I. BACKGROUND

UWEX Departments secure the personal services of individuals and business entities through either an employer/employee relationship or entering into a contractual relationship with an independent contractor.

Services can be obtained through:
1. Payrolling when an individual rather than a business entity is involved and an employer/employee relationship exists,
2. Processing a fee payment if an employer/employee relationship does not exist,
3. Competitive bidding,
4. Obtaining a waiver of the bid process, or
5. Establishing an Academic Support Services Agreement.

The Division of State Purchasing through UW-System Purchasing has delegated bid waiver authority to the UWEX Purchasing Department for personal service costs of less than $25,000.

UW-System published Financial and Administrative Policy Paper (FAP) # 31 to provide criteria that should be used to select the methods of securing services and to describe the procedures to receive authorization and process payments for the services.

Under FAP No. 31, unique non-competitive services supporting instruction, research or public services are considered Academic Support Services. Services of this type are not subject to the bidding process. This includes services provided by both individuals and business entities.

II. DEFINITIONS

A. Personal Services are services of an intangible nature where no physical product is produced, or where the product produced is minor in relation to the personal services provided.

B. Competitive Personal Services are services that are not unique and would potentially be available from more than one source. This includes, but is not limited to, computer support services, soil testing, film processing, snow removal, maintenance and janitorial services. Competitive services are subject to the bidding process.

C. Non-Competitive (Sole Source) Personal Services are services which require special
talents performing services which are not quantitative. The uniqueness of the talent or its availability in a specific location or circumstance precludes the opportunity of competitive bidding. Examples of non-competitive service providers are writers, actors, musicians, composers, artists, freelance producers, program hosts, narrators, speakers, and instructors.

III. SERVICES PROVIDED BY AN INDIVIDUAL

A. Employee Vs. Independent Contractor

The first issue to be resolved is whether an employer/employee relationship exists. This must be determined on a "case-by-case" basis.

Generally, an employer/employee relationship exists if the employer directs and controls the individual in the way he/she works, both as to final results and as to the details of when and where the work is to be done. The employer need not actually exercise control; it simply must have the right to do so. Regularly scheduled services performed over an extended period of time and work performed on University premises are additional evidence of an employer/employee relationship.

B. Services Which Must Be Payrolled

If the individual is currently an employee elsewhere in the UW System, all payments for services are deemed to be wages and must be payrolled. State law and union contracts establish criteria on personal services that must be payrolled.

Professional services should be payrolled if it is determined that an employer/employee relationship exists. An exception is allowed where the amount paid (excluding itemized travel) for a series of definitely predictable events is $500 or less in which case payment may be made either through the appointment/payroll process or the Payment to Individual Report (PIR) process. This exception does not apply to current UW System employees or to UW students.

C. Services Which Should Not Be Payrolled

If an employer-employee relationship does not exist, the individual is an independent contractor and should not be appointed and paid through the payroll system unless he/she is currently an employee elsewhere in the UW System.

Generally, payments should be made on a "fee" basis for short term professional services of instructors, speakers, researchers, writers, actors, dancers, producers/directors, editors, announcers, translators and artists.

D. Independent Contractors
$5,000.00 or less

For services provided by an independent contractor with a cost (excluding itemized expenses) of $5,000.00 or less, a Payment to Individual Report (PIR) should be processed to pay the individual. A written contract/agreement is optional if the fee for services does not exceed $5,000.00.

$5,000.01 or more

Non-Competitive

For non-competitive services with a cost (excluding itemized expenses) that is greater than $5,000.00, both a "Request for Sole Source Authorization to Contract for Personal Services" form (see attachment A) and an "Academic Support Services Agreement" (see attachment B) must be completed and routed together with an external requisition through the Divisional Business Office to UWEX Business Services, 104 Extension Building, before the services are performed. The agreement should be prepared in triplicate (the requisition number is the agreement number). Business Services staff will review and certify that the services (1) are non-competitive, (2) do not involve an employer/employee relationship, (3) are not required to be payrolled under Wisconsin Civil Service Law and (4) do not conflict with existing bargaining agreements.

For approved requests, Business Services staff will certify the "Authorization" form and secure, on behalf of the Board of Regents, the authorized signature on the Academic Support Services Agreement. Both documents will be returned to the department. The agreement should be forwarded (all three copies) to the contractor for signature. The contractor should sign and return two fully executed copies of the agreement to the department. One copy should be retained for the department's files and the other forwarded to Business Services. Upon completion of services, either the contractor should provide an invoice or a Payment to Individual Report (PIR) should be processed to initiate payments to the contractor. If a PIR form is processed the agreement number should be clearly indicated on the form.

Competitive

If the service is determined not to be unique and therefore potentially available from more than one source, the preparation of an external requisition and the use of a competitive bidding process will be required. This will result in the issuance of an official Purchase Order to the selected vendor.
IV. SERVICES PROVIDED BY A BUSINESS ENTITY

A. $5,000.00 or less

For services provided by incorporated business entities with a cost of $5,000.00 or less, either the Purchasing Card or the Low Dollar Order (LDO) process may be used. Due to Federal tax reporting requirements, personal services provided by a tax reportable entity (i.e., sole proprietorship or partnership) must be paid by using the LDO process (a Purchasing Card cannot be used).

B. $5,000.01 and above

Non-Competitive

Non-competitive personal services to be performed by a business entity, with the total cost expected to be $5,000.01 or more, requires the advanced preparation of a "Request for Sole Source Authorization to Contract for Personal Services" form and an "Academic Services Agreement". The agreement should be prepared in triplicate and signed by an appropriate departmental representative.

Both the Authorization form and the Agreement form should be routed together with an external requisition through the Divisional Business Office to Business Services, 104 Extension Building. Purchasing department staff will review and certify that the services are non-competitive and therefore not subject to the competitive bidding process.

For approved requests, Business Services staff will certify the Authorization form and secure the authorized signature on behalf of the Board of Regents. Both documents will be returned to the department. The agreement should be forwarded (all three copies) to the contractor for signature. The contractor should sign and return two fully executed copies of the agreement to the department. One copy should be retained for the department's files and the other forwarded to Business Services.

Competitive

An external requisition should be processed before any service with a cost exceeding $5,000.00 is performed. Since the personal services are available from more than one source, Purchasing Department staff is required to initiate a competitive bidding process.

V. SUBCONTRACTING OF EXTRAMURAL SERVICES

UWEX faculty or staff members often submit proposals to external funding agencies to seek additional resources in support of the department's mission. In situations where the department will need to subcontract or subgrant a portion of the scope of work to another agency, it is strongly recommended that the subcontractor be identified by name in the extramural grant application. The subcontractor's total cost should be included in the
proposal budget as a line item under the appropriate budget category, customarily identified as either "Subcontracts," or "Other Direct Costs." If possible, the subcontractor's scope of work and detailed budget should be appended to the proposal budget. The above steps help clarify that the services to be performed by the subcontractor are sole source (non-competitive) transactions and therefore exempt from the procurement process.

A note of caution, project directors should not assume that all subcontracts of extramural funds can be considered exempt from the competitive bid process. Only when the involvement of the subcontractor is that of actually performing a portion of the scope of work, as opposed to simply providing a routine service or consulting activity, is the activity non-competitive.

The unique nature of extramural funds (especially federal), which often require special flow-down clauses, requires a different format when preparing subcontract agreements. Please contact staff in the Extramural Support Office (262-6636) before initiating any subcontracting involving extramural funds.

VI. FOR FURTHER ASSISTANCE

For assistance regarding internal (divisional) policies and procedures, contact the appropriate Divisional Business and Finance Office.

For assistance in determining if an employer/employee relationship exists, contact Human Resources-Personnel at 262-0826.

To determine whether services require formal bidding, contact Rhonda Loger at 262-0164.

For assistance in processing of PIRs, contact Bob Price at 608-262-1979.