

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM
BUSINESS PROCEDURES MANUAL

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Effective Date: July 1, 2011
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Applies To: Colleges and Systems Office
Procedure Responsibility: KCTCS Purchasing

Personal Service Contracts

Sections:

- 4.15.1 – General
- 4.15.2 – Establishing the Need for a Personal Service Contract
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Section 4.15.1 – General

- A. “Personal Service Contract” (PSC) means an agreement whereby an individual, firm, partnership, or corporation is to perform certain services requiring professional skill or professional judgment for a specified period of time at a price agreed upon in any amount. (KRS 45A.690 (f)).
- B. “Memorandum of Agreement” means any memorandum of agreement, memorandum of understanding, program administration contract, interlocal agreement to which KCTCS is a party or similar device relating to services between KCTCS and any other governmental body or political subdivision of the Commonwealth that involves an exchange of resources or responsibilities to carry out a governmental function. See Business Procedure 1.15- Memorandum of Agreement for additional information.
- C. State law permits the purchase of professional, technical, scientific or artistic services by means of a PSC if KCTCS or state personnel are not available or it is not feasible for KCTCS or state personnel to perform the service. KCTCS Purchasing shall determine whether another state agency or if other KCTCS personnel can reasonably provide the needed service prior to initiating the PSC procedure. All personnel who have budget expenditure authority shall consult with the appropriate business officer in their organizational unit when services requiring professional skill or judgment are required.
- D. KCTCS shall procure services requiring professional skill or judgment in accordance with KRS 45A.690 to 45A.725.

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- E. KCTCS Purchasing shall be notified immediately by the business unit when the need for the services is determined by the business unit. KCTCS Purchasing shall make a determination on how to contract for the required services.
- F. The source of funds or contractual requirements contained in contracts and grants do not exempt KCTCS from compliance with the requirements of state law.
- G. PSCs for legal services require an Executive Order from the Office of the Governor which is filed with the Office of the Secretary of State. Contracts for legal services are administered by The KCTCS Office of General Counsel.
- H. PSCs for architectural and engineering services shall be processed and secured through the Cabinet for Finance and Administration. KCTCS Facilities Management will administer these contracts and manage their use by referring these types of services required by KCTCS to the Cabinet for Finance and Administration.
- I. All proposed PSCs shall be subject to the recommended fee schedule published by the Government Contract Review Committee of the Kentucky legislature. Rates proposed in a contract shall not exceed the applicable rates set by the Committee unless specifically required by the complexity of the circumstances or uniqueness of the subject matter. In such an instance, prior justification must be presented to the Committee. The business unit shall be responsible for providing written documentation of justification, explaining and defending the excess rates to the Committee.
- J. All PSCs must be approved by appropriate KCTCS officials prior to beginning. All PSCs must be reported by the KCTCS Purchasing to the Government Contract Review Committee of the Kentucky Legislature via the Legislative Research Commission (LRC) prior to their effective date.
- K. All PSCs shall be accompanied by a completed KCTCS Standard Proof of Necessity form. The Proof of Necessity form shall document
 - a. The need for the service
 - b. The unavailability of state personnel or the non feasibility of utilizing state personnel to perform the service
 - c. The total projected cost of the contract or agreement and the source of funding
 - d. The total projected duration of the project
 - e. Payment information, in detail
 - f. Such other information as the Government Contract Review Committee deems appropriate

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- L. All PSCs must be established to end no later than June 30 of the current biennia in which the contract is established. If necessary, a subsequent renewal contract will be filed for the next biennia if services will be required past June 30 of the current biennia.
- M. Appropriate college and/or system office staff members shall be available to attend meetings of the Government Contract Review Committee if the Committee has questions about a contract. Contracts filed before the end of the calendar month will be placed on the committee agenda for review at the next regular monthly meeting. The committee meeting schedule is posted on the LRC's website.
- N. Pursuant to KRS 45A.695, all invoices for services performed under a personal service contract must be accompanied by a completed Personal Service Contract Invoice Form. The Personal Service Contract Invoice Form is available for download on thePoint at: [Personal Service Contact Invoice Form](#)

Section 4.15.2 – Establishing the Need for a Personal Service Contract

- A. Business units that require services using a PSC shall communicate in writing the need and request to contract for the services to KCTCS Purchasing well in advance of the time the services are needed.
- B. The business unit requiring services shall provide KCTCS Purchasing complete information on the needs, scope, time frames, special qualifications, estimated costs, source of funds and other information that may be necessary about the business unit's requirements.

Section 4.15.3 – Processing a Request for a Personal Service Contract of \$10,000 or Less

- A. When a PSC for \$10,000 or less is required the business unit shall informally solicit proposals and make a determination of the best qualified contractor with which to establish a PSC.
- B. The business unit shall provide the information required to complete the KCTCS Standard Personal Service Contract Form (please contact KCTCS Office of Purchasing for form) and submit the electronic file of the completed form to KCTCS Purchasing for processing.
- C. The submittal to KCTCS Purchasing should include a summary of the contractors considered and a narrative describing the selection process used in determining the

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best qualified contractor, the contractor's full name, address, point of contact, telephone number, fax number, and tax identification number.

- D. The scope of services may be described in an attached file of a letter or proposal.
- E. KCTCS Purchasing will assign a PSC number to the contract and forward a copy of the contract to the college president/CEO or cabinet member, contractor, and the KCTCS Office of General Counsel for signatures and appropriate approvals. Forwarding for appropriate approvals and filing with the LRC may be done electronically. KCTCS Purchasing will file the contract with the LRC.
- F. An amendment to a contract or renewal of a previously established contract shall be processed in the same manner as an original contract except that no work shall commence under an amendment to a contract until approved by the Government Contract Review Committee. An amendment shall include but is not limited to any change to the scope, amount or period of performance of the original contract within the same fiscal year.

Section 4.15.4 – Processing a Request for a Personal Service Contract Exceeding \$10,000

- A. Business units desiring to establish a PSC exceeding \$10,000 must send a memorandum to KCTCS Purchasing stating the need for the service. Supporting documentation should include, at a minimum, information on specifications, performance requirements, and suggested evaluation criteria.
- B. Adequate notice of the need for the services shall be given through a request for proposals. The request for proposals shall describe the services required, list the type of information and data required from each offer, and state the relative importance of particular qualifications. Because of the technical and complex nature of many requests for proposal's (RFP's), maximum lead-time is necessary and KCTCS Purchasing should be contacted as early as possible to initiate the process. Most RFP's and subsequent contract processing requires at least 60 days to complete. See KCTCS Business Procedure 1.11, Approval Authority for Contracts and Agreements, for required approvals.
- C. KCTCS Purchasing will review the support documents, prepare and issue a RFP or may delegate to the business unit on a contract by contract basis the solicitation of proposals and selection of a contractor using solicitation letters. A committee appointed by KCTCS Purchasing, that may include representatives of the business unit requesting the contract, shall review the proposals and make a recommendation for award of the contract based upon the evaluation factors set forth in the RFP.

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- D. Discussions may be conducted with any offer who has submitted a proposal to determine the offer's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offers.
- E. Award shall be made to the offer determined to be the best qualified of all offers based on the evaluation factors set forth in the request for proposals and the negotiation of fair and reasonable compensation. If compensation cannot be agreed upon with the best qualified offer and if proposals were submitted by one (1) or more offers determined to be qualified, negotiations may be conducted with the other offer(s) in the order of their respective qualification ranking. In this situation, the contract may be awarded to the next best ranked offer for a fair and reasonable compensation. All determinations of the qualification rankings of offers based on evaluation factors set forth in the request for proposals shall be made in writing. Written documentation shall be maintained concerning the final results of negotiation with each contractor and reasoning as to why each contractor was chosen. This written documentation and determination shall be maintained by KCTCS Purchasing.
- F. After selecting the contractor for award of contract, KCTCS Purchasing shall prepare the Standard Personal Service Contract form, assign a PSC number to the contract and forward a copy of the contract to the college president/CEO or Cabinet Member, contractor, and General Counsel for signatures and appropriate approvals. Forwarding for appropriate approvals and filing with the LRC may be done electronically. KCTCS Purchasing will file the contract with the LRC.
- G. The business unit requesting the contract shall provide the information required to complete the KCTCS Standard Proof of Necessity form and submit the electronic file of the completed form to KCTCS Purchasing for processing.
- H. KCTCS Purchasing shall obtain the required signatures and transmit the signed PSC and Proof of Necessity forms to the LRC.
- I. No work shall commence on a PSC until notification of the contract has been filed with the LRC. KCTCS Purchasing will notify the requester of the PSC unit when work may begin.
- J. Contracts delivered to the LRC by the end of any month shall be reviewed by the Government Contracts Review Committee at its next regular meeting of the following month.
- K. An amendment to a contract or renewal of a previously established contract shall be processed in the same manner as an original contract except that no work shall

commence under an amendment to a contract until approved by the Government Contract Review Committee. An amendment shall include but is not limited to any change to the scope, amount or period of performance of the original contract within the same fiscal year.

Section 4.15.5 – Processing Payment for a Personal Service Contract

- A. Payment cannot be made on a PSC until it is reviewed by the Government Contract Review Committee. In the event the Committee disapproves of the contract, payment cannot be made for work performed after the Committee's disapproval.
- B. Payments for PSCs shall be made by processing invoices received for services rendered on a "confirmation" requisition referencing the appropriate PSC contract number. See Business Procedure 4.3.7 for more information about "confirming" requisitions.

End of Procedure