

**OAR 125-246-0110 Definition of Client Services, exempt from provisions of HB 2867**

(25) "**Client Services**" means any Services that directly or primarily support a Client, whether the Client is the recipient through the provision of voluntary or mandatory Services. Client Services also means any Goods that are incidental or specialized in relation to any Services defined in this subsection. Client Services may include but are not limited to (where these terms are used in another statute, they must have that meaning):

- (a) Housing, including utilities, rent or mortgage or assistance to pay rent, mortgage or utilities;
- (b) Sustenance, including clothing;
- (c) Employment training or Skills training to improve employability;
- (d) Services for people with disabilities;
- (e) Foster care or foster care facilities;
- (f) Residential care or residential care facilities;
- (g) Community housing;
- (h) In-home care including home delivered meals;
- (i) Medical care, services and treatment, including but not limited to:
  - (A) Medical, Dental, Hospital, Psychological, Psychiatric, Therapy, Vision;
  - (B) Alcohol and drug treatment;
  - (C) Smoking cessation;
  - (D) Drugs, prescriptions and non-prescription;
  - (E) Nursing services and facilities;
- (j) Transportation or relocation;
- (k) Quality of life, living skills training; or
- (l) Personal care; or
- (m) Legal services and expert witness services;
- (n) Religious practices, traditions and services, separately or in any combination thereof; and
- (o) Educational services. The term "Client Services" does not include benefits or services provided as a condition of employment with an Agency.



STATE OF OREGON  
LEGISLATIVE COUNSEL COMMITTEE

June 23, 2009

Senator Martha Schrader  
900 Court Street NE S425  
Salem OR 97301

Re: Exclusions in HB 2867-A

Dear Senator Schrader:

You asked whether county governments that conduct procurements for "client services" would be exempt from a requirement under the A-engrossed version of House Bill 2867 to complete a written cost analysis before the county government conducts the procurement. The answer to this question is yes.

Section 2 (3)(e) of House Bill 2867-A states that "[p]rocurements for client services, as defined in OAR 125-246-0110" are exempt from the cost analysis requirement set forth in section 2 (1) of the bill. Although OAR 125-246-0100 states that the rules set forth in OAR chapter 125, division 246, including OAR 125-246-0110, "are policy and procedure for the Public Contracting of Agencies subject to these Rules and all state agencies that are subject to the DAS rules adopted under ORS 279A.140(2)(h) to regulate personal services contracts," and although OAR 125-246-0110 defines "Agency" as "those agencies of the State of Oregon that are subject to the procurement authority of the Director of the [Oregon] Department [of Administrative Services] according to ORS 279A.050 and 279A.140," these limitations do not describe the limits of the exemption set forth in House Bill 2867-A.

As drafted, the exemption in House Bill 2867-A applies to "procurements for client services" of a certain character. The reference in the bill to OAR 125-246-0110 simply points to a convenient description of the character of the client services and uses that description as a definition and example of the types of client services that are exempt from the requirement for a cost analysis. For that reason, the limitations on the scope of OAR chapter 125, division 246 that are set forth in OAR 125-246-0100 do not apply to the exemption set forth in section 2 (3)(e) of House Bill 2867-A. Moreover, that particular exemption applies to what is procured, not to the contracting agency that is conducting the procurement. In this respect, section 2 (3)(e) of House Bill 2867-A differs from the other exemptions set forth in section 2 (3)(a) to (d), which address particular public bodies. Any contracting agency that is subject to the provisions of the Public Contracting Code and that procures client services that meet the definition set forth in OAR 125-246-0110, therefore, would not have to perform a cost analysis before conducting the procurement, whether the entity that conducts the procurement is a city or county government, a state agency or another contracting agency.

Please let me know if I can be of further assistance on this or a related matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Sean Brennan", with a long horizontal line extending to the right.

Sean Brennan  
Deputy Legislative Counsel