

Division of Central Purchasing Procurement Regulations

Source Selection: Personal/Professional Services

GENERAL

As used in these regulations “Personal/Professional Services” shall mean services whereby an individual, firm, partnership or corporation (the “Consultant”) is to provide LFUCG certain services requiring professional skill or judgment.

The LFUCG will only procure Personal/Professional Services if LFUCG personnel are not available or if it is not feasible for LFUCG personnel to perform the service. The Division of Central Purchasing (“Purchasing”) shall determine whether any LFUCG personnel (regardless of Department of Division) can reasonably provide the needed service prior to initiating the Personal/Professional Service procurement procedure provided for herein. If a dispute exists as to the necessity of acquiring the services from outside the LFUCG, the decision to proceed will be made by the Chief Administrative Officer.

The retention of Personal/Professional Services pursuant to these regulations will not be used if as a result of the procurement there would be established an employee/employer relationship between the LFUCG and the service provider or its employees or agents. An employee/employer relationship exists when the LFUCG has the right to direct and control the worker in the way he works, both as to the final results and as to the details of when, where and how the work is done.

The acquisition of commodities or biddable services may not be undertaken through the “Personal/Professional Services” process provided herein.

The provisions of these regulations shall not apply to any purchase constituting an emergency within the meaning of KRS 424.260.

It is not the intent of these regulations to eliminate the ability of LFUCG to advertise, as appropriate and in accordance with any applicable publication laws, any announcement soliciting general letters of interest from those parties who may be qualified to perform various Personal/Professional Services on behalf of LFUCG.

These regulations shall not limit LFUCG’s ability to pursue the acquisition of Personal/Professional Services pursuant to state law, in which instances the LFUCG may elect to follow those provisions in lieu of these regulations, or modify these regulations as necessary to accommodate the process and procedure provided pursuant to the law.

These regulations shall not limit the LFUCG’s ability to create a specific program or programs which are limited to certain categories of participants, including but not limited to local small businesses.

Procurement of Personal/Professional Services of \$20,000 or more

1. The procurement of [~~project specific~~] architectural, [~~and~~] engineering, or similar professional services may be undertaken either through a [~~the~~] Qualifications Based Selection (QBS) Process or the RFP process depending on the funding source for the project.
2. All departments/divisions requiring Personal/Professional Services must submit a written request form to Purchasing. The request should be submitted well in advance of the need for the services as the procurement process for Personal/Professional services typically requires considerable time to complete. In most instances the entire process takes at least 60-90 days.
 - a. The request must be signed by the appropriate Director or Commissioner and include a description of the services desired, the estimated amount of work involved, the estimated cost per fiscal year, and the appropriate contact person who is able to answer any questions or provide any additional information .
 - b. Requests for legal services, auditing services, computer services, or other area of expertise for which LFUCG has professional employees on staff will be submitted by Purchasing to the appropriate department or division for a determination as to whether the services can or should be performed by LFUCG personnel.
3. Purchasing will review the request form and any additional information submitted to determine whether to proceed with procuring the services.
4. If the decision is made to proceed with procurement, Purchasing will work with the requesting department/division and any other necessary LFUCG personnel to develop the appropriate Request for Proposal ("RFP") and any other necessary documents, including an agreement for services.
5. Purchasing will issue a RFP to solicit proposals for the services required. Each RFP shall at a minimum describe the services required, list the type of information and data required of each offeror, and state the evaluation factors or criteria.
6. Purchasing will distribute the RFP, giving adequate (and any legally required) public notice of the need for services, which may include newspaper advertising and other means when available such as placing a notice on the LFUCG Economic Engine data base. The notice will contain, at a minimum, a brief description of services requested, estimated amount of work involved, and the

name of the person to contact in order to obtain additional information and a copy of the RFP.

7. Upon receipt of the responses to the RFP, Purchasing may conduct discussions with any offeror submitting a proposal to determine the offeror's qualifications for further consideration but such discussions shall not disclose information derived from another offeror's proposal. If discussions are conducted with offerors for purposes other than to secure qualification information, the same discussions must be conducted with all offerors.
8. Purchasing will appoint a proposal evaluation committee comprised of LFUCG officers or employees. Purchasing has the discretion to appoint representatives of other entities (i.e., state or local governments or educational institutions) if such representation would be of value to LFUCG. However, under no circumstance shall a party with any conflict of interest be appointed. In most instances a private party or citizen would have a conflict of interest.
9. Purchasing and the evaluation committee shall review the proposals received and record the committee's final determination of the qualification rankings of the offerors based on the evaluation factors or criteria set forth in the RFP. This written determination shall be maintained by Purchasing.
10. After determining the best qualified offeror(s), Purchasing or the requesting department/division (with assistance from Purchasing) will negotiate the fair and reasonable compensation for the provision of the services with the selected offeror(s). ~~[If compensation cannot be agreed upon with the best qualified offeror, negotiations may be conducted with other offeror(s) in the order of their respective qualification ranking.]~~
 - a. In instances involving a single unique project or in which LFUCG intends to only retain a single prime consultant to perform the services, negotiations will take place with the best qualified offeror. If a final agreement cannot be reached, negotiations may then be conducted with the other offer(s) in the order of their respective qualification ranking.
 - b. Purchasing and the department/division requesting the services may determine that it is in LFUCG's best interest to create a list of multiple consultants which are pre-qualified, as defined by the advertised scope of services, to work on multiple projects which are similar in nature. In those instances, negotiations with consultants for a specific project may occur simultaneously, and the entity submitting the lowest price while meeting the intent of the specific project scope will be selected. The specific process that is used for such selections must include a component or components which is intended to avoid the same consultant(s) being awarded all of the projects and provides each consultant on the list with the

opportunity to negotiate for a project, but not necessarily all of the projects. An example of this would be a process in which the list rotates in a manner in which a Consultant previously awarded a similar project is placed at the end of the list.

11. ~~[Upon reaching an agreement upon compensation with the offeror,]~~ The requesting department/division in coordination with the Department of Law and Purchasing will generate an agreement for services which includes the scope of the services to be performed, the compensation for such services, and all other terms and conditions agreed upon, which shall also include, at a minimum the following:
 - a. The duration of the Agreement;
 - b. A sworn statement regarding campaign finance laws;
 - c. A provision indicating that the offeror and its employees or agents are not employees of the LFUCG;
 - d. A termination clause under which LFUCG may terminate the agreement ~~[no more than thirty (30) days notice;~~
 - ~~e. In the event that (d) above is not deemed sufficient by the Department of Law, an additional termination clause for those agreements covering multiple fiscal years in the event that sufficient funds are not appropriated as part of the budget process;]~~
 - e. A provision that Kentucky law applies to interpretation of the agreement and any disputes and that venue shall be in Fayette County, Kentucky;
 - f. A provision that the services cannot be assigned without the prior approval of the LFUCG;
 - g. Any indemnity and insurance requirements deemed necessary by the Department of Law or the Division of Risk Management; and
 - h. Any other necessary provisions from the RFP.
12. All agreements must be signed by a representative of each party having the legal authority to bind that party to the agreement. The Mayor will sign all agreements on behalf of LFUCG unless legal authority has otherwise been provided for someone else to obligate the LFUCG to the terms of the agreement. If a final agreement cannot be reached with the best qualified offeror, negotiations may be conducted with other offeror(s) in the order of their respective qualification ranking.

13. LFUCG may make payments for services under the agreement once final approval is obtained, but shall not pay in advance of receipt of services.
14. Legal services or professional services related to the issuance of bonds or debt service may be obtained by using a Request for Qualifications (RFQ) or similar process which ensures that qualified individuals or firms are duly considered prior to retention by LFUCG.

Procurement of Personal/Professional Service of Less Than \$20,000

If the Personal/Professional Services required is less than \$20,000, the department/division may informally solicit proposals, make a determination of the best qualified provider and establish a Personal/Professional Service Agreement if necessary. At a minimum, the department/division must use a Personal/Professional Service Scope document and have the provider sign and submit the documents to Purchasing for processing. The submittal to Purchasing must also include the proposals received and considered by the department/divisions and a properly authorized On-Line requisition requesting Purchasing to issue a purchase order.

As an alternative, the department/division requiring the services may submit an On-Line Requisition to Purchasing and forward the services required scope. Purchasing will solicit competitive proposals, negotiate pricing and contract for the necessary services. If this process is used, Purchasing will communicate with the department/division for any additional information necessary to complete the process. Purchasing will also generate a purchase order authorizing the provider to begin work and allowing payments to be processed.