

DEPARTMENT OF PURCHASING

Procedures

Number: WKU-R-063
Effective Date: 10/01/8
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Subject: Personal and Professional Services Contracts

1. POLICY

The General Assembly of the Commonwealth of Kentucky in its 1986 regular session enacted into Law House Bill 284, which establishes procedures for the establishment and administration of Personal Service Contract

2. DEFINITIONS

1. "Personal Service Contracts" means an agreement whereby an individual, firm, partnership or corporation is to perform certain duties, professional or otherwise for a specified period of time for a price agreed upon, which are exempted from competitive bidding.
2. Personal Services Contracts are normally drawn for services, which are provided independent contractor. An independent contractor relationship exists when the employer does not exercise or have the right to exercise control or direction over the manner in which the services are performed.
3. Personal Services Contracts are usually drawn for legal, audit, medical, auction, appraisal, entertainment, and other miscellaneous services; however, this does not preclude their procurement through competitive negotiations or competitive sealed bids.
4. Western Kentucky University Personal Services Contract Under \$10,000 Form:

This contract is to be used when total expenditures from contract does not exceed \$10,000 per calendar year (including travel expenses if authorized) to an individual, firm, partnership or corporation. All contracts must be submitted to the Purchasing Department no later than the 15th of the month with an execution date no earlier than the 20th of the following month.

5. Western Kentucky Personal Services Contract Form Over \$10,000:

This contract must be filed with the Government Contract Review Commission prior to the Effective date of the contract. From 90 to 120 days will be required for the establishment of contracts exceeding \$100,000 and up to forty-five (45) days for contracts from \$10000. All contract must be submitted to the Purchasing Department no later than the 15th of the month with an execution date no earlier than the 20th of the month.

3. PROCEDURES FOR CONTRACT UNDER \$10,000

- 1 Western Kentucky University Personal Services Contract will be used for contracts on which the cost does not exceed ten thousand dollars (\$10,000) per fiscal year.
- 2 Action to be taken by requesting department for the establishment of a Personal Services Contract, which will not exceed \$10,000.00.

- 3 Prepare a Proof of Necessity Form detailing need for establishment of a Personal Services Contract. Provide detailed justification as to why this contract cannot be done by existing university personnel. The justification must be included before the contract will be forwarded to the commission.
- 4 Prepare a Department Purchase Requisition to which is attached three (3) copies of a Western Kentucky University Personal Services contract completed and signed by the Contractor and Department Head or Grant Director. Social Security number of contractor must be provided.
- 5 Signed contracts must be sent to the Department of Purchasing no later than the 15th of the month with an execution date no earlier than the 20th of the next month.
6. Action to be taken by Department of Purchasing:
 - A. Submit Contract to the Government Relations Offices for review
 - B. Government Relation Office Submit contract to the Office of the President for President's approval
 - C. Government Relations Office returns signed approval form to Purchasing for filing with the Government Contract Review Committee
 - D. Purchasing will file the contract with Legislative Review Sub-Committee
 - C. Prepare a Western Kentucky University Purchase Order once the Government Relations Commission approves the contract.
 - E. Return copy of signed contract and order to requesting department for mailing to contractor.

4. PROCEDURES FOR CONTRACTS OVER \$10,000.00

1. All Personal Services Contracts over \$10,000 per fiscal year shall be established by the Department of Purchasing following the policy and guidelines adopted by the Finance and Administrative Cabinet for competitive selection of contract services.
2. Action to be taken by requesting Department for the establishment of a personal Service Contract, which will exceed \$10,000.
 - A. Prepare a Proof of Necessity Form detailing need for establishment of a Personal Services Contract. Provide detailed justification as to why this contract cannot be done by existing university personnel. The justification must be included before the contract will be forwarded to the commission.
 - B. Prepare a Departmental Purchase Requisition to which the Proof of Necessity is attached.
 - C. For Contract from \$10,000 to \$25,000 three (3) copies of Western Kentucky Personal Services Form For Over \$10,000 completed and signed by Contractor.
 - D. Provide names of at least three qualified providers of services on contract \$10,000 to \$25,000 and at least five qualified providers of services over \$25,000 and provide criteria for evaluation and any specifications of work to be done not already provided on the Proof of Necessity Form.
3. Action to be taken by Department of Purchasing

- A. For Personal Services Contracts with a budgeted cost between \$10,000 and \$25,000 per fiscal year, solicit proposals from at least three qualified providers.
 - B. For Personal Services Contracts with a budgeted cost of \$25,000 or more per fiscal year, advertise in newspaper and solicit proposals from at least five (5) qualified providers
 - C. Proposals secured will be reviewed by the Department of Purchasing and Personnel from the requesting Department using the criteria contained in the proposal. The Department of Purchasing after consultation with the requesting department will select the provider.
 - D. Obtain all special authorities.
 - E. Prepare contract and secure signature of Contractor.
 - F. Submit Contract to the Government Relations Offices for review.
 - G. Government Relation Office Submit contract to the Office of the President for President's approval.
 - H. Government Relations Office returns signed approval form to Purchasing for filing with the Government Contract Review Committee
 - I. File with the Legislative Research Commission the completed Western Kentucky University Personal Services Contract and the Proof of Necessity Form. The independent contractor cannot be authorized to begin work until the contract is approved by the Government Contract Review Commission. Payment cannot be made until the commission has approved the contract. The Commission will act upon the contract within forty-five (45) days of submission.
4. Calendar of Events

Action	Date
Submit All Contracts to Department of Purchasing	-No Later than the 15 th of the Month
Submission to Government Relations Office for Review and Approval by the President	-From the 15 th of the Month to the Seven working days prior to the end of the Month
Contract Submitted to LRC to be place on the The Government Contract Review Commission Agenda	-No later than the Last working Day of the Month
Government Contract Review Commission Meeting	- The Second Tuesday of each Month
Approval Notification from the Commission to Department of Purchasing	-Five Working Days from the Commission Meeting
Purchase Order Issued by Purchasing	- As Soon As Approvals are Received

5. SPECIAL REQUIREMENTS

1. All Personal Services Contracts are subject to the recommended fee schedule published by the Legislative Research Commission (LRC). Rates offered or paid shall not exceed the applicable rate unless specifically authorized for good cause by the Secretary of the Finance and Administration Cabinet.
2. Some type of Personal Services Contracts requires special review and approvals. Contracts for legal services require a Governor's Executive Order to be in compliance with KRS 12.210 over \$10,000. Contracts for architectural and engineering services must be processed and secured through the Department of Facilities Management, Finance and Administration Cabinet.

6. COMPETITIVE NEGOTIATIONS

1. All Personal and Professional Services obtained other than by competitive sealed bid or Personal Services Contract will be processed as competitive negotiations, using request for proposals. Purchasing regulation WKU-R-050 governs competitively negotiated contracts.
2. Competitive negotiations should be used but not limited to Contracts for advertising, public relations, promoters, auditors and various consultants.

7. PERFORMANCE CONTRACTS

Performance contracts instead of a personal services contract in the following cases: for visiting speakers, professors, expert witness, and performing artist. The Chief Financial Officer, or his/her designee must approve this contract. KRS 45A.095(f).

Procedures for the Performance Contract:

- a. Complete the Performance Contract
- b. Secure a completed Tax Payers Identification Form (W-9)
- c. If the contract is for an individual complete The Contractor Status Form signed by the University Payroll Officer.
- d. Complete an on-line requisition
- f. Forward completed documentation, a through d, to the Purchasing Department for processing.

Entertainment shall be procured as a single source service from the entertainer or from the entertainer's exclusive agent. Standard industry entertainment agreements, modified to meet University requirements, may be used to procure entertainers. The selection of a Promoter to secure entertainment for the university shall be done through competitive negotiation

8. FUNDED PROJECTS FROM FEDERAL AGENCIES, LOCAL GOVERNMENT AGENCIES AND PRIVATE GIFTS AND GRANTS

Personal or Professional Services required for these grants and contracts except attorneys, may be secured by a Western Kentucky University Personal Services Contract if the individual or firm is designated by name in the grant or contract award by following procedures described for contracts under \$10,000. Legal services are subject to the requirements of a Governor's Executive Order. If an individual or firm is not so designated in the grant or contract award, services will be secured by the procedures for procuring Personal and Professional Services outlined in section four in the policy.

9. FUNDED PROJECTS WITH STATE AGENCIES

Funded projects with state agencies require an interagency agreement, which is signed by the University, the State agency and the Secretary, Finance and Administration Cabinet. Agreements with sub-contractors who are to perform personal or professional services under such agreements will be

established by the procedures for procuring personal and professional services contracts outlined in Section 4 of this policy.