

OREGON PURCHASING LAW - REQUIREMENTS

Generally, Oregon law permits contracting agencies to participate in cooperative procurement. OR.REV.STATE. § 279A.205, et seq. Oregon law defines “contracting agency” as a “public body authorized by law to conduct a procurement.” OR.REV.STAT. § 279A.101(b). A public body includes state governmental bodies, local governmental bodies (cities and counties), and special governmental bodies (school districts). See OR.REV. STATE V174.109 (definition of public bodies); 174.116 (definition of local governmental bodies); and 174.117 (definition of special governmental bodies). Thus cities, counties and school districts would be considered contracting agencies under Oregon’s cooperative procurement laws.

Oregon law provides for three different levels of cooperative purchasing. A contracting agency may participate in, sponsor, conduct or administer a joint cooperative procurement for the procurement of any goods, services or public improvements. OR.REV.STAT. §279A.205(1). “Joint Cooperative Procurement” means “a cooperative procurement in which the participating governmental bodies or the cooperative procurement group and the bodies’ or group’s contract requirements or estimated contract requirements for price agreements are identified.” OR. REV. STAT. §279A.200(d).

Contract agencies may participate in, sponsor, conduct or administer permissive or interstate cooperative procurement for the procurement of any goods or services, but not public improvements. OR.REV.STAT. § 279A.205 (2). “Permissive Cooperative Procurement” means “a cooperative procurement in which the purchasing contracting agencies are not identifies. OR.REV.STAT. §279A.200 (g). “Interstate Cooperative Procurement” means:

A permissive cooperative procurement in which the administering contracting agency is a governmental body, domestic or foreign, that is authorized under the governmental body’s laws, rules or regulations to enter into public contracts and in which one or more of the participating governmental bodies are located outside this state.

OR.REV.STAT. § 279A.200 (d). An administering contracting agency in an interstate cooperative procurement may by any governmental body, domestic or foreign, authorized under it’s laws, rules or regulations to enter into contracts for the procurement of goods and services for use by a governmental body. OR.REV.STAT. § 279A.200 (b) (4). As noted above, a Texas Regional Education Service Center is a governmental body authorized user it’s rules and regulations to enter into contracts for the procurement of goods and services for use by a governmental body. Thus, any Oregon contracting agency permitted by law to conduct a procurement may participate in the TIPS program. However, because participation in the TIPS program would fall under the definition of an interstate cooperative procurement, procurement through the program would be limited to goods or services.

Under Oregon law, “public improvement” means “a project for construction, reconstruction or major renovation on real property by or for a contracting agency.” OR. REV. STAT. § 279A.010 (cc). “Public Improvement” does not include: “A) projects for which no funds of a contracting agency are directly or indirectly used; or (B) Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement. Id. Therefore, it is permissible for a contracting agency to procure a contract for minor alteration, ordinary repair or maintenance of a public building through the TIPS program.

The following are additional requirements which must be met before a contracting agency may establish an agreement through an interstate cooperative:

1. The administering contracting agency's solicitation and award process for the original contract must be an open and impartial competitive process and use source selection methods substantially equivalent to those specified in OR.REV.STAT. 279B.055 or 279B.060.
2. The administering contracting agency's solicitation and the original contract must allow other governmental bodies to establish contracts or price agreements under the terms, conditions and prices of the original contract;
3. The administering contracting agency must permit the contractor to extend the use of the terms, conditions and prices of the original contract to the purchasing contracting agency; and
4. The purchasing contracting agency, or the cooperative procurement group of which the purchasing contracting agency is a member, must be listed in the solicitation of the administering contracting agency as a party that may establish contracts or price agreements under the terms, conditions, and prices of the original contract, and the solicitation must be advertised in Oregon, or the purchasing contracting

OR.REV.STATE. § 279A.220 (1) (a)-(c) and § 279A.220 (A) & (b). The administering contracting agency's solicitation and award process uses source selection methods "substantially equivalent" to those specified in OR. REV. STAT. § 279B.055 or 279B. 060 if the solicitation and award process:

1. Calls for award of a contract on the basis of a lowest responsible bidder or a lowest and best bidder determination in the case of competitive bids, or on the basis of a determination of the proposer whose proposal is most advantageous based on evaluation factors set forth in the request for proposals in the case of competitive proposals.
2. Does not permit the application of any geographic preference that is more favorable to bidders or proposers who reside in the jurisdiction or locality favored by the preferences provided OR.REV.STAT. § 279A.120(2); and
3. Uses reasonably clear and precise specifications that promote suitability for the purposes intended and that reasonably encourage competition.

OR.REV.STAT. § 279A.200 (2) (a)-(c).