

CHAPTER 8: Business Operations
ADMINISTRATIVE PROCEDURE NO. 8.15.2 (AP 6370)

ADMINISTRATIVE PROCEDURE
San Mateo County Community College District

Subject: 8.15.2 Independent and Personal Services Contracts
Revision Date: 12/12
References: Education Code Section 88003.1; Government Code Section 53060; Public Contract Code Section 1033.5; Labor Code Section 3353

1. The District may enter into personal services contracts to achieve cost savings when each of the following conditions are met:
 - a. It can be clearly demonstrated that the proposed contract will result in actual overall cost savings to the District;
 - b. The contractor's wages are at the industry's level and do not undercut District pay rates;
 - c. The contract does not cause the displacement of district employees;
 - d. The savings are large enough to ensure that employees will not be eliminated by private sector and District cost fluctuations that could normally be expected during the contracting period;
 - e. The amount of savings clearly justifies the size and duration of the contracting agreement;
 - f. The contract is awarded through a publicized, competitive bidding process (at the District, independent contracts with an individual, as described in section (4) of this procedure, are not subject to formal bid but are subject to Board approval when the amount of the contract is greater than the formal bid limit for non-public works contracts. Additionally, professional service agreements, as described in section (3) are not subject to the competitive bidding process);
 - g. The contract includes specific provisions pertaining to the qualifications of the staff that will perform the work under the contract, as well as assurance that the contractor's hiring practices meet applicable nondiscrimination standards;
 - h. The potential for future economic risk to the District from potential contractor rate increases is minimal;
 - i. The contract is with a firm (personal services contracts at the District include independent contracts which may be with an individual and not a firm; see section (4) below);
 - j. The potential economic advantage of contracting is not outweighed by the public's interest in having a particular function performed directly by the District.

2. Personal service contracts are also permissible when any one of the following conditions is met:
 - a. the contract is for new functions mandated or authorized by Legislature to be performed by independent contractors;
 - b. the services are not available within the District or cannot be satisfactorily performed by district employees;
 - c. the services are incidental to a purchase or lease contract;
 - d. the policy, administrative, or legal goals and purposes of the District cannot be accomplished through the regular or ordinary hiring process;
 - e. the work meets the criteria for emergency appointment;
 - f. equipment, materials, facilities, or support services could not feasibly be provided by the District;
or
 - g. the services are of an urgent, temporary, or occasional nature.

8.15.2 Independent and Personal Services Contracts (continued)

3. Professional Services Agreements – Contracts for the services of persons who qualify as professional experts may be let without competitive bidding. Professional experts are persons specially qualified to provide services and advise in financial, economic, accounting, engineering, legal or administrative matters. They must be specially trained, experienced and competent to perform the services required. Compensation for special services and advice from professional experts may be paid from available funds in the amounts deemed proper for the services rendered. Board approval is needed for a new vendor or new services valued above the legal bid minimum or for continuing services in excess of \$500,000.

Firms that wish to provide professional services to SMCCCD must submit a Statement of Qualifications (SoQs) to demonstrate that they meet the minimum criteria for qualification.

The vendor qualification process and sample professional services agreement are located at:

<http://smccd.edu/facilities/prequalconsulthowto.php>

4. Independent Contractors – Contracts are required for service work performed by an independent contractor. An independent contractor is defined as an individual (rather than a company) who performs a service (rather than provides a tangible product) for the District. Independent contractors are in business for themselves and are responsible for their own tax reporting to the IRS. An independent contractor uses a social security number for tax identification purposes (rather than a Federal Tax ID number). Board approval is required for independent contract in excess of the legal bid limit of \$81,000.

Procedures for hiring an independent contractor are found at:

<https://smccd-public.sharepoint.com/Pages/purchasinggeneralservices/IndependentContracts/InformationFolder>

5. Contract Bid Limits and Board Approval Requirements – Guidelines for purchasing processes, including contract bid limits and Board approval requirements are found at:

<https://smccd-public.sharepoint.com/Pages/PurchasingGeneralServices/PurchasingProceduresFolder>