

FAP 111-43-00
PERSONAL SERVICE CONTRACTS

1. An agency shall procure a Personal Service Contract by issuing a Request for Proposal for Personal Service Contract.
 - a. An agency desiring to procure a professional service shall issue a Request for Proposals (RFP) in the state's procurement system. An agency shall post the RFP to the Commonwealth's eProcurement web site for a minimum of seven (7) days. At the discretion of the agency and if stated in the RFP, a vendor may respond via the online bidding feature of the state's procurement system, in accordance with FAP 110-10-00.
 - b. The agency shall review the proposals received and record a determination of the qualification rankings of the offerors based on the evaluation factors set forth in the RFP. The determination shall be documented in the Bid Evaluation of the state's procurement system by the contracting agency.
 - c. After determining the best proposal received, the agency may negotiate a fair and reasonable compensation with the selected offeror.
 - d. The agency shall award a contract electronically from a bid evaluation in the state's procurement system. The contract shall include all terms and conditions agreed upon; the sworn statement regarding campaign finance laws required by KRS 45A.110(2) and 45A.115; the statement regarding revealing of violations of and compliance with certain KRS chapters required by KRS 45A.485; the Legislative Research Commission (LRC) Proof of Necessity (PON) form; language regarding access to documents required by 200 KAR 5:314; and language of KRS 45A.695(7) regarding payment and cancellation clause required by 45A.695(1). If any changes are made to the agreement along the electronic route, a new copy shall be forwarded to the second party for agreement to the changes.
 - e. A vendor wishing to exempt proprietary information from disclosure as stated in 200 KAR 5:314 shall submit a request to the secretary of the Finance and Administration Cabinet for approval before executing a contract. The request shall specifically describe the information requested to be exempted.
 - f. The agency shall maintain the original contract, signed by both parties, and the contract shall be available for review upon request. The electronic contract shall be forwarded through the agency and the Finance and Administration Cabinet for appropriate approvals. The Finance and Administration Cabinet shall file the contract with LRC.
2. A Personal Service Contract for auditing services shall not be established until the Auditor of Public Accounts has declined in writing to perform the service or has failed to respond within thirty (30) days to a written request for an audit. (KRS 45.149).
3. Exemptions from the requirements of KRS 45A.690 – 45A.725 and this policy may be approved by the secretary of the Finance and Administration Cabinet, or his designee, if an emergency condition exists or if a sole source provider is identified. To request exemption, the requesting agency shall submit a letter to the secretary of the Finance and Administration Cabinet with the following information:
 - a. Approval of the agency head or secretary of the requesting cabinet or agency;
 - b. A description of the needed service and sole source justification, or a description of the emergency conditions;
 - c. An estimate of the planned amount of work involved;

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- d. An estimate of the contract cost per fiscal year or biennium, including anticipated amendments;
 - e. Identity of an agency contact person; and
 - f. Verification of the unavailability of Commonwealth personnel or the non-feasibility of utilizing Commonwealth personnel to perform the service.
4. If a governmental emergency, as defined by KRS 45A.690, requires that a vendor begin work prior to the contract being filed with LRC, the agency shall submit a letter to the secretary of the Finance and Administration Cabinet requesting an emergency effective date, and describing the circumstances that required the vendor to start work prior to filing the contract with LRC.
 5. Modification to a Personal Service Contract shall be processed in the same manner as the original contract in the state's procurement system. A modification shall be used if the parties to an established Personal Service Contract agree to increase or decrease funds, revise the scope of work, extend the time for performance within the current biennium, or any other change.
 6. If an agency creating a Personal Service Contract does not have legal counsel in-house, the agency shall submit the original document to the Personal Service Contract Office of the Office of Material and Procurement Services. The Personal Service Contract Office shall review the agreement, secure the signature of an attorney for the Finance and Administration Cabinet, and return the original to the agency to be retained.

(KRS 45A.080)
(KRS 45A.690 - KRS 45A.725)