

Procedure for Personal Service Contracts Exceeding \$10,000

GENERAL: State law permits the purchase of professional, technical, scientific or artistic services by means of Personal Service Contract (PSC) if University personnel are not available or it is not feasible for University of 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 PSC procedure. A PSC 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 PSC cannot be used to contract for commodities or biddable services and commodities and biddable services cannot be included as a part of a PSC.

[The Standard Contract for Personal Services form \(exceeding \\$10,000\)](#) and [Personal Service Contract Proof of Necessity forms](#) are located on the [University's Forms page](#).

Personal Service Contracts shall be procured and processed in accordance with this policy and KRS 45A690 – 45A725.

1. University departments that require services appropriate to be contracted through a PSC shall submit a Memorandum of Need and Request to Contract for Personal Services to the Purchasing Division. This notification shall be forwarded well in advance of the need for services. The request must be signed by the appropriated Dean/Director or VP/Provost 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 PSC method. The Purchasing Division will work with the requesting department to develop a Request for Proposal (RFP).
 - A. Pursuant to KRS45A.690, the Purchasing Division will issue an RFP to solicit proposals for the services required. The RFP 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 RFP and, if the estimated amount of the PSC 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 RFP.
 - 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 determination of the qualification rankings of the offerors based on the evaluation factors set forth in the RFP. 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 received, 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.