

RESOLUTION NO. 526

DECLARING AN EMERGENCY AND EXEMPTION FROM THE COMPETITIVE  
BIDDING REQUIREMENTS FOR  
OREGON ECONOMIC STIMULUS PACKAGE PROJECTS  
(SB 338, 2009 OR Legislative Session)

The Board of Education, acting as the College's Local Contract Review Board, finds that an emergency exists and thereby authorizes the College administration to waive competitive bidding procedures within the parameters established within this Resolution.

THE BOARD FINDS:

1. Oregon statutes (ORS 279.010(1)(f) and ORS 279B.080) and the Community College Rules of Procurement (CCR 206) allow Lane Community College to enter into public contracts without competitive bidding if an emergency exists. An emergency means circumstances that: 1) could not have been reasonably foreseen; 2) which create a substantial risk of loss, damage or interruption of services, or a substantial threat to property, public health, welfare or safety; and 3) require prompt execution of a contract to remedy the condition.
2. **The economic downturn could not have reasonably been foreseen.** The 2009 Oregon State Legislature approved an economic stimulus package (SB 338), effective upon passage on February 5, 2009 and declared that an emergency exists. The Legislative intent behind this bill is to establish contracts in the local community on an expedited basis with the expectation that such action will result in reducing the state's high unemployment rate and improving the state's economy. Neither the existing national and state economic crisis that began in Fall 2008 nor the state's economic stimulus package could reasonably have been foreseen.
3. **This situation does create a substantial risk to interruption of services and a substantial threat to public health, welfare or safety.** Under the terms of the state's economic stimulus package, funds must be expended immediately in order to give effect to the intent of the legislature to reduce the state's high unemployment rate and improve the state's economy. Funds allocated to Lane Community College under this legislation total \$8,000,000 for deferred maintenance, capital renewal, code compliance and safety projects. The Legislature's intent includes a requirement that projects commence on or before April 30, 2009.
4. **The resolution of this emergency requires the prompt execution of contracts.** Prompt execution of contracts is necessary in order to address the current economic crisis. The Legislature intends the College to award its emergency contracts within 60 days of the emergency declaration. The College has multiple contracts to issue as part of the state's stimulus award.

5. Failure to comply with Legislative intent – focused primarily on speed of execution – could potentially be taken into consideration during the community college general fund funding bill or could result in deferred maintenance funds being diverted to other institutions. The Legislature directed the State Department of Administrative Services to adopt an emergency declaration. This is expected to occur, but will apply only to state agencies. The Governor may issue an executive order declaring an emergency that creates a streamlined process, but that has not yet occurred. An emergency declaration adopted by the College Local Contract Review Board is consistent with the actions being required by State contracting agencies.

THEREFORE, BE IT RESOLVED that the Board of Education, acting as the College's Local Contract Review Board, and based on the above findings, hereby declares that an emergency exists and approves the temporary revisions in the Community College Rules of Procurement for Oregon set forth in the attached Appendix for all economic stimulus package projects authorized by the state's 2009 Economic Stimulus Package (SB 338).

Adopted by the Board of Education acting as the Local Contracting Review Board this 18<sup>th</sup> day of February, 2009.

ATTEST:

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Mary Spilde, College  
President/District Clerk

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Chair, Lane Community College  
Board of Education

## **GUIDELINES WITHIN WHICH EMERGENCY CONTRACTING WILL OCCUR**

The following processes are intended to ensure competition for a contract that is reasonable and appropriate under the circumstances. The Community College Rules of Procurement (CCRP) are revised for the 2009 Oregon stimulus package projects identified in Paragraph 3 above as follows:

(deleted language in ~~striketrough~~, new language in **bold**)

### **CCR 301: Primary Thresholds**

DIRECT AWARD PROCESS: Competitive procurement processes need not be used for the procurement of goods and services which total, on a completed project bases, less than ~~\$5,000~~ **\$24,999**. **The college is encouraged but not obligated to obtain informal competitive quotes.**

COMPETITIVE QUOTES PROCESS: Competitive processes shall be used for the procurement of goods and services which total, on a completed project cost basis ~~\$5,000~~ **\$24,999** or more. Informal processes may be used for projects totaling between ~~\$5,000~~ **\$25,000** and \$99,999; **the college shall set a solicitation time period that is reasonable given the emergency, may issue written or oral requests for offers, or may make direct appointments to Oregon businesses, if appropriate. The college shall document efforts to obtain three quotes.**

FORMAL SOLICITATION PROCESS (Invitation to Bid): **Formal processes are waived.** ~~Formal processes shall be used.~~ For the procurement of goods and services which total, on a completed project cost bases, \$100,000 or more, **the college must obtain three competitive quotes, or document efforts to obtain three quotes with President review and approval before issuing the contract and with notice to the Board thereafter. The 14-day notice rule is waived.**

### **Additional Procurement Provisions effective immediately upon passage of the 2009 State Economic Stimulus Package:**

1. Any public improvement contract awarded pursuant to these emergency revisions to the Community College Rules of Procurement shall be awarded within 60 days following the date of passage of SB 338 or as soon as reasonably practicable unless an extension is granted by the President with notice to the Board thereafter.
2. The College may immediately extend by 60 days, as needed, any existing vendor and supplier contracts in order to meet the contracting needs of this emergency. It is believed that such an extension does not inhibit competition and is in the public interest because many of these vendors have already been selected to offer services to the college through a statewide solicitation process.

3. The college is authorized to “piggy back” onto existing vendor contracts with other public institutions, including State of Oregon purchasing agreements, when it is deemed to be the most cost-effective and expedient method of acquiring service. Vendors contracted in this manner will be encouraged to employ local skilled labor to provide the services contracted.
4. In exercising its authority under these emergency procurement provisions, the college shall:
  - a) Make a reasonable effort to seek out and use qualified and responsible emergent and minority owned businesses to the extent possible under the circumstances;
  - b) To the extent possible, encourage the creation or maintenance of local and regional employment, along with price and other relevant considerations, as criteria for awarding contracts;
  - c) Record the measures taken to award work including: the amounts of bids, quotes or proposals; efforts to obtain quotes; reasons for selecting the awarded contractor; names and addresses of employers contracted; names and addresses of employees; number of hours each employee works, and project start date and on-going status reports. These reports will provide the information required by OCCWD and by agents of the State of Oregon.
  - d) Comply with all prevailing wage and other regulatory requirements in place for construction work.
  - e) Comply with any other requirements mandated in the Legislative statute authorizing and funding these stimulus projects.
5. The list of projects approved for the economic stimulus package is attached as Exhibit 1.