

EXHIBIT B TO RESOLUTION 17-4814

METRO PERSONAL SERVICES CONTRACTING RULES Procurement Administrative Procedures

SUBJECT:	Requirements and Procedures for the Procurement of Personal Services Contracts
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PURPOSE:	To establish a uniform process for the acquisition of personal services and rules related to the screening and selection of persons to perform personal services
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DEPARTMENT RESPONSIBLE:	Finance Department PROCUREMENT
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DEPARTMENTS AFFECTED:	All Metro Departments
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LEGAL CITATION/ REFERENCE:	ORS 279A.055, 279A.065 and 279A.070
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DATE:	_____, 2017
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3. Establishes that but for a substantial violation of a provision in the solicitation document or of an applicable procurement statute or administrative rule, the protesting proposer would have been included in the competitive range or in the next tier or step of competition.
- C. A proposer may appeal a decision that the proposer is not qualified under an RFQ process if the proposer can establish that it complied with all of the following conditions:
1. Submitted a responsive offer.
 2. Is deemed responsible.
 3. Establishes that but for a substantial violation of a provision in the solicitation document or of an applicable procurement statute or administrative rule, the protesting proposer would have been included in the competitive range or in the next tier or step of competition.
- D. Unless otherwise specified in the solicitation document, a proposer shall deliver its written protest to the Procurement Officer by close of business within seven (7) calendar days after the date shown on the notice of the decision that is the subject of the protest.
- E. The protest must specifically state the reason for the protest, identify how its proposal or the winning proposal was mis-scored or show how the selection process deviated from that described in the solicitation document, and identify the remedy requested.
- F. Depending upon the substance of the protest, the Procurement Officer has a number of options available in resolving the protest. The Procurement Officer may: 1) waive any procedural irregularities that had no material effect on the selection of the proposed contractor; 2) invalidate the proposed award or amend the award decision; 3) request the evaluation committee re-evaluate any proposal; 4) develop an entirely new evaluation committee and re-evaluate the proposals; or 5) cancel the solicitation and begin again to solicit new proposals. In the event the matter is returned to the evaluation committee, the Procurement Officer shall issue a notice canceling the notice of intent to award.
- G. Decisions of the Procurement Officer are final and conclude the administrative appeals process. Any further redress sought by the proposer must be pursuant to state law.

XI. EXEMPTIONS FROM COMPETITIVE PROCUREMENT REQUIREMENTS

A. Exemptions by Rule

The services listed in paragraphs 1 through 9 below are designated as Personal Service and are exempt from competitive procurement requirements set forth in these Administrative Rules.

1. Contracts for the modification by the licensor of intellectual property licensed to Metro.
2. Contracts for legal services (e.g. expert witnesses, outside legal counsel, and bond counsel), if approved by the Metro Attorney.

3. Contracts with speakers, lecturers and performing artists (whether vocal, instrumental, or visual) to provide a paid speech, lecture, or performance for an audience determined by Metro.
4. Contracts in which the rates for the services being purchased are established by federal, state, county, or other local regulatory authority where an alternate selection process has been approved in advance by the Procurement Officer.
5. Contracts for which a non-Metro funding source (e.g. a grant or contract awarded by a government agency or private foundation) identifies the contractor in the funding award or makes a funding award conditioned upon the service being performed by a specific contractor.
6. Contracts for determining any prospective or current Metro employee's ability to work or return to work.
7. Contracts for processing any claim for workers' compensation benefits.
8. Contracts for determining any reasonable accommodation that may be made to any job classification at Metro.
9. Contracts for services provided by those in the medical community including, but not limited to, doctors, physicians, psychologists, nurses, veterinarians, laboratory technicians and those with specific license or unique skill to administer treatments for the health and well-being of people or animals.

10. Contracts for services when the contractor is a not-for-profit organization and where both parties share in the decision making process work together to define a scope of work, contribute resources, share responsibilities, and accept risk and benefits.

B. Specific Exemptions from the Competitive Procurement Requirements:

1. Sole Source Contractor Exemption

A sole source procurement is one that awards a contract without an open competitive environment. It is a declaration that the personal services being contracted for are of such a unique nature, or the contractor possesses such a singular capability to perform the work that proceeding without competition is likely to provide a significant benefit to Metro. Contracting by this method requires complete explanation and justification of: 1) the unique nature of the services; 2) the unique qualifications of the contractor; and 3) the basis upon which it was determined that there is only one known contractor able to meet the service needs.

The Procurement Officer is authorized to approve sole source requests. However, sole source procurements greater than \$50,000 will require a public notice be posted on ORPIN for at least seven (7) calendar days prior to the award. Contractors who feel they are adversely affected by the award of the sole source procurement will have seven (7) calendar days from the issuance of the sole source notice to file a protest in accordance with Section X.D of these Administrative Rules. If a protest is received, the matter must be resolved before the Procurement Officer will review the Sole Source Request.

2. Emergency Exemption

Metro may award a contract as an emergency procurement without the use of competitive proposals if circumstances exist that (i) could not have been