

**Kentucky Public Pensions Authority
Special Called Meeting
May 26, 2023 at 10:00 a.m. EST
Live Video Conference/Facebook Live
AGENDA**

- | | |
|--|----------------------|
| 1. Call to Order | Keith Percy |
| 2. Legal Opening Statement | Michael Board |
| 3. Roll Call | Sherry Rankin |
| 4. Public Comment | Sherry Rankin |
| 5. Closed Session - Litigation** | Keith Percy |
| 6. Executive Director Contract Extension* | Keith Percy |
| 7. Adjourn* | Keith Percy |

**Board Action Required*

***Board Action May Be Required*



KENTUCKY PUBLIC PENSIONS AUTHORITY

David L. Eager, Executive Director

1260 Louisville Road · Frankfort, Kentucky 40601
kyret.ky.gov · Phone: 502-696-8800 · Fax: 502-696-8822



To: Kentucky Public Pensions Authority Board

From: David Eager, Executive Director

Date: May 24, 2023

Subject: My Contract Extension

I am requesting a one-year extension to my current employment contract which expires on June 30, 2023. At that time, I intend to retire. I am also requesting my salary be increased to \$228,960. I have not asked for nor received an increase since I accepted this position in 2016.

The requested salary increase represents providing me with the 8% salary increase granted all state employees on July 1, 2022, and the 6% increase granted for July 1, 2023. In my position, those increases do not happen automatically and must be approved by the Board.

For comparison purposes I offer the following salary information:

\$234.3K-Gary Harbin, Executive Director Kentucky Teachers Retirement System, with 100 employees vs. our 250

\$254.3K-Median Executive Director in the 2022 NCPERS Compensation Survey

\$269.4K-Median Executive Director in the 2022 NASRA Compensation Survey of 17 neighboring state retirement systems

I would greatly appreciate your approval. It allows me to complete the strategic plan which is underway and finish a myriad of other ongoing projects. It also provides for a period of transition to a new Executive Director if one is identified before June 30, 2024, and you choose to do so.

I have enjoyed and greatly appreciate the opportunity to be your Executive Director. Together with KPPA senior management, the KPPA staff, Trustees, the legislators and LRC employees, and the Executive Branch members, we have accomplished a lot to financially strengthen the systems, improve our servicing to our members, get legislative support and increase transparency.

Thank you,
David L. Eager

PERSONAL SERVICE CONTRACT FOR
EXECUTIVE DIRECTOR
BETWEEN
KENTUCKY PUBLIC PENSIONS AUTHORITY
AND
DAVID L. EAGER



This Personal Service Contract (PSC) is entered into, by and between the Kentucky Public Pensions Authority ("Authority" or "KPPA") and David L. Eager ("the Employee") to establish a contract for the Executive Director of the Kentucky Public Pensions Authority. The previous PSC was effective ~~7/1/2020-6/30/2021~~ 7/1/2021 – 6/30/2023.

No solicitation was issued for these services. Employee's appointment to this position was determined under the statutory authority of KPPA. Per KRS 61.505(8)(a), "The Kentucky Public Pensions Authority shall appoint or contract for the services of an executive director and fix the compensation & other terms of employment without limitation of the provisions of KRS Chapters 18A, 45A and KRS 64.640."

This PSC is effective ~~07/01/2021~~ 7/1/2023 and expires ~~06/30/2023~~ 6/30/2024. The Board reserves the right to renew this agreement per the authority granted to them in KRS 61.505 and by House Bill 9, which passed in the 2021 Regular Legislative Session.

Previous Contract number: PON2 100 2000002110-1

KPPA and Employee agree to the following:

I. Scope of Agreement

Services required

Employment Duties, Contract Term and Application of Personnel Policies.

1. Duties.

The Board of the Kentucky Public Pensions Authority ("KPPA") agrees to employ David L. Eager ("Employee") as Executive Director. Employee will report to the Board of the Kentucky Public Pensions Authority Board and shall perform his duties and discharge his responsibilities competently, carefully and faithfully as required herein and in the KPPA Policies, as applicable. Employee will devote his full time and best efforts to the affairs of KPPA and shall complete all assigned tasks to the satisfaction of the Board and within any prescribed timeframe.

2. Contract Term.

The term of Employee's employment with KPPA shall be for the period from July 1, ~~2021~~ ~~2023~~ through June 30, ~~2023~~ ~~2024~~ (the "Contract Term"), unless earlier terminated pursuant to this Agreement. Nothing in this Agreement shall be construed to create any commitment, guarantee, agreement or understanding of any kind that the Authority shall continue to employ Employee after the end of the Contract Term.

3. Policies.

The Employee is subject to the Commonwealth of Kentucky Employee Handbook, any Personnel Policies, Conflict of Interest Policies, Confidentiality Policies or any other personnel related policies or statutes which apply to KPPA employees except to the extent his unclassified position is exempted therefrom in any statute, or exempted as set forth in this Agreement.

4. Compensation.

A. Salary.

The Authority shall pay Employee, as compensation for the performance of his obligations under this Agreement, an annual salary of ~~\$200,000~~ ~~228,960~~. Employee understands that no variable or performance linked compensation is envisioned during the term of this agreement. The salary shall be, paid in such periodic installments as the Authority may pay its other employees.

B. Benefits.

The Authority shall provide Employee for the duration of the Contract Term with all benefits received by other employees of the KPPA as set forth in the Commonwealth of Kentucky Employee Handbook. Additionally, Employee shall receive five (5) days of paid vacation leave over and above the vacation leave to which Employee is entitled under the terms of the Commonwealth of Kentucky Employee Handbook. This additional leave shall vest at the beginning of each fiscal year during the Contract Term.

It is understood and agreed by Employee that the annual salary and benefits set forth above shall not be changed during the Contract Term.

5. Early Termination of Employment.

A. Termination for Cause.

The Authority may immediately terminate Employee's employment with KPPA at any time prior to the end of the Contract Term for "Cause" as defined in 3(b) below. The decision to terminate the Employee for Cause shall require a majority vote of the full KPPA Board. The existence of Cause shall be determined in the sole and absolute discretion of the KPPA Board.

Definition and Determination of "Cause."

As used herein, "Cause" shall include but not be limited to the following:

Failure or neglect by Employee to satisfactorily perform the duties of the Employee's position.

Failure of the Employee to obey lawful orders or to comply with lawful directives to him.

Misconduct in connection with the performance of any of his duties, including but not limited to misappropriations of funds or property of KPPA, misrepresentations to KPPA or any regulatory authority, the violation of any laws, regulations or policies to which KPPA is subject or the Employee's position is subject, violation of a provision of the Kentucky Executive Branch Code of Ethics or any policies of the Kentucky Public Pensions Authority.

Commission by Employee of an act involving moral turpitude, dishonesty, theft, unethical business conduct, or conduct that impairs or injures the reputation of, or harms, KPPA.

The performance of any act outside the authority of the Executive Director.

Failure to cooperate fully in any investigation by KPPA or by any regulatory or law enforcement authority that may properly investigate the KPPA.

Disclosure of any confidential or proprietary information.

Use or abuse of alcohol or drugs which interferes with the Employee's performance of his duties.

The Authority shall provide Employee with written notice of termination for Cause citing the specific reasons for the termination. The Employee is non-classified and therefore Employee does not have the right to appeal any termination in any manner to a neutral decision maker. Consequently, Employee shall have no rights to the Grievance and Appeal Procedures set forth in the Commonwealth of Kentucky Employee Handbook and shall have no right of appeal to the Kentucky Personnel Board. The Employee's only rights of recourse are set forth in this Agreement.

B. Termination without Cause.

The Board of KPPA may terminate Employee's employment with KPPA prior to the end of the Contract Term at any time without Cause by providing written notice of the same. If Employee's employment with KPPA is terminated prior to the end of the Contract Term for reasons other than Cause, the Employee shall be entitled to ~~six~~ three (6) (3) months of the contractual compensation or the amount of the contractual compensation remaining through the end of the Contract Term, whichever is less. This amount shall be payable to Employee in one lump sum within thirty (30) calendar days of termination; provided, however, KPPA shall not be required to make any such payment until, upon the request of and in form acceptable to KPPA, Employee executes and delivers a full and complete release of KPPA, KPPA's Board, and the Authority's employees, individually and in their official capacities, for any and all claims and potential claims of any nature, employment related or otherwise, whether arising by statute, contract or common law, that Employee could assert against KPPA, such release to be in a form satisfactory to KPPA and its counsel.

In the event of termination without Cause, the only obligation for compensation to Employee shall be as stated in this subparagraph, and Employee shall not be entitled to compensation for the remaining term of employment under this Agreement.

C. Voluntary Termination.

Employee shall have the right to terminate his employment with KPPA voluntarily, at any time, by giving at least sixty (60) days written notice to the Chair of the KPPA Board. Under the terms of a voluntary termination, Employee is entitled to his contractual compensation, as set forth herein, through the date of resignation.

6. Miscellaneous.

A. Notices.

Any notice or other communication required or which may be given to any party hereunder shall be in writing and shall be delivered personally, or sent by certified, registered or express mail, postage prepaid, and shall be deemed given when so delivered personally, or if mailed, five days after the date of mailing to the respective party as follows:

To KPPA: Kentucky Public Pensions Authority
Attention: KPPA Board Chair
1260 Louisville Road
Frankfort, KY 40601

To Employee: David L. Eager


B. Successors and Assigns.

This Agreement shall inure to the benefit of and be binding upon KPPA and its successors and assigns, and Employee and his heirs and personal representatives, but Employee's rights hereunder are personal to him and shall not be subject to voluntary or involuntary alienation, assignment or transfer. For the purposes of this Agreement, the term "successors and assigns" shall mean any person, firm, corporation, or other entity which at any time, whether by change in law, merger, purchase or otherwise, shall manage or acquire all, or substantially all, of the assets or business of KPPA.

C. Governing Law.

This Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Kentucky.

D. Entire Agreement.

This Agreement is the entire and exclusive agreement between Employee and KPPA with regard to the subject matter hereof and supersedes all previous oral and written agreements or understandings, and all contemporaneous oral and written negotiations, commitments, understandings and communications between the parties, relating to the subject matter of this Agreement. Either KPPA or Employee may terminate the employment relationship at any time for any reason pursuant to the terms of this Agreement. Nothing in this Agreement is

intended, nor should be construed, to limit or modify this mutual right. This Agreement was negotiated between the Employee and representatives of the KPPA Board.

E. Waivers and Amendments.

This Agreement may be amended, modified, superseded, cancelled, renewed or extended, and the terms and conditions hereof may be waived, only by a written instrument signed by the Chair of the KPPA Board of Trustees and Employee or, in the case of a waiver, by the party waiving compliance. No delay on the part of the KPPA Board or Employee in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of KPPA Board or Employee of any right, power or privilege hereunder, or any single or partial exercise of any right, power or privilege hereunder, preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder. The rights and remedies herein provided are cumulative and are not exclusive of any rights or remedies that KPPA Board or Employee may otherwise have at law or in equity, except as expressly excluded herein.

F. Severability.

The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof.

G. Counterparts.

This Agreement may be executed in two (2) or more Counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

H. Headings.

The headings in this Agreement are for reference purposes only and shall not in any way affect the meaning, construction or interpretation of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party does not apply in interpreting this Agreement. The language in all parts of this Agreement is to be construed according to its fair meaning, and not strictly for or against any party hereto.

I. Jurisdiction.

KPPA and Employee hereby irrevocably consent and submit to the jurisdiction of (A) the Circuit Court of Franklin County, Commonwealth of Kentucky or (B) the United States District Court sitting in and for the district which includes the City of Frankfort, Commonwealth of Kentucky in any dispute, action, claim or proceeding arising out of or relating to this Agreement, and irrevocably agree that any and all claims arising out of or relating to this Agreement shall be heard and determined in these Courts, without regard to the principle of conflicts of law.

J. Conflict-of-Interest Laws and Principles.

The Employee certifies that he is legally entitled to enter into this Agreement with KPPA, and by holding and performing this Agreement, he will not be violating any Conflict of Interest Statute or Policy, or KRS 11A.040 of the Executive Branch Code of Ethics.

K. Survival.

This Agreement shall survive the termination of Employee's Employment with KPPA.

II. Contract Components and Order of Precedence

KPPA's appointment of the Employee as its Executive Director shall create a valid contract between the Parties consisting of the following:

1. Any written Agreement between the Parties.
2. Any Addenda to the Agreement.

In the event of any conflict between or among the provisions contained in the Agreement, the order of precedence shall be as enumerated above.

III. Pricing

1. Salary.

Kentucky Public Pensions Authority shall pay Employee, as compensation for the performance of his obligations under this Agreement, a base annual salary of ~~\$200,000~~ 228,960 and benefits as determined and set forth herein. ~~The total cost of this Agreement will not exceed 386,867.00.~~ Employee understands that no variable or performance linked compensation may be paid during the term of this agreement. Any and all changes to this Agreement must be processed in the same manner as the original Agreement. The salary shall be paid in such periodic installments as KPPA pays its other employees.

IV. Invoicing

1. Payment.

Payment is processed through the Commonwealth of Kentucky's KHRIS system.

2. Travel Expenses.

Kentucky Public Pensions Authority may reimburse the Employee for travel expenses in accordance with the state regulations established by the Finance and Administration Cabinet and in compliance with Kentucky Revised Statutes and Kentucky Administrative Regulations upon receipt of approved documentation.

3. Other Expenses.

The Employee shall be reimbursed for no other expenses of any kind, unless and except as specifically authorized within the specifications of this Agreement or authorized in advance and in writing by the Chair of the KPPA Board.

If reimbursement of such expenses is authorized, the reimbursement shall be only on an out-of-pocket basis. Request for payment of same shall be processed upon receipt from the Employee of valid, itemized statements submitted periodically for payment at the time any fees are due. The Employee shall maintain supporting documents that substantiate every claim for expenses and shall furnish the same if requested by KPPA.

IN WITNESS WHEREOF, KPPA has caused this Agreement to be subscribed on its behalf by its duly authorized agent, and Employee has caused this Agreement to be subscribed on his behalf, as of the ___ day, _____, ~~2024~~ 2023. By affixing signatures below, the parties verify that they are authorized to enter into this Agreement and that they accept and consent to be bound by the terms and conditions stated herein. In addition, the parties agree that (i) electronic approvals may serve as electronic signatures; and (ii) this Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single contract.

KPPA:

Employee:

KENTUCKY PUBLIC PENSIONS AUTHORITY

DAVID L. EAGER

By: _____
Name: Keith Peercy
Title: KPPA Board Chair
Date: _____

By: _____
Name: David L. Eager
Title: Executive Director
Date: _____

APPROVED AS TO FORM AND LEGALITY:
KPPA's Office of Legal Services

By: _____
Name: Michael Board
Title: Executive Director, Office of Legal Services