

OREGON SCHOOL BOARDS ASSOCIATION
PROPERTY AND CASUALTY FOR EDUCATION
TRUST

LOCAL CONTRACT REVIEW
BOARD RULES

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Rule 100 – Introduction and Definitions

100-010 Purpose and Statutory Authority

These contracting rules prescribe public contract procedures for Oregon School Boards Association Property and Casualty for Education Trust (“PACE”) pursuant to the authority granted to PACE by ORS 279A.060, ORS 279A.065(5), and other applicable statutes. These contracting rules may be cited as the “Oregon School Boards Association Property and Casualty for Education Trust Local Contract Review Board Rules” or the “PACE LCRBs.” PACE acknowledges and hereby intends that the model rules adopted by the Oregon Attorney General pursuant to ORS 279A.065(1) do not apply to procurement actions of PACE. However, PACE may use the model rules as guidance, for clarification, for interpretation, or for implementation of these rules. The Public Contracting Code and the Attorney General Model rules will apply to the extent an issue or matter is not addressed in these Rules.

100-011 Application of Federal Law

Notwithstanding any provision of Oregon law and these rules, applicable federal laws and regulations shall govern in any case in which federal funds are involved. In the event such federal laws and regulations require additional conditions in public contracts, such additional provisions shall be inserted into the contract documents by PACE’s procurement officer, or their designee.

100-012 Procurement Justification

PACE’s procurement officer shall document or shall cause to be documented in the procurement file for each procurement the basis for any procurement decisions made under these rules as soon as practical, but not later than the completion of the procurement or project.

100-013 Non-Discrimination Policy

With respect to any procurement activity under these Rules, PACE shall not discriminate on the basis of age, disability, national origin, ethnicity, race, color, marital status, religion, sex or gender. Furthermore, PACE shall not knowingly contract with or procure goods and services from an entity that discriminates on the basis of age, disability, national origin, race, color, marital status, religion, sex, sexual orientation or gender, including actual or perceived gender identity. Bidders or proposers responding to solicitations from PACE and contractors entering into contracts with PACE shall not discriminate on the basis of age, disability, national origin, ethnicity, race, color, marital status, religion, sex, sexual orientation or gender, including actual or perceived gender identity, and further shall not discriminate against any subcontractor in the

awarding of a subcontract because the subcontractor is a minority-owned, woman-owned, or emerging small business enterprise certified under ORS 200.055, or a business enterprise that is owned or controlled by or that employs a disabled veteran, as defined in ORS 408.225(1)(c). In the event PACE determines that any bidder, proposer, or contractor has engaged in discrimination prohibited by these rules, PACE shall have the right to exercise any remedies authorized by law, including those remedies specified in ORS chapter 279.

100-014 Definitions

- a. The following definitions apply to these rules, unless the context requires otherwise:
 1. **Addenda to the Solicitation Documents:** Any additions, deletions, or changes to PACE's applicable solicitation document for any procurement.
 2. **Annually:** within each PACE fiscal year.
 3. **Bid:** A written offer of a person or business entity submitted in response to PACE's invitation to bid (ITB) or other solicitation inviting bids.
 4. **Bidder:** An individual or business entity submitting a bid in response to PACE's ITB or other solicitation.
 5. **Bidding Period:** The span of time between the date of advertisement or issuance of the solicitation document and closing of the procurement.
 6. **Board:** The PACE Board of Trustees acting as the Local Contract Review Board for PACE.
 7. **Closing:** The date and time announced in PACE's solicitation document (*e.g.*, Invitation to Bid or Request for Proposals) as the deadline for submitting bids or proposals.
 8. **Communication Services:** Those services that include, but are not limited to, services related to information technology dealing with audio, visual, or data storage or transmissions.
 9. **Communication Systems:** Any equipment associated with or a part of audio, visual, or data storage or transmissions.

10. **Competitive Bidding:** A price-based selection process that complies with formal bidding requirements of ORS 279B or 279C, as applicable.
11. **Competitive Quotes:** The written or verbal response to an informal solicitation given by prospective vendors to PACE.
12. **Contract:** The written agreement between PACE and the Contractor describing the work to be done and the rights and obligations of the parties. "Contract" includes purchase orders or any other writing reflecting the agreement of PACE and selected vendor or Contractor with respect to a specific public procurement.
13. **Contractor:** The individual or business entity awarded the public contract to furnish PACE the goods, services, or work procured through PACE's solicitation document.
14. **Contract Price:** The total of the awarded bid or proposal amount as stated in the Contract, including any approved alternates, adjusted as applicable for any fully executed change orders, modifications, or amendments.
15. **Days:** Calendar days, including weekdays, weekends, and holidays, unless otherwise specified. When a time period ends on a weekend or national or state recognized holiday, the time period shall be extended to the next business day.
16. **Design/Build:** A method of public contracting where the selected Contractor has the responsibility for performing both the design and construction of the specific project as described in PACE's solicitation document. This type of procurement is sometimes also referenced as "turn-key."
17. **OSBA:** Oregon School Boards Association, a public corporation organized as a public nonprofit corporation under ORS chapter 65.
18. **PACE:** Oregon School Boards Association Property and Casualty for Education Trust.
19. **PACE Procurement Officer:** The PACE procurement officer is the OSBA executive director, PACE administrator, or designee.
20. **Electronic:** The transmission of information and/or data by electronic means in the format specified by PACE in its solicitation

document. Electronic includes but is not limited to email and facsimile.

21. **Energy Savings Performance Contract:** A public contract between a contracting agency and a qualified energy service company for the identification, evaluation, recommendation, design, and construction of energy conservation measures, including a design-build contract, that guarantee energy savings or performance.
22. **Executive Director:** OSBA executive director, PACE administrator or designee who shall carry out the procurement functions in accordance with Oregon law and the policies adopted by the Board to the extent such policies are not inconsistent with such law.
23. **Foreign Contractor:** A Bidder or Proposer who is not domiciled in or registered to do business in the State of Oregon and considered a non-resident bidder in accordance with ORS 279A.120.
24. **Formal Procurement:** The process used by PACE to procure goods or services where the procurement is anticipated to be more than \$250,000 and the bid or proposal is required to be in writing, signed and sealed and advertised as required by ORS chapter 279B or 279C, as applicable.
25. **Informal Procurement:** The process used by PACE to procure goods or services when the price of the procurement is estimated to be \$250,000 or less.
26. **Invitation to Bid (ITB):** The solicitation document used by PACE to solicit competitive, written, signed and sealed bids which includes appropriate specifications, a solicitation for price and other applicable requirements of PACE.
27. **Opening:** The date, time, and place announced in PACE's solicitation document for the opening of written, sealed bids, or proposals. The Opening shall be public when required by law.
28. **Personal Property:** Tangible property that is not real property
29. **Personal Services:** Those services described or defined by these rules as such. "Personal Services" shall include professional services.

30. **Proposal:** A competitive offer submitted in response to a Request for Proposals, where proposal evaluation and contract award is based on selection criteria other than price alone.
31. **Proposer:** An individual or business entity that submits a proposal in response to PACE's Request for Proposals.
32. **Public Contracting Code:** ORS Chapters 279A, 279B, and 279C, as may be amended from time to time.
33. **Public Contracting Officer (“PCO”):** The Executive Director of OSBA, PACE administrator or their designee, or any individual designated by the Board to serve in this capacity.
34. **Public Improvement:** Public improvement as defined in the Public Contracting Code, ORS 279A.010(1)(cc).
35. **Request for Proposal (RFP):** The solicitation document used by PACE to solicit written, competitive proposals from qualified individuals or business entities for a particular good or service. An RFP will typically be used for solicitations involving competitive negotiations and where price may not be the predominant award criteria.
36. **Requirements Contract:** A contract in which the vendor agrees to supply all of the specific goods or services required by PACE for a stated period of time.
37. **Resident Bidder:** A bidder that qualifies as a “resident bidder” under ORS 279A.120(1)(b). “Resident Proposer” shall have the same meaning as “Resident Bidder” when applied to the proposal process.
38. **Rules:** These Local Contract Review Board Rules as adopted by PACE, including any amendments as may be made from time to time.
39. **Solicitation Document:** The written document issued by PACE requesting a response from prospective bidders, proposers or other vendors desiring to enter into a contract with PACE to provide goods, services or personal services. Solicitation documents include, but are not limited to, an Invitation To Bid (ITB), Request for Quotes, Request for Information (RFI), Request for Qualifications (RFQ), or Request for Proposals (RFP), which includes all documents,

whether attached or incorporated by reference, utilized by PACE in procuring goods or services.

40. **Specification:** The description of the physical or functional characteristics, or of the nature of a good or service as stated by PACE in the applicable solicitation document. Specifications may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery and the quantities or qualities of materials to be furnished under the contract. Specifications may include performance specifications. Specifications may be incorporated by reference and/or through attachment to the solicitation document or contract.

Rule 110 – Procurement Policy

110-010 Procurement Policy

It is the policy of PACE that the underlying assumption for all contracts is competition, provided, however, that an alternative selection and award process may be used where it is authorized by the Public Contracting Code, by these Rules, or by specific approval of the Board.

It is the policy of PACE to give procurement preference to resident bidders as provided by the Public Contracting Code in ORS 279A.120.

It is the policy of PACE to give procurement preference to recycled goods as provided by the Public Contracting Code in ORS 279A.125.

It is the policy of PACE to give procurement preference to goods fabricated or processed or services performed within the State of Oregon as provided by the Public Contracting Code in ORS 279.128.

110-011 Rule Waiver

The Board may waive any of these Rules unless such waiver is prohibited under the Public Contracting Code. In the event of waiver, the Executive Director, PACE Administrator, or designee shall provide the Local Contract Review Board with written justification which addresses the following criteria:

- a. The nature of the solicitation;
- b. The estimated cost;
- c. A narrative description of the basis for the waiver and the reasons the procedures described under these Rules would be inappropriate; and

- d. A statement of the alternative selection process that will be used, if any.

110-012 Public Contract Exceptions and Exemptions (Rev. per Res. 03-2020 2/13/2020)

Unless exempted by the Public Contracting Code, by these Rules, or by the Board, all public contracts issued by PACE shall be based upon a competitive solicitation process. The following public contracts are exempt from the competitive solicitation process:

- a. Contracts made with other public bodies or the federal government, including but not limited to cooperative procurements.
- b. Contracts made with qualified non-profit agencies providing employment opportunities for disabled individuals.
- c. Emergency Procurements.
- d. Sole-Source Procurements.
- e. Small Procurements (under \$25,000 annually).
- f. Special Procurements - Special procurements may be Class Special Procurements or contract-specific special procurements. For contract-specific procurements, PACE shall follow the exemption procedures authorized by the Public Contracting Code. Below is a list of Class Special Procurements that are exempt from competitive bidding under these Rules:
 - 1. Personal services contracts as described and defined in these Rules, including professional service contracts. Professional service contracts shall include but not be limited to attorneys, accountants, auditors, engineers, land surveyors, field specific experts, appraisers, and rate consultants (See additional provisions relating to professional service contract contained in Rule 130).
 - 2. Contracts for Price Regulated Items - Contracts for which rates are regulated or otherwise set by governmental agencies or through a public hearing process pursuant to law (*e.g.*, utilities).
 - 4. Copyrighted Materials and Periodicals.
 - 5. Purchases of Used Personal Property.
 - 6. Advertising Contracts.
 - 7. Investment Contracts - PACE invests public funds pursuant to PACE's Investment Policy.

8. Communication or Information systems and service contracts - These types of contracts include without limitation information technology services, telecommunications, security, and other integrated systems.
9. Insurance and Related Insurance Service Contracts.
10. Grants.
11. Lease, acquisition, or disposal of real property.
12. Energy Savings Performance Contracts.
13. Contracts with contractors for projects that are entered into pursuant to and subject to the terms of a master agreement with the contractor that was procured through competitive bidding, including contracts established through cooperative procurement. (*Added per Res. 10-2023 4/13/23*)
14. Goods and services for which the expense will be reimbursed by an insurer.
15. Goods and services for which a contractual warranty imposes source requirements, including requirements to use authorized dealers in order to maintain the warranty in effect, when fewer than three sources within a reasonable geographic area are available.

For each of the above Class Special Procurements, the Board finds that the awarding of these contracts without competitive solicitation processes is unlikely to encourage favoritism or to substantially diminish competition in the awarding of public contracts and further is reasonably expected to result in substantial cost savings to PACE and the public or otherwise substantially promote the public interest in a manner that could not practicably be realized through the procedures described in the Public Contracting Code.

- g. Contracts entered into, issued, or established in connection with:
 1. The incurring of debt by PACE, including but not limited to the issuance of bonds, certificates of participation, and other debt repayment obligations, and any associated contracts, agreements, or other documents, regardless of whether the obligations that the contracts, agreements, or other documents establish are general, special or limited;
 2. The making of program loans and similar extensions or advances of funds, aid or assistance by PACE to a public body for the purpose of carrying out, promoting or sustaining activities of programs authorized by law; or

3. The investment of funds by a public body as authorized by law, and other financial transactions of PACE.
- h. Contracts for employee benefit plans.
- i. Any other public contracting of PACE specifically exempted from competitive bidding by another provision of law.
- j. Contract Amendments provided that the monetary amount of the amendment is within the amounts authorized by these Rules.

110-013 Contract Authority

The Board delegates contracting authority to the Executive Director, PACE Administrator, or designee up to \$250,000. Except as otherwise provided in these Rules, the Board must approve any contract more than \$250,000. The Executive Director, PACE Administrator, or their designee will execute all contracts within the Executive Director's authority, unless otherwise directed by the Board.

Rule 120 – Procurement Classifications

120-010 Small Procurements

When the amount of the contract is estimated not to exceed \$25,000, PACE may use any procedure designed to achieve the best prices for PACE, including but not limited to obtaining written, electronic, or oral competitive quotes. Any amendments over the \$25,000 amount shall not exceed an additional \$1,000 or a contract total of \$26,000 annually including all amendments. Oral quotations shall be documented in the procurement file for each applicable procurement.

120-011 Intermediate Procurements

When the amount of the contract is estimated to be more than \$25,000 annually, but less than \$250,000 for goods and services, PACE will use good faith efforts to obtain three informally solicited, competitive quotes. Any informal procedures used by PACE shall include the following conditions and procedures:

- a. A solicitation from a list of potentially interested vendors inviting bids or proposals or a solicitation achieved through an abbreviated advertised process as may be deemed to be appropriate by the procurement officer.

- b. PACE shall keep a written record of the product or service specifications, the evaluation criteria used for the solicitation, and the source and amount of the quotes received.
- c. If three quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes.
- d. Cumulative amendments for intermediate procurements shall not exceed annually 15% of the original contract price.
- e. Minimum contractual requirements are stated clearly in the written materials describing the solicitation and, if advertised, in the solicitation document.
- f. Evaluation criteria to be applied in awarding are stated clearly in the written materials describing the solicitation and, if advertised, in the solicitation document.
- g. In the event an advertised solicitation is used, the solicitation document shall clearly state the applicable protest procedure for bidders or proposers having standing to protest.
- h. Addenda shall be labeled as such and distributed to all persons expressing an interest in the subject procurement in accordance with these rules.

If a negotiated procurement is used, the criteria used to identify the proposal that best meets PACE's needs may include but are not limited to cost, quality, service, compatibility, product reliability, operating efficiency expansion potential, and proposer capability.

120-012 Emergency Procurements

The Executive Director, PACE Administrator, or designee may make or authorize others to make emergency procurements for goods and/or services in an emergency. An emergency occurs in any situation that was unexpected; affects preservation of property, life, health or safety; and sufficient time is not available for the required procurement process. For emergency items, the Executive Director, PACE administrator, or designee shall exercise reasonable efforts to obtain competitive quotes with due consideration given to the nature of and time allowed by the emergency. The Executive Director, PACE Administrator or designee, shall document the nature of the emergency and describe the method used for the selection of the particular contractor.

The Executive Director, PACE Administrator, or designee may enter into any emergency contract without competitive solicitation, regardless of contract costs, provided that the Executive Director, PACE Administrator or designee shall provide the Board with written confirmation of an emergency contract award at the next meeting of the Board after the award.

120-013 Sole Source Procurements

PACE may award a contract for goods and/or services without competition where the Executive Director, PACE Administrator, or designee determines that the goods or services, or class of goods or services, are available from only one source.

- a. The sole source determination must be based on written findings of the Executive Director, PACE Administrator, or their designee, that may include:
 1. That the efficient utilization of existing goods requires the acquisition of compatible goods;
 2. That the goods or services required for the exchange of software or data with other public or private agencies are available from only one source;
 3. That the goods or services are for use in a pilot or experimental project; or
 4. Other findings that support the conclusion that the goods or services are reasonably available from only one source.

Where practicable, PACE shall negotiate with the sole source provider to obtain contract terms advantageous to PACE. For each sole source procurement, PACE shall document the basis for the selection of the sole source procurement method and the vendor or contractor selection in the procurement file.

120-014 Competitive Sealed Bidding (ORS 279B.055) or Competitive Sealed Proposals (ORS 279B.060)

Unless a procurement is exempted by the Board as allowed by law, competitive sealed bidding or competitive negotiations are required for purchases or goods or services estimated to be or to exceed \$250,000 annually. See Rule 120-015 for specific provisions relating to procurement of public improvement (construction) and related service contracts.

- a. All competitive bidding and negotiation processes used by PACE shall comply with the Public Contracting Code and these Rules.
- b. PACE may require bid security as allowed or required by ORS 279B, or as otherwise necessary or prudent. PACE may hold the bid security as provided by law.
- c. The invitation to bid or the request for proposals, as applicable, shall, at a minimum, set forth all matters required to be included in the solicitation document as specified in ORS 279B.055 and ORS 279B.060, including the evaluation criteria to be used along with any characteristics from a qualified products list, where applicable. Criteria not listed in the invitation to bid, the request for proposals or a qualified products list shall not be applied during bid evaluation.
- d. No bids or proposals received after the time and date indicated on the invitation to bid or the request for proposals shall be considered. However, PACE may retain bids or copies of bids received after the bid time and date indicated on the invitation to bid, provided that any bid security submitted with the bid shall be returned to the bidder or proposer.
- e. In addition to other bases for rejecting bids as provided by law, PACE has the right to reject based on unreasonably low bids, clearly unbalanced bids, or where reasonable evidence exists of price fixing.
- f. If a contract is awarded to a single bidder, PACE shall award the contract to the lowest responsible bidder whose bid substantially complies with the requirements and criteria set forth in the invitation to bid and with all prescribed public procurement procedures and requirements. When the invitation to bid specifies or authorizes the award of multiple contracts to responsible bidders, those bids must substantially comply with the requirements and criteria set forth in the invitation to bid and with all prescribed public procurement procedures and requirements and who qualify for award under the terms of the invitation to bid. For competitive negotiation solicitations, if a contract is awarded PACE shall award a contract to the responsible proposer that PACE determines submitted a proposal that is the most advantageous to PACE.
- g. PACE shall have the right, for the purpose of evaluating bids or proposals, to apply any applicable statutory preferences described in ORS 279A.120, 279A.125 or 282.210.

1. 279A.120 covers preference for Oregon goods and services and non-resident bidders or proposers.
 2. 279A.125 covers preference for goods manufactured with recycled products.
 3. 282.210 covers preference for printing services, binding and stationery work being performed in the State of Oregon.
- h. PACE shall have all the rights and remedies for enforcement of these rules and the procurement and contracting process as provided in the Public Contracting Code, including the right of debarment.

Rule 130 - Professional and Personal Service Contracts and Insurance Agent of Record Contracts

130-010 Professional and Personal Services Contracts

Personal service contracts, including professional service contracts, are exempt from competitive bidding.

a. The following are Personal Service Contracts:

1. Any contract for services, other than professional services, that requires the contractor to exercise judgment on behalf of PACE or a service that has been designated by the Board as a personal services contract pursuant to ORS 279A.055.
2. For Personal Service contracts that do not qualify as professional service contracts, PACE shall use a documented and structured procurement process for which price may not be the primary consideration. PACE will consider these rules when procuring personal services.

b. The following are Professional Service Contracts:

1. Any professional service that requires a professional or state certification or license, or which requires field-specific expertise such as water resources planning.
2. Any contract with a PACE physician or dentist, educator, broadcaster or artist (including a photographer, filmmaker, artistic painter, weaver, or sculptor).
3. A contract with legal counsel for legal services.

4. For professional services relating to engineering, architecture, photogrammetric mapping, land surveying, transportation planning and related services, PACE shall use a procurement process that complies with ORS 279C.110. Pricing information may only be solicited or used as a criterion for the award of a contract after a consultant offering these professional services has been selected using the selection criteria specified under the Public Contracting Code.

130-011 Insurance Agent of Record and Insurance Contracts

Contracts for insurance agent of record and insurance contracts are personal service contracts and exempt from competitive bidding. The PCO is authorized to execute the agent of record contract without specific Board authority or competitive process, provided the agent of record is found to be most likely to perform the most cost-effective services at a level of competence acceptable to PACE and meets the qualifications identified in these Rules:

- a. PACE shall appoint an insurance agent(s) that is (are) licensed in Oregon to sell and provide advice on the types of insurance provided to PACE. Upon such appointment, the insurance agent(s) shall become PACE's agent(s) of record. PACE shall have only one agent of record at one time unless the insurance market and PACE's insurance needs require different agents for differing lines on insurance coverage.
- b. Among the services to be provided by the agent of record is the securing of competitive proposals from insurance carriers for all coverages for which PACE has identified an interest or need and for which the agent of record is given responsibility.
- c. If the Executive Director, PACE Administrator, or designee proceeds with a market search for available agents of records, prior to the selection of an agent of record, PACE shall make reasonable efforts to inform known insurance agents in the competitive market area that PACE is considering such selection. These efforts shall include a public advertisement calculated to provide a broad notice to possible agents of record in at least one newspaper of general circulation in the area where the contract is to be performed.
- d. An agent's appointment shall not exceed a period of five years, but the PCO may continue with an agent of record for consecutive terms of service provided the PCO conducts a review of the services performed by the agent of record and determines that continuation of service is

justified. Agents must qualify for appointment prior to each period as if each appointment period were the first.

- e. All insurance contracts with a premium in excess of \$5,000, not including insurance agent of record contracts as covered above, must be approved by the Board.

Rule 140 – Contract Amendments – Including Change Orders and Extra Work

140-010 Contract Amendments

- a. Amendments, modifications, and change orders, within the monetary limits set forth in this rule, may be made without competitive bidding subject to the following conditions: (Unless the context requires otherwise, the use of the term “amendments” includes any form of contract change, including modifications and change orders):
 - 1. The original contract was procured by (i) competitive bidding or alternative procurement process authorized by these Rules or by the Board or unit prices or additive alternates were provided in the contract which established the cost for additional work; and (ii) the amendment is within the scope of the services contemplated under the contract; or
 - 2. For small procurements up to \$25,000, the new total contract price, including all amendments, shall be no more than \$26,000 annually; or
 - 3. For intermediate procurements more than \$25,000 and up to \$250,000, the amount of the aggregate costs from all amendments shall not without Board approval exceed the greater of (a) 15% of the original contract value or (b) when combined with the original contract value, the Executive Director, PACE Administrator, or designee’s delegated contract authority. The new total contract price, including all amendments, shall be no more than \$275,000 annually; or
 - 4. For procurements in excess of \$100,000, the costs from all amendments shall not exceed 15% of the original contract value without Board approval; or
 - 5. For all contracts, to settle and compromise potential or actual claims, demands or litigation arising out of the contract as deemed in the best interest of PACE.
- b. Renegotiated Contracts. PACE may renegotiate the terms and conditions, including the Contract Price, of a Contract without additional competition

and amend a Contract if the amended Contract is within the Scope of the original solicitation document, and a determination by PACE that the renegotiated Contract is at least as favorable as the original Contract.

- c. If the amendment is the result of a Cooperative Procurement, the amended contract may not materially change the terms, conditions, or pricing of the original contract.
- d. Emergency contracts may be amended through the emergency process if the emergency justification still exists.

Rule 150 – Requirements Contracts and Indefinite Quantity Contracts

150-010 Requirements Contracts

PACE may enter into requirements contracts whereby it is agreed that PACE will purchase all its requirements for an anticipated need at a predetermined and documented contract price. PACE will follow these rules, as made applicable by the annual cost of each contract, in selecting the vendor or contractor for requirement contracts.

150-011 Indefinite Quantity Contracts

PACE may enter into indefinite quantity contracts with multiple vendors or suppliers when a number of suppliers are available, but the availability of supply varies between the vendors.

Rule 160 – Brand Name Specifications and Qualified Products Lists

160-010 Brand Name or Equal Specification; Brand Name Specification (ORS 279B.215)

- a. For procurement of goods or goods and services under the Public Contracting Code, ORS chapter 279B, and for the procurement of public improvement services, Public Contracting Code, ORS chapter 279C, the use of a brand name specification is allowed under circumstances provided under those chapters. Brand name specifications may be used if the terms “or equal” are included in the specification. PACE shall determine what products are equivalent when such specification is used. See ORS 279B.215 and ORS 279C.345.
- b. Use of a brand name specification for public improvement contracts may be subject to review as provided in the applicable sections of the Public Contracting Code covering protests. See ORS 279B.405 and ORS 279C.460.
- c. Whenever practical PACE will reference known industry standards or performance specifications in selection of goods and services.

160-011 Qualified Products Lists (ORS 279B.115)

PACE may develop and maintain a qualified products list as provided in ORS 279B.115.

Rule 170 – Bidder Responsibility, Prequalification, Disqualification

170-010 Responsibility of Bidders and Proposers (Qualifications) - (ORS 279B.110)

- a. PACE shall prepare a written determination of non-responsibility of a bidder or proposer if the bidder or proposer does not meet the standards of responsibility as required by the Public Contracting Code.
- b. In determining whether a bidder or proposer has met the standards of responsibility, PACE shall make the determination using criteria identified in ORS 279B.110 and ORS 279C.375, as applicable.

170-011 Prequalification of Prospective Bidders and Proposers - (ORS 279B.120 and ORS 279C.430)

- a. PACE may prequalify prospective bidders or proposers to submit bids or proposals for goods and services in accordance with ORS 279B.120 and ORS 279C.430 *et seq.*

170-012 Debarment or Disqualification of Prospective Bidders and Proposers - (ORS 279B.130 and ORS 279C.440)

- a. PACE may debar or disqualify a prospective bidder or proposer from consideration for award of a contract in accordance with ORS 279B.130 and ORS 279C.440.
- b. PACE shall issue a written decision to debar a prospective bidder or proposer under this section. The decision must:
 1. State the reasons for the action taken;
 2. Inform the debarred prospective bidder or proposer of the appeal rights of the prospective bidder or proposer under the applicable provisions of the Public Contracting Code; and
 3. Otherwise be allowable under ORS 279B.130 and ORS 279B.440.
- c. A copy of the decision issued under subsection (b) of this section must be mailed or otherwise furnished immediately to the debarred prospective bidder or proposer.

- d. A prospective bidder or proposer that wishes to appeal debarment shall, within three business days after receipt of notice of debarment, notify PACE that the prospective bidder or proposer appeals the debarment as provided in ORS 279B.425 and ORS 279C.445, as applicable.

Rule 180 – Personal Property Acquisition and Disposition

180-010 Acquisition of Used Personal Property

PACE may purchase used personal property for an amount not to exceed the Executive Director, PACE Administrator, or designee's contract authority without competitive bidding or quote if PACE has determined that the direct purchase without competitive bidding will result in cost savings and will not diminish competition or encourage favoritism or the item is not readily available and time is of the essence. If the purchase is in excess of the Executive Director, PACE Administrator, or designee's contract authority, PACE will seek three competitive quotes unless PACE determines either (1) that three quotes cannot be obtained; (2) PACE's purchase without quotes will result in cost savings and will not diminish competition or encourage favoritism; or (3) the item is not readily available and time is of the essence.

180-011 Sale of Surplus Personal Property

Upon declaration of surplus personal property by the Board, PACE may dispose of such property, which may include but not be limited to oral auctions, sealed bid proposals or negotiated price sales. The PCO may declare an item as surplus if the current estimated value is under \$25,000 and may dispose of the item in the most economical manner advantageous to PACE. If accomplished through a competitive bidding process, such sales of personal property shall be to the highest bidder.

180-012 Auction Sales of Personal Property

Personal property may be sold at auction if the PCO determines that the auction contemplated will probably result in a higher net return than if the property were sold by competitive bid. PACE may sell personal property through a commercially recognized third party liquidator or any other public process the PCO has determined results in or will result in increased net revenue and the selection of the liquidator was conducted by a competitive selection process. Alternatively, the PCO may use the State of Oregon surplus property disposal process.

180-013 Sealed Bid Proposals

Personal property may be sold by written, sealed competitive bid. If the current estimated value of an item exceeds \$15,000, it may be sold by competitive bid or auction unless the PCO otherwise determines. Alternatively, the Executive Director, PACE Administrator, or designee may use the State of Oregon surplus property disposal process. If no bids are received or if a determination is made that the market value of the item exceeds the offer of the highest responsible bidder, all bids may be rejected, and the Executive Director, PACE Administrator, or designee may negotiate a sale subject to:

- a. Appraisal or other reliable evidence of market value is obtained, and the negotiated price exceeds the market value; or
- b. Executive Director, PACE Administrator, or designee's determination that the estimated value of an item exceeds the highest bid received through the bidding or auction process.

180-014 Negotiated Sales of Personal Property

PACE may negotiate the sale, exchange, or redemption of personal property, including recyclable or reclaimed materials if PACE has determined that the transaction will result in increased net financial benefit to PACE and the following conditions are complied with:

- a. The sale is documented by PACE to be clearly in the public interest;
- b. PACE determines that this is the most efficient and cost-effective method for disposing of the property; and
- c. The sale includes the value of the property to be sold.

180-015 Documentation

PACE shall maintain a record of all sales of PACE property for a period of ten (10) years.

180-016 Donations of Personal Property

- a. If the Executive Director, PACE Administrator, or designee determines that personal property is not needed for PACE purposes, then the Executive Director, PACE Administrator, or designee may transfer such personal property, including recyclable or reclaimed materials, without remuneration or for only nominal remuneration without competitive bids to the following agencies or corporations:

1. Another public agency; or
2. Any recognized nonprofit entity.

180-017 Disposal of Surplus Personal Property

If the Executive Director, PACE Administrator, or designee has made reasonable efforts in accordance with these rules and no viable bids or proposals are received, the personal property may be disposed of in any economical manner.

Rule 190 – Waiver of Security Bid and Performance Bond

190-010 Bid Security Requirements

PACE may, in its discretion, waive the bid security requirements of ORS chapter 279B for contracts other than those for public improvements.

190-020 Public Improvement Contracts Under \$35,000

PACE may, in its discretion, waive the bid security requirements and performance bond requirements for public improvement contracts as outlined in ORS 279C.390 if the amount of the contract for the public improvement is estimated not to exceed \$35,000.