

**CHAPTER 5.68 -PROFESSIONAL,
TECHNICAL AND EXPERT SERVICE
CONTRACTS**

(Chapter replaced by Ordinance No. 177244,
effective July 1, 2003.)

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5.68.010 Definitions.

(Amended by Ordinance Nos. 182213, 184427, 185065 and 187373, effective October 14, 2015.)

In addition to the definitions in PCC 5.33, the following definitions apply:

- A. For the purposes of this Chapter, “professional, technical and expert” refers to any individual or group, excluding regular City employees, who, for a fee, provides services or gives professional advice regarding matters in the field of their special knowledge or training. ~~This includes but is such as, but not limited to: planners, architects, engineers, lawyers, accountants, doctors, owner’s representatives, dentists, ministers, and counselors in investments, or insurance, advertising, graphics, training, public relations, communications, software, data processing and management systems. Such contracts may include incidental materials such as written reports, architecture or engineering renderings, and similar supplemental materials.~~ The Chief Procurement Officer has authority to classify services not specifically addressed in this provision as professional services if those services require professional advice in a field of special knowledge or training similar to those listed above.

- ~~B. “QBS Consultant” means an Architect, Engineer, Photogrammetrist, Transportation Planner, Land Surveyor or provider of Related Services. A QBS Consultant includes a business entity that employs Architects, Engineers, Photogrammetrists, Transportation Planners, Land Surveyors or providers of Related Services, or any combination of the foregoing.~~

- ~~**B.** "Estimated Fee" means City's reasonably projected fee to be paid for a QBS Consultant's services under the anticipated Contract, excluding all anticipated reimbursable or other non-professional fee expenses. The Estimated Fee is used solely to determine the applicable Contract solicitation method and is distinct from the total amount payable under the Contract.~~
- ~~**D.** "Price Agreement", for purposes of the QBS Rules is limited to mean an agreement related to the procurement of Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, or Related Services, under agreed upon terms and conditions and possibly at a set price with:~~
- ~~1. No guarantee of a minimum or maximum purchase; or~~
 - ~~2. An initial order or minimum purchase, combined with a continuing QBS Consultant obligation to provide Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services in which the City does not guarantee a minimum or maximum additional purchase.~~
- ~~**E.** "Project" means all components of a City's planned undertaking that gives rise to the need for a QBS Consultant's Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, or Related Services, under a Contract.~~
- ~~**F.** "Transportation Planning Services" include Project specific transportation planning involved in categorical exclusions, environmental assessments, environmental impact statements and other documents required for compliance with the National Environmental Policy Act, 42 USC 4321 et. seq. Transportation Planning Services do not include transportation planning for corridor plans, transportation system plans, interchange area management plans, refinement plans, and other transportation plans not associated with an individual Project which will require compliance with the National Environmental Policy Act, 42 USC 4321 et. seq. Transportation Planning Services also do not include transportation planning for Projects not subject to the National Environmental Policy Act, 42 USC 4321 et. seq.~~
- ~~**G.** "Related Services" means personal services, other than architectural, engineering, photogrammetric, mapping, Transportation Planning or land surveying services, that are related to planning, designing, engineering or overseeing public improvement projects or components of public improvements, including, but not limited to, landscape architectural services, facilities planning services, energy planning services, space planning services, hazardous substances or hazardous waste or toxic substances testing services, cost estimating services, appraising services, material testing services, mechanical system balancing services, commissioning services, project management services, construction management services, and owner's representation services or land use planning services.~~

5.68.015 General Requirements– PTE Manual.

(Amended by Ordinance Nos. 182213 and 184427, effective February 23, 2011.) The Chief Procurement Officer of Procurement Services shall create and publish a Professional, Technical and Expert (PTE) Services Manual that shall govern selection and award of PTE ~~contracts~~ Contracts. The Chief Procurement Officer may amend the PTE Manual to ensure that the interests of the public and PTE ~~contractors~~ Consultants are fully served and that the process promotes accountability and competition among all segments of the citizens of Portland. The PTE Manual shall include procedures providing for adequate notice of contract award to potential ~~contractors~~ Consultants and shall provide the exclusive means by which selection decisions may be protested before the ~~contract~~ Contract is executed.

5.68.020 ~~Personal Services Contracts~~ Special Procurements.

(Amended by Ordinance Nos. 179802, 182213, 184427 and 187373, effective October 14, 2015.)

- A. This Chapter applies to City procurement of professional, technical and expert services.
- B. The following services, ~~designated as Personal Services Contracts~~ are designated as classes of Special Procurements, and are exempt from the selection process outlined in the City’s Professional, Technical and Expert Services Manual and can be made by direct appointment under this Chapter:
 - 1. Processing of any claim for workers' compensation benefits;
 - 2. Physician or medical personnel to determine any prospective or current City employee's ability to work or return to work;
 - 3. Determining any reasonable accommodation that may be made to any job classification in the City; and
 - 4. Veterinary physician, specialist, or medical personnel required to determine any prospective or current City-owned service animal’s ability to work or return to work, or providing general medical upkeep to a City-owned service animal;
 - ~~5. Performing artists, whether vocal, instrumental, or visual required by the City to provide a paid performance of their work for an audience determined by the City;~~
 - ~~6. A one-time payment or gratuity granted in recognition of a special service in which propriety or competitive selection process is not feasible and made without the giver recognizing themselves as having any liability or legal obligation for services;~~
 - 75. Golf Course Management Agreements (including concessions and club house operations) of a duration not to exceed five years for the parks under the jurisdiction of the City of Portland Bureau of Parks and Recreation.

- 86. Modifications, including updates, upgrades, and enhancements by the licensor of intellectual property licensed to the City; or an authorized provider if the licensor does not directly provide the services.
 - 97. The City Attorney’s retention of expert witnesses, consultants and Consultants to assist the City Attorney’s Office in providing legal advice to the City, and outside legal counsel.
- C. If any emergency as defined in the PTE Manual exists, as defined in PCC 5.33.130, the Chief Procurement Officer may authorize selection of a contractor Consultant without following the requirements of this Chapter in accordance with PCC 5.33.130.
 - D. If the services or expertise required for a project are only available from a “sole source” as defined in the PTE Manual, then the Chief Procurement Officer may authorize selection of a contractor without following these requirements. the Chief Procurement Officer may authorize selection of a contractor without following the requirements of this Chapter or any Chapter of Portland City Code, but subject to the procedures outlined in the PTE Manual.
 - E. The Chief Procurement Officer shall include all emergency and sole source ~~contracts~~ Contracts in periodic reports to the City Council.
 - F. If professional, technical or expert services are required in conjunction with the acquisition of goods, services, public improvements, construction services or some combination thereof, the Chief Procurement Officer may permit the acquisition of such services through the provisions of Chapter 5.33 or 5.34 of this Code instead of this Chapter.

5.68.030 Public Announcement of Requirements.

(Amended by Ordinance Nos. 182213 and 184427, effective February 23, 2011.) ~~The Professional, Technical and Expert Services~~ PTE Manual shall set forth the procedures to be followed by all bureaus in announcing and advertising City PTE ~~s~~Solicitations. The procedures in the PTE Manual shall be designed to make information about such solicitations readily available to interested PTE ~~contractors~~ Consultants, including firms certified by the state State of Oregon certified Certification Office for Business Inclusion and Diversity (COBID) as Disadvantaged, mMinority owned, wWomen owned, and emerging Emerging sSmall bBusinesses, and Service-disabled Veteran owned Business Enterprises (D/M/W/ESB/SDVB) firms and Disabled Veteran-owned or controlled firms as defined in ORS 408.225 (hereafter referred to collectively as COBID Certified Firms). From time to time, the City may adopt programs designed to promote competition, enhance economic opportunity and stimulate hiring among all of Portland’s citizens. When such programs are adopted, the Chief Procurement Officer shall take steps to ensure that PTE ~~contractors~~ Consultants wishing to enter into contracts with the City are aware of their requirements for such programs.

5.68.035 Authority to Obligate City for Professional, Technical or Expert Services.
(Amended by Ordinance Nos. 182213, 184427 and 189451, effective April 10, 2019.)

- A. All professional, technical or expert services contracts or purchase orders shall be in writing in a form approved by the City Attorney as provided in Section 5.68.050. The Chief Procurement Officer, or designee, is authorized to execute contracts, including Price Agreements, for PTE services required by the City in any amount not exceeding \$1,000,000 without the need for an ordinance specifically authorizing the contract if the contract is included within the current fiscal year budget of the bureau seeking the contract.
- B. The Chief Procurement Officer has authority to execute amendments for Contracts and Price Agreements that were originally executed in accordance with Chapters 5.68 as follows:
 - 1. Amendments not exceeding 25 percent of the original Contract Amount.
 - 2. Amendments exceeding 25 percent of the original Contract Amount, provided that the amended Contract Amount does not exceed \$1,250,000 and the director of the bureau in whose behalf of the Contract was issued concurs.
 - 3. Execute amendments to Price Agreements if the yearly estimated cost to the City is \$1,250,000 or less.
 - 4. Amendments whenever an ordinance approved by the City Council grants additional authority to the Chief Procurement Officer beyond that stated in these rules.
- C. The Chief Procurement Officer is authorized, but not required, to waive any procedural irregularities in the PTE selection process provided the irregularities had no material effect on the selection of the proposed contractor.
- D. The provisions of Section 5.68.035 also apply to the procurement of services and contracts for services referenced in Subsection 5.68.020 B.

5.68.040 Process for Services Costing Under and Over The Formal Bid Threshold.
(Repealed by Ordinance No. 182213, effective September 24, 2008.)

5.68.050 Review by City Attorney and Chief Procurement Officer.
(Amended by Ordinance Nos. 182213, 184427 and 187373, effective October 14, 2015.)

- A. The Chief Procurement Officer or designee shall review and approve the form of all Requests for Proposals, Requests for Qualifications and other similar ~~s~~Solicitation d~~Documents~~ for all PTE ~~contracts~~ Contracts or Price Agreements ~~estimated to exceed \$100,000,~~ prior to issuance. Further review by the City Attorney will be at the Chief Procurement Officer's discretion.

- B. The City Attorney or designee shall approve the form of all PTE ~~e~~contracts Contracts and shall ensure that all required documentation, ~~including, but not limited to insurance,~~ is present before the ~~e~~contract Contract is executed. Such approval shall occur before work begins.

5.68.060 Outside Legal Services.

(Amended by Ordinance Nos. 179802, 180659, 182213 and 184427, effective February 23, 2011.)

- A. Except as specifically exempted by this Section, and in addition to the other requirements of this Chapter for professional, technical and expert service ~~e~~contracts Contracts, the following procedures and requirements shall apply to any ~~e~~contracts Contracts for legal services to be provided by attorneys outside of the Office of the City Attorney.
1. All City bureaus, ~~and agencies, or offices wishing to contract for legal services not provided by the City Attorney's Office~~ shall submit for approval in writing to the City Attorney all requests ~~for legal services from outside the City Attorney's Office~~ before any agreement is made to obtain any such outside legal services.
 2. The Chief Procurement Officer has the authority to sign and approve ~~e~~Contracts and ~~e~~Contract aAmendments for outside counsel ~~to the same extent as other contracts for professional, technical and expert services allowed by this Chapter specifically Subsection 5.68.020 B.7.~~ However, all billings and invoices for outside legal counsel's services shall be directed to the City Attorney for review and approval prior to payment.
 3. The Chief Procurement Officer shall not process any purchase requisition for outside legal services without the written approval of the City Attorney or designee.
 4. The Accounts Payable Division shall not process for payment any billing or invoice for outside legal services without the written approval of the City Attorney or designee.
 5. This Section does not apply to selection of bond counsel, who are selected in accordance with Section 5.68.070 of this Code. However, all billings and invoices of bond counsel shall be directed to the City Attorney for review and approval prior to payment.

5.68.070 Procedure for Selection of Bond Counsel.

(Amended by Ordinance No. 182213, effective September 24, 2008.)

- A. At the time a bureau determines it will need bond counsel for a project or series of projects, the bureau will notify the City Attorney. The City Attorney or designee shall notify each counsel listed in the Oregon Section of the Bond Buyer's Directory

of Municipal Bond Dealers (Red Book), requesting that those interested in serving as bond counsel for the project or series of projects submit proposals.

The notice shall indicate the nature of the project or series of projects, the type and approximate amount of bonds, the approximate date for the sale or sales of bonds, the bond counsel services required, and the date proposals are due.

- B. Those counsel interested shall provide the following information to the City Attorney:
 - 1. A statement of the fee arrangement proposed by the firm.
 - 2. Such other information as the City Attorney deems appropriate.
- C. On receipt of the proposals the City Attorney shall refer them to a consultant selection committee (Committee) consisting of the City Attorney or designee; the Chief Administrative Officer or designee; and the Bureau Director or designee. The Committee shall consider only firms that are listed in the Red Book. The Committee may interview any or all firms, including more than once. The Committee may authorize firms to modify their proposals during the interview period.
- D. The ~~Consultant Selection~~ Committee shall select a law firm to serve as bond counsel for the project or series of projects. The selection shall be based on fee, experience, or such other criteria as the Committee deems appropriate.

5.68.080 ~~Contractor's~~ Consultant's Compliance with Workers' Compensation Requirements.

Prior to the performance of any work under a professional, technical or expert services ~~e~~Contract awarded by the City, a ~~contractor~~ Consultant shall comply with the Workers' Compensation Law, ORS Chapter 656, as it may be amended, and if Workers' Compensation Insurance is required by ORS Chapter 656, shall maintain coverage for all subject workers as defined by ORS Chapter 656, and shall maintain a current, valid certificate of Workers' Compensation Insurance on file with the City Auditor for the entire period during which work is performed under the contract.

5.68.090 Selection of Architectural, Engineering and Land Surveying Consultants for PTE Contracts.

(Repealed by Ordinance No. 185065, effective January 1, 2012.)

5.68.100 Direct Contracts with Architects, Engineers and Land Surveyors.

(Repealed by Ordinance No. 185065, effective January 1, 2012.)

5.68.110 Two-Tiered Selection Process.

(Repealed by Ordinance No. 185065, effective January 1, 2012.)