



## **Bidding Requirements**

### **Local Contract Board Exemptions**

To meet the program needs of WESD without limiting adequate competition among vendors, the following class exemptions from competitive bidding are approved:

1. Specifically authorized in 270A.025:
  - a. Textbooks and instructional materials;
  - b. Sole source purchases;
  - c. Cooperative intergovernmental purchasing;
  - d. Insurance contracts;
  - e. Contracts for employee benefit plans;
  - f. Acquisitions or disposals of real property;
  - g. Contracts or agreements entered into in connection with the issuance of bond obligations, borrowing of money or investing of funds;
  - h. Contracts for professional or expert witnesses or consultants to provide services relating to existing or potential litigation or legal matters of interest to WESD;
  - i. Legal services;
  - j. Acquiring grants or revenue
  
2. Specifically authorized by WESD Local Contract Review Board:
  - a. Educational services;
  - b. Copyrighted materials;
  - c. Periodicals;
  - d. Personal services less than \$25,000;
  - e. Advertising;
  - f. Emergencies;
  - g. Travel;
  - h. Other contracting agencies such as temporary employment agencies;
  - i. Contracts for the services of speech pathologists, occupational therapists, physical therapists, mental health professionals, counselors, nurses and other medical professionals.
  - j. Price regulated purchases (e.g. utilities).

## **Purchasing Modifications or Exemptions Explanation of Categories Selected**

The state guidelines permit local government bodies to modify public contracting rules by modifications in purchasing procedures or exempting certain personal services or product purchasing categories from state guidelines. To do so, the local governing body must designate the modifications. In the absence of modifications or exemptions, state guidelines apply.

1. To facilitate the effective operation of WESD programs and to maintain competitive quotes and efficiency where appropriate, the WESD local contracting review board authorizes the following modifications:

Note: The items 1.a.-j. are authorized in 279A.025 but are included here to indicate the nature of all exemptions and also to indicate that not all exemptions authorized in that statute apply to WESD.

- a. Textbooks and Instructional Materials

Textbooks and instructional materials are selected based on curriculum adoptions and the relationship of the texts to instructional standards, not on price. The adoption is in effect throughout the state.

- b. Sole Source Purchases

This exemption is accepted within the state guidelines, but staff needs to document that the good or service is not available elsewhere. An example of such a purchase would be an updated edition of the payroll software program.

- c. Cooperative Intergovernmental Purchasing

This option allows the WESD to utilize the “piggyback” option for any bid that currently is in effect for another governmental agency that went through the bidding process. This saves all agencies from duplicating effort.

- d. Insurance Contracts

The agent of record services are bid through a competitive process. The agent then competitively shops insurance contracts to meet the risk management needs of the district.

- e. Contracts for Employee Benefits Plans

Coverage for employee benefits is determined during the negotiation process. Available resources control the levels of coverage and costs with joint payment by employees and the district as well as the available services in the community.

- f. Real property

Because of the unique needs of location and the price sensitivity of negotiations on real property, the acquisition and disposal of real property activities are exempt from public

exposure through Oregon Statutes. The legislature has determined that it is in the best interest of the public to assure agencies disclose transactions when approved by the governing boards, but not in the process of acquiring or disposing of property.

g. Bond and Debt Agreements

Financial advisors generally support the sale of bonds for borrowing funds. The selection of the financial advisor is a competitive process, but the sale of bonds is done in a public process within the bond market and responds to the market situation on the day of sale. Controls exist to assure safe handling of such sales and protection for the district in the custody and administration of the bonds.

h. Legal services

The nature of the services provided is more critical than the cost incurred. It is in the best interest of the district to get professional support to avoid losses greater than the cost of the service.

i. Expert Witness or Consultants Related to Litigation

Similar to the rationale for legal services, it is in the best interest of the district to acquire the services of experts and witnesses to reduce risk to the district and the public.

j. Acquiring Grants or Revenue

This applies to competitive access for revenue, not expenditures. The exemption allows WESD to apply for grants without shopping among all available grants to try to get the most beneficial grant, but to allow application to any appropriate grants, which may or may not be received.

2. The following exemptions are commonly used in education districts in Oregon. They are generally utilized to provide practical access to the services needed in a timely manner.

a. Educational Services

The standard is educational outcome, not price. For example: If a student has legally been designated as needing an individualized educational program (IEP) that specific service may not be available in multiple locations or through more than one provider, but the service has to be provided. Designating this exemption allows staff to meet the need in the most appropriate manner within the most responsive timeline.

b. Copyrighted Materials

Such materials, be they electronic media or printed media, are available through sources and at prices set by the vendor. As such, pricing or source options are not generally available. Also, such material is somewhat specific to the program and not always available from multiple sources. This is similar to the standard textbook exemption already in statute.

c. Periodicals

The market is controlled by multiple publishers and not responsive to bids. The dollar amount is generally low, but could accumulate to exceed the verbal quote threshold of \$5,000. Without the exemption, the category could be considered a bid candidate, requiring busy work without any benefit. This is also similar to the textbooks exemption.

d. Personal Services Less Than \$25,000

This threshold has been adopted throughout school districts in Oregon. The nature of the services ranges from a workshop presenter to an interpreter or a physical therapist. The services are generally needed for a specific geographic area, at a specific time or covering a unique topic not commonly available. The \$25,000 threshold serves to facilitate the delivery of programs but not allow an excessive accumulation of service to be provided by one vendor without checking options and prices within the market.

e. Advertising

Advertising is required in specific publications for legal notices (such as budget hearings) or is targeted to specific markets by the media selected. The service is not conducive to price bidding, but rather return on investment analysis.

f. Emergencies

This exemption is also accepted within state guidelines. It is defined under 279A definitions. It fits the circumstance where something is needed quickly or the WESD will lose money, equipment or the ability to provide a service. The typical example is roof damage from a storm or damage from a fire.

g. Travel

While accumulative totals might exceed the quote limits, travel expenses are exempted due to the following variables:

- (1) Many locations have limited or single service providers of air service or lodging;
- (2) Existing websites, such as Yahoo!® Travel, provide comparative pricing for transportation, car rentals and lodging when staff is reserving service;
- (3) The timing of service may provide the option of less total cost by traveling within one day rather than taking a less costly flight that requires an overnight stay;
- (4) Travel expense limits are already in effect.

h. Other Contracting Agencies

These temporary time sensitive services used in this circumstance are based on cost, availability and skills available from the contracting agencies. An example would be a temporary help service.

i. Contracts for Medical Professionals

These services are based on availability and specialty of service requirements. The level of service needed to meet individual student programs are similar to instructional services and are program dependent, not price dependent.

j. Price Regulated Purchases (e.g. utilities)

This exemption applies to services such as water, electrical or natural gas where the Public Utility Commission sets the price or the location sets the service provider. This does not apply to telecommunication services.