

**Code: DJC 1**  
**Adopted: July 2017**

**MITCH Charter School**  
**Bidding Requirements**

The Board is the Local Contract Review Board (LCRB) for the public charter school.

The Board, acting as its own LCRB, adopts<sup>1</sup> the *Oregon Attorney General's Model Public Contract Rules*, OAR Chapter 137, Divisions 046 through 049.

All public contracts shall be invited in accordance with applicable competitive procurement provisions of Oregon Revised Statutes and adopted public contracting rules except as allowed in the adopted rules, administrative regulations or as determined by the LCRB.

Public contracts using federal funds will comply with federal rules and regulations.

**Methods of Source Selection**

The public charter school must award a public contract for goods or services, or both, by one of the following sourcing methods:

1. Competitive Sealed Bidding (also known as Invitation to Bid or ITB) pursuant to ORS 279B.055;
2. Competitive Sealed Proposals (also known as Request for Proposals or RFP) pursuant to ORS 279B.060;
3. Small Procurements (**\$10,000 or less**) pursuant to ORS 279B.065;
4. Intermediate Procurements (**more than \$10,000 to \$150,000**) pursuant to ORS 279B.070;
5. Sole-source Procurement pursuant to ORS 279B.075
6. Emergency Procurement pursuant to ORS 279B.080;
7. Special Procurement pursuant to ORS 279B.085, including the class special procurements set forth in the administrative regulations adopted with this policy; and
8. Cooperative Procurement pursuant to ORS 279A.200.

**Small Procurements (\$10,000 or less)**

**(1) Generally.** For procurements of goods and services less than or equal to the dollar amount stated in

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<sup>1</sup> Public Contracts shall be governed by ORS Chapter 279, 279A, 279B and 279C. Additionally, the Board may, as provided by ORS 279A.065, adopt the Oregon Attorney General's Model Public Contract Rules, OAR Chapter 137 governing purchasing/ bid procedures. The Board may also adopt the Oregon Department of Administrative Services rules governing Public Contract Exemptions, OAR Chapter 125. The Board may adopt portions of those rules or adopt its own rules. A Board that has not established its own rules of procedure for public contracts is subject to the model rules (OAR Chapter 137) adopted by the Attorney General.

ORS 279B.065, currently, amounts **\$10,000 and less**, the public charter school may award a contract as a small procurement **in any manner deemed practical or convenient** by the public charter school, including by **direct selection** or award.

(2) Amendments. The public charter school may amend a contract awarded as Small Procurement in accordance with *Oregon Attorney General's Model Public Contract Rules* .

(3) No Fragmentation. A procurement may not be artificially divided or fragmented so as to constitute a small procurement. ORS 279B.065(2).

### **Intermediate Procurements (>\$10,000 to \$150,000)**

(1) Generally. For procurements of goods and services greater than the dollar amount stated in ORS

279B.065 (**greater than \$10,000**) and less than or equal to the higher dollar amount stated in ORS 279B.070, (**\$150,000**) the public charter school may award a contract as an Intermediate Procurement pursuant to ORS 279B.070.

(2) Intermediate Solicitation Process. When conducting Intermediate Procurement, the public charter school shall seek at least **three informally solicited competitive price quotes or competitive proposals** from prospective contractors. The public charter school shall keep a **written record** of the sources of the quotes or proposals received. If three quotes or proposals are not reasonably available, fewer will suffice, but the public charter school shall make a written record of the effort made to obtain the quotes or proposals.

(3) Negotiations. The public charter school may negotiate with a prospective contractor who offers to provide goods or services in response to an Intermediate Procurement to clarify its quote or offer or to effect modifications that will make the quote or offer more advantageous to the public charter school.

(4) Award. If a contract is awarded, the public charter school shall award the contract to the offeror whose quote or proposal will best serve the interests of the public charter school, taking into account price as well as considerations including, but not limited to, experience, expertise, product functionality, suitability for a particular purpose, and contractor responsibility under ORS 279B.110.

(5) Amendments. The public charter school may amend a contract awarded as Intermediate Procurement in accordance with *Oregon Attorney General's Model Public Contract Rules*.

(6) No Fragmentation. Procurement may not be artificially divided or fragmented so as to constitute Intermediate Procurement. ORS 279B.070(2).

## **Competitive Sealed Bidding (also known as Invitation to Bid or ITB); Competitive Sealed Proposals (also known as Request for Proposals or RFP)**

For procurements of goods and services **greater than \$150,000** (and not awarded as an emergency, special or sole source procurement), the public charter school will award a contract by following the requirements of the Competitive Sealed Bidding (ITB) and Competitive Sealed Proposals (RFP) as set forth by the *Oregon Attorney General's Model Public Contract Rules* and pursuant to ORS 279B.055 or ORS 279B.060. The public charter school will contact legal counsel for procurements required to be awarded through Competitive Sealed Bidding or Competitive Sealed Proposals.

### **Emergency Procurements**

(1) Generally. The Executive Director may award a public contract as Emergency Procurement. The Executive Director will document the nature of the emergency and describe the method used for selection of the particular contractor. ORS 279B.080.

(2) **Construction Services.** For Emergency Procurement of construction services that are not Public Improvements, the public charter school shall ensure competition for a contract for the Emergency Work that is reasonable and appropriate under the emergency circumstances. In conducting the procurement, the public charter school shall set a solicitation time period that the Executive Director determines to be reasonable under the emergency circumstances, and may issue written or oral requests for offers or make direct appointments without competition in cases of extreme necessity.

### **Special Procurements**

The Board shall approve special procurements pursuant to ORS 279B.085 and exemptions of construction services pursuant to ORS 279C.335. The Board's Administrative regulation, Special Procurements and Exemptions for Competitive Bidding further describe Special Procurements and exemptions adopted by the public charter school.

### **Sole Source Procurements**

The Executive Director or designee is delegated the authority to determine in writing that goods or services, or class of goods or services are available from only one source pursuant to ORS 279B.075. The determination must be based on written findings that may include information that:

- (a) The efficient utilization of existing goods or services requires the acquisition of compatible goods or services;
- (b) The goods or services required for the exchange of software or data with other public or private agencies are available from only one source;
- (c) The goods or services are for use in a pilot or an experimental project; or
- (d) other findings that support the conclusion that the goods or services are available from only one source. **Public Notice.** If the contract amount is greater than \$150,000, the public charter school shall give public notice of the Executive Director's determination that the goods or services or class of goods or services are available from only one source. The public charter school shall publish such notice in a manner similar to public notice of Competitive Sealed Bids under ORS 279B.055(4). The

public notice shall describe the goods or services to be acquired by a sole-source procurement, identify the prospective contractor, and include the date, time, and place that protests are due. The public charter school shall give affected persons at least seven days from the date of the notice of the determination that the goods or services are available from only one source to protest the sole-source determination.

**Protest.** An affected person may protest the Executive Directors' determination that the goods or services or class of goods or services are available from only one source.

### **Procurements in Excess of \$250,000**

Procurements estimated to be in excess of \$250,000 shall go through the cost analysis and feasibility process described in ORS 279B.030-033.

### **Construction Manager/General Contractor**

The public charter school shall procure the construction manager/general contractor services in accordance with model rules the Attorney General adopts under ORS 279A.065(3).

### **Public Improvement Contracts**

The public charter school shall follow the Oregon Public Contracting Code and the *Oregon Attorney General's Model Public Contract Rules* for public improvement contracts and pursuant to the Board's Administrative regulation, Special Procurements and Exemptions for Competitive Bidding. The public charter school will contact legal counsel for procurements required to be awarded through Competitive Sealed Bidding or Competitive Sealed Proposals for public improvement projects.

### **General Provisions**

Where necessary, the Board has made the written findings required by law for exemptions from competitive bidding. Such findings shall be maintained by the public charter school and made available on request.

The public charter school shall review its rules each time the Attorney General adopts a modification of the model rules, as required by ORS 279A.065 (5)(b), to determine whether any modifications need to be made to public charter school rules to ensure compliance with statutory changes. Modifications will be made following review by the public charter school's legal counsel. The Board shall adopt new rules, as necessary.

Records of bids, proposals and specifications will be kept in the public charter school administration office and will conform to Oregon Revised Statutes and applicable record retention provisions of the Oregon Attorney General's Model Public Contract Rules.

### **END OF POLICY**

Legal Reference(s): ORS Chapters 279A, 279B and 279C; ORS 338:115(e); OAR Chapter 125, Divisions 246-249; OR Department of Justice; OR Attorney General's Model Public Contract Rules Manual