

Personal Services Contracts

The district may enter into personal services contracts with qualified professionals as provided by ORS 279A.055.

1. Except where other procedures are required by state or federal law, the Local Contract Review Board and district shall adopt the following:
 - a. Architectural, engineering, photogrammetric mapping, transportation planning, land surveying, and related services. For personal services that are listed in ORS 279C.100, i.e., architectural, engineering, photogrammetric mapping, transportation planning, land surveying and related services, the procurement procedures set forth in OAR 137-048-0100 through 137-048-0320 are hereby adopted.
 - b. All other personal services.
2. Definitions
 - a. For purposes of this Subsection 1. b. “personal services” shall include the services listed or described below, but excluding the services referred to in Subsection 1. a. above:
 - (1) Services that call for specialized skills, knowledge, or resources, or the application of technical or scientific expertise, or the exercise of management judgment or acumen; and
 - (2) Services performed in a professional capacity, including, but not limited to, the services of an accountant, attorney, auditor, physician, dentist, nurse, health consultant, data processing consultant or other person of business or professional expertise; and
 - (3) Custodial care services, educational services, transportation services, mental or physical health services, social services or child care services; and
 - (4) Services in the nature of artistic skills; and
 - (5) Repair services, (except when ORS 279C requires competitive bidding for the work); and
 - (6) Such other services which on a case by case basis this Contract Review Board may determine constitutes “personal services,” as broadly as such term may be interpreted without violating ORS Chapter 279A, 279B, or 279C. Notwithstanding the foregoing, in no instance shall the services described in Subsection 1. a. hereof be deemed “personal services” for the purposes of this Subsection, and a contractor sought primarily for the purpose of the purchase of products, personal property, equipment, computers, fixtures, supplies or materials, shall in no case be considered as providing “personal services” even if installation services are included in the contract.
 - b. For the purposes of these rules, the term “consultant” shall mean the provider or prospective provider of personal services under a contract for personal services.

3. Purpose

The purpose of this Subsection is to specify the policies and procedures regarding the selection of consultants to perform personal services. It is the policy of this Contract Review Board to select as expeditiously as possible the most qualified consultants based on the consultants' demonstrated competence and qualifications to perform the professional services required at a fair and reasonable price, and to discourage favoritism.

4. Direct appointment procedure

Except as otherwise provided herein, the district may contract directly with any consultant if the consultant is deemed to be competent and available and the selection furthers the policies set forth in the preceding paragraph, without any formal or informal selection procedures. The contract may be for a definite or indefinite term.

5. More formal selection procedures

On a case by case basis, the district Board or this Public Contract Review Board, may direct that a particular procurement of personal services be pursuant to more formal selection procedures, including but not limited to, any of the procedures set forth in OAR 137-048-0100 through 137-048-0320, competitive quotes, requests for proposals, requests for qualifications, competitive bidding or any combination thereof.

6. Protest procedures for Subsection 1. b.

- a. For a procurement pursuant to this Subsection, all protests shall be commenced no later than 30 days after the appointment, and shall be in writing received by the district before the said deadline. Each protest shall specifically state the grounds for protest, and only those grounds may be considered on review. Review shall be by the Contract Review Board within a reasonable time after receipt of the protest.
- b. All actions of the district and Contract Review Board in the solicitation and selection of the consultant shall be based upon the sound discretion of the district or the Contract Review Board, as the case may be, except as may be expressly provided otherwise in these rules or by applicable laws. Any review before the Contract Review Board and any judicial review of the actions of the district or the Contract Review Board shall be based solely upon an error of law or a violation of these rules which the protester can demonstrate prevented the protester from being the selected provider. The burden of proof is on the protester by a preponderance of the evidence. On judicial review, the court shall defer to the district and Contract Review Board on all questions involving agency judgment and discretion.

Contracts for personal services in excess of \$150,000 shall require prior Board approval.

The superintendent will develop administrative regulations as necessary to implement this policy.

END OF POLICY

Legal Reference(s):

[ORS Chapters 279](#)

[ORS Chapters 279A, 279B](#) and [279C](#)

[ORS 332.107](#)

[ORS 670.600](#)

[OAR 459-010-0030](#)

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