

<b>Policy Title:</b>	Criteria for Personal and Professional Services Contracting – OAR <i>Repealed 4/01/14</i>		
<b>Policy Number:</b>	III-D.1.1 413-330-0000 thru 0080	<b>Effective Date:</b>	1/01/14 thru 3/31/14

Approved By: *on file*

Date Approved:

Policy

Forms, etc.

Definitions

References

Contact

History

### Reference(s):

- OAR 127-10-092
- ORS 670.600
- ORS 279.727 and 279.729

### Form(s) that apply:

- CF 044, Emergency Contract
- CF 996, Family Foster Home and Shelter Care Contract

### Rules:

413-330-0000  
Definitions

THIS RULE IS REPEALED

- (1) ~~Consideration: To perform or provide something of value in exchange for something of value.~~
- (2) ~~Independent Contractor: An independent contractor is distinguished from an employee by the following characteristics:~~
- ~~(a) An independent contractor is free from control and direction as to the methods or strategy used to provide the agreed-upon service; and~~
  - ~~(b) Such independent contractor is customarily engaged in an independently established business of the same nature as that involved in the contract of service.~~

~~(3) — Personal and Professional Service Contract: Contracts for services performed as an independent contractor in the professional capacity, including but not limited to the services of an attorney, physician or dentist; contracts for services of a specialized, creative, and research oriented, non commercial nature; contracts for services as a consultant or trainer; and contracts for human care and treatment, education services, consultation and training.~~

Stat. Auth.: Oregon Laws 1993, Ch. 676  
Stats. Implemented: ORS 279.727 and .729

Policy

413-330-0010  
Contract Principles

THIS RULE IS REPEALED

- ~~(1) — The State utilizes contracts to pay for personal and professional services provided by an organization or private individual. State law normally prohibits payment for personal and professional services which are provided prior to there being an appropriately written, fully signed contract. Any person who authorizes services to be performed prior to entry of a contract, signed in accordance with state law, may be held personally responsible to pay for the services.~~
- ~~(2) — The State Office for Services to Children and Families (SOSCF) contracts shall be in writing to create an enforceable means of assuring that each of the parties faithfully discharge the obligations they have assumed and receive the benefits and protections guaranteed to them by the contract.~~
- ~~(3) — Contracts will be written prospectively. SOSCF is not bound to pay for services which were given beyond or outside of a legal contract. Contracts will not be written retroactively to cover work performed prior to the effective date of the contract.~~
- ~~(4) — Contracts may be amended during the term of the contract to extend the contract term ending date or to modify the statement of work to be performed, the consideration to be paid, or any other provision of the contract to reflect the intentions of the parties, or to reflect the actual nature of the services being provided and the parties agreement.~~
- ~~(5) — A contract may not be amended to change the effective date to a date prior to the date the contract was approved by the Department of Administrative Services and the Department of Justice. A contract may not be amended to authorize and pay for work not already covered by that contract and already performed without benefit of an effective contract. (Example: If a current contractor undertakes to provide SOSCF with additional kinds of services, or to develop a new program, etc., without first obtaining SOSCF approval and executing a contract for that new work, an existing contract may not be amended to retroactively authorize and pay for that work.)~~
- ~~(6) — Contracts will be written with contractors who have the power to enter into a binding~~

agreement. For SOSCF contracts, such contractors include an individual acting for her/himself, husband and wife acting together, a partnership, a corporation; and may include others acting "jointly and severally" under certain conditions. The contracting parties will be clearly identified. Contracting individuals, partners, and the president or board chair person of a corporation are assumed to be authorized to sign contracts. If any other person is designated to sign for the contractor, the SOSCF representative obtaining the signature will require the signer to produce an official document (e.g., corporation by laws, minutes of a board meeting, etc.) authorizing such signature.

Stat. Auth.: Oregon Laws 1993, Ch. 676  
Stats. Implemented: ORS 279.727 and .729

413-330-0020  
Approved Programs

THIS RULE IS REPEALED

~~Contracts for services shall be executed only in support of those programs that have been approved for contracting by SOSCF. When federal funds will be claimed for contract services, the services will be in support of a program for which the federal funds are authorized.~~

Stat. Auth.: Oregon Laws 1993, Ch. 676  
Stats. Implemented: ORS 279.727 and .729

413-330-0030  
Authorizing Contract Funds

THIS RULE IS REPEALED

~~Funds for the services shall be authorized in a legislatively approved budget or have been approved for the services by the Emergency Board of the Legislature.~~

Stat. Auth.: Oregon Laws 1993, Ch. 676  
Stats. Implemented: ORS 279.727 and .729

413-330-0040  
Independent Contractor

THIS RULE IS REPEALED

~~Contracts will be entered into with independent contractors only as defined in ORS 670.600 and in accordance with Department of Administrative Services Administrative Rules. Contracts will not be written with persons who are, by definition, SOSCF employees.~~

Stat. Auth.: Oregon Laws 1993, Ch. 676  
Stats. Implemented: ORS 279.727 and .729

413-330-0050  
Contracts With Individuals

THIS RULE IS REPEALED

~~Contracts with individuals to provide services similar to services regularly provided by state employees will not be approved since, in most cases, an employer-employee relationship will exist and the services must be obtained through the personnel hiring system.~~

Stat. Auth.: Oregon Laws 1993, Ch. 676  
Stats. Implemented: ORS 279.727 and .729

413-330-0060  
Authority To Sign Contracts And To Represent SOSCF

THIS RULE IS REPEALED

- ~~(1) The agency director is the only person in SOSCF who, by virtue of the position, is authorized to sign contracts for SOSCF. The director may delegate signatory authority to others. The delegation will be in writing and will identify any conditions or limitations which may apply. A current record of such delegation shall be maintained on file in the DHR Contracts Section.~~
- ~~(2) SOSCF personnel may be assigned to represent SOSCF in matters related to developing and administering contracts. Such persons are agents of the state and the state is responsible for and is obligated by their actions when they act in accord with state law and pertinent agency rules and directives. Persons committing the state to pay for services rendered outside of a contract written in accordance with these rules, or acting outside their authority may be held personally responsible and liable for obligations incurred by them for the state.~~

Stat. Auth.: Oregon Laws 1993, Ch. 676  
Stats. Implemented: ORS 279.727 and .729

413-330-0080  
Responsibility To Implement Contracts

THIS RULE IS REPEALED

- ~~(1) The appropriate SOSCF manager from whose budget the contract is to be funded, or designee, will be responsible to determine the need to contract, what is to be purchased, and the maximum amount which may be spent.~~
- ~~(2) The DHR Contracts Section will be responsible to assure compliance with SOSCF rules and policy in contractor selection and in writing and processing the contract.~~

- ~~(3) The DHR Contracts Section will be responsible to assure the legal sufficiency of all standard contracting forms, including the CF 44 (Emergency Contract) and the CF 996 (Family Foster Home/Shelter Care Contract). Any changes to these forms must have the approval of Management Operations.~~
- ~~(4) The DHR Contracts Section will prepare and process all contracts between SOSCF and another party or agency except those listed in paragraphs (5) through (7) of this rule.~~
- ~~(5) Family Foster Home/Shelter Care Contracts will be prepared and processed by field staff in accordance with OAR 413 330 0100, with the use of the CF 996 (Family Foster Home/Shelter Care Contract).~~
- ~~(6) Emergency contracts will be prepared and processed by field and/or Central Office staff as needed in accordance with OAR 413 330 0500 through 413 330 0540, with use of a CF 44 (Emergency Contract).~~
- ~~(7) Exceptions to OAR 413-330-0010(1), where payments would be authorized, can only be granted after a Departmental finding has been made, in consultation with the Department of Justice, that there is a substantial basis in law for the claim and a substantial risk of liability to the agency.~~

Stat. Auth.: Oregon Laws 1993, Ch. 676  
Stats. Implemented: ORS 279.727 and .729

### **Contact(s):**

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### **Policy History**

- [12/29/95](#)
- [02/06/98](#)
- [08/11/97](#)