

FAP 111-43-00
PERSONAL SERVICE CONTRACTS

1. An agency desiring to procure professional services by a Personal Service Contract (PSC) shall issue a Request for Proposal (RFP) in the state's eProcurement system.
 - a. When it is anticipated that the resulting contract will disclose "personal information" defined by KRS 61.931(6) to a "non-affiliated third party" defined by KRS 61.931(5), the Solicitation shall include provisions provided by OPS requiring compliance with the Personal Information Security and Breach Investigation Procedures and Practices Act (KRS 61.931 – KRS 61.933).
 - b. Pursuant to KRS 45A.695(3), the RFP shall describe the services required, list the type of information and data required of each offeror and state the relative importance of particular qualifications. The Scoring of Proposals is subject to the Reciprocal Preference Law for Kentucky resident bidders (KRS 45A.490 – KRS 45A.494), which shall be applied in accordance with 200 KAR 5:400 and Preference for a Qualified Bidder or the Department of Corrections, Division of Prison Industries (KRS 45A.470 and 200 KAR 5:410).
 1. A draft RFP shall be submitted to OPS for review before it is issued by an agency. The RFP shall be filed at least one (1) week prior to the intended date for the issuance of the RFP.
 2. All RFP's shall be reviewed by OPS prior to the Solicitation posting to the state's eProcurement website. The RFP shall provide adequate notice of the need for the service on the state's eProcurement website. 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 eProcurement system, in accordance with FAP 110-10-00.
 - c. Vendors shall submit all responses to RFPs to agency. Following receipt of responses to the RFPs, agency shall determine which offers have met the general conditions of the RFP and are susceptible for award. The technical proposals for those offers determined susceptible for award shall be transmitted to the technical evaluation committee for evaluation.
 - d. The agency shall establish a technical evaluation committee and a cost evaluation committee, if applicable. Technical and cost components shall be evaluated separately. The committee(s) shall be comprised of members who are state employees, unless approval for appointment of non-state employees is granted by the executive director of the OPS. The committee(s) shall review the proposals received. The evaluation committee(s) shall review and evaluate all offers determined to be susceptible for award in accordance with the criteria set forth in the RFP. The determination shall be documented in the Bid Evaluation of the state's eProcurement system by the contracting agency.
 - e. After determining the best proposal received, the agency may request Best and Final Offers, if determined appropriate by the agency in accordance with terms of the RFP. After the Best and Final Offers are received and re-evaluated with criteria included in the Best and Final Offer instructions, the agency may negotiate a fair and reasonable compensation with the selected offeror. After successful negotiations are concluded, the agency shall award the Contract in accordance with the award methodology stated in the RFP.
 - f. The agency shall award a Contract electronically from a Bid Evaluation in the state's eProcurement system and obtain required signatures. The Contract shall include:
 1. All terms and conditions agreed upon;
 2. The sworn statement regarding campaign finance laws required by KRS 45A.110(2) and KRS 45A.115;
 3. The statement regarding revealing of violations of and compliance with certain KRS Chapters required by KRS 45A.485;

4. The Legislative Research Commission (LRC) Proof of Necessity (PON) form;
 5. Language regarding access to documents required by 200 KAR 5:314(1);
 6. Language of KRS 45A.695(10) regarding PSC invoicing requirements; and
 7. Language of KRS 45A.695(7) regarding payment and cancellation clause required by KRS 45A.695(1).
- g. 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.
 - h. A vendor wishing to exempt proprietary information from disclosure as stated in 200 KAR 5:314(1) shall submit a request to the secretary of the FAC for approval before executing a contract. The request shall specifically describe the information requested to be exempted.
2. A PSC 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 fifteen (15) days to a written request for an audit. KRS 45.149(2).
 3. Exemptions from the requirements of KRS 45A.690 – KRS 45A.725 and this policy may be approved by the secretary of the FAC or designee, if an emergency condition exists, if a sole source provider is identified or if it is not practicable or feasible to bid. Exemption requests shall be submitted to the secretary of the FAC or designee electronically through the Strategic Procurement Review Letter of Intent (SPR LOI) in the state's eProcurement system 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;
 - 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 SPR LOI in eMARS to the secretary of the FAC 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 PSC shall be processed in the same manner as the original Contract in the state's eProcurement system. A Modification shall be used, if the parties to an established PSC 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 PSC does not have legal counsel in-house, the agency shall submit the original document to OPS. OPS shall review the agreement, secure the signatory approval of an attorney from the FAC and return the original to the agency to be retained.

Relates to: KRS 45A.080; KRS 45A.110(2); KRS 45A.115; KRS 45A.470; KRS 45A.485;

KRS 45A.490 – KRS 45A.494; KRS 45A.690 – KRS 45A.725; KRS 61.931 – KRS 61.933; 200 KAR 5:311; 200 KAR 5:314; 200 KAR 5:400 and 200 KAR 5:410