County, an emergency is hereby declared to exist and this ordinance shall be in full force and effect upon its passage.

DATED this 16th day of August, 1978.

BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

Gina Gallina --
Recording Secretary

Chas D Bailey --
Chas. D. Bailey, Chairman

Issued for review: 7-19-78
Read in full 8-2-78
Read by title only: 8-16-78

F. E. Knight --
F.E. Knight, Commissioner

Granville Simmons --
Granville Simmons, Commissioner

Motion by G. Simmons
Second by F. E. Knight

Vote:
Chairman Bailey: Aye
 Nay
Commissioner Knight Aye
 Nay
Commissioner Simmons Aye
 Nay

RULES FOR
TILLAMOOK COUNTY LOCAL CONTRACT
REVIEW BOARD

FILED
AUG 17 1978
JUNE WAGNER
COUNTY CLERK
~~DEPUTY~~

SECTION 1. PURPOSE: These rules are promulgated by the local contract review board, as designated by Ordinance No. 10, pursuant to the authority granted to that board by ORS Chapter 279, for the purpose of establishing the rules and procedures for contracts entered into by the County.

SECTION 2. DEFINITIONS: The following words and phrases mean:

ADVISORY COMMITTEE: A committee of two citizens appointed by the Board to serve in an advisory capacity in matters relating to the business of the Board.

BOARD: The local contract review board for the county of Tillamook, as established by Ordinance No. 10.

COMMISSION: The county board of commissioners.

COMPETITIVE BIDDING: The solicitation of competitive offers which follow the formal process for advertising, bid and bid opening required by ORS Chapter 279, and applicable rules of the Board.

COMPETITIVE QUOTES: The solicitation of offers from competing vendors. The solicitation may be by advertisement or a request to vendors to make an offer. The solicitation and the offer may be in writing or oral.

PUBLIC CONTRACTING OFFICER: The commissioner or the person or persons designated by the commission to negotiate public contracts for the county.

PUBLIC CONTRACT: Any purchase, lease or sale of personal property, public improvements or services other than agreements which are exclusively for the county.

SECTION 3. COMPETITIVE BIDS: EXEMPTIONS: All contracts shall be based upon competitive bids except:

1) Contracts with public agencies. Contracts made with or the cost of which is provided by, other public agencies or the federal government.

2) Personal service contracts. Contracts which are exclusively for personal services. Such contracts may include incidental materials such as written reports or opinions, architectural or engineering renderings, and other supplemental materials required for providing the services.

3) Contracts under \$10,000. Contracts for purchase where the amount does not exceed \$10,000.

"(a) Where contracts are for more than \$5,000. at least three competitive quotes shall be obtained where practicable. A written record shall be made containing the source and amount of the quotes received.

(b) Where contracts are for more than \$500. but less than \$5,000., competitive quotes may be obtained where practicable.

(c) No contractor may be awarded, in the aggregate within the fiscal year, contracts in excess of \$20,000. under this subsection without competitive bidding. In computing the aggregate under this subsection, awards under \$500. need not be included."

4) Contracts for price regulated items. Contracts for the purchase of goods or services where the rate or price for the goods or services being purchased is established by federal, state or local regulatory authority.

5) Used equipment contracts. Contracts for the purchase of used equipment except that at least three competitive quotes shall be obtained when practicable. A written record shall be made containing the source and amount of the quotes received. The product shall be selected on the basis of the most competitive offer considering cost, condition, and location. The term cost shall include not only the product price but also other items of expense such as costs relating to condition, conversion or transportation.

6) Allocated petroleum products. Contracts for the purchase of petroleum products if such purchase is required to be made from a particular supplier as a result of a Federal allocation or if purchase from other than an established supplier could jeopardize an allocation or future supply of such petroleum products.

- 7) Copyrighted materials. Contracts for the purpose of advertising, including that intended for the purpose of investment of public funds or the borrowing of funds.
- 8) Advertising contracts. Contracts for the purchase of advertising, including that intended for the purpose of giving public notice.
- 9) Investment contracts. Contracts for the purpose of investment of public funds or the borrowing of funds.
- 10) Requirements contracts. Purchases of goods or services from a supplier when the price of the goods and services has been established under a previously competitive bid requirements contract whereby it is agreed to purchase requirements or an anticipated need at a predetermined price.
- 11) Single seller or price of product required. Contracts for purchase where there is only one seller or price of a product of the quality required available within a reasonable purchase area.
- 12) Data processing contracts. Contracts for purchase or acquisition of data processing (hardware or software) may be let without competitive bid subject to the following conditions:
- (a) Prior to selection of the contractor, reasonable efforts have been made to solicit proposals from all known vendors. If the amount of the contract exceeds \$10,000., written proposals shall be solicited from the appropriate vendors appearing on the list composed by the Data Systems Division of the Executive Branch of the State of Oregon or by publication of an advertisement in a major trade publication of general circulation.
 - (b) The contractor is selected on the basis of the most competitive offer in both the cost and quality of the product to be purchased or acquired.
 - (c) Whenever a contract for data processing let pursuant to this exemption exceeds \$5,000., a written report shall be submitted to the board. The report shall include:
 - (i) The name of the company and, if applicable the name of the retail vendor;

(ii) The reasons why competitive bidding was not appropriate; and

(iii) A description of the reasons why the contractor was selected and other proposals rejected.

13) Insurance contracts. Contracts for insurance.

14) Contract amendments. Any contract amendment, including change orders, extra work, field orders, or other change in the original specifications which changes the original contract price or alters the work to be performed, may be made with the contractor subject to the following conditions:

(a) The original contract imposes a binding obligation on the parties covering the terms and conditions regarding changes in the work;

(b) The amended contract does not substantially alter the scope or nature of the project; or

(c) If the amendment has the effect of substantially altering the scope or nature of the project, the amount of the aggregate cost change resulting from all amendments creating such new obligations shall not exceed 10% of the initial contract.

15) Equipment maintenance. Contracts for the purchase of services, equipment or supplies for the maintenance, repair or conversion of existing equipment are exempt if required for the efficient utilization of the equipment. Where practicable, competitive quotes shall be obtained.

16) Asphaltic concrete and rock. Contracts for the purchase of asphaltic concrete and rock where the material is to be used for maintenance. Where practicable, competitive quotes shall be obtained.

17) Bids obtained by the State for same materials. Contracts for the purchase of materials where competitive bids for the same materials have been obtained by the State of Oregon, and the contract is awarded to the same party that the state dealt with, and the price of the materials is the same or lower than that paid by the state.

18) Sale of personal property. Personal property may be disposed of without competitive bidding under any of the following conditions:

(a) There are specific statutory procedures for the sale of the type of property involved, and the property is disposed of according to those procedures;

(b) The property has a value of less than \$500. unless otherwise provided by statute; or

(c) The public contracting officer finds that competitive bids would be inappropriate for the type of property involved. A report of all sales made under this subsection shall be made to the board and shall include the reasons that competitive bids were deemed inappropriate.

SECTION 4. EXEMPTIONS FOR ADDITIONAL CONTRACTS. The Board may by resolution exempt other contracts from competitive bidding if it finds:

(1) The lack of bids will not result in favoritism or substantially diminish competition in awarding the contract; and

(2) The exemption will result in substantial cost savings. In making such findings, the board may consider the type, cost, amount of the contract, number of persons available to bid, and such other factors as the board may deem appropriate.

SECTION 5. EMERGENCY CONTRACTS. A contract may also be exempted from competitive bidding if the commission, by majority vote of members present, determines that emergency conditions require prompt execution of the contract. A determination of such an emergency shall be entered into the record of the meeting at which the determination is made.

SECTION 6. BRAND NAME SPECIFICATION IN CONTRACTS. Specifications for contracts shall not require any product by any brand name or mark, nor the product of any particular manufacturer or seller, unless the product is exempt from this requirement under the provisions of subsection (1) or (2). However, this section shall not be construed to prevent reference in the specifications to a particular product as a description of the type of item required.

(1) A contract shall be exempt from the requirements of this section under any of the following conditions;

(a) The specification is for a specific copyrighted product. This exemption does not include patented or trade mark goods.

(b) If there is only one manufacturer or seller of a product of the quality required, or if the efficient utilization of the existing equipment or supplies requires a compatible product of a particular product subject to the following conditions:

(i) The product is selected on the basis of the most competitive offer considering quality and cost. The term "cost" includes not only the product price but also other items of expense such as costs related to quality or conversion;

(ii) Prior to awarding the contract, reasonable efforts have been made to notify all known vendors of competing or comparable products of the intended specifications; and such vendors have been invited to submit competing proposals. If the amount of the purchase exceeds \$5,000, such notice shall include advertisement in at least one newspaper of general circulation in the area where the contract is to be performed and shall be timed to allow competing vendors a reasonable opportunity to make proposals; and

(iii) If an application for inclusion in a list of prequalified products is denied, or an existing prequalification is revoked, the applicant shall be notified in writing. The applicant may, within three days after receipt of the notice, appeal the denial or revocation to the board according to the procedure in Section 9.

(2) The board may by resolution exempt certain additional products or classes of products upon any of the following findings:

(a) It is unlikely that such exemption will encourage favoritism in the awarding of the contract or substantially diminish competition.

(b) The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings.

(c) There is only one manufacturer or seller of the product of the quality required.

(d) Efficient utilization of existing equipment or supplies require the acquisition of compatible equipment or supplies.

SECTION 7. BIDDER DISQUALIFICATIONS: The public contracting officer may disqualify any person as a bidder in a contract if:

(1) The person does not have sufficient financial ability to perform the contract. Evidence that the person can acquire a surety bond in the amount and type required shall be sufficient to establish financial ability. If no performance bond is required, the public contracting officer may require such information as he deems necessary to determine the bidder's financial ability;

(2) The person does not have equipment available to perform the contract;

(3) The person does not have personnel of sufficient experience to perform the contract; or

(4) The person has repeatedly breached contractual obligations to public and private contracting agencies.

SECTION 8. BID REJECTION. The public contracting officer may reject any bid not in compliance with all prescribed public bidding procedures and requirements, and may reject all bids if it is in the public interest to do so.

SECTION 9. MANDATORY PREQUALIFICATION. Persons desiring to bid for contracts to perform the classes of public improvements described in (1) below shall submit a completed prequalification statement to the public contracting officer. This requirement shall apply only where the public improvement contract amount exceeds \$_____.

(1) The classes of work for which prequalification is required area as follows:

Highway, road and street improvements
Concrete paving and flatwork
Rock crushing
Bituminous oiling
Bituminous paving
Reinforced concrete construction
Bridge and overcrossing construction

Dredging and piledriving
Excavation and grading
Sewer construction
Sewage treatment plants
Sewage pumping stations
Water lines
Water reservoirs
Water tanks - steel
Water tanks - concrete
Electrical wiring
Traffic signalization
Outdoor illumination
Building construction
Building alteration and repair
Demolition and related excavation and clearing
Painting and decorating
Plumbing
Heating
Roofing
Air conditioning
Irrigation and sprinkling systems
Drainage
Landscaping

(2) Applications for prequalification shall be submitted on the forms provided by the board at the times designated by the board for such prequalification.

(3) Upon establishment of the applicant's qualifications, the public contracting officer shall issue a qualification statement. The statement shall inform the applicant of any conditions which may be imposed on the qualification and advise the applicant to notify the public contracting officer promptly if there has been any substantial change of conditions or circumstances which would make any statement contained in the prequalification statement no longer applicable or untrue. The qualification statement shall also inform the applicant that if he desires to appeal the conditions of the prequalification varying his application, written notice must be given to the public contracting officer within three business days after receipt of the notice.

(4) If the public contracting officer does not qualify an applicant, he shall give written notice to the applicant stating the reasons that prequalification has been denied and informing the applicant of his right to appeal the decision within three business days after receipt of the notice.

(5) Upon discovery that a person prequalified is no longer qualified, the public contracting officer shall send notification of proposed revocation of qualification to the person. The notice shall state the reason for revocation and inform the person that the revocation will be effective 10 days from the date of the notice unless evidence that the deficiency has been corrected or notice of intent to appeal the revocation has been filed with the public contracting officer within 10 days.

SECTION 10. APPEALS. The procedures for appeals shall be as follows:

- (1) Notices of appeal need not be in any particular form so long as they are in writing addressed to the public contracting officer.
- (2) Immediately upon receipt of such written notice of appeal, the public contracting officer shall inform the board.
- (3) Upon receipt of notice of appeal, the board shall notify the person appealing of the time and place of the hearing.
- (4) The board shall conduct the hearing according to the provisions of ORS 279.045 (3) and decide the appeal within 10 days after receiving the notification and shall set forth in writing the reasons for its decisions.

SECTION 11. RETAINAGE ON PUBLIC CONTRACTS.

- (1) The approved securities which shall be acceptable in lieu of retainage fees are as follows;
 - (a) Bills, certificates, notes or bonds of the United States.
 - (b) Other obligations of the United States or its agencies.
 - (c) Obligations of any corporation wholly owned by the federal government.
 - (d) Indebtedness of the Federal National Mortgage Association.
 - (e) General obligation bonds of the State of Oregon or any political subdivision thereof.

(f) Time certificates of deposit or savings account passbooks issued by a commercial bank, savings and loan association or mutual savings bank duly authorized to do business in Oregon.

(g) Corporate bonds rated "A" or better by a recognized rating service.

(2) Deposits in lieu of retainage fees on public contracts shall be allowed as follows:

(a) When a contractor elects to deposit securities with a bank or trust company in lieu of retainage on public contracts, the securities shall be held by the custodian in fully transferable form and under the control of the county.

(b) Non-negotiable securities so deposited shall have proper instruments attached to enable the county to effect transfer of title should the contractor be unable to fulfill the contract obligations.

(c) The custodian bank or trust company shall issue a safekeeping receipt for the securities to the county. The receipt shall describe the securities, the par value, the name of the contractor, and project identification.

(d) Unless otherwise mutually agreed, the value placed upon said securities shall be market value.

(e) Securities deposited in the manner described above shall be released by the bank or trust company only upon the written instructions and authorization of the county.

(f) In lieu of the above, an escrow agreement mutually acceptable to the contractor and the county and the bank or trust company may be used.

Affidavit of Publication

State of Oregon, County of Tillamook,—ss.

I, Edith Robideau being first duly

sworn, depose and say that I am the Office Manager
of the Headlight-Herald, a newspaper of general circulation as defined
by Section 58, Oregon Laws, published in the aforesaid county and

state; that Notice of Commissioners Hearing

Local Contract Review Brd., a printed copy of which is
hereto annexed, was published in the entire issue of said newspaper

for 1 successive and consecutive weeks in the following
issues:

July 19th

Edith Robideau

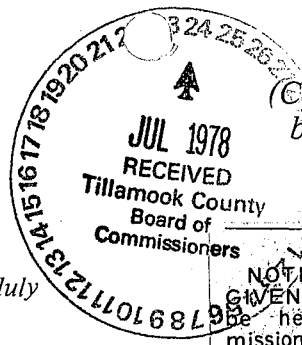
Subscribed and sworn to before me this 19th day of

July, 19 78

Ronald J. Seaholm
Notary Public for Oregon

(My Commission expires Aug. 6, 1981)

Price Charged for this notice \$ 6.40



(Copy of notice to be pasted here)

NOTICE IS HEREBY GIVEN that a hearing shall be held in the Commissioner's Hearing Room of the Tillamook County Courthouse, Tillamook, Oregon, on Wednesday, August 2, 1978 at the hour of 2:00 p.m. at which time the Board of Commissioners will consider the adoption of an Ordinance providing for the establishment of a Local Contract Review Board to review public contracts under Chapter 771, Oregon Laws 1975; allowing for the appointment of a Public Contracting Officer; adopting temporary rules for the Local Contract Review Board; and declaring an emergency.
BOARD OF COUNTY COMMISSIONERS FOR TILLAMOOK COUNTY, OREGON
F.E. Knight, Commissioner
Grahville Simmons, Commissioner
29

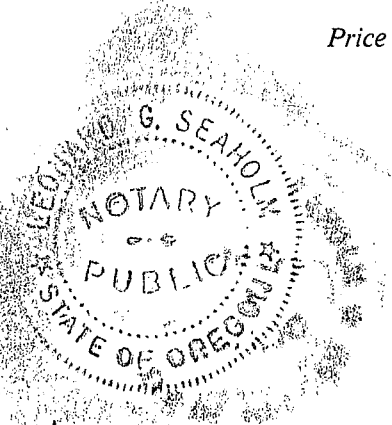
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FILED

AUG 17 1978

JUNE WAGNER
COUNTY CLERK

DEPUTY



Affidavit of Publication

(Copy of notice to be pasted here)

State of Oregon, County of Tillamook,—ss.

I, Edith Robideau being first duly

FILED

AUG 17 1978

JUNE WAGNER
COUNTY CLERK

DEPUTY

sworn, depose and say that I am the Office Manager
of the Headlight-Herald, a newspaper of general circulation as defined
by Section 58, Oregon Laws, published in the aforesaid county and

state; that Notice

Second Hearing, a printed copy of which is
hereto annexed, was published in the entire issue of said newspaper

for 1 successive and consecutive weeks in the following
issues:

Aug. 9

Subscribed and sworn to before me this 9th. day of

August, 19 78

Notary Public for Oregon

(My Commission expires Aug. 6, 1981)

Price Charged for this notice \$ 6.60

NOTICE
NOTICE IS HEREBY GIVEN that a second hearing shall be held in the Commissioner's Hearing Room of the Tillamook County Courthouse, Tillamook, Oregon, on Wednesday, August 16, 1978 at the hour of 2:00 p.m. at which time the Board of Commissioners will consider the adoption of an Ordinance providing for the establishment of a Local Contract Review Board to review public contracts under Chapter 771, Oregon Laws 1975; allowing for the appointment of a Public Contracting Officer; adopting temporary rules for the Local Contract Review Board; declaring an emergency.

BOARD OF
COUNTY
COMMISSIONERS
FOR TILLAMOOK
COUNTY, OREGON
Chas. D. Bailey
F.E. Knight
Granville Simmons
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