

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Study Session Worksheet

Presentation Date: 11/6/2018 **Approx Start Time:** 11:00 a.m. **Approx Length:** 1 hour

Presentation Title: Updates to Authority to Sign Contracts/Signature Delegation

Department: County Counsel

Presenters: Andrew Naylor, Assistant County Counsel

Other Invitees: George Marlton, Procurement Division Director

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

1. Revisions/updates to LCRB C-050-0100 to ensure all positions that the Board wishes to delegate signing authority are included and accurately described in the rules.
2. Clarify IGA policy via order/resolution.

EXECUTIVE SUMMARY: The current delegation of contract/contract amendment signature authority does not clearly cover all positions that may need to sign contracts. This includes positions that no longer exists or have different titles, as well as the signature authority for positions within the HACC. The IGA signature authority policy also needs to be clarified.

FINANCIAL IMPLICATIONS (current year and ongoing): None.

LEGAL/POLICY REQUIREMENTS: The Board needs to delegate the authority to all department positions it wishes to have authority to sign contracts on behalf of the County. This can be done via a Board Order, Resolution, or amendment to the County Code (either a new, standalone provision or amendment to the existing LCRBs). The Board needs to ensure that such delegation is also done for the HACC (ultimately through the HACC Board). The Board also needs to clarify that it has delegated signing authority for IGAs per the existing policy.

PUBLIC/GOVERNMENTAL PARTICIPATION: Will need to go through appropriate process for either board orders/resolutions or a revision to the County Code.

OPTIONS:

1. Action 1: Signature Authority Update
 - a. Do nothing (leave signature authority as-is).
 - b. Decide to revise existing LCRB to update titles and confirm signature authority delegation to those positions requesting it.
 - i. If so, decide whether to update via order/resolution or ordinance amendment.
2. Action 2: IGAs
 - a. Do nothing – leave policy as written.
 - b. Decide to confirm IGA policy.

RECOMMENDATION: Counsel recommends, at a minimum, updating the list of those positions the Board wishes to delegate signing authority to, and to have that updated delegation as a separate order/resolution/ordinance from the LCRBs to ensure that it applies to all County

contracts. A similar action delegating signature authority will need to be completed on behalf of the HACC. Counsel further recommends the Board, at a minimum, adopt an order or resolution approving the current IGA policy.

ATTACHMENTS:


1. Current LCRB provisions.
2. Current IGA policy.
3. Revised delegation proposal.

SUBMITTED BY:

Division Director/Head Approval _____
Department Director/Head Approval _____
County Administrator Approval _____



For information on this issue or copies of attachments, please contact Andrew Naylor @ 503-742-4623

Clackamas County DEPARTMENT of FINANCE Issuing Section PURCHASING	Number:	3.7
	Effective Date:	July 9, 2009
	Page:	1 of 2
	Approved:	
Subject: CONTRACTS WITH OTHER PUBLIC AGENCIES INTERGOVERNMENTAL AGREEMENTS		

Purpose:

To establish guidelines for County Departments when contracting with other Public Agencies (Intergovernmental Agreements). These procedures follow the County's LCRB Rules and are intended to facilitate the procurement process.

Background:

Public Agencies are working together to be more efficient and, through cooperation, reduce duplication of services. Government Agencies enter into Intergovernmental agreements which define the obligation of the parties, period of time of the agreement is in effect and the amount of compensation, if any. An Intergovernmental Agreement is a written document which when signed by the agencies becomes a contract.

References:

Oregon Revised Statutes, Chapter 190, Cooperation of Governmental Units; ORS 190.010, Authority of local governments to make intergovernmental agreement.

ORS 279A Oregon Public Contracting Code

Policy:

The Board of County Commissioners executes all Intergovernmental Agreements, with the following exceptions.

(A) **IGAs not exceeding \$5,000:** The County Administrator, and other County Officials as listed below, are delegated the authority to execute intergovernmental agreements not to exceed \$5,000.00.

(B) **Intergovernmental Agreements between County Affiliated Governments and/or departments:** The County Administrator, and other County Officials as listed below, are delegated the authority to execute agreements between County Affiliated Governments and/or departments.

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Definitions:

“Intergovernmental Agreements” mean contracts with other public agencies such as the Federal Government, a State or their political subdivisions.

“County Affiliated Governments and/or departments” means governmental entities where the members of the Board County Commissioners sit as members of the governing board.

“County Officials” for purposes of the delegation of authority under this section means:

Assessor
Business and Community Services Director
C-Com Director
County Clerk
Community Corrections Director
Community Development Director
Community and Legislative Affairs Director
County Administrator
County Counsel
Deputy County Administrator
District Attorney
District Attorney Office Administrator (Administrative Services Manager)
Emergency Management Director
Employee Services Director
Family Court Services Director
Finance Director
Homeland Security Director
Human Services Director
Human Services Deputy Director
Technical Services Director
Juvenile Department Director
Law Library Librarian
Library Director
Public and Government Affairs Director
Purchasing Manager
Sheriff
Tourism and Development Council Executive Director
Transportation and Development Director
Transportation and Development Deputy Director
Transportation and Development Business Services Manager
Treasurer
Undersheriff
Water Environment Services Director

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Procedures:

Responsibility:

Action:

Departments:

Prepare Intergovernmental Agreements and submit to the Board of County Commissioners for approval if for amounts greater than \$5,000.
 Submit to County Counsel and Risk Management for review and approval.
 Submit an original executed agreement for recording and a photocopy to Accounts Payable.

County Counsel

Review, revise, and approve as to form **ALL** intergovernmental agreements prior to final execution.

Public Contracting Officer:

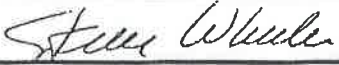
Submit to Counsel for review prior to approval by the Board of County Commissioners.

Board of County Commissioners:

Execute Intergovernmental agreements.

Finance Department:

Remit or receive payments according to agreement terms.

Clackamas County DEPARTMENT of FINANCE Issuing Section PURCHASING	Number:	3.8
	Effective Date:	July 9, 2009
	Page:	1 of 2
Subject: COOPERATIVE PRICE AGREEMENTS	Approved: 	

Purpose:

To establish guidelines for County Departments when procuring goods or services using Cooperative Price Agreements. These procedures follow the County's LCRB Rules and are intended to facilitate the procurement process.

Background:

The use of Cooperative Price Agreements satisfies competitive bidding requirements and eliminates the costs associated with competitive bidding. In 2003 ORS 279 was revised to define the use of public contracts by public agencies other than the agency originally conducting the bid process. This revision has increased the use of cooperative price agreements by County Departments. Copies of cooperative price agreements may be obtained from the Purchasing Division.

References:

ORS 279 Oregon Public Contracting Code

BCC BO 2005-34 Adopting LCRB Rules, Appendix C of the County Code, and BCC BO 2009-84 delegating authority to sign contracts (see Code Appendix C, section C-050-0100).

LCRB RULES C-046-0400

Policy:

Cooperative Price Agreements may be entered into when it reduces costs and is in the best interest of the County. The procurement process must meet the requirements of all purchasing laws.

Departments desiring to purchase goods or services must submit a request to Purchasing. If a Cooperative Price Agreement is available to the County it will be the preferred method of procurement.

Purchases up to \$150,000 will be executed by the Purchasing Department buyers as authorized by Inter-government Agreement.

Purchases over \$150,000 will be submitted to the Board of County Commissioners for approval.

components or phases of Work specified in or reasonably related to the scope of the original procurement. Amendments to a Public Improvement Contract may be made only when they are reasonably related to the scope of the original Procurement.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279C.400(1)

[Adopted by Order NO. 2005-34, enacted 2/24/05; Amended by Order No. 2008-08, enacted 1/31/08]

DIVISION C-050

AUTHORITY TO SIGN CONTRACTS

C-050-0100 Delegation of Authority to sign Contracts and Amendments

(1) **Application.** The Board has authority to sign all Contracts and Contract amendments for the Contracting Agency. The purpose of these division C-050 rules is to establish a limited delegation of that authority to sign Contracts and Contract amendments. In other words, these rules identify the persons other than the Board who have the authority to sign Contracts and Contract amendments for the Contracting Agency. They do not address the type of procurement process that is to be followed, such as Invitation to Bid, Request for Proposals, or other procurement process.

(2) **Authority to Sign Contracts and Contract Amendments.**

(a) Officers and employees of Clackamas County holding the positions listed in this subsection have the authority to sign Contracts with a value not to exceed a total of \$150,000 in the aggregate for any one project or for any one contractor in a single fiscal year.

(b) The listed persons also have authority to sign Contract amendments, if the amendment does not exceed 10% of the original Contract amount or \$150,000, whichever is less.

Assessor
Business and Community Services Director
Business and Community Services Deputy Director
C-Com Director
County Clerk
Community and Legislative Affairs Director
Community Corrections Director
Community Development Director
County Administrator
County Counsel
Deputy County Administrator
District Attorney
District Attorney Office Administrator (Administrative Services Manager)
Emergency Management Director
Employee Services Director
Family Court Services Director
Finance Director
Homeland Security Director
Health, Housing and Human Services Director

Health, Housing and Human Services Assistant Director of Operations
 Technology Services Director
 Technology Services Deputy Director
 Justice of the Peace
 Juvenile Department Director
 Law Library Librarian
 Library Director
 Public and Government Relations Director
 Purchasing Manager
 Sheriff
 Tourism and Development Council Executive Director
 Transportation and Development Director
 Transportation and Development Deputy Director
 Transportation and Development Business Services Manager
 Treasurer
 Undersheriff
 Water Environment Services Director

(3) District Attorney's, Sheriff's, Treasurer's, Assessor's County Clerk's and Justice of the Peace's Additional Authority. In addition to the authority granted above in subsection (2), the District Attorney, the Sheriff, the Treasurer, the Assessor the County Clerk and the Justice of the Peace have the authority to sign Contract amendments, for contracts other than Public Improvement contracts, which do not exceed 10% of the original contract amount, or \$150,000, whichever is greater.

(4) DTD Director's and WES Director's Additional Authority. In addition to the authority granted above in subsection (2), the Transportation and Development Director, and the Water and Environment Services Director, have the authority to sign Contract amendments, for Public Improvement contracts, which do not exceed 10% of the original contract amount, or \$150,000, whichever is greater.

(5) County Administrator's Additional Authority. In addition to the authority granted above in subsection (2), the County Administrator has the authority to sign Contract amendments for both Public Improvement contracts and other contracts, which do not exceed 10% of the original contract amount, or \$150,000, whichever is greater.

(6) Authority Exclusive. The delegations of authority set forth in this section are exclusive, and no other persons have authority to perform such functions without express written authority from the Board granted after the adoption of this section. All previous delegations of authority adopted by the Board are hereby repealed. The County Administrator has other authority granted in Chapters 2.05 and 2.09 of the County Code, such as the authority to sign employment contracts.

(7) Other Limits. The authority granted in this section to sign Contract amendments does not override the limits on Contract amendments for Contracts awarded as small Procurements under C-047-0265 or intermediate Procurements under C-047-0270. Amendments to small Procurements shall not increase the Contract Price to greater than \$6,000. Amendments to intermediate Procurements shall not exceed 25% of the original Contract Price or \$25,000, whichever is greater.

[Adopted by Order NO. 2005-34, enacted 2/24/05; amended by Order No. 2006-366, enacted 8-24-06; Amended by Order No. 2008-08, enacted 1/31/08; Amended by Order No. 2008-165, enacted 10/16/08; Amended by Order No. 2009-84, enacted 7/9/09; amended by Order No. 2010-21, enacted 3/18/10; Amended by Order No. 2012-41, enacted 6/7/12.]

C-050-0200 Avoidance of Delay Costs

(1) The County Administrator has the authority to sign amendments to Public Improvement Contracts, for contract amounts exceeding those set forth in C-050-0100, under the following conditions:

(a) The amendment modifies bid items that have been defined under the original Contract, or addresses Differing Site Conditions, and

(b) The time needed to seek approval from the Board may result in delay costs or claims payable to the contractor.

(2) A report shall be provided to the members of the Board following every use of the authority. The amendment shall be placed before the Board for review at the earliest opportunity. The authority granted in this section is in addition to the authority granted in Rule C-050-0100.

[Adopted by Order NO. 2005-34, enacted 2/24/05]

LCRB Proposed Amendments

[Note: The Local Contract Review Board Rules are Appendix C to the County Code]

DIVISION C-050

AUTHORITY TO SIGN CONTRACTS

~~C-050-0100~~ Delegation of Authority to sign Contracts and Amendments

(1) **Application.** The Board has authority to sign all ~~Contracts~~contracts and ~~Contract~~contract amendments or renewals for the ~~Contracting~~contracting Agency~~agency~~. The purpose of ~~these~~division C-050 rules~~this~~ [ORDER/RESOLUTION/ORDINANCE] is to establish a limited delegation of that authority to sign ~~Contracts~~contracts and ~~Contract~~contract amendments or renewals. In other words, these rules identify the persons other than the Board who have the authority to sign ~~Contracts~~contracts and ~~Contract~~contract amendments or renewals for the ~~Contracting~~contracting Agency~~agency~~. They do not address the type of procurement process that is to be followed, such as Invitation to Bid, Request for Proposals, or other procurement process.

(2) Authority to Sign Contracts and Contract Amendments.

- (a) Officers and employees of Clackamas County holding the positions listed in this subsection have the authority to sign ~~Contracts~~contracts with a value not to exceed a total of \$150,000 in the aggregate for any one project or for any one contractor in a single fiscal year.
- (b) The listed persons also have authority to sign ~~Contract~~contract amendments or renewals, if the amendment does not exceed 10% of the original ~~Contract~~contract amount or \$150,000 for the entirety of the term of the ~~Contract~~contract, whichever is less.

Assessor

Business and Community Services Director

Business and Community Services Deputy Director

C-Com Director

Chief Deputy

County Clerk

Community Corrections Director

County Administrator

County Counsel

Deputy County Administrator

District Attorney

District Attorney Office Administrator (Administrative Services Manager)

~~Emergency-Disaster~~ Management Director

~~Employee Services~~ Director

~~Employee Services Deputy Assistant~~ Director

Family Court Services Director

Finance Director

Finance Deputy Director

Health, Housing and Human Services Director

Health, Housing and Human Services Deputy Director

~~Housing Authority~~ Director

~~Housing Authority Executive~~ Director

~~Human Resources~~ Director

~~Human Resources Assistant~~ Director

~~Information Services~~ Director

~~Information Services Assistant~~ Director

~~Technology Services~~ Director

~~Technology Services Deputy~~ Director

Justice of the Peace

Juvenile Department Director

Law Library Librarian

~~North Clackamas Parks and Recreation District~~ Director

Public and Government ~~Relations-Affairs~~ Director

Procurement Division Director

Sheriff

~~Technology Services~~ Director

~~Technology Services Assistant~~ Director

Tourism and ~~Cultural Affairs~~Development Council Executive Director

~~Tourism and Cultural Affairs Deputy Director~~ [Note: this position does not yet exist]

Transportation and Development Director

Transportation and Development ~~Deputy Assistant~~ Director

Treasurer

Undersheriff

Water Environment Services Director

~~Water Environment Services Assistant Director~~

(3) **District Attorney's, Sheriff's, Treasurer's, Assessor's County Clerk's and Justice of the Peace's Additional Authority.** In addition to the authority granted above in subsection (2), the District Attorney, the Sheriff, the Treasurer, the Assessor the County Clerk and the Justice of the Peace have the authority to sign ~~Contract-contract~~ amendments, for contracts other than ~~Public public Improvement-improvement~~ contracts, as that term is defined by ORS Chapter 279A, which do not exceed 10% of the original contract amount, or \$150,000, whichever is greater.

(4) **DTD Director's and WES Director's Additional Authority.** In addition to the authority granted above in subsection (2), the Transportation and Development Director, and the Water and Environment Services Director, have the authority to sign ~~Contract-contract~~ amendments, for ~~Public-public Improvement-improvement~~ contracts, as that term is defined by ORS Chapter 279A, which do not exceed 10% of the original contract amount, or \$150,000, whichever is greater.

(5) **County Administrator's Additional Authority.** In addition to the authority granted above in subsection (2), the County Administrator has the authority to sign ~~Contract-contract~~ amendments for both ~~Public-public Improvement-improvement~~ contracts, as that term is defined by ORS Chapter 279A, and other contracts, which do not exceed 10% of the original contract amount, or \$150,000, whichever is greater.

In addition to the authority granted above, when (i) there exists an emergency such that a quorum of the Board of County Commissioners cannot meet before an action must be taken for the protection of the public and/or public goods, or (ii) a quorum of the Board of County Commissioners is not assembled for two or more regularly scheduled public business meetings, then the County Administrator is authorized to enter into contracts and contract amendments for the purchase of products and or services for any amount under the following conditions:

- (a) The Office of County Counsel has reviewed and approved the contract or amendment;
- (b) Sufficient monies are available to fund the contract or amendment; and

- (c) The County Administrator shall not approve any contracts or amendment, or take any other action, that requires a public hearing.

In such circumstances, it is the intent of the Board to grant the County Administrator sufficient authority to take such actions as are necessary to make certain emergencies are addressed and/or that County business can continue until such time as a quorum can be convened. The County Administrator shall provide a full report to the Board of County Commissioners at their next available business meeting on the exercise of any authority provided for under this provision.

(6) **Authority Exclusive.** The delegations of authority set forth in this section are exclusive, and no other persons have authority to perform such functions without express written authority from the Board granted after the adoption of this section. All previous delegations of authority adopted by the Board with respect to these Rules are hereby repealed. [TO BE REVISED BASED ON DECISION TO AMEND CODE OR PASS RESOLUTOIN/ORDINANCE]. The County Administrator has other authority granted in Chapters 2.05 and 2.09 of the County Code, such as the authority to sign employment contracts and the County Counsel has authority granted in Chapter 2.12 of the County Code.

(7) **Other Limits.** The authority granted in this section to sign Contract amendments does not override the limits on ~~Contract~~contract amendments for ~~Contracts~~contracts awarded as small ~~Procurements~~procurements ~~under C-047-0265 or i~~intermediate Procurements, as those terms are defined by ORS Chapter 279A and applicable County Code. ~~under C-047-0270.~~ Amendments to small ~~Procurements~~procurements shall not increase the ~~Contract~~contract ~~Price~~price to greater than \$6,000. Amendments to intermediate ~~Procurements~~procurements shall not exceed 25% of the original ~~Contract~~contract Price or \$25,000, whichever is greater [Last sentence may be unnecessary. Consider deletion].

[Adopted by Order NO. 2005-34, enacted 2/24/05; amended by Order No. 2006-366, enacted 8-24-06; Amended by Order No. 2008-08, enacted 1/31/08; Amended by Order No. 2008-165, enacted 10/16/08; Amended by Order No. 2009-84, enacted 7/9/09; amended by Order No. 2010-21, enacted 3/18/10; Amended by Order No. 2012-41, enacted 6/7/12.]