

CIVIL SERVICE COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

MEMORANDUM

CSC No. 2014 – 20

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SANDRA ENG
ACTING EXECUTIVE OFFICER

Date: November 5, 2014

To: Department Heads
Personnel Officers
Departmental Contract Coordinators

From: Sandra Eng
Acting Executive Officer

Subject: **Policy and Procedures on Personal Services Contracts**

The purpose of this memorandum is to serve as a comprehensive guide on the Civil Service Commission's ("Commission") Rules and policies on Personal Services Contracts ("PSCs") as updated and adopted by the Commission at its meeting on November 3, 2014. This memorandum shall serve to supersede all previously-issued memorandums on PSCs.

The Commission has delegated to the Department of Human Resources ("DHR") the authority to update and reissue the instructions for PSC submissions, consistent with the Commission's policies. DHR's updated PSC submission guidelines issued on October 25, 2013 are attached to this memorandum for reference, though they may be updated by DHR as needed. The most current submission guidelines may be located on the Commission's website at [www.sfgov.org/Civil Service](http://www.sfgov.org/Civil_Service).

Authority

Consistent with its Charter authority to oversee the merit system, the Commission sets policy on the review of proposed PSCs. This authority is underscored through case law and City Attorney's Opinions. The policy is that where there is a merit system, services to the public are to be provided by public employees hired through that merit system. Based on criteria specified in this memorandum, the Commission *determines if the scope of service is appropriate for contracting out.*

Longstanding Policy and Procedures

The Commission has adopted a number of policies and procedures on PSCs over the years. On December 5, 1994, the Commission issued revised policies and procedures that clarified the roles of the Commission and DHR, streamlined and expedited the processing of PSCs, and provided for monitoring and auditing of the contracting procedure. The Commission and DHR jointly issued updated PSC policy and procedures on September 16, 1996, and the Commission reiterated its policies in a memorandum on May 30, 2007. Those policies and procedures remained in place unchanged until the Commission updated and reissued its policy with the launch of the City's PSC database on October 25, 2013. The Commission updated its policy again with the issuance of this memorandum, primarily to provide more guidance on reporting and notice requirements for contracts executed during the preceding year under approved PSCs.

Although the Commission has updated its policies and procedures on PSCs, it is important to note that they continue to include the following critical components: a streamlined Commission approval process; notice requirements to ensure transparency and accountability; an appeal procedure to ensure merit system oversight; an approval option consistent with the City and County's budgetary time frames and process; and a list of compelling circumstances that may be considered in approving the use of personal services contracts.

Personal Services Contract Review Criteria

When reviewing a request for a PSC, the initial questions that are addressed are: 1) Is there an existing civil service class that can perform the required work? 2) Is it feasible or practical for civil service employees to perform the work? 3) If there is no current class, should one be created?

When there is no current class with the duties and responsibilities needed to perform the required work, a determination is made as to the feasibility of establishing a new class. If services are short-term and non-repetitive or so specialized and unique that they could not be appropriately performed by city personnel, establishing a new class may not be practical and the use of a contract may be appropriate.

If there are civil service classes that can perform the work, examples of compelling factors that may be considered as appropriate reasons for contracting out are:

- 1) Immediately needed services to address unanticipated or transitional situations, or services needed to address emergency situations. "Transitional situations" are those instances when contracting out is needed to bridge relatively short periods of time, such as during organizational restructuring that may be mandated by law or policy, or to facilitate a department's efforts to contract in services.

- 2) Short-term or capital projects requiring diverse skills, expertise and/or knowledge.
- 3) Services required on an as-needed, intermittent, or periodic basis (e.g., peaks in workload).
- 4) Regulatory or legal requirements, or requirements or mandates of funding source(s) which limit or preclude the use of Civil Service Employees.
- 5) Services that require resources that the City lacks (e.g., office space, facilities or equipment with an operator).
- 6) Circumstances where there is a demonstrable potential conflict of interest (e.g., independent appraisals, audits, inspections, third party reviews and evaluations).
- 7) Cases where future funding is so uncertain that the establishment of new civil service positions, classes or programs is not feasible (including situations where there is grant funding).

Provided that there are compelling circumstances such as those listed above, the Commission may approve the use of a PSC even if there is an existing class.

The Role of the Department of Human Resources

DHR reviews all requests for PSCs and modifications to previously approved PSCs submitted by departments to determine if the request complies with the Commission's policies. DHR then posts and forwards to the Commission requests for PSCs in excess of \$100,000 and those requests for PSC modifications that require Commission approval pursuant to this policy.

Requests for PSCs of \$100,000 or less do not require Commission approval. Instead, these PSCs, referred to as "Expedited PSCs," are reviewed and approved by DHR (PSCs in excess of \$100,000 are referred to as "Regular PSCs").

Misuse of Expedited PSCs is prohibited. For example, the use of PSCs for multiple vendors for the same scope of services in the same department that cumulatively exceed \$100,000 require DHR and Commission approval. Expedited PSCs where funding is added so that the total exceeds \$100,000 and requests to modify an approved Expedited PSC so that the amount exceeds \$100,000, must also be submitted to DHR and then the Commission for approval.

Departmental Personal Services Contract Coordinator

Each City and County department that regularly utilizes PSCs must designate a departmental PSC coordinator. The PSC coordinator works closely with DHR and Commission staff to expedite the review of proposed contracts by explaining the evaluation criteria to departmental

personnel and by ensuring that the proper documentation is sent to the Commission through DHR in a timely manner.

Requests for Personal Services Contracts

1) Timing of PSC Approval Submissions

In order to facilitate and streamline the PSC approval process, departments are required to utilize the Citywide Personal Services Contract Database (“PSC Database”) for all PSC submissions. Departments must submit one request for a specific service regardless of the number of vendors.

Departments may submit proposed PSCs for approval as soon as the need arises and prior to the award of contract. (This is particularly important since most if not all of the City’s Collective Bargaining Agreements have advance notice requirements of thirty to sixty days.) Early submittals will expedite the PSC review and approval processes to ensure that the needed services can be performed as soon as possible.

2) PSC Approval Durations

Under the Commission’s previous policies and procedures, departments were required to indicate specific effective and expiration dates for PSC approvals. However, there may be unanticipated delays in the contracting process, such that the actual contract award may occur several months to a year after the PSC was approved. Therefore, departments now have the option of requesting PSC approval by duration (e.g., one year, 18 months, three years, etc.) instead of by specific effective and expiration dates, in order to provide departments with more flexibility and time to conclude the often time-consuming contracting process. Any request for PSC approval in terms of duration (instead of specific effective and expiration dates) must be specifically and explicitly stated on the department’s PSC submission.

Again, this is at the department’s option and will depend on the circumstances; however, the first contract(s) under an approved PSC measured in terms of duration must be executed within one calendar year of the Commission meeting date at which the PSC was approved (or date of DHR approval, if it is an Expedited PSC). In the event that the department still wishes to contract out those personal services, but fails to execute a contract under the PSC within one year of approval, the department must submit a new request for PSC approval. Such request must include a copy of the previously approved PSC, and an explanation as to why the department was unable to execute a contract under that PSC within the one-year deadline.

3) Retroactive Requests for Extensions

The Commission also recognizes that there may be rare circumstances when a PSC for an active contract must unexpectedly be extended for a period of time without enough notice for the department to request the Commission’s approval to modify the duration

prior to its expiration. In such event, departments may submit a retroactive request to extend the duration of an approved but expired PSC, provided that it is within one year of the PSC's expiration, and with adequate justification as to why the department was unable to submit a timely request for modification. Requests beyond the one-year expiration date require the submission of a new request for PSC approval (and assignment of a new PSC number), irrespective of whether the contract under the PSC is still active.

4) Deadlines for PSC Submissions

Departments must comply with all applicable DHR and Commission PSC deadlines as stated in DHR's PSC guidelines. All deadlines are necessary to allow sufficient time for DHR staff review, report preparation, and distribution of reports to the Civil Service Commissioners. Cover letters are generally not necessary, except in instances when there are unusual circumstances requiring an explanation to expedite or facilitate the review process. Departments must either upload the cover letter and/or explanatory memorandums into the PSC Database directly, or include the text of any such document(s) in the appropriate PSC Database field.

PSC requests submitted after a deadline will be considered at a subsequent Commission meeting. In emergency or urgent situations when it becomes necessary for PSC Coordinators to submit PSC approval requests after a deadline, the PSC Coordinator must obtain the Human Resources Director's approval (for DHR deadlines) and/or the Executive Officer's approval (for Commission deadlines). For requests to waive a Commission deadline, the department must provide a written memorandum to the Commission outlining the reason(s) why it could not meet the applicable deadline and the likely consequences of denying the request.

5) Content of PSC Submissions

PSC requests must be comprehensive and thorough, and each question in the PSC Form 1 should be answered. When drafting the PSC request, departments should keep in mind the purpose of the Commission's review and focus the information appropriately. Information must be brief, but specific. Background material and information must be included to clearly and sufficiently describe the specific service to be provided. It is crucial to clearly and adequately explain why City employees cannot perform the services being requested in the PSC. Accompanying memoranda are not required but are recommended if there are circumstances that require further explanation or if additional background information is needed.

Departments should also remember that, in the interest of transparency, the description of the scope of work to be performed should be clear and specific so that a member of the public can understand what services will be contracted out by the notice of posting (this includes spelling out all acronyms).

Requests citing a legal or regulatory authority must cite that authority and include an excerpt of the applicable provision. In the event that a board or commission determines that contracting out is the most effective way to provide the services to be performed under a PSC, the department must include a copy of the resolution or other legislative action of such decision. Additionally, requests to contract out services for which the Commission has previously approved a PSC must include a copy of the prior PSC.

Personal Services Contract Submissions and Scope of Approvals

A department may only contract out personal services for the duration, amount, and type and scope of services specified in the approved PSC. Departments are required to resubmit a PSC request (either as a request for a new PSC, or as a request for a "Modification" to change existing PSC, as noted below) when the circumstances of the original request change.

The following are changes that require Commission approval. All other changes require only DHR approval.

1. Changes to the type or scope of service provided under a PSC approved by the Commission; or
2. Changes in legal or grant requirements for contracting under a PSC approved by the Commission; or
3. Increases over fifty percent (50%) of the Regular PSC contract amount last approved by the Commission or the Expedited PSC contract amount if the requested increase amount will exceed the \$100,000 threshold; or
4. Extensions beyond the estimated term approved by the Commission for any length of time greater than fifty (50%) of the original duration approved by the Commission. As indicated above, departments may request a modification to extend a PSC that has expired in order to allow completion of the contracted services, provided that it is within one year of the expiration of the approved PSC duration.

Generally, any changes to an existing PSC must be submitted as a request for a Modification (as opposed to as a new PSC), with the following exceptions:

1. At its discretion, a department may submit a request for a new PSC (as opposed to a request for a Modification) to continue contracting out the same or substantially same services if it will extend the total duration of the PSC beyond ten (10) years. If it will not extend the total duration of the PSC beyond ten years, the department must submit the request as a modification to an existing PSC.

2. Departments must submit a request for a new PSC approval any time a department is seeking to include new or materially different services not contained in the approved PSC.

Any request for Commission PSC approval under either circumstance must include sufficient background information on the history of the PSC(s) under which the services have been provided, a copy of the Form 1 for last approved PSC and any documentation attached thereto, any changes in circumstances since the last time the PSC was reviewed (e.g., if any of the services have already been completed and therefore no longer require contracting out; if the training component has already been satisfied), and explanation of the reason(s) for the requested modification(s).

Union Notice

Departments are required to notify affected employee organizations of a department's request for new PSCs (both Regular and Expedited PSCs) or modification thereto, prior to or at the time of forwarding the request for DHR review. A copy of the notice from the department to the applicable employee organization must be attached with the department's submission to the Commission. Some Collective Bargaining Agreements have additional requirements that must be considered in this process. Departments must refer to the applicable Collective Bargaining Agreement to determine the additional requirements.

Posting

All requests for new or modified Expedited or Regular PSCs must be posted on the DHR website for seven (7) calendar days. The posting must include the PSC number, the estimated amount, the scope of work to be considered, and the estimated duration.

If the department is requesting an annual amount for a multi-year request, the posting must specify either the total of the multi-year request or reflect that the amount is an annual amount. For example, a request indicating \$1,000,000 estimated annual amount for five (5) years will be listed on the Commission Agenda as "\$5,000,000" or "\$1,000,000 annually" with the duration clearly posted as five (5) years.

Affected employee organizations must also be notified of the posting.

In limited circumstances and with sufficient justification, the Commission may grant a department's request to omit the posting process and go directly from DHR review to Commission review. Again, the department must provide a memorandum detailing the reasons for the request to waive posting requirements and the consequences of denying that request. PSCs for which an "Omit Posting" has been approved shall be placed on the Regular Agenda.

Protests and Appeals (Civil Service Commission Rule Series 05.12)

Expedited PSCs: Protests of a posted proposed Expedited PSC must be received by the Human Resources Director by close of business on the seventh calendar day of posting. In the absence of any timely protest, approval of an Expedited PSC becomes final on close of business of the seventh calendar day of posting. An appeal of the Human Resources Director's action on a timely protest of a proposed Expedited PSC may be appealed to the Commission, provided such appeal is received by the Executive Officer by close of business on the fifth working day (excluding Saturdays, Sundays, and holidays) following the postmarked mailing/email date of notification of the Human Resources Director's action.

Regular PSCs: An appeal of a posted proposed Regular PSC may be appealed to the Commission, provided such appeal is received by the Executive Officer by close of business of the seventh day of posting.

Timely appeals will generally be considered by the Commission at its next regularly scheduled meeting. DHR forwards Personal Services Contracts submissions over \$100,000 where no appeal has been filed to the Executive Officer to calendar on the Ratification Agenda.

PSCs that are appealed will be placed on the Commission's Regular Agenda and will be considered by the Commission separately. Departments are required to have representatives present to respond to questions or provide clarification on the need for contractual services. If a department representative is not present, consideration of the PSC will be postponed to another meeting.

Ratification Agenda

The Ratification Agenda is essentially a Consent Agenda used exclusively for expediting the processing of uncontested proposed PSCs and will precede the Consent Agenda on the Commission's calendar. Although they may provide public comment on a proposed PSC, individuals seeking to sever a proposed PSC from the Ratification Agenda must provide adequate justification to the Commission for their request and why they did not protest or appeal the item when they had the opportunity to do so.

Civil Service Commission Approval

The Commission determines whether the circumstance pertaining to the need to provide services warrants the use of a PSC or contractors in lieu of civil service employees. PSCs include agreements for services paid by the City and County of San Francisco with individuals, companies, corporations, non-profit organizations, and other public agencies.

The Commission's role is distinguished from the roles of City departments, other commissions and the City Administrator. It is not the Commission's role to be involved in the selection of

individual contractors or the cost of such services. Again, the role of the Commission is to determine whether contracting is warranted; the selection of the individual contractor is done by City departments, with oversight and final decision making authority exercised as appropriate by commissions and the City Administrator.

Nor is it the Commission's role to determine positions where work or services can be performed by contract at a lesser cost than similar work performed by City and County employees. By Charter definition (Section 10.104-15), this function, often called "Prop J" contracting, is performed by the Controller and the Board of Supervisors.

The Commission retains final authority to approve PSCs after DHR review and posting. The Commission strongly recommends that a department representative attend the Commission meeting at which the department's request for PSC approval will be heard in order to answer any questions the Commission may have regarding that PSC. Failure to appear and/or sufficiently respond to the Commission's questions may result in only conditional approval, postponement or denial of the PSC. However, as noted above, attendance is required in the event that a PSC request is appealed; failure to attend will result in automatic postponement.

The Commission recommends that departments come forward to the Commission as soon as possible in the contracting process, in recognition of the fact that the actual contract award may occur months, and, for multiple year contracts, as much as a year after the Commission's approval.

Generally, unopposed PSCs in an amount greater than \$100,000 are placed on the Commission's Ratification Agenda for either regular, continuing, annual, or qualified approval:

The Commission may grant an annual approval so that a proposed contract may be included in a department's annual budget consistent with the City and County's budgetary timeframes and process. These approvals occur simultaneously with the budget process and must be submitted to DHR by March 1st. In the event the Mayor's budget deadlines are changed, the Human Resources Director is authorized to change the submission dates to conform to the revised schedule, provided that the PSC instructions are updated accordingly and the Executive Officer is notified of any changes to the schedule.

Continuing approval is granted by the Commission to comply with policy, funding or legal mandates. For example, those instances where: legal mandates direct the use of contractual services; or State or Federal funding requirements specify use of contractual services; or a City board, commission, the City Administrator, an elected official, or the Controller has determined that contracting is the most effective way to provide health and human welfare services; or the Retirement Board, consistent with its Charter and State constitutional authority, has determined that contracting is the most effective way to

deliver investment management and actuarial services. Continuing approval is valid until revoked by the Commission. Unless otherwise authorized by the Commission, in the event that the Commission revokes its continuing approval for a PSC, the department may not execute any new contracts under that PSC; nor may the department increase the duration or amount of, or expand upon the scope of personal services contracted out under, any contracts executed under the authority of that PSC. However, revocation of continuing approval shall not serve to nullify contracts executed under that PSC, nor otherwise conflict with the City's contractual obligations.

Regular approvals may be granted for those circumstances where annual or continuing approvals do not apply.

The Commission may also grant an interim, conditional approval known as "qualified approval" pending consideration of alternatives, requirements to report back to the Civil Service Commission or submission of additional information. Typically included with a qualified approval will be a request to the department to examine the feasibility of either budgeting positions in appropriate classification or obtaining a Proposition J contract certification.

Commission staff will issue a notice of the Commission's action to the departmental PSC Coordinator, the Controller's Office and the Office of Contract Administration. The PSC coordinator will also receive separate notifications whenever a Qualified Approval is granted by the Commission. Departments must maintain copies of Commission notifications for their files, as well as upload them into the PSC Database.

Reporting and Additional Requirements

PSCs with Regular and Annual Approval

Departments are required to submit information to DHR regarding the names, contract amounts and durations for all personal services contracts issued under an approved PSC at the time that those contracts are processed for award. DHR, in turn, is required to submit that information for all PSCs awarded during the preceding year to the Commission no later than August 1st each year. Such DHR PSC contract award reports shall be made available for public inspection in the Commission's offices and on its website.

PSCs with Continuing Approval

For all PSCs for which the Commission approves a request for continuing approval, the requesting department must provide the Commission with annual reports listing the contracts awarded under the continuing approval. The annual report must include a memorandum providing a brief history of the PSC(s) that are being submitted in accordance with this reporting requirement and an overview of the services contracted out under the PSC(s), and attached thereto must be: the Form 1(s) for any PSC(s) with Continuing approval covered under that report; supporting documentation relevant to the PSCs (e.g., copies of any

applicable policy, funding or legal mandates); and the name(s) of the contractor(s), type(s) of service(s), amount(s), and duration(s) of the contract(s). The annual reports must also indicate if there have been any changes to the affected classes or unions since the last report was given. The annual reports are to be submitted to the Commission with a Transmittal Form 22 (which must also identify all affected unions) no later than August 1st of each year for the prior fiscal year. Once received, the Executive Officer shall place the reports on the Consent Agenda for the following Commission meeting, and forward a copy to the affected union(s) identified on the Transmittal Form 22. Such reports shall be made available for public inspection in the Commission's offices and on its website.

In addition, departments are required to notify the affected union(s) each time that a Request for Proposal ("RFP")/Request for Quote ("RFQ") is issued for a contract under the authority of a PSC with continuing approval, and provide the affected union(s) with a link to that RFP/RFQ.

QUESTIONS

Questions on Civil Service Commission Rules or policies regarding PSCs as detailed herein may be directed to Commission staff at (415) 252-3247. Questions regarding the procedures for submitting PSCs as detailed in DHR's instructions and guidelines may be directed to the DHR PSC Coordinator at DHR-PSCcoordinator@sfgov.org.

CIVIL SERVICE COMMISSION



SANDRA ENG
Acting Executive Officer

Attachment (1)

Cc: E. Dennis Normandy , President
Douglas S. Chan , Vice President
Kate Favetti , Commissioner
Scott R. Heldfond , Commissioner
Gina Roccanova, Commissioner
Micki Callahan, Human Resources Director

City and County of San Francisco
Resources




Department of Human

Edwin M. Lee
Mayor

Micki Callahan
Human Resources Director

DATE: October 25, 2013

TO: DEPARTMENT PERSONNEL OFFICERS
DEPARTMENT PERSONAL SERVICES CONTRACT COORDINATORS

FROM: MICKI CALLAHAN, HUMAN RESOURCES DIRECTOR 

SUBJECT: INSTRUCTIONS FOR PROCESSING PROPOSED PERSONAL SERVICE CONTRACTS

On May 6, 2013, the Civil Service Commission ("Commission") approved revisions to its policies, procedures and guidelines for approving requests by City departments for personal services contracts ("PSCs"). Those revisions are fully explained in the Commission's October 25, 2013 memorandum. Among its actions, the Commission delegated to the Department of Human Resources ("DHR") the responsibility for updating and reissuing instructions for PSC submissions consistent with the Commission's policies.

The purpose of this memorandum is to provide departments with detailed instructions for submitting and processing requests for PSCs before the Commission and the City's Human Resources Director effective as of October 25, 2013. This memo is an attachment to the Commission's October 25, 2013 memorandum on PSC policies.

1) OVERVIEW

PSCs are contracts paid for by the City and County of San Francisco ("City") for services provided by individuals, companies, corporations, nonprofit organizations and other public agencies. A PSC request covers a specific service regardless of the number of vendors.

The Commission determines the City's policy on the review and approval of proposed PSCs. The Commission's policy provides that, as a general rule, services are to be provided to the public by public employees hired through the merit system. However, the Commission's policy also recognizes that there are circumstances that may warrant the use of personal services contracts as a mechanism for the City to provide some of its services.

DHR reviews all requests for new or modified PSCs to determine whether they comply with the Commission's policies. DHR then posts all PSC requests and transmits those PSC requests that require Commission approval to the Commission.

The Commission has established a list of factors, which it revised on May 6, 2013, that it considers to be among the compelling factors for contracting out even when there are existing civil service classes that can perform the work of the proposed PSC. The Commission's list of factors, however, is not intended to be exhaustive, but rather to be demonstrative of the types of circumstances that may warrant the contracting out of personal services that could potentially otherwise be performed by civil service employees. For specific information on the factors pre-identified by the Commission, please refer to the Commission's policy (see attached, or go to the Commission's website at www.sfgov.org/Civil_Service).

2) PSC BASICS

- **Department PSC Coordinator:** Each City department that utilizes PSCs must have a department PSC coordinator. The department PSC coordinators are responsible for the submission of their departments' PSC requests. They are authorized by the department head/appointing authority to determine when their departments' PSC requests are ready for review by either the Human Resources Director or the Civil Service Commission. The department PSC coordinator works closely with DHR and Commission staff to expedite the review of proposed contracts, including explaining the evaluation criteria to department personnel and ensuring that the proper documentation is sent to the Commission through DHR in a timely manner. Each City department must notify DHR of the name, email address and telephone number of its departmental PSC coordinator.
- **Scheduling a PSC request before the Commission:** Departments may submit proposed PSCs for Commission or DHR approval as soon as the need arises, and must do so prior to the award of a contract. The practice of early submittal will expedite startup of the desired service(s).
- **Entering PSC requests into the PSC Database:** The PSC database collects the contents of the PSC Form 1 and PSC Award Notice ("PSC Form 2"), as well as additional relevant documents and information. Departments must submit all PSC requests through the PSC database.
- **Notifying affected union(s) of a PSC request:** Departments must notify the union(s) that represents City employees who could potentially perform the work of the proposed PSC through the PSC database. Please check each relevant Memorandum of Understanding (MOU) for the appropriate notice requirements.
- **Posting PSCs publicly:** DHR generally posts regular PSC requests to its website on a bi-monthly basis. DHR posts expedited PSC requests to its website at the time that a department submits the PSC request to DHR for review and approval. The DHR website is located at www.sfdhr.org.
- **Processing a PSC request through DHR:** Once a PSC is ready for review, the department PSC coordinator must notify the DHR PSC coordinator through the PSC database by changing the PSC request's status to "Ready for Review by DHR."
- **Appealing a PSC request:** All PSC requests (regular and expedited) are appealable.

3) TYPES OF PSCs

DHR staff review all PSC requests. PSC requests are either regular or expedited. Regular PSCs are approved by the Civil Service Commission and expedited PSCs are approved by the Human Resources Director.

- Expedited PSCs – PSC requests that are less than or equal to \$100,000
- Regular PSCs – PSC requests that exceed \$100,000 (May be approved under one of three subcategories):
 - Continuing
 - Annual
 - Qualified

EXPEDITED PSCs - \$100,000 AND UNDER

- The Human Resources Director has the authority to approve all requests for expedited PSCs.
- DHR will complete its review of each expedited PSC request within seven (7) calendar days concurrently with the posting period.
- Expedited PSCs must contain the same information required of regular PSCs, and they are reviewed based on the same criteria as regular PSCs.
- The DHR PSC Coordinator will notify the department PSC Coordinator of the result of DHR's review once the seven-day review period has ended.
- Departments may not circumvent the \$100,000 expedited PSC threshold amount by submitting multiple PSCs for the same vendor to provide the same type of service for approximately the same period of time.
- When an expedited PSC is modified for less than 50% of its originally-approved amount or duration, but exceeds the \$100,000 threshold amount for expedited PSC requests, it goes to the Commission for approval through the procedures for regular PSC requests.
- Expedited PSCs that are modified to the extent that they require Commission approval will retain the same PSC reference number.

REGULAR PSCs – OVER \$100,000

- The Commission has the authority to approve all requests for regular PSCs.
- The DHR PSC Coordinator will review all regular PSC requests and notify the department PSC Coordinator when a PSC request is ready to be scheduled before the Commission.

4) SCHEDULING A PSC REQUEST BEFORE THE COMMISSION

- Scheduling a PSC request before the Commission may vary based on the type of PSC approval required, advance notification requirements in the applicable memoranda of understanding (MOU(s)) with the union(s) representing classifications potentially affected by

the PSC request, or whether a union initiates discussions with a department about a proposed PSC, as well as the Commission's schedule.

- The PSC database includes a reference chart of deadlines for document submission before each regularly scheduled Civil Service Commission meeting. Please ensure that your department's PSC submission conforms to the submission deadlines. The chart is also located on the DHR website at <http://www.sfdhr.org/index.aspx?page=419>.
- Submission and notice deadlines are necessary to allow sufficient time for DHR staff review, to ensure MOU compliance, and to allow for the preparation and distribution of the report packet to the Civil Service Commissioners before each Commission meeting.
- In rare circumstances, the Human Resources Director may waive DHR deadlines and/or the Commission's Executive Officer may waive Commission deadlines if a department misses a submission deadline for inclusion on a particular Commission meeting agenda. When a department requests a deadline waiver, a cover letter with an explanation for the request must be submitted for the request to be considered. If a deadline waiver request is not granted, the PSC request will proceed according to the regular timelines.

5) ENTERING PSC REQUESTS INTO THE PSC DATABASE

The City's new PSC database has improved capabilities for DHR, City departments, the City's unions, and the public to monitor PSC requests, approvals and conditional approvals; to access information on specific PSC requests; and to generate several types of reports on PSCs.

Departments will no longer need to submit the PSC Form 1 as a Microsoft Word document; rather, departments will be able to directly enter the required information into the PSC database¹ and the database will automatically populate the PSC Form 1 with all required information into a pdf format. After the information is entered by the department, the database will generate required notifications by email on behalf of the requesting department, DHR or the Commission. The PSC database can be accessed at <http://apps.sfgov.org/dhrdrupal/>.

When completing the PSC database fields, please keep in mind the following instructions:

- Provide brief but specific information to assist the Commission in determining whether the circumstances requiring the PSC request are compelling enough to contract out work when civil services class(es) exist to perform work within the same scope;
- Include background material and information to clearly and completely describe the specific services or work to be provided;
- Clearly explain the reasons why City employees cannot perform the services or work being requested;
- Spell out all words before using an acronym for the first time;
- Do not simply use "not applicable" or "N.A." The department must explain why there is no response to a particular item; and

¹ The City and its unions have agreed to add additional fields in the database to collect information of interest to the unions with the intent of expediting discussions between the requesting department and affected unions on a specific PSC request. Populating the additional fields in the database may facilitate a department's request for a waiver by the union(s) of the advance notification requirements in the MOUs.

- Departments are not required to provide specific contract effective and expiration dates; rather, departments will provide the duration of contracts (e.g., the number of years or months the department seeks to contract out the work). Departments must begin the contract within a calendar year of the Commission's approval of the PSC. The PSC database will capture the number of years and months and the estimated start and end dates.
- PSC requests do not require cover letters. However, a department may submit a cover letter in the event unusual circumstances arise and an explanation may be necessary to expedite the review process.
- PSC requests that cite a legal or regulatory authority must include a copy of such authority (PSC Form 1 Question #5c or 5d). Likewise, if applicable, departments must include a copy of the board or commission action determining that contracting is the most effective way to provide the service (PSC Form 1 Question #5e). These documents can be uploaded to the PSC database.
- The Commission is critical of PSC requests of five years or greater since circumstances can change so greatly in such a significant amount of time. Therefore, the Commission asks the department to provide an explanation in support of such a request, either in a separate attached memorandum or indicated somewhere on the PSC Form.
- Always view and proofread the PDF of the PSC Form 1 produced by the PSC database prior to notifying the affected unions/submitted to DHR. Substantial revisions to the PSC request may result in delays of the PSC request's processing.

6) NOTIFYING AFFECTED UNION(S) OF A PSC REQUEST

- Departments must notify the union(s) representing classifications of employees potentially affected by a regular PSC request: Most MOUs require greater notice than the notice requirement in the Commission's policy—generally thirty (30) days' notice prior to the PSC request's submission to DHR, or at the time the department issues a Request for Proposals ("RFP")/ Request for Qualifications ("RFQ"), whichever occurs first. One notable exception is the SEIU Local 1021 MOU, which requires notice to the union sixty (60) days prior to the PSC request's submission to DHR, or at the time the department issues a Request for Proposals ("RFP")/Request for Qualifications ("RFQ"), whichever occurs first. However, notification requirements differ depending on the specific terms negotiated with the affected union(s), and departments must check the relevant MOUs when processing a PSC request.
- Expedited PSC requests: Departments must notify affected unions of the department's expedited PSC request no later than the date of the submission of the request to DHR.
- Modifications of PSC requests: Departments must notify affected unions of a modification to an expedited or regular PSC request no later than the date of the submission of the request to DHR.
- The PSC database generates an email notification to affected unions identified by the department requesting the PSC at the same time the department sets the PSC request's status to "Start Union Notification."

- If a PSC request requires union notification, the PSC database automatically fills in the date the department notified the affected unions of the PSC request and the name of the person submitting the PSC request.
- If there are questions about which classes of employees are impacted by the department's PSC request, please work with your department's personnel unit and/or your assigned DHR Client Services representative. The online Classification and Compensation Database is also a resource for identifying the union that covers the civil service classification(s) affected by the PSC request's scope of work: <http://sfdhr.org/index.aspx?page=32>.
- If the PSC request is substantively changed in terms of scope of work, affected civil service classifications, duration or amount since the union notification, the department must provide affected unions and DHR with the final PSC Form 1 by email. Be aware that the MOU advance notification requirements may be triggered if the changes made to the PSC request were not a product of discussions with affected unions.
- If a PSC request does not identify a civil service classification potentially affected by the PSC request, the departments must notify all of the City's exclusive labor organizations through the PSC database. The MOU advance notification requirements are not required when no civil service classifications are potentially affected. However, departments are strongly advised to identify all potentially affected civil service classifications and to notify the respective unions of the PSC request so as not to delay the PSC unnecessarily. Failure to notify the affected unions could result in a grievance and/or delay in processing a PSC request.

7) PROCESSING A PSC REQUEST THROUGH DHR

- To initiate a PSC request, a department must enter all information required by the PSC Form 1 into the PSC database. When a PSC request is ready for review by DHR, the department PSC Coordinator will change the status of the PSC in the PSC database to "Ready for Review by DHR."
- Once the DHR PSC Coordinator receives notice that a PSC is ready for review, the DHR PSC Coordinator will review the information submitted by the department. If necessary, the DHR PSC Coordinator will contact the department PSC coordinator for additional required information or clarification.
- After the posting period is complete and the advance notice required by the affected unions expires, the DHR PSC Coordinator will schedule the PSC at the next scheduled Commission meeting and will prepare the PSC request's packet for the Commission's review. Each PSC packet must include the names of the individuals notified of the PSC request by the department because they represent unions affected by the PSC request.

8) POSTING PSCs PUBLICLY

- DHR generally posts PSC requests on its website at www.sfdhr.org every other Friday for seven (7) calendar days. The DHR PSC Coordinator emails a copy of the posted PSC requests to the Commission, department PSC Coordinators and affected unions on the day of the posting.

- DHR also posts all expedited PSC requests to its website for seven (7) calendar days once they are submitted to DHR for review.
- In the rare situation when a department may need to expedite a PSC request and omit the DHR posting process, the department must have approval from the CSC Executive Officer prior to submitting the PSC request to DHR for review. In requesting approval to omit posting, the department must provide the Executive Officer with sufficient information in support of the request, as well as the consequence of denial. The PSC request must be entered into the PSC database and the department PSC coordinator must change the PSC request's status to "Start Union Notification" prior to changing its status to "Ready for DHR Review." The PSC request must indicate that the posting process is to be omitted in the PSC database.

9) APPEALING A PSC REQUEST

- PSC requests may be protested and/or appealed in accordance with the Commission's PSC policy.
 - Regular PSCs: An appeal of a posted regular PSC must be filed in the Commission's office by close of business on the seventh (7th) day of posting by mail or hand-delivery with the appellant's original signature and email address. Appeal forms and instructions are located on the Commission's website at <http://www.sfgov3.org/index.aspx?page=267>.
 - Expedited PSCs: Protests of a proposed expedited PSC must be filed with the Human Resources Director via email to DHR-PSCCoordinator@sfgov.org by close of business on the seventh day of posting. The Human Resources Director's decision on a PSC protest is appealable to the Commission within five (5) business days after notice of such decision.
- DHR will notify the affected department of any timely protests it receives on an expedited PSC during the seven-day posting period. The Executive Officer will notify DHR and the affected department of any appeal it receives on a regular PSC or on the decision of the Human Resources Director on an expedited PSC protest.
- **Note:** If a union objects to a PSC request directly to the requesting department at any point, the department must inform DHR of the parties' dispute and the reasons cited for the union's objection to the PSC. If the department and the objecting union have not resolved all issues related to the PSC request before it is placed on a Commission agenda, the department must inform DHR and the Commission that the request is still in dispute.
- Uncontested expedited PSCs become final on close of business of the seventh day of posting; uncontested regular PSCs are placed on the Commission's Ratification Agenda for the Commission's review and approval.
- PSC appeals are placed on the Regular Agenda as a separate item for the Commission's consideration at the next regularly scheduled meeting following receipt of the appeal, in accordance with the Commission's timelines.
- Departments must send representatives to the Commission meeting to speak on any PSC appeal. Departments should approach PSC appeals as they would any other type of appeal—they should submit a staff report if possible and appropriate (along with any additional supporting documentation or materials, if applicable), and they should be prepared to

provide the Commission with a presentation in support of their PSC request. Please contact the Executive Officer for guidance on applicable staff report submission deadlines and other requirements.

- **Note:** Department representatives must attend the Commission meeting even in the absence of an appeal, in the event that the Commission severs a PSC from the Ratification Agenda to scrutinize it and/or obtain additional information.

10) **REGULAR PSC APPROVAL CATEGORIES: CONTINUING**

- The Commission may, at its discretion, grant "Continuing Approval" for a regular PSC request in situations where:
 - a. Legal mandates direct the use of contractual services;
 - b. State or Federal funding requirements specify use of contractual services;
 - c. A City board or commission, the City Administrator, an elected official, or the Controller has determined that contracting is the most effective way to provide health and human welfare services; or
 - d. The Retirement Board, consistent with its Charter and State constitutional authority, has determined that contracting is the most effective way to deliver investment management and actuarial services.
- Continuing Approval is valid until revoked by the Commission.
- If the Commission approves a request for Continuing Approval, the requesting department must provide the Commission with an annual report listing the contracts awarded under the Continuing Approval. The department's annual report must include the name of the contractor, type of service, amount, and duration of the contract.

11) **REGULAR PSC APPROVAL CATEGORIES: ANNUAL**

- The Commission may grant "Annual Approval" for a regular PSC request in situations where a proposed contract is included in a department's annual budget.
- Appeals of PSC requests seeking Annual Approval will be considered by the Commission not later than its first meeting in April.
- In the event the Mayor's budget deadlines are changed, the Human Resources Director is authorized to change the deadlines for PSC requests seeking Annual Approval to conform to the revised budget schedule. DHR will notify the Commission's Executive Officer of any changes to the schedule.

12) **REGULAR PSC APPROVAL CATEGORIES: QUALIFIED**

- The Commission may grant a PSC request "Qualified Approval." This conditional approval is generally an interim measure with direction to the contracting department to consider other alternatives for providing the service if the need for the service is expected to be ongoing, and/or to provide the Commission with additional information, and/or to report back to the Commission on the status of performance under the contract, and/or to continue discussions with the affected labor union(s).

- When approving a PSC request with a Qualified Approval, the Commission may recommend that the department examine the feasibility of either budgeting positions in appropriate classifications or obtaining a Proposition J contract certification.
- When a PSC request is granted Qualified Approval, the department's PSC coordinator must work directly with Commission staff to meet the terms of the conditions the Commission placed on the PSC.

13) MODIFICATION OF AN EXISTING PSC (See attached chart)

- Departments are required to resubmit a request when the circumstances of the original request substantively change (e.g., changes to the type or scope of services provided, changes in legal or grant requirements for contracting, and any increases to the amount or duration of the PSC). This type of request is considered a "Modification."
- DHR reviews all modification requests and approves those requests that do not require Commission approval. Modifications which require Commission approval include:
 - Changes to the type or scope of services provided under a regular PSC; or
 - Changes in legal or grant requirements for contracting under a regular PSC; or
 - Increases of fifty percent (50%) or more over the current existing (last approved) regular PSC amount; or
 - Increases of fifty percent (50%) or more over the expedited PSC amount if it will increase the total amount of the PSC above the \$100,000 threshold.
 - Changes in the approved regular PSC contract duration that would increase the duration of the PSC by fifty percent (50%) or more above the original estimated duration approved by the Commission.
- In the event a department must request the Commission's approval to retroactively extend a PSC's duration, the department can do so within a year of the PSC's duration end date and retain its original PSC reference number. However, in such cases the department must provide the Commission with adequate justification for why it was unable to submit a timely request for modification, and it must not request to extend the PSC's duration for more than five years. DHR will not accept a request to modify a PSC more than one year after the PSC's approved duration. The department must submit a new PSC request.

14) AFTER PSC APPROVAL

- After a Commission meeting, Commission staff will enter the outcome of each PSC request into the PSC database. The Commission will email a "Notice of Civil Service Commission Action" to the DHR PSC Coordinator and the department's PSC coordinator. In the event the Commission grants a "Qualified Approval," Commission staff will include any conditions placed on the PSC's approval in its Notice of Civil Service Commission Action to the department PSC coordinator.
- After the Commission approves a PSC request, the department must include a copy of the PSC Form 1 and a copy of the notice of the Commission's action when processing the PSC through the Office of Contract Administration. The Commission separately provides a copy of its notice of action to the Office of Contract Administration and the Controller's Office.

- At the time PSCs are processed for award, the department must enter the information required by the PSC Form 2 (contractor name, contract amount and the contract's actual start and end dates) into the PSC database. The database will generate reminders to the department to input the information required by the PSC Form 2 beginning six months after the PSC's approval.
- DHR will generate a report of contract awards (PSC Form 2 information) for the Commission no later than August 1 of each year for the preceding fiscal year.

QUESTIONS?

If you have any questions about PSC procedures, the DHR PSC Coordinator can be emailed at DHR-PSCCoordinator@sfgov.org and the Civil Service Commission staff can be emailed at civilservice@sfgov.org.

ATTACHMENT - DHR PSC Memorandum October 25, 2013

PSC Types & Union Notification Guidelines		<u>Requires:</u> 30-Days Advance Notice to All Other Unions	<u>Requires:</u> 60-Days Advance Notice to SEIU	<u>Requires:</u> 7-Days Advance Notification to All Unions	Types of Approval Required
Initial PSCs:					
	Regular (> \$100K)	X	X		CSC
	Expedited (≤ \$100K)			X	DHR
Modify - Regular PSCs:					
	> 50% of Initial Duration			X	CSC
	> 50% of Last CSC Cumulative Approval Amount			X	CSC
	≤ 50% of Last CSC Cumulative Amount			X	DHR
	≤ 50% of Initial Duration			X	DHR
Modify - Expedited PSCs:					
	> 50% of Last CSC Cumulative Approval Amount (after the \$100K threshold)			X	CSC
	Cumulative Amount ≤ \$100K			X	DHR
	Change in Duration (prior to the \$100K threshold)			X	DHR