

**BOARD CONTRACT REVIEW BOARD**

ARTICLE NUMBER: 106

LAST APPROVED: April 7, 2008, October 13, 2014, November 6, 2017

REFERENCE: ORS 279.A.060, OAR 137, ORS 279

OVERVIEW: 106.1

By ORS 279A.060, the Tillamook Bay Community College Board of Education is designated as the local contract review board for the College.

Procurement of goods and services by the College is governed by the Oregon Attorney General's Model Rules as contained in OAR Chapter 137, which rules are adopted by Tillamook Bay Community College except as the College has adopted its own rules of policy. Exceptions to the Model Rules, adopted by the Board of Education, are listed below.

PERSONAL SERVICE CONTRACTS: 106.2

General Requirements:

- A. Personal Services include, but are not limited to, contracts for auditing and financial services, legal services, architectural and engineering services, planning services, and technical inspection services.
- B. The Board by resolution may designate additional service contracts or classes of service contracts as personal service contracts if the following conditions apply:
  - a. Specialized skills, knowledge and resources are not available within the College staff;
  - b. The work cannot be done in a reasonable time with the College's own work force;
  - c. An independent and impartial evaluation of a situation is required by a consultant with recognized professional expertise and stature;
  - d. It will be less expensive to contract for the work.
- C. Persons who are interested in performing services for the College may submit their areas of interest to the CFO, who will compile a list of prospective consultants. This list may be used in lieu of an advertisement when issuing a request for qualifications or a request for proposals for a specific project.
- D. The Board will be informed of action(s) taken.

**BOARD CONTRACT REVIEW BOARD**

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---

**FORMAL SELECTION PROCESS: 106.3**

- A. Except as provided in Section “Informal Selection Process” below, this procedure shall be used whenever the estimated fee to the contractor exceeds fifty thousand dollars (\$50,000).
- B. Solicitation of Proposals
- a. Responses shall be solicited through public advertisement or notice to persons on the College's consultant list, inviting response to either:
    - i. A request for proposals (RFP); or
    - ii. A request for qualifications (RFQ) to establish a short list, followed by an RFP.
  - b. The advertisement, when used, shall appear at least once in at least one newspaper of general circulation in the local area. The solicitation may be advertised in additional issues and publications to achieve adequate competition or to reach the minorities, women, and emerging small business enterprise audiences.
- C. Use of Request for Qualifications
- a. An RFQ used to evaluate qualifications, screen potential consultants, and establish a short list shall contain the information required to screen and select qualified respondents.
  - b. The College President or designee shall review, score and rank the consultants according to the solicitation criteria and the results of any oral interview. The College President may delegate this screening to a committee composed of qualified employees of the College or others so designated. The committee may include private practitioners of the work encompassed by the project.
  - c. Following screening and evaluation, the College President or designee shall establish a short list of at least three qualified consultants. If four or fewer persons respond to the RFQ, then a short list of fewer than three qualified consultants may be established or the RFQ may be canceled and an RFP issued.
  - d. Every qualified consultant placed on a short list shall receive an RFP and have an opportunity to submit a proposal. No person shall be eligible for placement

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---

on a short list during the period in which any of the person's principals, partners or associates are a member of the College's evaluation committee.

- e. Publication of an RFQ shall not make the College responsible for any consultant costs and expenses incurred in submitting responses to an RFQ. All potential consultants who respond to an RFQ do so solely at the consultant's cost and expense.
- f. Any reasonable evaluation method may be used to establish a short list of qualified consultants.

**D. Request for Proposals**

- a. A meeting may be held for all interested consultants to discuss the proposed project and the required services. Attendance at such a meeting, if held, may be mandatory.
- b. An RFP consultant selection committee of at least three persons shall be appointed by the College President or designee to review, score and rank the consultant's responses to the RFP. If the RFP follows an RFQ, the RFP consultant selection committee may be the same as any RFQ consultant evaluation committee. The RFP consultant selection committee may interview consultants. The committee may be composed of highly qualified professional employees of the College or other agencies and may include private practitioners of the work encompassed by the project. The Board may establish a different consultant selection committee when selection of the consultant is done by the College President or Board.
- c. No person or firm shall be eligible for award of a consultant contract during the period in which any of the person's principals, partners or associates is a member of the consultant selection committee.
- d. The RFP consultant selection committee shall review, score and rank all responsive proposals according to criteria listed in the RFP. These criteria may include but are not limited to the following:
  - i. Availability and capability to perform the work.
  - ii. Experience of key staff on comparable project(s).
  - iii. Demonstrated ability to successfully complete similar projects on time and within budget.

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- 
- iv. References and recommendations from past clients, public and private.
  - v. Consultant's performance history in (i) meeting deadlines; (ii) submitting accurate estimates; (iii) producing quality work; and (iv) meeting financial obligations.
  - vi. Status and quality of any required licensing or certification.
  - vii. Consultant's knowledge and understanding of the project as shown in the consultant's approach to the project's staffing and scheduling needs.
  - viii. Fees required, whether estimated or firm.
  - ix. Results from oral interviews, if conducted.
  - x. Design philosophy and project approach.
  - xi. Any other criteria that are deemed to be relevant to the project, including where the nature and budget of the proposed project so warrant, a design competition between competing professional consultants.
  - xii. Each of the evaluation criteria shall be of equal weight unless the RFP provides otherwise and states the weights or points applicable to each criterion.
- e. The College may at any time during the solicitation process or during contract negotiation reject all proposals and cancel the solicitation without liability. The College shall not be responsible for any consultant costs and expenses incurred in submitting responses to the solicitation. All prospective consultants who respond to an RFP do so solely at the consultant's cost and expense.
  - f. An awarded project may become inactive, lapse, or change as a result of project phasing, insufficient appropriations, or other reasons. If the project is reactivated, the College may retain the same qualified consultant to complete the project. The College President or designee shall make a written finding that the College's interests are best served by retaining the same consultant.

INFORMAL SELECTION PROCESS: 106.4

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- A. A personal service contract may be awarded using an informal selection process under any of the following circumstances:
- a. When the estimated fee to the consultant does not exceed fifty thousand dollars (\$50,000);
  - b. When the project consists of work which has been substantially described, planned, or otherwise previously studied or rendered in an earlier College contract;
  - c. When the contract is with bond underwriters;
  - d. When the contract is with financial advisors providing expert opinions for the purpose of negotiated bond sales;
  - e. When the contract is for legal services.
- B. In the informal selection process, the College shall contact one or more prospective contractors with whom the College has had previous successful experience or is qualified to do the work and request a brief proposal which should address the work to be performed, the prospective contractor's experience with the type of work to be performed, and the prospective contractor's compensation requirements to perform the work. The College shall evaluate the proposal(s) received, using criteria that are deemed appropriate, and do one (1) of the following:
- a. Make an award based on the proposals received.
  - b. Reject the proposals received and solicit proposals from other prospective contractors using the informal selection process.
  - c. Reject the proposals received and solicit proposals using the formal selection process.
  - d. Cancel the solicitation and make no award.

**DIRECT APPOINTMENT PROCEDURE: 106.5**

The College may recommend direct consultant appointments when conditions require prompt action for the best interest of the College. The recommended appointment and a written description of the conditions requiring the appointment shall be submitted by the College President to the Board. The Board shall determine whether a direct appointment is appropriate, and if so, approve the appointment.

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---

**Protest Procedure**

- A. Solicitation Protest. Unless a different deadline is specified in the solicitation document, prospective consultants may submit a written protest or request for change of particular solicitation provisions, specifications, or contract terms and conditions to the College no later than five calendar days prior to the close of the solicitation. Such protest or request for change shall include the reasons for the protest or request and any proposed changes to the solicitation provisions, specifications, or contract terms and conditions. No protest against selection of a consultant or award of a consultant contract, because of the contract terms and conditions, shall be considered after the deadline established for submitting such protest.
- B. Selection Protest. Unless a different deadline is specified in the solicitation document, a prospective consultant who has submitted a proposal and claims to have been aggrieved by the College's selection of a competing consultant, shall have fourteen calendar days after the College's notice of selection of the competing consultant to submit a written protest of the selection to the College. To be aggrieved for purposes of having a right to submit a protest, a proposer must claim that the proposer was the highest-ranked qualified consultant eligible for selection, i.e., the protester must show that all higher-ranked consultants were ineligible for selection because their proposals were nonresponsive or the consultants could not fulfill requirements and are not qualified. The College shall not consider a selection protest submitted after the time period established in this section nor any selection protest submitted after the deadline provided in the College's solicitation.
- C. The College President has authority to settle or resolve a written protest submitted in accordance with this section. The College President shall promptly issue a written decision on the protest. The action of the College President shall be the final action on the matter.

**Delegation of Authority--Applicability--Statutory Authority.**

- A. The College President may delegate authority granted in this chapter to appropriate College employees. Such delegation must be in writing.
- B. Policy 106.1 applies to any public contract solicited or advertised after the date of adoption by the Tillamook Bay Community College Board of Education.
- C. The College Board finds that those portions of Policy 106.1 which exempt classes of contracts from the requirement of public bidding are justifiable under ORS 279. The exemption from public bidding for these types of contracts should not encourage favoritism in the awarding of public contracts or substantially diminish competition for

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public contracts and the award of these kinds of contracts without bidding will result in substantial cost savings to the College.