

Procedures Personal Service Exceeding \$10,000

GENERAL: State law permits the purchase of professional, technical, scientific, or artistic services by means of Personal Service Contract if University personnel are not available or it is not feasible for University or State personnel to perform the service. The Purchasing Division shall determine whether another state agency, or if other university personnel can reasonably provide the needed service prior to initiating the Personal Service Contract procedure. A Personal Service Contract may not be used when the contract required will establish an employee/employer relationship between the University and the contractor. An employee/employer relationship exists when the University has the right to direct and control the worker in the way he works, both as to the final results and as to the details of when, where and how the work is done. A Personal Service Contract cannot be used to contract for commodities or biddable services, and commodities and biddable services can not be included as a part of a Personal Service Contract.

Attached :

[Standard Contract for Personal Services form\(exceeding \\$10,000\)](#) and [Personal Service Contract Proof of Necessity Form](#) which is located on the University Forms page.

Personal Service Contracts shall be procured and processed in accordance with this policy and KRS 45A.690 - 45A.725.

1. University departments that require services appropriate to be contracted through a Personal Service Contract shall contact the Purchasing Division. This contact shall be made well in advance of the need for the services. The request must be signed by the appropriate Dean/Director, or Provost, Executive Vice President for Finance and Administration, Executive Vice President for Research, or the Executive Vice President for Health Affairs and include a description of the services desired, the estimated amount of work involved, the estimated cost per fiscal year, and the department's contact person. The request to contract shall be submitted well in advance of the requested contract effective date as contracting for personal services requires considerable time to complete. Time required to process will vary depending on the service required and specific details of the contracting process. Most contract processing requires at least 60 days to complete.
2. Requests received to contract for legal services, auditing services, or computer services will be submitted by the Purchasing Division to the Office of the University General Counsel and the State Attorney General's Office, the Auditor of Public Accounts, or the Department of Information Systems, respectively, for determination as to whether the services can or should be performed by university or state personnel.
3. The Purchasing Division will review the information submitted to determine the appropriateness of contracting for the needs using the Personal Service Contract method. The Purchasing Division will work

with the requesting department to develop a Request for Proposal.

- a. Pursuant to KRS 45A.695, the Purchasing Division will issue a Request for Proposals to solicit proposals for the services required. The Request for Proposal shall at a minimum describe the services required, list the type of information and data required of each offeror, and state the relative importance of particular qualifications.
- b. The Purchasing Division shall distribute the Request for Proposals and, if the estimated amount of the Personal Service Contract is \$10,000 or more per fiscal year, give adequate public notice of the need for services. Adequate public notice may include newspaper advertising, professional journal advertising, or placing a notice on the University WEB page. The notice will contain a brief description of services requested, estimated amount of work involved, and the name of the person to contact in order to obtain additional information and a copy of the Request for Proposals.
- c. Upon receipt of responses, the Purchasing Division may conduct discussions with any offeror submitting a proposal to determine the offeror's qualifications for further consideration but such discussions shall not disclose information derived from another offeror's proposal. If discussions are conducted with offerors for purposes other than to secure qualification information, the same discussions must be conducted with all offerors.
- d. The Director of Purchasing will appoint a proposal evaluation committee from university representatives recommended by the unit requesting the services and others, at the Director's discretion. The Purchasing Division and the assigned evaluation committee shall review the proposals received and record written determinations of the qualification rankings of the offerors based on the evaluation factors set forth in the Request for Proposals. This written determination shall be maintained by the Purchasing Division as required by KRS 45A.695(5).
- e. After determining the best qualified of all offerors, the Purchasing Division may negotiate a fair and reasonable compensation with the selected offeror. If compensation cannot be agreed upon with the best qualified offeror, negotiations may be conducted with other offeror(s) in the order of their respective qualification ranking.
- f. After selecting the contractor, the Purchasing Division shall generate a contract which includes all terms and conditions agreed upon. The contract shall include the sworn statement regarding campaign finance laws required by KRS 45A.110(2) and 45A.115, in addition to the statement required by KRS 45A.485, and the Legislative Research Commission (LRC) Proof of Necessity (PON). The resulting contract shall be signed by both parties, and shall be forwarded to the LRC for

their review and approval. Forwarding for appropriate approvals and filing with LRC may be done electronically.

4. Pursuant to KRS 12.210, contracts for legal services shall also be routed to the Office of the Governor for the issuance of an Executive Order, and its filing with the Office of the Secretary of State.
5. Contracts for project specific architectural and engineering services shall be advertised, contracted and managed by Capital Project Management Division in accordance with provisions of KRS 45A.800 - 45A.836. Capital Project Management will advertise statements of need for per diem architectural and engineering services and will finalize contracts with all interested parties. Capital Project Management will manage the use of these contracts by issuing and controlling assignments for services required by the University.
6. An amendment to a contract shall be processed in the same manner as an original contract. An amendment shall include an extension of a Personal Service Contract, an address change, an increase or decrease to encumbrance, and any other correction or change. Changes in the encumbrance amount shall be made by an Advice of Change, approved by the requesting Department and the Purchasing Division. An Advice of Change may be routed electronically.
7. If requested the Executive Vice President for Finance and Administration or his designated representative, shall represent the University at meetings of the Government Contract Review Committee. No work, as described in the Personal Service Contract, may begin until the Legislative Research Commission has officially received the proposed contract.
8. The Purchasing Division shall notify each unit when work may begin on a Personal Service Contract (when the contract has been received by the Legislative Research Commission). The Purchasing Division shall notify each unit when the Government Contract Review Committee has rejected the contract. Once the Committee has approved a contract, the University may make payments for services under the contract.

(KRS 45A.690 - KRS 45A.725)

Revision Date: Dec 1, 2008

Next Review Date: Dec 1, 2012