

<p style="text-align: center;">GUIDE TO THE USE OF PERSONAL SERVICES CONTRACTS DEPARTMENTS AND OFFICES</p>

Personal Services Contracts are defined as follows:

“Any agreement which establishes an employment relationship with an individual whether or not the terms are in writing, and includes any amendment of or extension to such an agreement.”

CONDITIONS OF APPROVAL:

Personal services contracts may be considered for use in departments and offices under the following circumstances:

- the nature of the work or employment circumstances prevent the creation of a civil service position
- the work is considered project work requiring unique skills, knowledge or qualifications
- the work is considered short term
- there is a FTE and funding available

LEVELS OF APPROVAL:

Annualized Compensation	Approval Required
Less than \$75,000	Deputy Head of the department
Greater than \$75,000, less than \$120,000	Deputy Head of the department Public Service Commissioner Deputy Minister, Treasury and Policy Board
Less than \$120,000 with changes to approved contract template	Deputy Head of the department Public Service Commissioner Deputy Minister, Treasury and Policy Board
Greater than \$120,000	Executive Council, or Treasury and Policy Board

GENERAL GUIDELINES:

1. **Consultation with the Public Service Commission is required prior to commencing negotiations to enter into a personal services contract.**
2. Compensation is defined as *the annualized base salary and any other monetary payments or contributions required to be made or potentially required to be made by the employer pursuant to a personal services contract.*
3. Executive Council has approved a contract template that must be used when departments are engaging the services of a person by contract.
4. All approvals are required prior to concluding negotiations with an individual.
5. Submissions that contain thorough substantiation and which adhere to this outline will expedite the approval process.
6. An approved DHR1 is required in order to establish contract positions.
7. Departments must file a fully signed copy of all personal services contracts with Strategic Support Services, Public Service Commission.
8. Contracts **for** Service are defined as *a professional services contract where there is no employee-employer relationship.* These are not personal services contracts. Departments should seek the advice of the Procurement Branch of the Office of Economic Development prior to utilizing a contract for service.

EXEMPTIONS:

This process applies to all departments and offices as defined by the *Public Service Act* and *Personal Services Contract Regulations*. This process does **not** apply to employment relationships exempted by Clause 6 of the *Personal Services Contract Regulations*:

- a personal services contract which has received the approval of the Minister of Education in accordance with s. 64(3A) of the *Education Act*
- an employment relationship with an individual appointed to the Civil Service who is not part of a bargaining unit
- employment relationships governed by a Collective Agreement
- a personal services contract where the compensation payable to the individual is governed by a compensation framework approved by the Executive Council
- a personal services contract to employ an individual in a particular occupation where the terms of the contract do not deviate from the terms of employment previously approved by the Executive Council for employment in the particular occupation
- an employment relationship with an individual employed by a department on a casual basis

for less than 12 continuous months where the terms and conditions of employment do not exceed those available under the Labour Standards Code.

APPROVAL PROCESS:

A. Personal Services Contracts Containing Annualized Compensation Less Than \$75,000

- Consultation with the Public Service Commission is required prior to commencing negotiations to enter into a personal services contract.
- The proposed contract along with documentation outlining the rationale for using a contract, the length of the contract and the proposed compensation are to be sent to the Deputy Head to obtain the required approval **prior** to concluding negotiations with the employee.
- The Deputy Head is responsible for reviewing the personal services contract to ensure consistency with the approved contract template.
- If approved, the personal services contract signed by the Deputy Head will be returned to the originating division for signature by the employee.

B. Personal Services Contracts Containing Annualized Compensation Greater Than \$75,000, Less Than \$120,000

- Consultation with the Public Service Commission is required prior to commencing negotiations to enter into a personal services contract.
- The proposed personal services contract, along with documentation outlining the rationale for using a contract, the length of the contract and the proposed compensation are to be sent Strategic Support Services Division, Public Service Commission for review.
- Contracts in compliance with the conditions of approval, utilizing the approved contract template will be submitted to the Commissioner and the Deputy Minister of Treasury and Policy Board for approval.
- If approved, the contract will be signed by the Public Service Commissioner and the Deputy Minister Treasury and Policy Board and returned to the originating department to obtain the signatures of the Deputy Head and the employee.

C. Personal Services Contracts With Annualized Compensation Under \$120,000 Not Utilizing the Approved Contract Template:

- Consultation with the Public Service Commission is required prior to commencing negotiations to enter into a personal services contract.
- Personal services contracts which do not follow the approved contract template must be approved by the Deputy Head, the Public Service Commissioner and the Deputy Minister of Treasury and Policy Board prior to concluding negotiations with the individual.
- The proposed personal services contract along with documentation outlining the rationale for using a contract, the length of the contract and the proposed compensation, explaining why a deviation from the template is necessary, are sent to Strategic Support Services, Public Service Commission for review.
- If approved, the contract will be signed by the Public Service Commissioner and the Deputy Minister Treasury and Policy Board and returned to the originating department to obtain the signatures of the Deputy Head and the employee.

D. Personal Services Contracts With Annualized Compensation Greater Than \$120,000

- Consultation with the Public Service Commission is required prior to commencing negotiations to enter into a personal services contract
- Personal services contracts containing annualized compensation greater than \$120,000 must be approved by Executive Council or Treasury and Policy Board prior to concluding negotiations with an individual.
- The requesting department must submit a Memorandum to Executive Council to Treasury and Policy Board attaching the proposed contract and outlining the rationale for using a contract, the length of the contract and the proposed compensation
- A minute letter will be issued communicating the decision of Executive Council/Treasury and Policy Board
- If approved, the personal services contract will be signed by the Public Service Commissioner and the Deputy Minister of Treasury and Policy Board and returned to the originating department to obtain the signatures of the Deputy Head and the employee

ROLES:

HR CSU / Line Department:

*Prepares the personal services contract package for Deputy Head authorization when **annualized compensation is less than \$75,000***

- consults with the Director Strategic Support Services, Public Service Commission
- ensures conditions of approval are met
- develops a job profile/list of duties
- prepares the formal agreement using the approved contract template
- completes a DHR1 outlining request specifications such as length of contract, remuneration, confirmation of FTE and funding.
- prepares a standard memorandum detailing the requested rationale
- forwards the DHR1, memorandum and proposed contract to the Deputy Head for approval
- upon receiving contract signed by the Deputy Head, obtains signature of the employee;
- files a fully signed copy of the personal services contract with Strategic Support Services, Public Service Commission.

*Prepares the personal services contract package for Public Service Commissioner and Deputy Minister Treasury and Policy Board authorization when **annualized compensation is greater than \$75,000, but less than \$120,000 and/or when the proposed contract deviates from the approved contract template.***

- consults with the Director Strategic Support Services, Public Service Commission
- ensures conditions of approval are met
- develops a job profile/list of duties
- prepares the formal agreement using the approved contract template
- completes a DHR1 outlining request specifications such as length of contract, remuneration, confirmation of FTE and funding
- prepares a standard memorandum detailing the requested rationale
- forwards the DHR1, memorandum and proposed contract to Strategic Support Services, Public Service Commission for approval
- upon receiving contract signed by the Public Service Commissioner and the Deputy Minister Treasury and Policy Board, obtains the signatures of the Deputy Head and the employee;
- files a fully signed copy of the personal services contract with Strategic Support Services, Public Service Commission.

Prepares the personal services contract package for Executive Council authorization when annualized compensation is greater than \$120,000

- consults with the Director Strategic Support Services, Public Service Commission
- ensures conditions of approval are met
- develops a job profile/list of duties
- prepares the formal agreement
- completes a DHR1 outlining request specifications such as length of contract, remuneration, confirmation of FTE and funding
- prepares documentation (Memorandum to Executive Council) - See Chapter 3, Management Manual 100
- forwards Memorandum to Executive Council to Treasury and Policy Board for approval
- upon receiving contract approval, arranges for signatures of the Public Service Commissioner and the Deputy Minister Treasury and Policy Board and then the employee
- files a fully signed copy of the personal services contract with Strategic Support Services, Public Service Commission

Public Service Commission

The Director, Strategic Support Services, Public Service Commission, reviews initial submission for the Public Service Commissioner and Deputy Minister Treasury and Policy Board's authorization.

- conducts consultations with HR CSU / line department
- reviews the contract package based on the conditions of approval and supporting documentation
- consults with the Compensation and Benefits Division on salary or classification issues
- forwards the rationale and proposed contract to the Commissioner and Deputy Minister Treasury and Policy Board for approval
- If approved, returns the contract signed by the Commissioner and the Deputy Minister Treasury and Policy Board and the approved DHR1 to the originating department for signatures and processing.

Treasury and Policy Board

Senior Policy Analysts review the Memorandum to Executive Council prior to submission for approval by Executive Council

- consults with the Public Service Commission on all aspects of submission including compensation and classification issues
- liaises with HR CSU / Line Department on submission.

PERSONAL SERVICES CONTRACT EXTENSIONS

- When extending the length of a personal services contract, a formal personal services contract extension is required. Departments should consult the separate Guide to the Use of Personal Services Contract Extensions.
- For extensions requiring Public Service Commission approval, departments are requested to forward required documentation to the Strategic Support Services Consultant at least 14 days in advance of the proposed extension effective date.
- Appropriate approvals are required prior to offering the employee continued employment beyond the original expiry date.

PERSONAL SERVICES CONTRACTS CHECKLIST

- √ Approval(s) in place:
 - ▶ annualized compensation less than \$75,000 - Deputy Head
 - ▶ annualized compensation greater than \$75,000, less than \$120,000 - Deputy Head, PSC Commissioner, Deputy Minister Treasury and Policy Board
 - ▶ annualized compensation greater than \$120,000 - Executive Council or Treasury and Policy Board
 - ▶ contracts with annualized compensation less than \$120,000 that do not follow the approved template - Deputy Head, PSC Commissioner and Deputy Minister, Treasury and Policy Board

- √ Statement of work objectives/job profile/list of duties.
This detail provides validation for the requested remuneration and further enables authorization.

- √ Background information explaining why hiring a contract employee is the best option for this project or work.
Detailed rationale presented in the cover memorandum must be all inclusive; missing information will delay the process and ultimately the start date.

- √ Information clearly outlining remuneration, benefits and length of contract.
This can be addressed in the cover memorandum.

- √ Ensure and confirm conditions of approval are met.
 - ▶ signature on cover memorandum confirming consistency with the required approach
 - ▶ approved contract template used

- √ Offer of employment made.
Individual hired on personal services contract on the basis of pre-authorized duty list/profile and rate of pay.

- √ Departmental and contract employee signatures obtained
Offer made and signatures obtained after approvals are in place.

- √ Formal, signed agreement forwarded to the Public Service Commission
Copy will be maintained with Strategic Support Services or maintained as an employee file with the PSC Central Registry.

Before authorization is received to create a contract position the department is required to provide a rationale which provides the justification for a contractual arrangement, the remuneration and the duration of the assignment. Following this outline will expedite the process.

MEMORANDUM

TO:
FROM:
DATE:
SUBJECT:

Rationale for Hiring:

Explanation of the job, summary of the outcome and the need for the contract, eg., is the work unique? Is specialized experience required? Departments are asked to distinguish this work from bargaining unit work and to identify whether or not there are similar jobs being done by government employees.

Hiring Process and Length of Time:

Address the competitive process. Is there a plan for fair hiring? Do you anticipate recruitment concerns or is there a ready applicant source? Reason for the length of the contract. Is an extension anticipated? If so, why?

Compensation Rationale:

Clarify salary issues, making certain remuneration does not exceed value of the work. Clarify the annualized compensation (salary and benefits). Departments are further cautioned to not exceed compensation guidelines.

Standard Personal Services Contract Template:

Indicate whether there were adjustments made to the template and the explanation for this.

This will confirm observation of and adherence to conditions of approval.

Signature

attached:

- ▶ proposed personal services contract
- ▶ statement of work objectives/duty list/profile
- ▶ DHR1