

<p style="text-align: center;">GUIDE TO THE USE OF PERSONAL SERVICES CONTRACTS GOVERNMENT AGENCIES</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.”

LEVELS OF APPROVAL:

Annualized Compensation	Approval Required
Greater than \$75,000, less than \$120,000	Public Service Commissioner Deputy Minister, Treasury and Policy Board
Greater than \$120,000	Executive Council or Treasury and Policy Board

GENERAL GUIDELINES:

1. 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.*
2. All approvals are required prior to the commencement of the recruitment process and in advance of any offer being made.
3. Submissions that contain thorough substantiation and which adhere to this outline will expedite the approval process
4. The final terms of a personal services contract between an individual and a government agency must be in writing and filed with Strategic Support Services, Public Service Commission and Executive Council Operations, Treasury and Policy Board.

EXEMPTIONS:

This process applies to all government agencies as defined by the *Public Service Act* and Personal Services Contract Regulations. This process does **not** apply to the following 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 Greater Than \$75,000, Less Than \$120,000*

- Approval of the Public Service Commissioner and the Deputy Minister of Treasury and Policy Board are required prior to the commencement of the recruitment process and in advance of any contract offer being made in order for the contract to have force and effect.
- Documentation outlining the rationale for the proposed terms of the personal services contract including, the length of the contract and the proposed compensation are to be sent Strategic Support Services Division, Public Service Commission for review (See Appendix A).
- If granted, approval of the personal services contract will be issued in writing.

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

- Personal services contracts containing annualized compensation greater than \$120,000 must be approved by Executive Council or Treasury and Policy Board prior to the commencement of the recruitment process and in advance of any contract offer being made in order for the contract to have force and effect
- The requesting government agency must submit through its responsible Minister, a Memorandum to Executive Council outlining the rationale for 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.

C. *Finalizing the contract*

- A personal services contract may be entered into on the same terms that were approved by the Public Service Commissioner/Deputy Minister Treasury and Policy Board or Executive Council/ Treasury and Policy Board without further approval.
- Before a government agency agrees to a term in a personal services contract which deviates from the terms approved, the government agency must re-submit documentation to obtain approval of the terms of the contract by the appropriate authority prior to concluding negotiations with the individual.
- The final terms of the personal services contract between an individual and a government agency must be in writing and filed with Strategic Support Services, Public Service Commission and Executive Council Operations, Treasury and Policy Board.

ROLES:

Government Agency:

*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***

- ensures conditions of approval are met
- develops a job profile/list of duties
- prepares a standard memorandum detailing the requested rationale
- forwards the memorandum and proposed contract to Strategic Support Services, Public Service Commission to obtain approvals prior to commencing the recruitment process;
- conducts recruitment and concludes agreement with employee

- files the final terms of the personal services contract with Strategic Support Services, Public Service Commission and Executive Council Operations, Treasury and Policy Board.

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

- ensures conditions of approval are met
- develops a job profile/list of duties
- in conjunction with the appropriate line department, prepares Memorandum to Executive Council (See Chapter 3, Management Manual 100) for signature of the Minister responsible for the government agency;
- forwards the Memorandum to Treasury and Policy Board to obtain approval prior to commencing the recruitment process
- conducts recruitment and concludes agreement with employee
- files the final terms of the personal services contract with Strategic Support Services, Public Service Commission and Executive Council Operations, Treasury and Policy Board.

Line Department:

- Works with the government agency to prepare the Memorandum to Executive Council for the responsible Minister's signature to obtain approval of personal services contracts with annualized compensation over \$120,000.

Public Service Commission

The Director, Strategic Support Services, Public Service Commission, reviews submissions containing annualized compensation greater than \$75,000 but less than \$120,000.

- reviews the submission including all supporting documentation;
- consults with the Compensation and Benefits Division on salary or classification issues
- forwards the rationale and proposed contract to the Public Service Commissioner and Deputy Minister Treasury and Policy Board for approval;
- advises the government agency in writing of approval;

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
- liaises with Government Agency and Line Department on submission.

AMENDMENTS AND EXTENSIONS

- All amendments or extensions to personal services contracts must follow the process for approval of personal services contracts.

**APPENDIX A
PERSONAL SERVICES CONTRACTS
CHECKLIST FOR GOVERNMENT AGENCIES**

- √ Approval(s) in place:
 - √ annualized compensation greater than \$75,000, less than \$120,000 - PSC Commissioner, Deputy Minister Treasury and Policy Board
 - √ annualized compensation greater than \$120,000 - Executive Council or 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 the hiring is necessary.
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 total compensation 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

- √ Offer of employment made.
Recruitment commences after necessary approvals have been obtained.

- √ Final terms of the personal services contract are in writing and filed with the Public Service Commission and Treasury and Policy Board.
Copy will be maintained with Strategic Support Services, Public Service Commission and Executive Council Operations, Treasury and Policy Board.

SAMPLE MEMORANDUM

TO:
FROM:
DATE:
SUBJECT:

Rationale for Hiring:

Explanation of the job, summary of the outcome and the need for the hiring.

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 annualized compensation (salary, benefits and any other monetary payment required to be made by the employer).

Advise if market studies and/or evaluations by external consultants were used to determine compensation.

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

Signature

attached:

- ▶ proposed personal services contract (if applicable)
- ▶ statement of work objectives/duty list/profile