

Title:	<b>Employer-employee Personal Services Contract</b>	
Purpose:	To establish policy and procedures for initiating and processing employer-employee personal services contracts.	
Issued by:	Employment and Personnel Services	Date: February 15, 2005
References:	Hawaii Revised Charter §78-2.6; Revised Charter of the City and County of Honolulu (RCH) §4-104(4) and §6-1103; Personnel Manual Chapter I-A-2, Employment Suitability Clearance; CS Circulars 1096 (11-19-76), 1229 (2-12-80), 1242 (5-9-80) and 1276 (3-10-81)	

## **I. POLICY**

As a general management policy, the personal services contract method of employment should be used only when absolutely necessary and must be justified in accordance with City Charter provisions.

## **II. CONTRACT GUIDELINES**

- A. No person hired under an employer-employee contract shall work without an executed contract.
- B. Contracts under RCH 6-1103 (f) shall be limited to those contractual needs where the services to be performed are special or unique, personnel to perform the work cannot be obtained through normal civil service recruitment procedures and where such needs are not expected to extend beyond one year.
- C. As a general guide in determining whether the services are special or unique, RCH 6-1103 (f) contracts will not be approved for professional, technical, clerical or blue collar staffing needs where the job requirements and duties are similar to existing job classes.
- D. Contracts under RCH 6-1103 (g) shall be for services of a temporary nature needed in the public interest and where the need does not exceed one year. The Director of Human Resources (Director) shall certify that the service is of a temporary nature before any person may be employed to render services. There is no extension under this provision. If a new contract is submitted for the same job title, the department must justify why the new contract is necessary and why the position has not been filled from a civil service recruitment.
- E. Personal services performed under RCH 6-1103 (h) on a fee, contract or piecework basis by persons who may lawfully perform their duties concurrently with their private business or profession or other private employment, if any, and whose duties require only a portion of their time, where it is impracticable to ascertain or anticipate the portion of time devoted to the service of the city and such fact is certified to by the Director.
- F. The amount of compensation shall be at the minimum rate/step of the appropriate salary range. Compensation above the minimum rate/step may be approved by the Director of Human Resources if reasonable.

### **III. RESPONSIBILITIES**

#### **A. Departments and Agencies**

1. Process a Request for Personal Services Contract (CS-C1) via eforms, explaining in detail why the contract route is justifiable and preferable to obtaining the services through the regular civil service merit system. Obtain Budget/MD approval as necessary.
2. Assure contracts are in compliance with RCH 4-104 (4), that no person shall be appointed to any office or position exempted by civil service until satisfied by proper investigation that the person to be appointed is fully qualified by experience and ability to perform the duties of the person's office or position.
3. Ensure the person hired meets suitability requirements for the position. In accordance with HRS §78-2.6, this includes having no prior controlled substance-related convictions for the three-year period preceding the date the application was submitted for employment. The person completes a suitability form DHR-EPS-1 and DHR-EPS-2 and submits it to the Department of Human Resources (DHR) for clearance in accordance with Employment Suitability Clearance policy at Chapter I-A-2.
4. As applicable, ensure the person meets any medical and physical requirements.
5. Justify the amount of compensation proposed is reasonable, if the contract person is paid at a rate above the minimum for the job class. The justification shall include, but not be limited to, an evaluation of the nature of the work, expertise of the worker, need to the organization and impact on other workers with the same job class performing similar services.
6. Determine the duties and responsibilities to be assigned and performed by the contract, and attaches a listing of same or a position description as applicable to the CS-C1 eform.
7. Determine whether the contract is covered (not exempt) or not covered (exempt) from the Fair Labor Standards Act in accordance with Chapter IV-7, Fair Labor Standards Act (FLSA) Overtime Exemptions."

#### **B. Department of Human Resources (DHR)**

1. Review and approve the Request for Employer-employee Personal Services Contract eform.
2. Review the duties and responsibilities assigned, and determine an appropriate compensation reference.
3. Review and process the Determination of Employee FLSA Status (DHR-CP-57) reporting form
4. Review application of contract person as necessary in accordance with RCH 4-104(4).

5. Review contract for compliance with Charter provisions, and the reasons for submittal, such as whether there is a list, why the department is not filling the position, and whether there is an approval to fill.
6. Process the contract on a timely basis in accordance with CS-C1 eform procedures.

#### **IV. CONTRACT AMENDMENTS**

Amendments to the rate or the term of the contract require the submittal of a new CS-C1 eform, with corrections to the length of the contract or the rate. Document the reasons why the contract has been re-submitted. Re-approval by the Director/Budget/MD may be required.