

CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

Sent via Electronic Mail

January 23, 2014

NOTICE OF CIVIL SERVICE COMMISSION MEETING

SCOTT R. HELDFOND
PRESIDENT

E. DENNIS NORMANDY
VICE PRESIDENT

DOUGLAS S. CHAN
COMMISSIONER

KATE FAVETTI
COMMISSIONER

GINA M. ROCCANOVA
COMMISSIONER

IFER C. JOHNSTON
EXECUTIVE OFFICER

SUBJECT: REVIEW OF REQUEST FOR APPROVAL OF PROPOSED PERSONAL SERVICES CONTRACTS NUMBERS 4063-13/14; 41779-13/14; 42606-13/14; 42862-13/14; 45476-13/14; 49993-13/14; 49011-13/14; 49198-13/14; 45090-13/14; 4045-04/05; 4063-11/12 AND 4161-08/09.

The above matter will be considered by the Civil Service Commission at a meeting to be held on **February 3, 2014** at 2:00 p.m. in Room 400, Fourth Floor, City Hall, 1 Dr. Carlton B. Goodlett Place.

This item will appear on the Ratification Agenda. Please refer to the attached Notice for procedural and other information about Commission hearings.

Attendance by you or an authorized representative is welcome. Should you or your representative not attend, the Commission will rule on the information previously submitted and testimony provided at its meeting. All calendared items will be heard and resolved at this time unless good reasons are presented for a continuance.

All non-privileged materials being considered by the Civil Service Commission for this item are available for public inspection and copying at the Civil Service Commission office Monday through Friday from 8:00 a.m. to 5:00 p.m.

CIVIL SERVICE COMMISSION

JENNIFER JOHNSTON
Executive Officer

Attachment

Cc: Cynthia Avakian, Airport Commission
Parveen Boparai, Municipal Transportation Agency
Cynthia Hamada, Municipal Transportation Agency
Jacquie Hale, Department of Public Health
Shamica Jackson, Public Utilities Commission
Sung Kim, Department of Public Works
William Lee, Department of Emergency Management
Brent Lewis, Department of Human Resources
Joe Valdez, San Francisco Police Department
Commission File
Commissioners' Binder
Chron

THIS DOCUMENT SUPPORTS
CALENDAR ITEM 8



Edwin M. Lee
Mayor

Micki Callahan
Human Resources Director

Date: February 3, 2014
To: The Honorable Civil Service Commission
Through: Micki Callahan
Human Resources Director
From: Brent Lewis, HRD
Cynthia Avakian, AIR
Sung Kim, DPW
William Lee, DEM
Cynthia Hamada, MTA
Joe Valdez, POL
Shamica Jackson, PUC
Jacquie Hale, DPH

Subject: Personal Services Contracts Approval Request

This report contain twelve (12) personal services contracts (PSCs) in accordance with the revised Civil Service Commission (CSC) procedures for processing PSCs that became effective on July 1, 1996.

The services proposed by these contracts have been reviewed by Department of Human Resources (DHR) staff to evaluate whether the requesting departments have complied with City policy and procedures regarding PSCs. The proposed PSCs have been posted on the DHR website for seven (7) calendar days. CSC procedures for processing PSCs require that any appeal of these contracts be filed in the office of the CSC, Executive Officer during the posting period.

No timely appeals have been filed regarding the PSCs contained in this report. These proposed PSCs are being submitted to the CSC for ratification/approval.

DHR has prepared the following cost summary for personal services contracts that have been processed through the Department of Human Resources to date:

Total of this Report	YTD Expedited Approvals FY 2013-2014	Total for FY 2013-2014
\$23,600,000	\$3,587,998	\$455,337,886

Brent Lewis
Department of Human Resources
1 South Van Ness Ave, 7th Flr.
San Francisco, CA 94103
(415) 557-4944

Jacquie Hale
Department of Public Health
101 Grove Street, Rm. 307
San Francisco, CA 94102
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Cynthia Avakian
Airport Commission
Contracts Administration Unit
PO Box 8097
San Francisco, CA 94128
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Sung Kim
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1155 Market Street, 4th Flr.
San Francisco, CA 94103
(415) 554-6417

William Lee
Department of Emergency Management
1011 Turk Street
San Francisco, CA 94102
(415) 558-3866

Cynthia Hamada
Municipal Transportation Agency
1 South Van Ness, 6th Flr
San Francisco, CA 94103
(415) 701-5381

Joe Valdez
Department of Police
850 Bryant Street, Rm. #577-17
San Francisco, CA

Shamica Jackson
Public Utilities Commission
525 Golden Gate Ave., 8th Flr.
San Francisco, CA 94102
(415) 554-0727

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PSC Submissions

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Modification PSCs

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**Posting for February 3, 2014
Proposed Personal Services Contract - Regular**

PSC No	Dept Description	PSC Amount	Description of Work	PSC Estimated Start Date	PSC Estimated End Date
4063-13/14	HUMAN RESOURCES	\$4,000,000.00	Provide Workers' Compensation medical bill review, utilization review, and medical case management services on a case-by-case basis for the City & County of San Francisco self-insured Workers' Compensation program.	5/1/2014	4/30/2018
41779-13/14	AIRPORT COMMISSION	\$1,000,000.00	Transportation Security Regulations Part 1542.209 requires the Airport and airline operators to check the background of those persons operating in and around the secured areas of the Airport by processing fingerprint-based criminal history records checks and security threat assessments. The Transportation Security Administration (TSA) has established Designated Aviation Channeling (DAC) service providers to support this federal regulatory requirement. Only firms that are TSA certified and authorized to operate (ATO) may provide this service.	2/5/2014	6/30/2019
42606-13/14	PUBLIC WORKS	\$5,000,000.00	The selected consultant ("consultant") will perform a full range of highly specialized services for the Islais Creek Bridge Rehabilitation Project ("Project"). The Project requires specialized engineering and environmental consultants with expertise in complex, major infrastructure projects, particularly seismic retrofit and rehabilitation of bascule bridges over water with a strong environmental/regulatory component. The consultant will perform the work in three phases. Phase 1 consists of a condition survey of the bridge, preliminary engineering, and environmental studies. Phase 2 consists of detailed design and preparation of construction documents. Phase 3 consists of providing engineering support during construction.	3/1/2014	3/31/2019
42862-13/14	PUBLIC WORKS	\$1,600,000.00	Department of Public Works (DPW) is seeking a team of qualified consultants to provide construction management support services to the City staff to address the specialized expertise and temporary peak workloads during the pre-construction and construction phases services of the new Office of Chief Medical Examiner (OCME) facility. Services include, but are not limited to, budgeting and cost estimating, construction scheduling, constructability reviews, construction administration, and Leadership in Energy & Environmental Design (LEED)/sustainable building construction management.	4/1/2014	12/31/2016
45476-13/14	EMERGENCY MANAGEMENT	\$500,000.00	Contractor will identify standards and establish benchmarks for effective recovery planning (in the event of a man-made or natural disaster) for the Bay Area Region, which includes twelve counties and the core cities of San Francisco, Oakland, and San Jose. Contractor will perform an analysis of current recovery efforts throughout the Bay Area and identify gaps and needs in recovery planning. Contractor will draft the Continuity of Operations (COOP) and Continuity of Government (COG) plans and develop training, exercise, and evaluation activities needed to strengthen, build on, and improve the Bay Area Region's recovery capabilities.	1/1/2014	12/31/2017

49993-13/14	EMERGENCY MANAGEMENT	\$200,000.00	Contractor will implement the following enhancements to the Bay Area Urban Areas Security Initiative (UASI) Resource Inventory Project: track the current status of emergency services equipment across county lines so that jurisdictions may easily communicate the current state of equipment for mutual aid during acts of terrorism or other catastrophic events; enhance the capability of the application to be compatible with modern mobile and tablet browsers for use in the field by emergency services workers; enhance the reporting capability to add a functionality to generate reports in the form of heat maps to help visualize the availability and distribution of resources in a given area; support and maintain the application for regional benefit.	2/1/2014	1/31/2016
49011-13/14	MUNICIPAL TRANSPORTATION AGENCY	\$2,700,000.00	The contractor will provide comprehensive drug and alcohol testing services for taxicab drivers in compliance with the Department of Transportation (DOT) and non-DOT Drug and Alcohol Testing Regulations. The contractor will provide an off-site facility to collect urine and breath samples to conduct pre-employment, post-accident, reasonable suspicion, and random testing for taxicab drivers in accordance with Federal and State regulations. California's Government Code section 53075.5 requires a drug and alcohol testing program for taxicab drivers to be substantially consistent with testing requirements of the Federal Code of Regulations, Title 49, Part 40 and Part 382.	3/1/2014	2/28/2017
49198-13/14	POLICE	\$2,000,000.00	The deoxyribonucleic acid DNA testing that the San Francisco Police Department (SFPD) is requesting for contract consist of extracting and testing samples of (DNA)-containing substances. The substance must be identified, confirmed as a DNA-containing substance, extracted and DNA strains and substances. Substances are tested through chemical and scientific processes. The cases that would be sent out for contract are those that current staffing has been unable to address. This will be an interim solution until new staff are recruited and trained.	4/1/2014	4/1/2017
45090-13/14	PUBLIC UTILITIES COMMISSION	\$500,000.00	The Digital Arts Wall is used to showcase and educate the public on the SFPUCs Water, Power and Sewer systems as well as provide real-time information about building performance relating to energy and water efficiency. This helps fulfill a Leadership Energy Environmental Design (LEED) requirement to incorporate educational components related to sustainability into a LEED certified building. Contractor will provide support and ongoing maintenance of the \$1.2M Digital Arts Wall located at 525 Golden Gate Ave. The Digital Arts Wall consists of (160) Christie Microtiles which provide a seamless digital video canvas with a resolution of 24,000 x 1,800.	1/6/2014	1/6/2017

Total Amount for Regulars: \$17,500,000.00

Posting for February 3, 2014
Proposed Personal Services Contract - Regular
Modification to Increase/Decrease Contract Amount/Duration

PSC No	Dept Description	Modified Amount	Cumulative Amount	Description of Work	PSC Estimated Start Date	PSC Estimated End Date
4045-04/05	PUBLIC HEALTH	\$2,500,000.00	\$3,800,000.00	Contractor will generate highly specialized step-down cost reports to allocate administrative and other costs to revenue-generate units of San Francisco General Hospital, Laguna Honda Hospital, and the Health At Home program. Contractor will work with Federal Intermediaries and State Agencies when reports are audited. Contractor will provide interpretation and analysis of new and proposed Medicare and Medi-cal regulations affecting reimbursement and optimize DPH's revenues and reimbursements within the regulations and instructions of Medicare, Medi-cal and other third party insurers. Contractor will pursue Medicare and Medi-cal appeals, as necessary, related to filed cost reports...including those formed prior to and during the length of this agreement.	4/1/2005	3/31/2019
4063-11/12	PUBLIC WORKS	\$3,600,000.00	\$5,400,000.00	As needed land surveying duties such as a single, 2-person or 3-person crew to assist with topographic, boundary and construction surveys, photogrammetric work, laser 3D scanner field and office assistance and training, Autocad Civil 3D drafting, help with special projects (monumentation, Geographic Information System (GIS) mapping, Global Position Satellite (GPS) network, etc.). Bureau of Street Use and Mapping (BSM) — Surveying Services anticipate awarding up to 12 as-needed contracts, each not to exceed 5 years.	1/2/2012	1/2/2020
4161-08/09	PUBLIC UTILITIES COMMISSION	\$0.00	\$5,000,000.00	Contract work consists of engineering design and cost estimates with additional environmental and permitting services for a Newark to San Francisco submarine High Voltage Direct Current (HVDC) power cable. The design work will include substation sites and transmission routes from the existing Newark Substation to a new substation on or near Treasure Island with additional possible connections in the Greater Bay Area. The environmental work includes preparation of California Environmental Quality Act (CEQA) documents, environmental background reports and permit applications. Coordination and work plan preparation; environmental document scoping; environmental background and field studies; alternatives analysis; preparation of draft environmental documents; public review of draft environmental documents; response to public comments; preparation of final environmental documents; and mitigation monitoring plan preparation.	1/1/2010	3/1/2019

Total Modified Amount: \$6,100,000.00

**Regular/Continuing/Annual
Personal Services Contracts**

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PERSONAL SERVICES CONTRACT SUMMARY

DATE: October 24, 2013

DEPARTMENT NAME: Department of Human Resources DEPARTMENT NUMBER 33

TYPE OF APPROVAL: EXPEDITED REGULAR (OMIT POSTING _____)
 CONTINUING ANNUAL

TYPE OF REQUEST:
 INITIAL REQUEST MODIFICATION (PSC# _____)

TYPE OF SERVICE: Workers' Compensation Bill Review, Utilization Review, & Medical Case Management Services

FUNDING SOURCE: General and Special Fund amounts budgeted in department's Workers' Compensation budgets

PSC AMOUNT: \$4,000,000 PSC DURATION: 5/1/2014 - 4/30/2018 (4 yrs.)

1 DESCRIPTION OF WORK

A. Concise description of proposed work:

Provide Workers' Compensation medical bill review, utilization review, and medical case management services on a case-by-case basis for the City & County of San Francisco self-insured Workers' Compensation program.

B. Explain why this service is necessary and the consequences of denial:

Medical bill review and utilization review is highly specialized and there are penalties for non-compliance. The City and County of San Francisco prefers a third party administrator to perform the services to minimize exposure for independent bill and medical review costs and reduce liability.

C. Explain how this service has been provided in the past (if this service was previously approved by the Civil Service Commission, indicate most recent personal services contract approval number):

The current third party administrator was approved on February 2, 2009 under Civil Service Commission contract number 4092-08/09. The City will issue a Request for Proposals to select the appropriate vendor.

D. Will the contract(s) be renewed: Subject to RFP evaluation and selection process.

2 UNION NOTIFICATION: Copy of this summary is to be sent to employee organizations as appropriate (refer to instructions for specific procedures):

SEIU, Local 1021, Miscellaneous;
UAPD; Teamsters, Local 856,
Supervising Registered Nurses

Union Name

Christina Quinica
Signature of person mailing/faxing form

10/24/13 ^{REVISED} 1/16/14
Date

Union Name

Signature of person mailing/faxing form

Date

RFP sent to _____
Union Name

, on _____

Signature

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# 4063-13/14

STAFF ANALYSIS/RECOMMENDATION: Approved MW 1/16/2014

CIVIL SERVICE COMMISSION ACTION:

3. DESCRIPTION OF REQUIRED SKILLS/EXPERTISE

A. Specify required skills and/or expertise:
Please see attached document.

B. Which, if any, civil service class normally performs this work?
8141, Workers Compensation Adjuster; 8165, Workers' Compensation Supervisor I; 2322, Nurse Manager; 2230, Physician Specialist; and 2232, Senior Physician Specialist.

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain: Yes, the contractor will provide proprietary software to gather data, evaluate and analyze medical trends.

4. WHY CLASSIFIED CIVIL SERVICE CANNOT PERFORM

A. Explain why civil service classes are not applicable:
Please see attached document.

B. Would it be practical to adopt a new civil service class to perform this work?
No, implementation of these services in-house would require extensive planning and analysis. The City does not have the budgetary resources to hire and maintain staff for medical bill review, the analysis software, or a full-time, dedicated, specialized utilization review physician network. The City does not have the workload to justify full-time positions for the utilization review physician specialists, but has a need for on-call physicians.

5. ADDITIONAL INFORMATION (if "yes," attach explanation)

A. Will the contractor directly supervise City and County employees?

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>

B. Will the contractor train City and County employees?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

- Describe the training and indicate approximate number of hours.
Please see attached document for further explanation.
- Indicate occupational type of City and County employees to receive training (i.e., clerks, civil engineers, etc.) and approximate number to be trained.
Please see attached document for further explanation.

C. Are there legal mandates requiring the use of contractual services?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
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D. Are there federal or state grant requirements regarding the use of contractual services?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
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E. Has a board or commission determined that contracting is the most effective way to provide this service?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
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F. Will the proposed work be completed by a contractor that has a current personal services contract with your department?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD:


Signature of Departmental Personal Services Contract Coordinator

Brent Lewis

557-4944

Print or Type Name

Telephone Number

1 South Van Ness Avenue, 4th Floor

San Francisco, CA 94103

Receipt of Union Notification(s)

◆ **Local 1021**

◆ **UAPD**

◆ **Local 856**

Dang, Leorah

From: Brusaca, Christina
Sent: Thursday, January 16, 2014 1:04 PM
To: jduritz@uapd.com; al@uapd.com; pfinn@ibt856.org; pattie.tamura@seiu1021.org; brook.demmerle@seiu1021.org; Tonette.Garcia@seiu1021.org; david.canham@seiu1021.org; Kirsten.Clemons@SEIU1021.org; shari.zinn@yahoo.com; roxanne.sanchez@seiu1021.org
Cc: DHR-PSCCoordinator, DHR; Lewis, Brent
Subject: RE: PSC Form 1-Workers' Compensation Bill Review, Utilization Review, Medical Case Management Services
Attachments: PSC-WC-BR-UR-MCM Revised 1.16.2014.pdf

Good afternoon,

The PSC Form 1 for Workers' Compensation Bill Review, Utilization Review and Medical Case Management Services was updated January 16, 2014, and Section 3A was revised. The State on Standards for Attestation Engagements were removed and the following sentence was added. "Capacity to handle at least 5,000 utilization review requests and 100,000 bill review requests per year."

Sincerely,

Christina Brusaca
Administrative Analyst
Department of Human Resources
City and County of San Francisco
Christina.brusaca@sfgov.org

From: Brusaca, Christina
Sent: Thursday, October 24, 2013 2:05 PM
To: Brusaca, Christina; 'jduritz@uapd.com'; 'al@uapd.com'; 'pfinn@ibt856.org'; pattie.tamura@seiu1021.org; brook.demmerle@seiu1021.org; Tonette.Garcia@seiu1021.org; david.canham@seiu1021.org; Kirsten.Clemons@SEIU1021.org; shari.zinn@yahoo.com; roxanne.sanchez@seiu1021.org
Cc: DHR-PSCCoordinator, DHR; Lewis, Brent
Subject: PSC Form 1-Workers' Compensation Bill Review, Utilization Review, Medical Case Management Services

Good afternoon,

Attached is the PSC Form 1 for Workers' Compensation Bill Review, Utilization Review and Medical Case Management services from the Department of Human Resources. The PSC amount is four million dollars and the duration is four years.

SEIU, 1021, Miscellaneous-The Department requests a 60-day waiver, so the PSC can be heard on the Civil Service Commission meeting date of January 6, 2014.

Sincerely,

Christina Brusaca
Administrative Analyst
Department of Human Resources
City and County of San Francisco

Dang, Leorah

From: Brusaca, Christina
Sent: Thursday, October 24, 2013 2:05 PM
To: Brusaca, Christina; jduritz@uapd.com; al@uapd.com; pfinn@ibt856.org; pattie.tamura@seiu1021.org; brook.demmerle@seiu1021.org; Tonette.Garcia@seiu1021.org; david.canham@seiu1021.org; Kirsten.Clemons@SEIU1021.org; shari.zinn@yahoo.com; roxanne.sanchez@seiu1021.org
Cc: DHR-PSCCoordinator, DHR; Lewis, Brent
Subject: PSC Form 1-Workers' Compensation Bill Review, Utilization Review, Medical Case Management Services
Attachments: PSC-Workers Compensation Bill Review, Utilization Review, Medical Case Management 10.24.2013.pdf

Good afternoon,

Attached is the PSC Form 1 for Workers' Compensation Bill Review, Utilization Review and Medical Case Management services from the Department of Human Resources. The PSC amount is four million dollars and the duration is four years.

SEIU, 1021, Miscellaneous-The Department requests a 60-day waiver, so the PSC can be heard on the Civil Service Commission meeting date of January 6, 2014.

Sincerely,

Christina Brusaca
Administrative Analyst
Department of Human Resources
City and County of San Francisco
Christina.brusaca@sfgov.org

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Additional Attachment(s) of Explanation

◇ **Section 3. Description of Required Skills Expertise**

3A. Specify required skills and/or expertise

◇ **Section 4. Why Classified Civil Service Cannot Perform**

4A. Explain why civil service classes are not applicable

◇ **Section 5. Additional Information**

5B. Will the contractor train City and County employees?

- **Describe training and indicate approximate number of hours.**
- **Indicate occupational type of City and County employees to receive training (e.g., clerks, civil engineers, etc.) and approximate number to be trained.**

Workers' Compensation Bill Review, Utilization Review, & Medical Case Management Services

3A. SPECIFY REQUIRED SKILLS AND/OR EXPERTISE

At least two (2) years of experience each in Workers' Compensation medical bill review/repricing and utilization review in the State of California; capacity to handle at least 5,000 utilization review requests and 100,000 bill review requests per year; license as required by the State of California; proof of URAC (formerly known as the Utilization Review Accreditation Commission) accreditation for Workers' Compensation Utilization Management.

4A. WHY CLASSIFIED CIVIL SERVICE CANNOT PERFORM

Medical bill review is highly specialized and there are penalties for non-compliance. The City and County of San Francisco prefers a third party administrator to perform the services to minimize exposure for independent bill review costs and reduce liability.

Workers' Compensation Adjusters and Workers' Compensation Supervisors I currently approve treatment pursuant to utilization review. However, they do not have the legal authority to modify or deny treatment. Per Labor Code 4610, only physicians can modify or deny treatment. Inappropriately modifying or denying treatment can result in a \$25,000 fine per incident.

The City currently does not have staff that is certified to perform bill review and repricing services. Bill review staff needs to be intimately familiar with the complex, California Official Medical Fee Schedule. Inaccurate bill review will result in penalties, interest and additional costs associated with the appeal process.

Medical providers generally bill at rates higher than rates allowed under the Fee Schedule. If experienced staff does not carefully review the bill, the City could over pay treatment or pay duplicate bills. Last year, medical providers sent the City duplicate bills totaling over five million dollars.

Medical case management services would be provided on selected, complex claims on an as-needed basis.

Utilization review physicians maintain specialized training and stay current with the changing regulations. The regulations were updated January 1, 2013, July 1, 2013 and another update will occur January 1, 2014. In order to provide utilization review in house, the Workers' Compensation Division would need to maintain a network of utilization review physicians including, but not limited to: neurologist, orthopedic surgeon, pain management specialist, addictionologist, spinal surgeon, internist, oncologist, ophthalmologist, podiatrist, urologist, chiropractor, occupational medicine specialist, neurosurgeon, plastic surgeon, cardiologist, dermatologist, infectious disease specialist and ear/nose/throat specialist.

The utilization review physician network would perform research, stay current with medical guidelines, evaluate records and perform peer-to-peer review. The network would include a wide range of specialties, so specialists could conduct peer-to-peer review. It is important for the City to have a dedicated network, so peer-to-peer reviews can occur in a timely manner. The network

Workers' Compensation Bill Review, Utilization Review, & Medical Case Management Services

and increased liability as set forth in California Labor Code Sections 4062, 4610, and 4603.2.
(Please see Additional Document Exhibit A for CA Labor Codes 4610, 4062, 4610.5 and 4603.2)

5B. WILL THE CONTRACTOR TRAIN CITY AND COUNTY EMPLOYEES?

Periodic on-site training for claims staff, as needed, including but not limited to: how to interface with the Contractor's bill review software, utilization review legal requirements, medical usage, and other programmatic updates/changes. The contractor will evaluate trends and provide recommendations on how to reduce costs.

Minimum of 5 hours per calendar year to: Class 8141, Workers' Compensation Adjuster (20); 8165, Workers' Compensation Supervisor I (4); 1209, Benefits Technician (5); 1404, Clerk (3); 1424, Clerk Typist (1); 1652, Accountant II (1); 1825, Principal Administrative Analyst II (1); 1840, Junior Management Assistant (1); 1842, Management Assistant (1); 0922, Manager I (1); 0923, Manager II (1); 0931, Manager III (1); 0953, Workers' Compensation Director (1).

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Additional Documents
Exhibit A

◇ **Section 4. Why Classified Civil Service Cannot Perform**

4A. Explain why civil service classes are not applicable

- **CA Labor Code 4610**
- **CA Labor Code 4062**
- **CA Labor Code 4610.5**
- **CA Labor Code 4603.2**

Workers' Compensation Bill Review, Utilization Review, & Medical Case Management Services

CA Labor Code 4610

4610. (a) For purposes of this section, "utilization review" means utilization review or utilization management functions that prospectively, retrospectively, or concurrently review and approve, modify, delay, or deny, based in whole or in part on medical necessity to cure and relieve, treatment recommendations by physicians, as defined in Section 3209.3, prior to, retrospectively, or concurrent with the provision of medical treatment services pursuant to Section 4600.

(b) Every employer shall establish a utilization review process in compliance with this section, either directly or through its insurer or an entity with which an employer or insurer contracts for these services.

(c) Each utilization review process shall be governed by written policies and procedures. These policies and procedures shall ensure that decisions based on the medical necessity to cure and relieve of proposed medical treatment services are consistent with the schedule for medical treatment utilization adopted pursuant to Section 5307.27. These policies and procedures, and a description of the utilization process, shall be filed with the administrative director and shall be disclosed by the employer to employees, physicians, and the public upon request.

(d) If an employer, insurer, or other entity subject to this section requests medical information from a physician in order to determine whether to approve, modify, delay, or deny requests for authorization, the employer shall request only the information reasonably necessary to make the determination. The employer, insurer, or other entity shall employ or designate a medical director who holds an unrestricted license to practice medicine in this state issued pursuant to Section 2050 or Section 2450 of the Business and Professions Code. The medical director shall ensure that the process by which the employer or other entity reviews and approves, modifies, delays, or denies requests by physicians prior to, retrospectively, or concurrent with the provision of medical treatment services, complies with the requirements of this section. Nothing in this section shall be construed as restricting the existing authority of the Medical Board of California.

(e) No person other than a licensed physician who is competent to evaluate the specific clinical issues involved in the medical treatment services, and where these services are within the scope of the physician's practice, requested by the physician may modify, delay, or deny requests for authorization of medical treatment for reasons of medical necessity to cure and relieve.

(f) The criteria or guidelines used in the utilization review process to determine whether to approve, modify, delay, or deny medical treatment services shall be all of the following:

- (1) Developed with involvement from actively practicing physicians.
- (2) Consistent with the schedule for medical treatment utilization adopted pursuant to Section 5307.27.
- (3) Evaluated at least annually, and updated if necessary.
- (4) Disclosed to the physician and the employee, if used as the basis of a decision to modify, delay, or deny services in a specified case under review.

Workers' Compensation Bill Review, Utilization Review, & Medical Case Management Services

(5) Available to the public upon request. An employer shall only be required to disclose the criteria or guidelines for the specific procedures or conditions requested. An employer may charge members of the public reasonable copying and postage expenses related to disclosing criteria or guidelines pursuant to this paragraph. Criteria or guidelines may also be made available through electronic means. No charge shall be required for an employee whose physician's request for medical treatment services is under review.

(g) In determining whether to approve, modify, delay, or deny requests by physicians prior to, retrospectively, or concurrent with the provisions of medical treatment services to employees all of the following requirements shall be met:

(1) Prospective or concurrent decisions shall be made in a timely fashion that is appropriate for the nature of the employee's condition, not to exceed five working days from the receipt of the information reasonably necessary to make the determination, but in no event more than 14 days from the date of the medical treatment recommendation by the physician. In cases where the review is retrospective, a decision resulting in denial of all or part of the medical treatment service shall be communicated to the individual who received services, or to the individual's designee, within 30 days of receipt of information that is reasonably necessary to make this determination. If payment for a medical treatment service is made within the time prescribed by Section 4603.2, a retrospective decision to approve the service need not otherwise be communicated.

(2) When the employee's condition is such that the employee faces an imminent and serious threat to his or her health, including, but not limited to, the potential loss of life, limb, or other major bodily function, or the normal timeframe for the decision making process, as described in paragraph (1), would be detrimental to the employee's life or health or could jeopardize the employee's ability to regain maximum function, decisions to approve, modify, delay, or deny requests by physicians prior to, or concurrent with, the provision of medical treatment services to employees shall be made in a timely fashion that is appropriate for the nature of the employee's condition, but not to exceed 72 hours after the receipt of the information reasonably necessary to make the determination.

(3) (A) Decisions to approve, modify, delay, or deny requests by physicians for authorization prior to, or concurrent with, the provision of medical treatment services to employees shall be communicated to the requesting physician within 24 hours of the decision. Decisions resulting in modification, delay, or denial of all or part of the requested health care service shall be communicated to physicians initially by telephone or facsimile, and to the physician and employee in writing within 24 hours for concurrent review, or within two business days of the decision for prospective review, as prescribed by the administrative director. If the request is not approved in full, disputes shall be resolved in accordance with Section 4610.5, if applicable, or otherwise in accordance with Section 4062.

(B) In the case of concurrent review, medical care shall not be discontinued until the employee's physician has been notified of the decision and a care plan has been agreed upon by the physician that is appropriate for the medical needs of the employee. Medical care provided during a concurrent review shall be care that is medically

Workers' Compensation Bill Review, Utilization Review, & Medical Case Management Services

necessary to cure and relieve, and an insurer or self-insured employer shall only be liable for those services determined medically necessary to cure and relieve. If the insurer or self-insured employer disputes whether or not one or more services offered concurrently with a utilization review were medically necessary to cure and relieve, the dispute shall be resolved pursuant to Section 4610.5, if applicable, or otherwise pursuant to Section 4062. Any compromise between the parties that an insurer or self-insured employer believes may result in payment for services that were not medically necessary to cure and relieve shall be reported by the insurer or the self-insured employer to the licensing board of the provider or providers who received the payments, in a manner set forth by the respective board and in such a way as to minimize reporting costs both to the board and to the insurer or self-insured employer, for evaluation as to possible violations of the statutes governing appropriate professional practices. No fees shall be levied upon insurers or self-insured employers making reports required by this section.

(4) Communications regarding decisions to approve requests by physicians shall specify the specific medical treatment service approved. Responses regarding decisions to modify, delay, or deny medical treatment services requested by physicians shall include a clear and concise explanation of the reasons for the employer's decision, a description of the criteria or guidelines used, and the clinical reasons for the decisions regarding medical necessity. If a utilization review decision to deny or delay a medical service is due to incomplete or insufficient information, the decision shall specify the reason for the decision and specify the information that is needed.

(5) If the employer, insurer, or other entity cannot make a decision within the timeframes specified in paragraph (1) or (2) because the employer or other entity is not in receipt of all of the information reasonably necessary and requested, because the employer requires consultation by an expert reviewer, or because the employer has asked that an additional examination or test be performed upon the employee that is reasonable and consistent with good medical practice, the employer shall immediately notify the physician and the employee, in writing, that the employer cannot make a decision within the required timeframe, and specify the information requested but not received, the expert reviewer to be consulted, or the additional examinations or tests required. The employer shall also notify the physician and employee of the anticipated date on which a decision may be rendered. Upon receipt of all information reasonably necessary and requested by the employer, the employer shall approve, modify, or deny the request for authorization within the timeframes specified in paragraph (1) or (2).

(6) A utilization review decision to modify, delay, or deny a treatment recommendation shall remain effective for 12 months from the date of the decision without further action by the employer with regard to any further recommendation by the same physician for the same treatment unless the further recommendation is supported by a documented change in the facts material to the basis of the utilization review decision.

(7) Utilization review of a treatment recommendation shall not be required while the employer is disputing liability for injury or

Workers' Compensation Bill Review, Utilization Review, & Medical Case Management Services

treatment of the condition for which treatment is recommended pursuant to Section 4062.

(8) If utilization review is deferred pursuant to paragraph (7), and it is finally determined that the employer is liable for treatment of the condition for which treatment is recommended, the time for the employer to conduct retrospective utilization review in accordance with paragraph (1) shall begin on the date the determination of the employer's liability becomes final, and the time for the employer to conduct prospective utilization review shall commence from the date of the employer's receipt of a treatment recommendation after the determination of the employer's liability.

(h) Every employer, insurer, or other entity subject to this section shall maintain telephone access for physicians to request authorization for health care services.

(i) If the administrative director determines that the employer, insurer, or other entity subject to this section has failed to meet any of the timeframes in this section, or has failed to meet any other requirement of this section, the administrative director may assess, by order, administrative penalties for each failure. A proceeding for the issuance of an order assessing administrative penalties shall be subject to appropriate notice to, and an opportunity for a hearing with regard to, the person affected. The administrative penalties shall not be deemed to be an exclusive remedy for the administrative director. These penalties shall be deposited in the Workers' Compensation Administration Revolving Fund.

Workers' Compensation Bill Review, Utilization Review, & Medical Case Management Services

CA Labor Code 4062

4062. (a) If either the employee or employer objects to a medical determination made by the treating physician concerning any medical issues not covered by Section 4060 or 4061 and not subject to Section 4610, the objecting party shall notify the other party in writing of the objection within 20 days of receipt of the report if the employee is represented by an attorney or within 30 days of receipt of the report if the employee is not represented by an attorney. These time limits may be extended for good cause or by mutual agreement. If the employee is represented by an attorney, a medical evaluation to determine the disputed medical issue shall be obtained as provided in Section 4062.2, and no other medical evaluation shall be obtained. If the employee is not represented by an attorney, the employer shall immediately provide the employee with a form prescribed by the medical director with which to request assignment of a panel of three qualified medical evaluators, the evaluation shall be obtained as provided in Section 4062.1, and no other medical evaluation shall be obtained.

(b) If the employee objects to a decision made pursuant to Section 4610 to modify, delay, or deny a request for authorization of a medical treatment recommendation made by a treating physician, the objection shall be resolved only in accordance with the independent medical review process established in Section 4610.5.

(c) If the employee objects to the diagnosis or recommendation for medical treatment by a physician within the employer's medical provider network established pursuant to Section 4616, the objection shall be resolved only in accordance with the independent medical review process established in Sections 4616.3 and 4616.4.

Workers' Compensation Bill Review, Utilization Review, & Medical Case Management Services

CA Labor Code 4610.5

4610.5.

(a) This section applies to the following disputes:

(1) Any dispute over a utilization review decision regarding treatment for an injury occurring on or after January 1, 2013.

(2) Any dispute over a utilization review decision if the decision is communicated to the requesting physician on or after July 1, 2013, regardless of the date of injury.

(b) A dispute described in subdivision (a) shall be resolved only in accordance with this section.

(c) For purposes of this section and Section 4610.6, the following definitions apply:

(1) "Disputed medical treatment" means medical treatment that has been modified, delayed, or denied by a utilization review decision.

(2) "Medically necessary" and "medical necessity" mean medical treatment that is reasonably required to cure or relieve the injured employee of the effects of his or her injury and based on the following standards, which shall be applied in the order listed, allowing reliance on a lower ranked standard only if every higher ranked standard is inapplicable to the employee's medical condition:

(A) The guidelines adopted by the administrative director pursuant to Section 5307.27.

(B) Peer-reviewed scientific and medical evidence regarding the effectiveness of the disputed service.

(C) Nationally recognized professional standards.

(D) Expert opinion.

(E) Generally accepted standards of medical practice.

(F) Treatments that are likely to provide a benefit to a patient for conditions for which other treatments are not clinically efficacious.

(3) "Utilization review decision" means a decision pursuant to Section 4610 to modify, delay, or deny, based in whole or in part on medical necessity to cure or relieve, a treatment recommendation or recommendations by a physician prior to, retrospectively, or concurrent with the provision of medical treatment services pursuant to Section 4600 or subdivision (c) of Section 5402.

(4) Unless otherwise indicated by context, "employer" means the employer, the insurer of an insured employer, a claims administrator, or a utilization review organization, or other entity acting on behalf of any of them.

(d) If a utilization review decision denies, modifies, or delays a treatment recommendation, the employee may request an independent medical review as provided by this section.

(e) A utilization review decision may be reviewed or appealed only by independent medical review pursuant to this section. Neither the employee nor the employer shall have any liability for medical treatment furnished without the authorization of the employer if the treatment is delayed, modified, or

Workers' Compensation Bill Review, Utilization Review, & Medical Case Management Services

denied by a utilization review decision unless the utilization review decision is overturned by independent medical review in accordance with this section.

(f) As part of its notification to the employee regarding an initial utilization review decision that denies, modifies, or delays a treatment recommendation, the employer shall provide the employee with a one-page form prescribed by the administrative director, and an addressed envelope, which the employee may return to the administrative director or the administrative director's designee to initiate an independent medical review. The employer shall include on the form any information required by the administrative director to facilitate the completion of the independent medical review. The form shall also include all of the following:

(1) Notice that the utilization review decision is final unless the employee requests independent medical review.

(2) A statement indicating the employee's consent to obtain any necessary medical records from the employer or insurer and from any medical provider the employee may have consulted on the matter, to be signed by the employee.

(3) Notice of the employee's right to provide information or documentation, either directly or through the employee's physician, regarding the following:

(A) The treating physician's recommendation indicating that the disputed medical treatment is medically necessary for the employee's medical condition.

(B) Medical information or justification that a disputed medical treatment, on an urgent care or emergency basis, was medically necessary for the employee's medical condition.

(C) Reasonable information supporting the employee's position that the disputed medical treatment is or was medically necessary for the employee's medical condition, including all information provided to the employee by the employer or by the treating physician, still in the employee's possession, concerning the employer's or the physician's decision regarding the disputed medical treatment, as well as any additional material that the employee believes is relevant.

(g) The independent medical review process may be terminated at any time upon the employer's written authorization of the disputed medical treatment.

(h) (1) The employee may submit a request for independent medical review to the division no later than 30 days after the service of the utilization review decision to the employee.

(2) If at the time of a utilization review decision the employer is also disputing liability for the treatment for any reason besides medical necessity, the time for the employee to submit a request for independent medical review to the administrative director or administrative director's designee is extended to 30 days after service of a notice to the employee showing that the other dispute of liability has been resolved.

(3) If the employer fails to comply with subdivision (e) at the time of notification of its utilization review decision, the time limitations for the employee to submit a request for independent medical review shall not begin to run until the employer provides the required notice to the employee.

(4) A provider of emergency medical treatment when the employee faced an imminent and serious threat to his or her health, including, but not limited to, the potential loss of life, limb, or other major bodily function, may submit a request for independent medical review on its own behalf. A request submitted by a provider pursuant to this paragraph shall be submitted to the administrative director or administrative

Workers' Compensation Bill Review, Utilization Review, & Medical Case Management Services

director's designee within the time limitations applicable for an employee to submit a request for independent medical review.

(i) An employer shall not engage in any conduct that has the effect of delaying the independent review process. Engaging in that conduct or failure of the plan to promptly comply with this section is a violation of this section and, in addition to any other fines, penalties, and other remedies available to the administrative director, the employer shall be subject to an administrative penalty in an amount determined pursuant to regulations to be adopted by the administrative director, not to exceed five thousand dollars (\$5,000) for each day that proper notification to the employee is delayed. The administrative penalties shall be paid to the Workers' Compensation Administration Revolving Fund.

(j) For purposes of this section, an employee may designate a parent, guardian, conservator, relative, or other designee of the employee as an agent to act on his or her behalf. A designation of an agent executed prior to the utilization review decision shall not be valid. The requesting physician may join with or otherwise assist the employee in seeking an independent medical review, and may advocate on behalf of the employee.

(k) The administrative director or his or her designee shall expeditiously review requests and immediately notify the employee and the employer in writing as to whether the request for an independent medical review has been approved, in whole or in part, and, if not approved, the reasons therefor. If there appears to be any medical necessity issue, the dispute shall be resolved pursuant to an independent medical review, except that, unless the employer agrees that the case is eligible for independent medical review, a request for independent medical review shall be deferred if at the time of a utilization review decision the employer is also disputing liability for the treatment for any reason besides medical necessity.

(l) Upon notice from the administrative director that an independent review organization has been assigned, the employer shall provide to the independent medical review organization all of the following documents within 10 days of notice of assignment:

(1) A copy of all of the employee's medical records in the possession of the employer or under the control of the employer relevant to each of the following:

(A) The employee's current medical condition.

(B) The medical treatment being provided by the employer.

(C) The disputed medical treatment requested by the employee.

(2) A copy of all information provided to the employee by the employer concerning employer and provider decisions regarding the disputed treatment.

(3) A copy of any materials the employee or the employee's provider submitted to the employer in support of the employee's request for the disputed treatment.

(4) A copy of any other relevant documents or information used by the employer or its utilization review organization in determining whether the disputed treatment should have been provided, and any statements by the employer or its utilization review organization explaining the reasons for the decision to deny, modify, or delay the recommended treatment on the basis of medical necessity. The employer shall concurrently provide a copy of the documents required by this paragraph to the employee and the requesting physician, except that documents previously provided to the employee or physician need not be provided again if a list of those documents is provided.

Workers' Compensation Bill Review, Utilization Review, & Medical Case Management Services

(m) Any newly developed or discovered relevant medical records in the possession of the employer after the initial documents are provided to the independent medical review organization shall be forwarded immediately to the independent medical review organization. The employer shall concurrently provide a copy of medical records required by this subdivision to the employee or the employee's treating physician, unless the offer of medical records is declined or otherwise prohibited by law. The confidentiality of medical records shall be maintained pursuant to applicable state and federal laws.

(n) If there is an imminent and serious threat to the health of the employee, as specified in subdivision (c) of Section 1374.33 of the Health and Safety Code, all necessary information and documents required by subdivision (l) shall be delivered to the independent medical review organization within 24 hours of approval of the request for review.

(o) The employer shall promptly issue a notification to the employee, after submitting all of the required material to the independent medical review organization, that lists documents submitted and includes copies of material not previously provided to the employee or the employee's designee.

Workers' Compensation Bill Review, Utilization Review, & Medical Case Management Services

CA Labor Code 4603.2

4603.2. (a) (1) Upon selecting a physician pursuant to Section 4600, the employee or physician shall notify the employer of the name and address, including the name of the medical group, if applicable, of the physician. The physician shall submit a report to the employer within five working days from the date of the initial examination, as required by Section 6409, and shall submit periodic reports at intervals that may be prescribed by rules and regulations adopted by the administrative director.

(2) If the employer objects to the employee's selection of the physician on the grounds that the physician is not within the medical provider network used by the employer, and there is a final determination that the employee was entitled to select the physician pursuant to Section 4600, the employee shall be entitled to continue treatment with that physician at the employer's expense in accordance with this division, notwithstanding Section 4616.2. The employer shall be required to pay from the date of the initial examination if the physician's report was submitted within five working days of the initial examination. If the physician's report was submitted more than five working days after the initial examination, the employer and the employee shall not be required to pay for any services prior to the date the physician's report was submitted.

(3) If the employer objects to the employee's selection of the physician on the grounds that the physician is not within the medical provider network used by the employer, and there is a final determination that the employee was not entitled to select a physician outside of the medical provider network, the employer shall have no liability for treatment provided by or at the direction of that physician or for any consequences of the treatment obtained outside the network.

(b) (1) Any provider of services provided pursuant to Section 4600, including, but not limited to, physicians, hospitals, pharmacies, interpreters, copy services, transportation services, and home health care services, shall submit its request for payment with an itemization of services provided and the charge for each service, a copy of all reports showing the services performed, the prescription or referral from the primary treating physician if the services were performed by a person other than the primary treating physician, and any evidence of authorization for the services that may have been received. Nothing in this section shall prohibit an employer, insurer, or third-party claims administrator from establishing, through written agreement, an alternative manual or electronic request for payment with providers for services provided pursuant to Section 4600.

(A) Notwithstanding the requirements of this paragraph, a copy of the prescription shall not be required with a request for payment for pharmacy services, unless the provider of services has entered into a written agreement, as provided in this paragraph, that requires a copy of a prescription for a pharmacy service.

(B) Notwithstanding timely billing and payment rules established by the Division of Workers' Compensation, any entity submitting a pharmacy bill for payment, on or after January 1, 2013, and denied payment for not including a copy of the prescription from the treating physician, may resubmit those bills for payment until March

Workers' Compensation Bill Review, Utilization Review, & Medical Case Management Services

31, 2014.

(C) Nothing in this section shall preclude an employer, insurer, pharmacy benefits manager, or third-party claims administrator from requesting a copy of the prescription during a review of any records of prescription drugs that were dispensed by a pharmacy.

(2) Except as provided in subdivision (d) of Section 4603.4, or under contracts authorized under Section 5307.11, payment for medical treatment provided or prescribed by the treating physician selected by the employee or designated by the employer shall be made at reasonable maximum amounts in the official medical fee schedule, pursuant to Section 5307.1, in effect on the date of service.

Payments shall be made by the employer with an explanation of review pursuant to Section 4603.3 within 45 days after receipt of each separate, itemization of medical services provided, together with any required reports and any written authorization for services that may have been received by the physician. If the itemization or a portion thereof is contested, denied, or considered incomplete, the physician shall be notified, in the explanation of review, that the itemization is contested, denied, or considered incomplete, within 30 days after receipt of the itemization by the employer. An explanation of review that states an itemization is incomplete shall also state all additional information required to make a decision. Any properly documented list of services provided and not paid at the rates then in effect under Section 5307.1 within the 45-day period shall be paid at the rates then in effect and increased by 15 percent, together with interest at the same rate as judgments in civil actions retroactive to the date of receipt of the itemization, unless the employer does both of the following:

(A) Pays the provider at the rates in effect within the 45-day period.

(B) Advises, in an explanation of review pursuant to Section 4603.3, the physician, or another provider of the items being contested, the reasons for contesting these items, and the remedies available to the physician or the other provider if he or she disagrees. In the case of an itemization that includes services provided by a hospital, outpatient surgery center, or independent diagnostic facility, advice that a request has been made for an audit of the itemization shall satisfy the requirements of this paragraph.

An employer's liability to a physician or another provider under this section for delayed payments shall not affect its liability to an employee under Section 5814 or any other provision of this division.

(3) Notwithstanding paragraph (1), if the employer is a governmental entity, payment for medical treatment provided or prescribed by the treating physician selected by the employee or designated by the employer shall be made within 60 days after receipt of each separate itemization, together with any required reports and any written authorization for services that may have been received by the physician.

(4) Duplicate submissions of medical services itemizations, for which an explanation of review was previously provided, shall require no further or additional notification or objection by the employer to the medical provider and shall not subject the employer to any additional penalties or interest pursuant to this section for failing to respond to the duplicate submission. This paragraph shall apply

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only to duplicate submissions and does not apply to any other penalties or interest that may be applicable to the original submission.

(c) Any interest or increase in compensation paid by an insurer pursuant to this section shall be treated in the same manner as an increase in compensation under subdivision (d) of Section 4650 for the purposes of any classification of risks and premium rates, and any system of merit rating approved or issued pursuant to Article 2 (commencing with Section 11730) of Chapter 3 of Part 3 of Division 2 of the Insurance Code.

(d) (1) Whenever an employer or insurer employs an individual or contracts with an entity to conduct a review of an itemization submitted by a physician or medical provider, the employer or insurer shall make available to that individual or entity all documentation submitted together with that itemization by the physician or medical provider. When an individual or entity conducting an itemization review determines that additional information or documentation is necessary to review the itemization, the individual or entity shall contact the claims administrator or insurer to obtain the necessary information or documentation that was submitted by the physician or medical provider pursuant to subdivision (b).

(2) An individual or entity reviewing an itemization of service submitted by a physician or medical provider shall not alter the procedure codes listed or recommend reduction of the amount of the payment unless the documentation submitted by the physician or medical provider with the itemization of service has been reviewed by that individual or entity. If the reviewer does not recommend payment for services as itemized by the physician or medical provider, the explanation of review shall provide the physician or medical provider with a specific explanation as to why the reviewer altered the procedure code or changed other parts of the itemization and the specific deficiency in the itemization or documentation that caused the reviewer to conclude that the altered procedure code or amount recommended for payment more accurately represents the service performed.

(e) (1) If the provider disputes the amount paid, the provider may request a second review within 90 days of service of the explanation of review or an order of the appeals board resolving the threshold issue as stated in the explanation of review pursuant to paragraph (5) of subdivision (a) of Section 4603.3. The request for a second review shall be submitted to the employer on a form prescribed by the administrative director and shall include all of the following:

(A) The date of the explanation of review and the claim number or other unique identifying number provided on the explanation of review.

(B) The item and amount in dispute.

(C) The additional payment requested and the reason therefor.

(D) The additional information provided in response to a request in the first explanation of review or any other additional information provided in support of the additional payment requested.

(2) If the only dispute is the amount of payment and the provider does not request a second review within 90 days, the bill shall be deemed satisfied and neither the employer nor the employee shall be liable for any further payment.

(3) Within 14 days of a request for second review, the employer

Workers' Compensation Bill Review, Utilization Review, & Medical Case Management Services

shall respond with a final written determination on each of the items or amounts in dispute. Payment of any balance not in dispute shall be made within 21 days of receipt of the request for second review. This time limit may be extended by mutual written agreement.

(4) If the provider contests the amount paid, after receipt of the second review, the provider shall request an independent bill review as provided for in Section 4603.6.

(f) Except as provided in paragraph (4) of subdivision (e), the appeals board shall have jurisdiction over disputes arising out of this subdivision pursuant to Section 5304.

PERSONAL SERVICES CONTRACT SUMMARY ("PSC FORM 1")

Department: AIRPORT COMMISSION -- AIR Dept. Code: AIR

Type of Request: [X] Initial [] Modification of an existing PSC (PSC # _____)

Type of Approval: [] Expedited [X] Regular [] Omit Posting

Type of Service: Designated Aviation Channeling (DAC) Services

Funding Source: Airport Operating Funds PSC Duration: 5 years 20 weeks
PSC Amount: \$1,000,000 PSC Est. Start Date: 02/05/2014 PSC Est. End Date: 06/30/2019

1. Description of Work

A. Scope of Work:

Transportation Security Regulations Part 1542.209 requires the Airport and airline operators to check the background of those persons operating in and around the secured areas of the Airport by processing fingerprint-based criminal history records checks and security threat assessments. The Transportation Security Administration (TSA) has established Designated Aviation Channeling (DAC) service providers to support this federal regulatory requirement. Only firms that are TSA certified and authorized to operate (ATO) may provide this service.

B. Explain why this service is necessary and the consequence of denial:

The processing of fingerprint-based criminal history records checks and security threat assessments is a federally mandated requirement for anyone working in and around the secured areas of an Airport regulated by the TSA. Failure to meet this requirement would prevent the Airport from meeting this critical TSA requirement and would cease commercial air carrier operations at the Airport.

C. Has this service been provided in the past. If so, how? If the service was provided via a PSC, provide the most recently approved PSC # and upload a copy of the PSC. This is a new contract.

D. Will the contract(s) be renewed? Yes, if there continues to be a need for such services.

2. Union Notification: On 12/09/2013, the Department notified the following employee organizations of this PSC/RFP request: Municipal Executive Association, Architect & Engineers, Local 21,

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# 41779 - 13/14

DHR Analysis/Recommendation:

Civil Service Commission Action:

Commission Approval Required

DHR Approved for 02/03/2014

3. Description of Required Skills/Expertise

- A. Specify required skills and/or expertise:
TSA requires certified firms to provide this service and currently there are only three certified firms.

- B. Which, if any, civil service class(es) normally perform(s) this work?
0923,105X,
- C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:
No.

4. Why Classified Civil Service Cannot Perform

- A. Explain why civil service classes are not applicable:
Only TSA certified service providers are eligible to perform this work.

- B. Would it be practical to adopt a new civil service class to perform this work? Explain.
No, given that TSA certification is not granted to individuals.

5. Additional Information (if "yes", attach explanation)

	<u>YES</u>	<u>NO</u>
A. Will the contractor directly supervise City and County employee?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
B. Will the contractor train City and County employee?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
C. Are there legal mandates requiring the use of contractual services?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
D. Are there federal or state grant requirements regarding the use of contractual services? Please see attached document.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
E. Has a board or commission determined that contracting is the most effective way to provide this service? Please see attached document.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
F. Will the proposed work be completed by a contractor that has a current PSC contract with your department?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD ON 01/07/2014 BY:

Name: Cynthia Avakian Phone: 650-821-2014 Email: cynthia.avakian@flysfo.com

Address: PO Box 8097 San Francisco, CA, 94128

Receipt of Union Notification(s)

◆ MEA

◆ Local 21

Dang, Leorah

From: dhr-psccordinator@sfgov.org
Sent: Monday, December 09, 2013 2:45 PM
To: cynthia.avakian@flysfo.com; staff@sfmea.com; jebrenner@ifpte21.org; L21PSCReview@ifpte21.org; lisa.randall@flysfo.com; DHR-PSCCoordinator, DHR; Isen, Richard
Subject: Receipt of Notice for new PCS over \$100K PSC # 41779 - 13/14

RECEIPT for Union Notification for PSC 41779 - 13/14 more than \$100k

The AIRPORT COMMISSION -- AIR has submitted a request for a Personal Services Contract (PSC) 41779 - 13/14 for \$1,000,000 for Initial Request services for the period 02/05/2014 – 06/30/2019. Notification of 30 days (60 days for SEIU) is required.

After logging into the system please select link below, view the information and verify receipt:

<http://apps.sfgov.org/dhrdrupal/node/936>

Email sent to the following addresses: L21PSCReview@ifpte21.org for Architect & Engineers, Local 21
jebrenner@ifpte21.org for Architect & Engineers, Local 21 staff@sfmea.com for Municipal Executive Association
camaguey@sfmea.com for Municipal Executive Association

Department's Letter of Explanation

- **Proposed PSC requesting 5 years or more**

The contract will be for a five (5) year term. This is an ongoing need the Airport is required to perform by the Transportation Security Administration (TSA). The Airport will return to the Civil Service Commission to modify this request or submit a new request if the TSA continues to require this service after 2019.

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Additional Attachment(s)

◇ **Section 5. Additional Information**

5D. Are there federal or state grant requirements regarding the use of contractual services?

**§1542.209 Fingerprint-based
criminal history records checks
(CHRC)**

5E. Has a board or commission determined that contracting is the most effective way to provide this service?

**Airport Commission
City and County of San Francisco
Resolution No.: 13-0164**

§ 1542.209

(4) Deactivates or invalidates the original access medium until the individual returns the second access medium; and

(5) Provides that any second access media that is also used as identification media meet the criteria of § 1542.211(b).

§ 1542.209 Fingerprint-based criminal history records checks (CHRC).

(a) *Scope.* The following persons are within the scope of this section—

(1) Each airport operator and airport user.

(2) Each individual currently having unescorted access to a SIDA, and each individual with authority to authorize others to have unescorted access to a SIDA (referred to as unescorted access authority).

(3) Each individual seeking unescorted access authority.

(4) Each airport user and aircraft operator making a certification to an airport operator pursuant to paragraph (n) of this section, or 14 CFR 108.31(n) in effect prior to November 14, 2001 (see 14 CFR Parts 60 to 139 revised as of January 1, 2001). An airport user, for the purposes of this section only, is any person other than an aircraft operator subject to § 1544.229 of this chapter making a certification under this section.

(b) *Individuals seeking unescorted access authority.* Except as provided in paragraph (m) of this section, each airport operator must ensure that no individual is granted unescorted access authority unless the individual has undergone a fingerprint-based CHRC that does not disclose that he or she has a disqualifying criminal offense, as described in paragraph (d) of this section.

(c) *Individuals who have not had a CHRC.* (1) Except as provided in paragraph (m) of this section, each airport operator must ensure that after December 6, 2002, no individual retains unescorted access authority, unless the airport operator has obtained and submitted a fingerprint under this part.

(2) When a CHRC discloses a disqualifying criminal offense for which the conviction or finding of not guilty by reason of insanity was on or after December 6, 1991, the airport operator

49 CFR Ch. XII (10-1-11 Edition)

must immediately suspend that individual's authority.

(d) *Disqualifying criminal offenses.* An individual has a disqualifying criminal offense if the individual has been convicted, or found not guilty of by reason of insanity, of any of the disqualifying crimes listed in this paragraph (d) in any jurisdiction during the 10 years before the date of the individual's application for unescorted access authority, or while the individual has unescorted access authority. The disqualifying criminal offenses are as follows—

(1) Forgery of certificates, false marking of aircraft, and other aircraft registration violation; 49 U.S.C. 46306.

(2) Interference with air navigation; 49 U.S.C. 46308.

(3) Improper transportation of a hazardous material; 49 U.S.C. 46312.

(4) Aircraft piracy; 49 U.S.C. 46502.

(5) Interference with flight crew members or flight attendants; 49 U.S.C. 46504.

(6) Commission of certain crimes aboard aircraft in flight; 49 U.S.C. 46506.

(7) Carrying a weapon or explosive aboard aircraft; 49 U.S.C. 46505.

(8) Conveying false information and threats; 49 U.S.C. 46507.

(9) Aircraft piracy outside the special aircraft jurisdiction of the United States; 49 U.S.C. 46502(b).

(10) Lighting violations involving transporting controlled substances; 49 U.S.C. 46315.

(11) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements; 49 U.S.C. 46314.

(12) Destruction of an aircraft or aircraft facility; 18 U.S.C. 32.

(13) Murder.

(14) Assault with intent to murder.

(15) Espionage.

(16) Sedition.

(17) Kidnapping or hostage taking.

(18) Treason.

(19) Rape or aggravated sexual abuse.

(20) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon.

(21) Extortion.

(22) Armed or felony unarmed robbery.

(23) Distribution of, or intent to distribute, a controlled substance.

(24) Felony arson.

(25) Felony involving a threat.

(26) Felony involving—

(i) Willful destruction of property;

(ii) Importation or manufacture of a controlled substance;

(iii) Burglary;

(iv) Theft;

(v) Dishonesty, fraud, or misrepresentation;

(vi) Possession or distribution of stolen property;

(vii) Aggravated assault;

(viii) Bribery; or

(ix) Illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year.

(27) Violence at international airports; 18 U.S.C. 37.

(28) Conspiracy or attempt to commit any of the criminal acts listed in this paragraph (d).

(e) *Fingerprint application and processing.* (1) At the time of fingerprinting, the airport operator must provide the individual to be fingerprinted a fingerprint application that includes only the following—

(i) The disqualifying criminal offenses described in paragraph (d) of this section.

(ii) A statement that the individual signing the application does not have a disqualifying criminal offense.

(iii) A statement informing the individual that Federal regulations under 49 CFR 1542.209 (1) impose a continuing obligation to disclose to the airport operator within 24 hours if he or she is convicted of any disqualifying criminal offense that occurs while he or she has unescorted access authority. After February 17, 2002, the airport operator may use statements that have already been printed referring to 14 CFR 107.209 until stocks of such statements are used up.

(iv) A statement reading, "The information I have provided on this application is true, complete, and correct to the best of my knowledge and belief and is provided in good faith. I understand that a knowing and willful false statement on this application can be punished by fine or imprisonment or both. (See section 1001 of Title 18 United States Code.)"

(v) A line for the printed name of the individual.

(vi) A line for the individual's signature and date of signature.

(2) Each individual must complete and sign the application prior to submitting his or her fingerprints.

(3) The airport operator must verify the identity of the individual through two forms of identification prior to fingerprinting, and ensure that the printed name on the fingerprint application is legible. At least one of the two forms of identification must have been issued by a government authority, and at least one must include a photo.

(4) The airport operator must advise the individual that:

(i) A copy of the criminal record received from the FBI will be provided to the individual, if requested by the individual in writing; and

(ii) The ASC is the individual's point of contact if he or she has questions about the results of the CHRC.

(5) The airport operator must collect, control, and process one set of legible and classifiable fingerprints under direct observation of the airport operator or a law enforcement officer.

(6) Fingerprints may be obtained and processed electronically, or recorded on fingerprint cards approved by the FBI and distributed by TSA for that purpose.

(7) The fingerprint submission must be forwarded to TSA in the manner specified by TSA.

(f) *Fingerprinting fees.* Airport operators must pay for all fingerprints in a form and manner approved by TSA. The payment must be made at the designated rate (available from the local TSA security office) for each set of fingerprints submitted. Information about payment options is available though the designated TSA headquarters point of contact. Individual personal checks are not acceptable.

(g) *Determination of arrest status.* (1) When a CHRC on an individual seeking unescorted access authority discloses an arrest for any disqualifying criminal offense listed in paragraph (d) of this section without indicating a disposition, the airport operator must determine, after investigation, that the arrest did not result in a disqualifying offense before granting that authority.

If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in paragraph (d) of this section, the individual is not disqualified under this section.

(2) When a CHRC on an individual with unescorted access authority discloses an arrest for any disqualifying criminal offense without indicating a disposition, the airport operator must suspend the individual's unescorted access authority not later than 45 days after obtaining the CHRC unless the airport operator determines, after investigation, that the arrest did not result in a disqualifying criminal offense. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in paragraph (d) of this section, the individual is not disqualified under this section.

(3) The airport operator may only make the determinations required in paragraphs (g)(1) and (g)(2) of this section for individuals for whom it is issuing, or has issued, unescorted access authority, and who are not covered by a certification from an aircraft operator under paragraph (n) of this section. The airport operator may not make determinations for individuals described in §1544.229 of this chapter.

(h) *Correction of FBI records and notification of disqualification.* (1) Before making a final decision to deny unescorted access authority to an individual described in paragraph (b) of this section, the airport operator must advise him or her that the FBI criminal record discloses information that would disqualify him or her from receiving or retaining unescorted access authority and provide the individual with a copy of the FBI record if he or she requests it.

(2) The airport operator must notify an individual that a final decision has been made to grant or deny unescorted access authority.

(3) Immediately following the suspension of unescorted access authority of an individual, the airport operator must advise him or her that the FBI criminal record discloses information that disqualifies him or her from re-

taining unescorted access authority and provide the individual with a copy of the FBI record if he or she requests it.

(i) *Corrective action by the individual.* The individual may contact the local jurisdiction responsible for the information and the FBI to complete or correct the information contained in his or her record, subject to the following conditions—

(1) For an individual seeking unescorted access authority on or after December 6, 2001, the following applies:

(i) Within 30 days after being advised that the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the airport operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The airport operator must obtain a copy, or accept a copy from the individual, of the revised FBI record, or a certified true copy of the information from the appropriate court, prior to granting unescorted access authority.

(ii) If no notification, as described in paragraph (h)(1) of this section, is received within 30 days, the airport operator may make a final determination to deny unescorted access authority.

(2) For an individual with unescorted access authority before December 6, 2001, the following applies: Within 30 days after being advised of suspension because the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the airport operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The airport operator must obtain a copy, or accept a copy from the individual, of the revised FBI record, or a certified true copy of the information from the appropriate court, prior to reinstating unescorted access authority.

(j) *Limits on dissemination of results.* Criminal record information provided by the FBI may be used only to carry out this section and §1544.229 of this chapter. No person may disseminate the results of a CHRC to anyone other than:

(1) The individual to whom the record pertains, or that individual's authorized representative.

(2) Officials of other airport operators who are determining whether to grant unescorted access to the individual under this part.

(3) Aircraft operators who are determining whether to grant unescorted access to the individual or authorize the individual to perform screening functions under part 1544 of this chapter.

(4) Others designated by TSA.

(k) *Recordkeeping.* The airport operator must maintain the following information:

(1) *Investigations conducted before December 6, 2001.* The airport operator must maintain and control the access or employment history investigation files, including the criminal history records results portion, or the appropriate certifications, for investigations conducted before December 6, 2001.

(2) *Fingerprint application process on or after December 6, 2001.* Except when the airport operator has received a certification under paragraph (n) of this section, the airport operator must physically maintain, control, and, as appropriate, destroy the fingerprint application and the criminal record. Only direct airport operator employees may carry out the responsibility for maintaining, controlling, and destroying criminal records.

(3) *Certification on or after December 6, 2001.* The airport operator must maintain the certifications provided under paragraph (n) of this section.

(4) *Protection of records—all investigations.* The records required by this section must be maintained in a manner that is acceptable to TSA and in a manner that protects the confidentiality of the individual.

(5) *Duration—all investigations.* The records identified in this section with regard to an individual must be maintained until 180 days after the termination of the individual's unescorted access authority. When files are no longer maintained, the criminal record must be destroyed.

(1) *Continuing responsibilities.* (1) Each individual with unescorted access authority on December 6, 2001, who had a disqualifying criminal offense in paragraph (d) of this section on or after December 6, 1991, must, by January 7, 2002, report the conviction to the air-

port operator and surrender the SIDA access medium to the issuer.

(2) Each individual with unescorted access authority who has a disqualifying criminal offense must report the offense to the airport operator and surrender the SIDA access medium to the issuer within 24 hours of the conviction or the finding of not guilty by reason of insanity.

(3) If information becomes available to the airport operator or the airport user indicating that an individual with unescorted access authority has a disqualifying criminal offense, the airport operator must determine the status of the conviction. If a disqualifying offense is confirmed the airport operator must immediately revoke any unescorted access authority.

(m) *Exceptions.* Notwithstanding the requirements of this section, an airport operator must authorize the following individuals to have unescorted access authority:

(1) An employee of the Federal, state, or local government (including a law enforcement officer) who, as a condition of employment, has been subjected to an employment investigation that includes a criminal records check.

(2) Notwithstanding the requirements of this section, an airport operator may authorize the following individuals to have unescorted access authority:

(i) An individual who has been continuously employed in a position requiring unescorted access authority by another airport operator, airport user, or aircraft operator, or contractor to such an entity, provided the grant for his or her unescorted access authority was based upon a fingerprint-based CHRC through TSA or FAA.

(ii) An individual who has been continuously employed by an aircraft operator or aircraft operator contractor, in a position with authority to perform screening functions, provided the grant for his or her authority to perform screening functions was based upon a fingerprint-based CHRC through TSA or FAA.

(n) *Certifications by aircraft operators.* An airport operator is in compliance with its obligation under paragraph (b) or (c) of this section when the airport operator accepts, for each individual

§ 1542.211

seeking unescorted access authority, certification from an aircraft operator subject to part 1544 of this chapter indicating it has complied with § 1544.229 of this chapter for the aircraft operator's employees and contractors seeking unescorted access authority. If the airport operator accepts a certification from the aircraft operator, the airport operator may not require the aircraft operator to provide a copy of the CHRC.

(o) *Airport operator responsibility.* The airport operator must—

(1) Designate the ASC, in the security program, or a direct employee if the ASC is not a direct employee, to be responsible for maintaining, controlling, and destroying the criminal record files when their maintenance is no longer required by paragraph (k) of this section.

(2) Designate the ASC, in the security program, to serve as the contact to receive notification from individuals applying for unescorted access authority of their intent to seek correction of their FBI criminal record.

(3) Audit the employment history investigations performed by the airport operator in accordance with this section and 14 CFR 107.31 in effect prior to November 14, 2001 (see 14 CFR Parts 60 through 139 revised as of January 1, 2001), and those investigations conducted by the airport users who provided certification to the airport operator. The audit program must be set forth in the airport security program.

(p) *Airport user responsibility.* (1) The airport user must report to the airport operator information, as it becomes available, that indicates an individual with unescorted access authority may have a disqualifying criminal offense.

(2) The airport user must maintain and control, in compliance with paragraph (k) of this section, the employment history investigation files for investigations conducted before December 6, 2001, unless the airport operator decides to maintain and control the employment history investigation file.

(3) The airport user must provide the airport operator with either the name or title of the individual acting as custodian of the files described in this paragraph (p), the address of the location where the files are maintained,

and the phone number of that location. The airport user must provide the airport operator and TSA with access to these files.

§ 1542.211 Identification systems.

(a) *Personnel identification system.* The personnel identification system under §§ 1542.201(b)(3) and 1542.205(b)(1) must include the following:

(1) Personnel identification media that—

(i) Convey a full-face image, full name, employer, and identification number of the individual to whom the identification medium is issued;

(ii) Indicate clearly the scope of the individual's access and movement privileges;

(iii) Indicate clearly an expiration date; and

(iv) Are of sufficient size and appearance as to be readily observable for challenge purposes.

(2) Procedures to ensure that each individual in the secured area or SIDA continuously displays the identification medium issued to that individual on the outermost garment above waist level, or is under escort.

(3) Procedures to ensure accountability through the following:

(i) Retrieving expired identification media and media of persons who no longer have unescorted access authority.

(ii) Reporting lost or stolen identification media.

(iii) Securing unissued identification media stock and supplies.

(iv) Auditing the system at a minimum of once a year or sooner, as necessary, to ensure the integrity and accountability of all identification media.

(v) As specified in the security program, revalidate the identification system or reissue identification media if a portion of all issued, unexpired identification media are lost, stolen, or otherwise unaccounted for, including identification media that are combined with access media.

(vi) Ensure that only one identification medium is issued to an individual at a time, except for personnel who are employed with more than one company and require additional identification media to carry out employment duties.

AIRPORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 13_0164

AUTHORIZATION TO ISSUE A REQUEST FOR PROPOSALS (RFP) FOR CONTRACT NO. 9380 – DESIGNATED AVIATION CHANNELING SERVICES AND AUTHORIZE STAFF TO ENTER INTO NEGOTIATIONS WITH THE HIGHEST RANKED PROPOSER

- WHEREAS, after 9/11, the federal government increased efforts to secure the nation's aviation infrastructure; and
- WHEREAS, through the Transportation Security Administration (TSA), published federal regulations require airport and airline operators to process fingerprint-based background checks and security threat assessments; and
- WHEREAS, the TSA established Designated Aviation Channeling service providers for the vetting of this information; and
- WHEREAS, a certified and authorized provider is required to process the biographic and biometric information to the TSA for screening; now therefore, be it
- RESOLVED, that this Commission approves the issuance of an RFP for Contract No. 9380 – Designated Aviation Channeling Services, and authorizes staff to enter into negotiations with the highest ranked proposer and return to the Commission to award the contract.

I hereby certify that the foregoing resolution was adopted by the Airport Commission
JUL 23 2013
at its meeting of _____


Secretary

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PERSONAL SERVICES CONTRACT SUMMARY ("PSC FORM 1")

Department: GENERAL SERVICES AGENCY - PUBLIC WORKS -- DPW Dept. Code: DPW

Type of Request: [X] Initial [] Modification of an existing PSC (PSC # _____)

Type of Approval: [] Expedited [X] Regular ([] Omit Posting)

Type of Service: Engineering and Environmental Services for the Islais Creek Bridge Rehabilitation Project

Funding Source: Local Highway Bridge Program PSC Duration: 5 years 4 weeks
PSC Amount: \$5,000,000 PSC Est. Start Date: 03/01/2014 PSC Est. End Date: 03/31/2019

1. Description of Work

A. Scope of Work:

The selected consultant ("consultant") will perform a full range of highly specialized services for the Islais Creek Bridge Rehabilitation Project ("Project"). The Project requires specialized engineering and environmental consultants with expertise in complex, major infrastructure projects, particularly seismic retrofit and rehabilitation of bascule bridges over water with a strong environmental/regulatory component. The consultant will perform the work in three phases. Phase 1 consists of a condition survey of the bridge, preliminary engineering, and environmental studies. Phase 2 consists of detailed design and preparation of construction documents. Phase 3 consists of providing engineering support during construction.

B. Explain why this service is necessary and the consequence of denial:
Please see additional attachment.

C. Has this service been provided in the past. If so, how? If the service was provided via a PSC, provide the most recently approved PSC # and upload a copy of the PSC.
Specialized environmental services for major infrastructure projects are routinely provided by consultants who possess unique qualifications. The most recent personal services contracts for similar work was approved via PSC# 4093-06/07 on February 5, 2007 for the SF General Hospital Rebuild Program and PSC# 4011-13/14 on August 5, 2013 for the Better Market Street Project.

D. Will the contract(s) be renewed? No

2. Union Notification: On 12/09/2013, the Department notified the following employee organizations of this PSC/RFP request: Architect & Engineers, Local 21,

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# 42606 - 13/14

DHR Analysis/Recommendation:

Civil Service Commission Action:

Commission Approval Required

DHR Approved for 02/03/2014

3. Description of Required Skills/Expertise

A. Specify required skills and/or expertise:
Please see additional attachment.

B. Which, if any, civil service class(es) normally perform(s) this work?
5203,5207,5212,5211,5241,5218,5219,528X,5298,5299,5620,5642,5644,5277,5278,5283,

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:
Yes. The consultant will provide facilities, equipment, and computer software for analyses needed for the work.

4. Why Classified Civil Service Cannot Perform

A. Explain why civil service classes are not applicable:

The broad and specialized scope of the necessary engineering and environmental services exceeds the City's current capabilities of staff and equipment. The work of consultants will also augment the work of the City's engineers and planners. The City's engineers and planners who are experienced with the work will review and substantiate that the engineered design and environmental analysis, respectively, are in conformance with Federal, State, and local requirements.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.
Please see additional attachment.

5. Additional Information (if "yes", attach explanation)

YES NO

- A. Will the contractor directly supervise City and County employee?
- B. Will the contractor train City and County employee?
- C. Are there legal mandates requiring the use of contractual services?
- D. Are there federal or state grant requirements regarding the use of contractual services? Please see attached document.
- E. Has a board or commission determined that contracting is the most effective way to provide this service?
- F. Will the proposed work be completed by a contractor that has a current PSC contract with your department?

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD
ON 01/08/2014 BY:

Name: Sung Kim Phone: 415-554-6417 Email: sung.kim@sfdpw.org

Address: 1155 Market Street, 4th Floor San Francisco, CA

Receipt of Union Notification(s)
◆ Local 21

Dang, Leorah

From: dhr-psccordinator@sfgov.org
Sent: Monday, December 09, 2013 1:46 PM
To: Kim, Sung; L21PSCReview@ifpte21.org; Lim, Michelle; DHR-PSCCoordinator, DHR; Isen, Richard
Subject: Receipt of Notice for new PCS over \$100K PSC # 42606 - 13/14

RECEIPT for Union Notification for PSC 42606 - 13/14 more than \$100k

The GENERAL SERVICES AGENCY - PUBLIC WORKS -- DPW has submitted a request for a Personal Services Contract (PSC) 42606 - 13/14 for \$5,000,000 for Initial Request services for the period 03/01/2014 – 03/31/2019. Notification of 30 days (60 days for SEIU) is required.

After logging into the system please select link below, view the information and verify receipt:

<http://apps.sfgov.org/dhrdrupal/node/955>

Email sent to the following addresses: L21PSCReview@ifpte21.org for Architect & Engineers, Local 21
jebrenner@ifpte21.org for Architect & Engineers, Local 21

Department's Letter of Explanation

- **Proposed PSC requesting 5 years or more**

The PSC may exceed 5 years based on the scope of work. The PSC is seeking a consultant to perform a full range of planning, environmental, design engineering, and construction engineering support services, where work will span over the entirety of the project. This particular contracting approach is uncommon, but extremely beneficial to the project as many of the technical and environmental studies will feed directly into the design considerations and, ultimately, the final retrofit and rehabilitation strategy.

Having a single consultant will provide for better coordination during the environmental and design phases and continuity during construction.

In addition, the Project will involve extensive coordination with San Francisco Municipal Transportation Agency (SFMTA) that may have impact schedule.

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Additional Attachment(s) of Explanation

◇ **Section 1. Description of Work**

1B. Explain why this service is necessary and the consequences of denial

◇ **Section 3. Description of Required Skills Expertise**

3A. Specify required skills and/or expertise

◇ **Section 4. Why Classified Civil Service Cannot Perform**

4B. Would it be practical to adopt a new civil service class to perform this work? Explain.

PSC Attachment:

1B. Explain why this service is necessary and the consequences of denial

These services are necessary because the Project is extremely unique and will require specialized engineering and environmental/regulatory expertise. Bridge rehabilitation projects are infrequent in the City, and the Islais Creek Bridge is a one of a kind bascule bridge over water that will require focused structural, mechanical, and electrical engineering services. The Project will need bridge assessments and related engineering work to develop a feasible seismic retrofit and rehabilitation strategy. The Project will need to comply with both federal and state environmental requirements [National Environmental Policy Act (NEPA), California Environmental Quality Act (CEQA)] and include the necessary environmental studies as well. Projects with this type of work and complexity are fairly uncommon. Denial of this request will hamper SFDPW's effort and will delay the delivery of this major infrastructure project.

3A. Specify required skills and/or expertise:

The Project requires specialized engineering and environmental consultants with expertise in complex, major infrastructure projects, particularly seismic retrofit and rehabilitation of bridges over water with a strong regulatory component (Caltrans, BCDC, RWQCB, Coast Guard, USACOE, Fish and Wildlife, etc). The Project also requires specialized structural, mechanical, and electrical engineering expertise for bascule bridge structures. Consultant work products must be compatible with the requirements of federally funded projects and comply with the requirements/standards of the Federal Highway Administration, Caltrans, SF Planning Department, and SFDPW. In addition, environmental consultants need both California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) expertise to provide aesthetics/visual, air quality, biological resources, cultural resources, geology/soils, hazards and hazardous materials, land use and planning, noise, transportation and traffic, utilities and service systems and other analyses needed to support the environmental analysis.

4B. Would it be practical to adopt a new civil service class to perform this work? Explain.

No, the work is highly specialized and project specific. Projects of this type and size requiring this particular work are infrequent so the adoption of a new civil service class to perform this work would be impractical. In addition, the utilization of consultants to prepare the environmental document is consistent with City Planning Department's policy and procedures (See attached "Environmental Review Process Summary").



SAN FRANCISCO
PLANNING
DEPARTMENT

GENERAL PLANNING INFORMATION

Environmental Review Process Summary

Planning Department
1650 Mission Street
Suite 400
San Francisco, CA
94103-9425

T: 415.558.6378
F: 415.558.6409

Date:
March 17, 2011

Subject:
**Environmental Review under the California
Environmental Quality Act**

Cal. Pub. Res. Code Section 21000 et seq.; CCR Title 14,
Section 15000 et seq.; and San Francisco Admin. Code
Chapter 31

Introduction

The California Environmental Quality Act (CEQA) was enacted in 1970 in response to the growing awareness that environmental impacts must be carefully considered in order to avoid unanticipated environmental problems resulting from development or planning efforts. The environmental review process provides decision-makers and the general public with an objective analysis of the immediate and long-range specific and cumulative impacts of a proposed project on its surrounding physical environment. In California, environmental review is two-fold in purpose: to disclose the impacts of a project and to ensure public participation.

Environmental review under CEQA is administered for all departments and agencies of the City and County of San Francisco by the Environmental Planning division of the Planning Department (the Department). Projects subject to CEQA are those actions that have the potential for resulting in a physical change of some magnitude on the environment and that require a discretionary decision by the City, such as public works construction and related activities, developments requiring permits (which in San Francisco are discretionary and thus not exempt from CEQA), use permits, activities supported by assistance from public agencies, enactment and amendment of zoning ordinances, and adoption or amendment of the General Plan or elements thereof. No action to issue permits, allocate funds, or otherwise implement a discretionary project may be taken until environmental review is complete.

Projects requiring analysis in environmental impact reports (EIRs) are generally complex major public or private development proposals, or those projects that could potentially have a significant impact on the physical environment.

Exemption from Environmental Review

The environmental review process begins with a determination by the Department as to whether or not a discretionary action by the City falls within a class of projects that are exempt from environmental evaluation pursuant to CEQA Statutes and Guidelines. Projects that are exempt generally include small-scale new construction or demolition, some changes of use, some additions, and other generally small-scale projects. These projects are enumerated in the *Categorical Exemptions from the California Environmental Quality Act*, adopted by the San Francisco Planning Commission (the Commission) on August 17, 2000.

Some small projects may be issued environmental exemptions over the counter at the Planning Information Center (PIC), 1660 Mission Street, First Floor, or may be referred to Environmental Planning staff. In the latter case, the project sponsor (private applicant or government agency) submits an *Environmental Evaluation (EE) Application* to the Environmental Planning intake planner, along with a fee (see *Schedule of Application Fees*).

If the proposed project involves the major alteration or demolition of a property more than 50 years old, the project sponsor will need to file a *Historical Resource Evaluation – Supplemental Information Form* with the *EE Application* so that Department staff can evaluate whether the proposed project would result in impacts on historical resources.

Project sponsors also need to submit a Tree Disclosure Statement with the *EE Application*. Other materials, such as technical reports, may be required on a case-by-case basis. Refer to Special Studies, below.

Community Plan Exemption

Per Section 15183 of the State CEQA Guidelines, community plan exemptions from CEQA review may be issued for projects within adopted plan areas. These exemptions may be issued for larger projects that would not otherwise be exempt, if they are determined not to create significant impacts beyond those identified in the applicable area plan EIR.

Exemption Timeline

A determination of exemption is generally processed in a minimum of two weeks; however, projects that require historical review or other supplemental data may take two months or longer to process, based on factors such as changes in the proposed project, supplemental data requirements, and staff case load.

Appeal of Exemption

A determination of exemption may be appealed to the Board of Supervisors (the Board). The procedures for filing an appeal of an exemption determination are available from the Clerk of the Board at City Hall, Room 244, or by calling (415) 554-5184.

Environmental Review

Please note that some moderate to large projects (e.g., those that create six or more dwelling units and those that create or add 10,000 square feet to a non-commercial building) are required to submit a *Preliminary Project Assessment (PPA) Application* prior to submitting an *EE Application*.

ENVIRONMENTAL EVALUATION APPLICATION

For projects not exempt from environmental evaluation, the project sponsor (private applicant or government agency) files a completed *EE Application* by appointment with the assigned Environmental Planning application intake planner along with a fee based on the construction cost of the proposed project. The Department's *Schedule of Application Fees* and contact information for the intake planner are available online at sfplanning.org, and at the PIC, 1660 Mission Street, First Floor, or by calling (415) 558-6377. The *EE Application* may be filed prior to or concurrently with the building permit application.

SPECIAL STUDIES

To assist Department staff in the environmental evaluation process, the project sponsor may be required to provide supplemental data or studies to the *EE Application* intake planner to address potential impacts on soils, transportation, biological resources, wind, hazards, shadows, noise, air quality, or other issue areas. If a shadow study is required, the project sponsor files a *Shadow Analysis Application* along with a fee (see *Schedule of Application Fees*), and Department staff prepares a shadow fan analysis. If a transportation study is required for impact analysis, the project sponsor submits two fees: one to the Department and one to the Municipal Transportation Agency (see the Department's *Schedule of Application Fees*). Fees are generally non-refundable and are in addition to costs paid by the project sponsor for consultant-prepared reports (see *Consultants*, below).

INITIAL STUDY

After the project sponsor submits a completed *EE Application*, Department staff prepares an initial study for the proposed project. Projects are evaluated on the basis of the information supplied in the *EE Application*,

any additional information required from the applicant, research, and contact with affected public agencies, citizens groups, and concerned individuals, all by or under the direction of Environmental Planning staff. Initial studies for some large or complex projects may need to be prepared by a consultant rather than by Department staff.

NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION

If the initial study determines that the proposed project would not have a significant effect on the environment, a preliminary negative declaration (PND) is issued, advertised in a local newspaper, posted at the Department, on its website, and on the subject site, and mailed to various parties as requested.

If the initial study determines that the project would result in significant impacts on the environment, but that such impacts could be reduced to a less-than-significant level through mitigation measures, Environmental Planning staff issues a preliminary mitigated negative declaration (PMND), provided that the project sponsor agrees to implement the mitigation measures.

Appeal of PND or PMND

During the 20 (or 30 if required by CEQA) calendar days after legal advertisement of the PND or PMND issued by the Department, concerned parties may comment on the adequacy of the PND or PMND, request revisions or appeal the determination, and/or request preparation of an EIR. Appeals must be in the form of a letter to the Environmental Review Officer stating the grounds for the appeal and must include an appeal fee (see *Schedule of Application Fees*). The Commission will decide the appeal at an advertised public hearing. The Commission may (1) sustain the PND or PMND as written, (2) amend the PND or PMND, or (3) require that an EIR be prepared.

If no appeal is filed within 20 or 30 calendar days, any substantive comments related to environmental effects will be incorporated into the final negative declaration (FND) or final mitigated negative declaration (FMND), which is signed by the Environmental Review Officer and issued. Approval decisions may then be made on the project.

Appeal of FND or FMND

FNDs and FMNDs are appealable to the Board. The procedures for filing an appeal of an FND or FMND determination may be obtained from the Clerk of the Board at City Hall, Room 244, or by calling (415) 554-5184.

Negative Declaration Timeline

A minimum timetable for the negative declaration (ND) or mitigated negative declaration (MND) process is about six months; the timetable may be six to twelve months or longer based on factors such as changes in the proposed project, staff case load, supplemental data requirements, whether the document is appealed, and – where consultant work is required – quality of work.

ENVIRONMENTAL IMPACT REPORT

Before or during the initial study process, the Department may determine that the project could have a significant effect on the environment and that an EIR is required. The determination that an EIR is required is published in a local newspaper, posted at the Department, at the subject site, and on the sfplanning.org website, and mailed to various parties.

Administrative Draft EIR

If an EIR is required, the project sponsor must have an administrative draft EIR (ADEIR) prepared by a qualified environmental consultant and submitted to Department staff. Fees for processing the EIR are billed when staff advertises the EIR notice of preparation, and are payable upon submittal of the first ADEIR. This first administrative draft is reviewed by Environmental Planning staff in consultation with other relevant Department staff and public agencies. Two or three revisions of the ADEIR are often required for completion of research and verification of accuracy before the material is ready for publication.

Draft EIR Publication and Public Hearing

When staff determines that the ADEIR is acceptable for publication, the Department assumes authorship, authorizes publication of the draft EIR (DEIR), and advertises in a local newspaper and with on-site posting that the DEIR is available for public review, will be considered by the Commission at a specified public hearing, and what, if any, significant impacts are identified in the DEIR. The public hearing before the Commission occurs at least 30 days after publication of the DEIR. The purpose of the hearing is to receive

testimony related to the accuracy and completeness of the DEIR; written comments are also accepted during the review period, which extends at least five days beyond the hearing.

Final EIR Certification

Following the DEIR hearing, a comments and responses document is prepared to respond to all substantive issues raised in the written and oral testimony. The document is distributed to the Commission, commentors, and others as requested. After reviewing the comments and responses document, including any revisions to the DEIR and incorporation into the EIR of any further changes requested by the Commission, the Commission certifies at a public meeting that the final EIR (FEIR) has been completed in compliance with State law, and determines whether the project would or would not have a significant effect on the environment. It is important to note that certification does not approve or disapprove a project, but rather concludes that the EIR complies with CEQA and provides environmental information regarding the proposed project to serve as one of the elements upon which a reasoned decision is based.

If the Commission determines that the proposed project would have a significant effect on the environment, it may approve a project in one of two ways: (1) require changes in the project to reduce or avoid environmental damage if it finds such changes feasible (generally via alternatives and/or mitigation), or (2) find that changes are infeasible and make a statement of overriding considerations. CEQA requires decision-makers to balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. If the benefits of a proposed project would outweigh the unavoidable adverse environmental effects, those adverse effects may be considered "acceptable." The Commission must, in such cases, state in writing the specific reasons to support its action based on the FEIR and/or other information in the record.

Appeal of EIR

The certification of an FEIR is appealable to the Board. Any person or entity that has submitted comments to the Commission or to the Environmental Review Officer may appeal the Commission's certification of the FEIR to the Board within 20 calendar days after that certification. Appeals must be in the form of a letter to the Board stating the grounds of the appeal, with submittal of an appeal fee (see *Schedule of Application Fees*).

Upon review by the Department, the appeal fee may be reimbursed for neighborhood organizations that have been in existence for a minimum of 24 months. The Board may reject by motion an appeal that fails to state proper grounds for the appeal. The Board must act on valid appeals at an advertised public hearing, which must be scheduled within 30 calendar days after the Commission's certification of the FEIR, but may in certain circumstances extend such time period up to 90 calendar days from the date of filing the appeal. The Board may affirm or reverse the certification by the Commission by a majority vote. If the Board affirms the Commission's certification, the FEIR is considered certified on the date upon which the Commission originally certified the FEIR. If the Board reverses the Commission's certification, the Board must make specific findings and remand the FEIR to the Commission for further action consistent with the Board's findings. The Commission must take such action as may be required by the Board and consider recertification of the EIR. Only the new or revised portions of the FEIR may then be appealed again to the Board.

EIR Timeline

A minimum timeline for the EIR process is 18 months; the period is variable, however, based on factors such as changes in the proposed project, staff case load, supplemental data requirements, quality of consultant work submitted to the Department, nature and volume of the DEIR comments, and whether the FEIR is appealed.

NOTICES OF EXEMPTION/ DETERMINATION

For projects that are exempt from environmental evaluation, the project sponsor may request that a notice of exemption (NOE) be filed after the project is approved. Though not required, the NOE shortens the statute of limitations for legal challenges under CEQA from 180 calendar days to between 30 and 35 calendar days.

A notice of determination (NOD) may be filed upon approval of a project for which an ND, MND, or EIR has been prepared. The filing of an NOD starts a 30-calendar day statute of limitations on court challenges to the approval under CEQA. If no NOD is filed, the statute of limitations is 180 calendar days.

The NOE or NOD must not be filed until after the project is approved but within five working days of project approval. It is possible that several NODs may be needed for one project if the project requires multiple approvals at different times. To file an NOE or NOD, the project sponsor must submit a fee to the County Clerk. A higher fee established by the State Department of Fish and Game is required for filing an NOD for a project that may result in an adverse impact on sensitive species, sensitive habitat, or wildlife migration.

Consultants

The project sponsor may retain or be required to retain environmental consultants to prepare an initial study, ND, MND, EIR, and other environmental documents or studies. The Department has established pools of qualified consultants with expertise in the preparation of environmental, transportation, historical resource, and archeological resource documents. If required for project analysis, the document must be prepared by a consultant who is included in the respective consultant pool. While the project sponsor pays all costs for preparation of the necessary consultant-prepared documents, the Department scopes, monitors, reviews, and approves all work completed by consultants.

For More Information

The following reference materials, applications, and forms are currently available at the Planning Information Center, 1660 Mission Street, First Floor, and on the Department's website, sfplanning.org:

→ **Preliminary Project Assessment (PPA)**

Application – Must be submitted prior to the EE Application if the project would create six or more dwelling units or create/add 10,000 square feet to a non-residential building. The PPA process provides project sponsors with early feedback for environmental review and other Department requirements before development applications are filed. This early viewing of the project provides sponsors with early feedback and procedural instructions, and also allows staff to coordinate early in the development process.

→ **Environmental Evaluation (EE) Application**

– May need to be filed to determine whether projects are environmentally exempt or require environmental review.

→ **Historical Resources – Supplemental Information Form** – May need to be filed with the EE Application.

→ **Categorical Exemptions from the California Environmental Quality Act** – Lists the types of projects that are exempt from environmental evaluation.

→ **San Francisco Preservation Bulletin No. 16: CEQA and Historical Resources** – Provides direction and guidance for the environmental evaluation of historic resources.

→ **Initial Study Checklist** – Provides a template for the Initial Study, and also serves to scope an EIR by determining which topics require more extensive review and which do not.

→ **Shadow Analysis Application** – Determines whether new structures above 40 feet in height would cast shadows on San Francisco Recreation and Parks Department properties.

→ **Transportation Impact Analysis Guidelines for Environmental Review** – Aids consultants in preparing transportation impact analyses for NDs, MNDs, and EIRs.

→ **Schedule of Application Fees** – Lists Department fees, including fees for exemptions, initial studies, environmental impact reports, and appeals of environmental determinations. Some fees are based on the construction cost of a proposed project, others are flat fees, and some are based on the cost of time and materials for environmental review processing.

General inquiries regarding environmental review should be directed to Environmental Planning at (415) 575 9025. For information regarding a specific project undergoing environmental review, contact the assigned planner (call the PIC at (415) 558-6377 to request the name and number of the assigned environmental planner).



SAN FRANCISCO
PLANNING
DEPARTMENT

FOR OTHER PLANNING INFORMATION:
Call or visit the San Francisco Planning Department

Central Reception
1650 Mission Street, Suite 400
San Francisco CA 94103-2479

TEL: 415.558.6378
FAX: 415.558.6409
WEB: <http://www.sfplanning.org>

Planning Information Center (PIC)
1660 Mission Street, First Floor
San Francisco CA 94103-2479

TEL: 415.558.6377

Planning staff are available by phone and at the PIC counter.
No appointment is necessary.

Additional Attachment(s)

◇ **Section 5. Additional Information**

5D. Are there federal or state grant requirements regarding the use of contractual services?

**Local Assistance Procedures Manual
Chapter 10 – Consultant Selection
May 8, 2013**

CHAPTER 10 CONSULTANT SELECTION

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CHAPTER 10 CONSULTANT SELECTION

10.1 GENERAL

INTRODUCTION

A local agency may engage consultants to perform architectural, engineering, and related services needed to develop a federal-aid or state funded project. Those private consulting firms providing architectural, landscape architectural, engineering, environmental, land surveying, construction engineering, or construction project management services, with respect to a construction project, are termed "Architectural and Engineering (A&E) Consultants." Local agencies requesting federal or state funds to reimburse A&E Consultants must follow the selection and contracting procedures detailed in this chapter.

ARCHITECTURAL AND ENGINEERING CONSULTANTS

The provisions of the Brooks Act (40 USC, Section 1104) require local agencies to award federally funded engineering and design related contracts on the basis of fair and open competitive negotiations, demonstrated competence, and professional qualifications (23 Code of Federal Regulations (CFR), Part 172), at a fair and reasonable price (48 CFR 31.201-3). Both federal and California state law (Government Code 4525-4529 et al) requires selection of A&E contract services on the basis of demonstrated competence and professional qualifications.

Cost proposals submitted to the local agency, if above the small purchase procurement threshold, must be sealed and may not be included as a criterion for rating such consultants. After ranking, cost negotiations may begin with the most qualified consultant and only their cost proposal will be opened. Should negotiations fail or result in a price the local agency does not consider to be fair and reasonable, negotiations must be formally terminated and the local agency must then undertake negotiations with the second most qualified consultant.

If the negotiations with the second most qualified firm are not successful, negotiations must be formally terminated and the local agency must then undertake negotiations with the third most qualified consultant, and so on, until the price is determined to be fair and reasonable by the local agency.

In selecting an A&E consultant, a detailed technical proposal or qualifications proposal, and a proposed contract will be required.

Depending upon the scope of work, the required contract provisions may need to include the California State Prevailing Wages (Federal "Payment of Predetermined Minimum Wage" applies only to federal-aid construction contracts). Prevailing wages will apply if the services to be performed will involve land surveying (such as flag persons, survey party chief, rodman or chainman), materials sampling and testing (such as drilling rig operators, pile driving, crane operators), inspection work, soils or foundation investigations, environmental hazardous materials and so forth. California State Prevailing Wage information is available through the California Department of Industrial Relations web site at: http://www.dir.ca.gov/dlsr/statistics_research.html

Wage guidelines entitled, *Consultant Guidelines for Prevailing Wage and Labor Compliance on Architectural and Engineering (A&E) Contracts* are used to administer Caltrans Consultant contracts and are available at: http://www.dot.ca.gov/hq/construc/A&E_Guidelines/A&EGuidelines.pdf

NON A&E CONSULTANTS

Consultants other than A&E consultants may be selected using cost, cost and qualifications (best value) or other critical selection criteria. The procedures outlined in this chapter can be modified for selecting non-A&E consultants by adding a cost item to the contract proposal. The Brooks Act and the audit and review process described in Section 10.3 of this chapter are optional for non A&E Consultant contracts.

SELECTING THE PROJECT

The local agency is responsible for selecting and initiating a federal-aid or state financed transportation project. The decision to begin project development is influenced by the project needs, its acceptability, the timing of studies, financing, and construction. The local agency must identify the project's objectives including the general level of improvement or service, operating standards, maximum cost and the target date for project completion before commencing any consultant selection process.

SUBCONTRACTED SERVICES

The consultant is responsible for performing the work required under the contract in a manner acceptable to the local agency. The consultant's organization and all associated consultants and subconsultants must be identified at the time of the proposal. If the consultant wishes to use a subconsultant not specified in the proposal, prior written approval must be obtained from the local agency.

If a subcontract for work or services to be performed exceeds \$25,000, the subcontract must contain all required provisions of the prime contract.

ORGANIZATIONAL AND CONSULTANT CONFLICTS OF INTEREST

In the procurement of contracts for engineering services by private consulting firms using federal-aid highway or state funds, local agencies must take all the steps necessary to prevent fraud, waste and abuse. The Local agency must develop and maintain a written code of conduct governing the performance of its employees engaged in the award and administration of federal-aid highway funded contracts, including the prevention of conflicts of interest.

A conflict of interest occurs when a public official's private interests and his or her public duties and responsibilities diverge or are not consistent. Conflicts of interest may be direct or indirect (e.g., as result of a personal or business relationship). Additionally, the appearance of a conflict of interest should be avoided as an apparent conflict may undermine public trust if not sufficiently mitigated.

FEDERAL REGULATION GOVERNING CONFLICT OF INTEREST (23 CFR 1.33) REQUIRES THAT:

- No contracting agency employee who participates in the procurement, management, or administration of federal or state funded contracts or subcontracts shall have, directly or indirectly, any financial or other personal interest in connection with such contract or subcontract;
- No person or entity performing services for a contracting agency in connection with a federal or state funded project shall have, directly or indirectly, any financial or other personal interest, other than employment or retention by the contracting agency, in any contract or subcontract in connection with such project;
- No person or entity performing services for a contracting agency in connection with a FAHP funded project shall have, directly or indirectly, any financial or other personal interest in any real property acquired for the project.

CONSULTANTS PERFORMING WORK ON MULTIPLE PHASES OF FEDERAL-AID PROJECTS

Local agencies sometimes wish to hire the same consultant firm to perform construction engineering and/or inspection services on the same project on which the firm also performed design services. This can result in project delivery efficiencies, as the design firm is well-suited to verify that the project is being constructed in accordance with the design and can resolve issues related to the design on behalf of the contracting agency. However, this may also pose a potential conflict of interest if the firm has a vested financial interest in failing to disclose deficiencies in its design work product and seeks to insulate itself from pecuniary liability in subsequent phases of the project, such as minimizing or ignoring design errors and omissions, rather than serving the best interests of the contracting agency and the public. *Procuring a different firm from the design firm to provide the necessary construction engineering and/or inspection services provides another level of review and reduces the risk of, or potential for, a conflict of interest.*

Although federal regulations do not expressly prohibit the same firm from providing services on subsequent phases, the local agencies are responsible for ensuring the public interest is maintained throughout the life of a project and that a conflict of interest, direct or indirect, does not occur or is sufficiently mitigated by appropriate public agency controls. Prior to allowing a consulting firm to provide services on subsequent phases of the same project, the contracting agency must establish appropriate compensating controls in the form of policies, procedures, practices, and other safeguards to ensure a conflict of interest does not occur in the procurement, management, and administration of consultant services.

When design and construction phase services are procured under a single solicitation, the selection of the consulting firm must be based on the overall qualifications to provide both design and construction phase services, which require different skill sets, experience, and resources. Procuring these services under different solicitations may result in selection of a more qualified firm to perform services in each phase, as the most qualified firm to perform design phase services may not be the most qualified firm to provide construction phase services. Similarly, the qualifications and capacity of a firm may change over time. *As such, it may not be appropriate to contract with a consulting firm to provide construction phase services at the outset of a design phase, knowing that these services may not be needed for an extended period of time until the preconstruction phase of the project is complete and construction funding authorized.*

The contract with a consulting firm providing design phase services on a project may not be amended to include construction phase services unless the desired construction phase services were included within the original advertised scope of services and evaluation criteria of the solicitation from which a qualifications based selection was conducted.

All consultants acting in a management role must complete Exhibit 10-U *Consultant in Management Position Conflict of Interest and Confidentiality Statement* and retain it in the local agency files.

AUTHORIZATION TO PROCEED

The Federal Highway Administration (FHWA) must give the local agency an "Authorization to Proceed" with the work prior to the performance of any work for which federal reimbursement is to be requested, (see Chapter 3, "Project Authorization," of the LAPM). For state funded projects, see Chapter 23, "Local Agency State Transportation Improvement Program Projects," of the *Local Assistance Program Guidelines (LAPG)* for guidance as to when work may proceed.

Copies of the “Authorization to Proceed” and the consultant contract must be retained in the local agency project files for future audit purposes.

10.2 IDENTIFYING & DEFINING A NEED FOR CONSULTANTS

The need for a consultant is identified by comparing the project’s schedule and objectives with the local agency’s capabilities, its staff availability of the required expertise, and its funding resources. If the local agency does not have sufficient staff capabilities, it may choose to solicit assistance from another agency, or use a qualified private consultant to perform the required work.

If the local agency determines that there is a need to solicit assistance from another local agency, or to use a consultant, the District Local Assistance Engineer (DLAE) should be notified if federal-aid or state funds are to be requested for the project segment to be contracted out.

APPOINTING THE CONTRACT ADMINISTRATOR

The Contract Administrator is responsible for ensuring the quality of consultant contract products or services. The Contract Administrator is appointed as soon as the need for consultant services is identified. The Contract Administrator is involved throughout the development of the selection process and the contract provisions, and in the administration of the consultant’s work. The Contract Administrator must be a qualified local agency employee, or have staff that is qualified to ensure the consultant’s work is complete, accurate, and consistent with the terms and conditions of the consultant contract. On federal-aid contracts the Contract Administrator or staff members must be a full time employee and thoroughly familiar with the work to be contracted out and the standards to be used. The Contract Administrator must also abide by the laws, regulations and policies required as part of accepting federal or state funding for their project. Non-compliance with the laws, regulations, and policies may result in loss of project funding.

The Contract Administrator’s duties include, but are not limited to the following:

- Provides direction to ensure the proposed work is advertised properly;
- Prepares and distributes the Request for Qualifications (RFQ), description of work, and Request for Proposals (RFP), if used;
- Prepares the draft contract;
- Arranges for preparation in advance of an independent estimate of the value of the work to be contracted out;
- Ensures that the selection procedures are followed;
- Analyzes the selected/best-qualified consultant’s cost proposal;
- Serves as the local agency’s primary contact person for the successful consultant;
- Monitors the consultant’s progress and provides direction;
- Reviews billings and determines whether costs billed are reasonable in relation to the work performed during billing period;
- Approves the consultant’s progress payments and ensures that billings are in accordance with the terms and conditions of the contract;
- Identifies other local agency staff for the consultant to contact, if needed.

DETERMINING THE PROJECT SCHEDULE

The local agency develops a schedule for performance of work and completion of the project. The schedule must include sufficient time to allow for:

- Selecting the consultant;
- Developing the consultant contract;
- Completing the A&E consultant contract audit process;
- Conducting meetings and project reviews.

SEGMENTING CONSULTANT WORK

Consultant services are most effective when consultant work is segmented appropriately. The extent of segmenting depends upon the type and complexity of the work. Combining preliminary engineering tasks with the preparation of the required environmental analysis is normally desirable. Preparing an Environmental Assessment (EA) or Environmental Impact Statement (EIS) is more than simply writing a report. Assessment and impact reports include preliminary engineering needed to analyze project alternatives and produce an engineering and planning assessment. Initial project studies include only as much traffic and engineering analysis of alternatives, as is needed to produce a sound EA or EIS (see Chapter 6, "Environmental Procedures," of the LAPM and Chapters 31 and 32 of the *Standard Environmental Reference* [SER]). Final detailed design shall not begin until environmental clearance has been received if federal reimbursement is desired.

Refer to Figure 10-1 "Segmenting Consultant Work" in this chapter, which illustrates several satisfactory ways to segment consultant activities.

FIGURE 10-1 SEGMENTING CONSULTANT WORK

	Well-structured Projects With Simple Right of Way Requirements	Well-structured Projects With Complex Right of Way Requirements	More Difficult Projects	Very Complex Projects
Preliminary Engineering				
Environmental Analysis				
Plans, Specifications & Estimates				
Right of Way Activities				
Utility Relocation				
Construction Engineering				

SPECIFY PRODUCTS TO BE DELIVERED

The Contract Administrator identifies the products and services to be delivered as a result of consultant contract work. These vary depending upon the type of projects and the phase of project development being addressed.

SCOPE OF CONSULTANT WORK

The scope of work, which the contract must include, is a detailed description of the products or services the consultant is to provide. From a detailed scope of work, consultants respond to a project advertisement; determine personnel and time requirements; and develop a technical proposal. Therefore, the scope of work must be clear, concise, complete, and describe the deliverables and deadlines.

NON-DISCRIMINATION CLAUSE

The Non-Discrimination Clause (Exhibit 10-V) must be included in each consultant contract. The consultant must include the nondiscrimination and compliance provisions of the Non-Discrimination Clause in all subcontracts to perform work under the contract.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

When administering federal-aid projects, federal regulations (49 CFR, Part 26) require a local agency to comply with the DBE program, and take necessary steps to ensure that DBE firms have the opportunity to participate in the projects. Such steps include the setting of goals to ensure DBE firms are considered by the proposing consultants and, when feasible, organizing the project schedule and task requirements to encourage participation in the contract by DBE firms. Local agencies should be fully aware of all of the subcontracting opportunities in their consultant contracts. For detailed information and requirement on DBE Program, see Chapter 9 *Civil Rights and Disadvantaged Business Enterprises* of the LAPM.

The consultant must ensure that certified DBE firms have the opportunity to participate in the performance of the contract and must take all necessary and reasonable steps to facilitate participation by DBE firms for such assurance.

A DBE goal must be established by the local agency for each contract if there are subcontracting opportunities and available DBE firms. The consultant must meet the goal by using DBEs, or if not able to meet the DBE goal, document that a good faith effort was made to meet the contract goal. Good faith efforts must be documented by the consultant and approved by the local agency (see Exhibit 15-H *DBE Information-Good Faith Efforts* of the LAPM). If the consultant's documented good faith efforts are found to be inadequate by the local agency, the consultant must be offered an opportunity for reconsideration.

If a DBE subconsultant is unable to perform its subcontracted services and the goal is not otherwise met, the consultant must make a good faith effort to replace it with another DBE subconsultant to the extent needed to meet the DBE goal. For more detailed information see Exhibit 10-I *Notice to Proposers DBE Information*. For sample contract clauses with and without specified DBE goals see Exhibit 10-J *Standard Contract Provisions for Subconsultant/DBE Participation*.

Exhibit 10-I *Notice to Proposers DBE Information* must be included in the RFQ or RFP, if the proposed contract will include federal-aid funds. Exhibit 10-J *Standard Contract Provisions for Subconsultant/DBE Participation* must be included in the award package in all consultant contracts with federal-aid funds.

REPORTING DBE COMMITMENTS AND DBE INFORMATION**FOR CONTRACTS WITH DBE GOALS**

If the local agency has set a DBE goal, Exhibit 10-O1 *Consultant Proposal DBE Commitment* must be included in the proposal package provided to the local agency by each (prime consultant) proposer. The purpose of Exhibit 10-O1 is to demonstrate the proposer's commitment to meet the DBE goal set by the local agency.

Exhibit 10-O2 *Consultant Contract DBE Information* of the LAPM must be completed and included in the award package. The purpose of this form is to capture DBE participation in accordance with 49 CFR, Part 26. This form must include the names, addresses, and phone numbers of DBE firms that will participate with a complete description of work or supplies to be provided by each, and the dollar value of each DBE transaction. When 100 percent of a subcontracted item of work is not to be performed or furnished by the DBE firm, a description of the exact portion of work to be performed or furnished by that DBE must be included in the DBE commitment, including the planned location of that work. A proposer certified as a DBE firm must describe the work it has committed to be performed with its own forces, as well as any other work that it has committed to be performed by the DBE subconsultant, suppliers, and trucking companies.

The winning proposer must provide written confirmation from each DBE firm participating in the contract. A copy of a DBE's quote will serve as written confirmation that the DBE is participating in the contract. If a DBE is participating as a joint venture partner, the proposer must submit a copy of the joint venture agreement.

FOR CONTRACTS WITH NO DBE GOALS

For contracts with 0% no DBE contract goal, Exhibit 10-O1 is not necessary and only Exhibit 10-O2 *Consultant Contract DBE Information* must be included in the award package and provided by the winning proposer.

REPORTING DBE FINAL UTILIZATION (CONTRACTS WITH OR WITHOUT GOALS)

Upon completion of the contract a summary of the DBE final utilization must be prepared, certified correct, and submitted on Exhibit 17-F *Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultant* or equivalent to the local agency showing total dollars paid to each subconsultant and supplier. Exhibit 17-F is reviewed by the local agency and certified as complete and accurate.

The local agency must send the original, plus one copy of the completed Exhibit 17-F with the final invoice to the DLAE within thirty (30) days after completion of the contract.

ESTIMATED COST OF CONSULTANT WORK

An independent estimate for cost or price analysis is needed for all consultant contracts (49 CFR 18.36(f)) to ensure that consultant services are obtained at a fair and reasonable price. The estimate is prepared in advance of requesting a cost proposal from the top-ranked consultant, so the local agency's negotiating team has a detailed cost analysis of the project to evaluate the reasonableness of the consultant's cost proposal. The estimate, which is specifically for the use of the local agency's negotiating team, is to be kept confidential.

A good cost estimate can be prepared only if the scope of work is defined clearly. The scope of work must include a list of the products or services which the consultant is required to deliver, and a time schedule of when they must be delivered.

It should be stressed that all work to be derived from the consultant services (such as preliminary design, environmental or final design) must be clearly identified in the solicitation of consultant services (RFQ or RFP) and included in the cost estimate. The addition of work to the original scope by amendment should be avoided whenever possible.

The cost estimate must include a detail cost breakdown of:

- Direct labor costs;
- Indirect costs;
- General and administrative costs;
- Other direct costs;
- Subconsultant costs;
- Net fee or profit.

If more than one project or phase of work is to be developed within the consultant contract, separate cost estimates are required for each project or phase of work. Separate cost estimates are required for each milestone and portion of the work expected to be subcontracted.

DETERMINE TYPE OF CONTRACT

Type of contract to be used are described as follows:

- Project-specific contract is between the local agency and consultant for the performance of services and a defined scope of work related to a specific project or projects.
- Multi-purpose contract is a project-specific contract where the defined scope of work is divided into phases which may be negotiated and executed individually as the project progresses.
- On-call contract is a contract for a number of projects, under which task or work orders are issued on an as-needed basis, for an established contract period. On-call contracts are typically used when a specialized service of indefinite delivery or indefinite quantity are needed for a number of different projects (such as construction engineering, design, environmental analysis, traffic studies, geotechnical studies, field surveying, etc.). Many agencies use these contracts to address peaks in workload of in-house engineering staff and/or to perform a specialized service which the agency does not have. On-call contracts shall specify a reasonable maximum length of contract, not to exceed 5 years, and a maximum total contract dollar amount (23 CFR 172).

To maintain the intent of the Brooks Act (40 U.S.C. 1101-1104) in promoting open competition and selection based on demonstrated competence and qualifications, on-call consultant contracts established through the RFQ process must meet the following requirements:

- Must define a general scope of work, complexity, and professional nature of services.
- Specify a “task order” procedure the local agency uses to procure project specific work under the contract.
- If multiple consultants are to be selected and multiple on-call contracts awarded through a single solicitation for specific services:
 - Identify the number of consultants that may be selected or contracts that may be awarded.

- Specify procedures in the contracts the local agency will use to award/execute task orders among the consultants:
 - Either through an additional qualification-based selection process, OR
 - On regional basis whereby the region is divided into areas identified in the solicitation, and consultants are selected to provide on-call services for assigned areas only.

DETERMINE METHOD OF PAYMENT

The method of payment of contract must be specified. Four methods are permitted depending on the scope of services to be performed:

- Actual Cost-Plus-Fixed Fee (see Exhibit 10-H, Example #1);
- Cost Per Unit of Work (see Exhibit 10-H, Example #3);
- Specific Rates of Compensation (see Exhibit 10-H, Example #2);
- Lump Sum (see Exhibit 10-H, Example #1).

ACTUAL COST-PLUS-FIXED FEE

The consultant is reimbursed for actual costs incurred and receives an additional predetermined amount as a fixed fee (profit). Federal regulations require that profit be separately negotiated from contract costs. The determination of the amount of the fixed fee shall take into account the size, complexity, duration, and degree of risk involved in the work. The fixed fee is not adjustable during the life of the contract. The fixed fee dollar amount must be clearly stated in the contract.

This method of payment is appropriate when the extent, scope, complexity, character, or duration of work cannot be precisely predicted. Fixed fees apply to the total direct and indirect costs. The contract shall specify a reasonable maximum length of contract period and a maximum total contract dollar amount. (See Exhibit 10-H "Sample Cost Proposal – Example #1" form and Exhibit 10-E *Sample Payment Clauses* form in this chapter.) The contract cost proposal must identify all key employees and/or classifications to be billed. New key employees and/or classifications must be approved before they incur work on the contract or the costs can be questioned or disallowed.

COST PER UNIT OF WORK

The consultant is paid based on specific item of work performed. The item of work must be similar, repetitious and measurable, such as geotechnical investigation and material testing. This method of payment is appropriate when the cost per unit of work can be determined with reasonable accuracy in advance; but the extent or quantity of the work is indefinite. Contract payment provisions must specify what is included in the price to be paid for each item. Any item of work not identified in the contract cost proposal is not eligible for reimbursement. New items of work must be amended into the contract before work is performed. The contract shall also specify a reasonable maximum length of contract period and a maximum total contract dollar amount (see Exhibit 10-H, Example #3).

SPECIFIED RATES OF COMPENSATION

The consultant is paid at an agreed and supported specific fixed hourly, daily, weekly or monthly rate, for each class of employee engaged directly in the work. Such rates of pay include the consultant's estimated costs and net fee (profit). Federal regulations require that profit be separately negotiated from contract costs. The specific rates of compensation, except for an individual acting as a sole proprietor, are to include an

hourly breakdown, direct salary costs, fringe benefits, indirect costs, and net fee. Other direct costs may be included, such as travel and equipment rentals, if not already captured in the indirect cost rate.

This method of payment should only be used when it is not possible at the time of procurement to estimate the extent or the duration of the work, or to estimate costs with any reasonable degree of accuracy. This method is recommended for on-call contracts for specialized or support type services, such as construction engineering and inspection, where the consultant is not in direct control of the number of hours worked, and it also requires management and monitoring of consultant's level of effort and the classification of employees used to perform the contracted work. The contract shall also specify a reasonable maximum length of contract period and a maximum total contract dollar amount (see Exhibit 10-H, Example #2).

LUMP SUM OR FIRM FIXED PRICE

The consultant performs the services stated in the contract for an agreed amount as compensation, including a net fee or profit. This method of payment is appropriate only if the extent, scope, complexity, character, duration, and risk of the work have been sufficiently defined to permit fair compensation to be determined and evaluated by all parties during negotiations (see Exhibit 10-H, Example #1).

Normally, a lump sum contract will be paid in full at end of the contract when completed. However, a lump sum contract can be negotiated with progress payment if feasible. The progress payment shall be based on percent of work complete or completion of clearly defined "milestones". The contract cost proposal shall document the agreed upon progress payment and include the necessary milestones costs, or the percent work complete schedule.

10.3 A&E CONSULTANT AUDIT AND REVIEW PROCESS

This section outlines the audit and review process for state or federally funded A&E contracts. All proposed A&E contracts and supporting documents are subject to audit or review by Caltrans' Audits and Investigations (A&I), other state audit organizations, or the federal government. Not all proposed contracts will be audited or reviewed; rather, they will be selected on a risk-based approach. Figure 2, near the end of this section, shows an overview of the audit and review process.

APPLICABLE STANDARDS

State and federal requirements listed below, as well as specific contract requirements, serve as the standards for audits and reviews performed. The local agencies, consultants, and subconsultants are responsible for complying with state, federal and specific contract requirements. Local agencies are responsible for determining the eligibility of costs to be reimbursed to consultants. Applicable standards are:

- Caltrans' Local Assistance Procedures Manual (LAPM);
- Project Program Supplemental Agreements;
- 23 CFR, Chapter 1, Part 172 – *Administration of Engineering and Design Related Service Contracts*;
- 48 CFR, *Federal Acquisitions Regulation Systems*, Chapter 1 – *Federal Acquisition Regulation*, Part 31- *Contract Cost Principles and Procedures*;
- 48 CFR –FAR;
- 48 CFR, Chapter 99 – *Cost Accounting Standards*, Subpart 9900;

- 49 CFR, Transportation, Subtitle A, Office of the Secretary of Transportation, Volume 1, Part 18, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Government*;
- 49 CFR, Part 18.20 – *Standards for Financial Management Systems*;
- 23 U.S.C. – *Letting of Contracts*;
- United States Government Accountability Office, *Government Auditing Standards (GAS)*;
- Proposed contract terms and conditions.

See section 10.10 of this Chapter for links to above referenced standards.

AUDIT GUIDANCE AVAILABLE

The American Association of State Highway Officials, *Uniform Audit & Accounting Guide (AASHTO Audit Guide)*, which is referred to frequently in this section, is an invaluable tool to guide local agencies, consultants and certified public accountants (CPAs) through the requirements for establishing, and audits of, FAR compliant indirect cost rates (ICRs). The *AASHTO Audit Guide* is used extensively as an industry guide in the audit and review process.

The local agency may seek financial and accounting assistance from its own internal audit staff.

The consultant may also seek professional guidance in selecting its independent CPA. See also the *AASHTO Audit Guide*, Ch 2.5 C. *Selection of CPA Firm as Overhead Auditor* for guidance in the selection process.

Training is also offered by FHWA's National Highway Institute (See <http://www.nhi.fhwa.dot.gov/default.aspx>). Courses offered include:

- Using the AASHTO Audit Guide for the Procurement and Administration of A&E Contracts (FHWA-NHI-231028)
- Using the AASHTO Audit Guide for the Development of A&E Consultant Indirect Cost Rates (FHWA-NHI-231029)
- Using the AASHTO Audit Guide for the Auditing and Oversight of A&E Consultant Indirect Cost Rates (FHWA-NHI-231030)

CONTRACTS AND CONSULTANTS SELECTED FOR AUDIT OR REVIEW

Whether a proposed contract or consultant is selected for audit or review through A&I's risk-based approach is dictated by the dollar thresholds of the proposed contract, and other risk factors listed below.

Dollar thresholds for audits or reviews are stratified as follows:

- Less than \$150K – no audit or review is required, but is optional;
- Between \$150K and \$1M (Case 1);
- Between \$1M and \$3.5M (Case 2);
- \$3.5M and above (Case 3).

Specifics of Cases 1, 2 and 3 are outlined later in this section.

Risk factors considered include the consultant's:

- History of satisfactory performance;
- Prior FAR compliant history and audit frequency;
- Financial stability;

- Conformance to terms and conditions of previous contracts;
- General responsiveness and responsibility;
- The approximate dollar amount of all A&E contracts awarded to the consultant by Caltrans or a local agency in California within the last three calendar years;
- The number of states in which the consultant does business;
- The type and complexity of the consultant's accounting system;
- The relevant professional experience of any CPA performing audits of the consultant's indirect cost rate (ICR);
- Responses to internal control questionnaire (ICQ), see AASHTO Audit Guide, Appendix B;
- Changes in the organizational structure.

If audited or reviewed, contracts, cost proposals, and ICR(s) shall be modified to conform to audit and review recommendations. Local agencies are responsible for ensuring contracts, cost proposals, and ICR(s) are modified to conform to audit and review recommendations, and to ensure that audit findings are resolved in a timely manner.

The local agency will be subject to the sanctions outlined in LAPM, Chapter 20, *Deficiencies and Sanctions*, if the state or federal government determines that any reimbursements to the consultant are the result of the lack of proper contract provisions, unallowable charges, unsupported activities, or an inadequate financial management system.

SUBCONSULTANT IMPACTS

Subconsultants are required to follow all the federal, state, and contract requirements outlined above in *Standards that Apply*. In addition, all subconsultants are required to:

- Certify their contract costs and financial management system (Exhibit 10-K) when the total contract between the prime consultant and the local agency is \$150K or more. (23 U.S.C. 112(b)(2)(B)). Reminder: The contract is between the local agency and the prime consultant. Subconsultants, as parties to the contract, must also adhere to this requirement.
- Use the accrual basis of accounting when developing their ICRs.
- Have a job costing system.

Subconsultants' cost proposals also must be submitted along with the prime consultants' cost proposals through the request for audit process (see Exhibit 10-A *A&E Consultant Audit Request Letter and Checklist*) when the total (prime plus subs) proposed contract is \$1M or more.

COGNIZANT LETTERS OF APPROVAL

"Cognizant" audits and reviews have been developed to assign primary responsibility for an ICR audit to a single entity (the "cognizant agency") to avoid duplication of audit work performed in accordance with Government Auditing Standards. The objective of these audits and reviews is to obtain reasonable assurance that claimed costs are in accordance with the FAR cost principles. A cognizant agency may be the home state Department of Transportation (DOT) (the state where the consultant's financial records are located), a federal agency, or a non-home state DOT to whom the home state has transferred cognizance. When providing cognizant ICR approval the cognizant agency may either perform an ICR audit themselves, or they may review and rely on the work/workpapers related to an ICR audit performed by a CPA. The desired outcome of a cognizant audit or CPA workpaper review is for the "cognizant agency" to issue a

Cognizant Letter of Approval so that the ICR can be relied upon on future contracts with the consultant for a given year, and for reliance by other state agencies using the same consultant.

A&I will accept a consultant's cognizant approved ICR for the applicable one-year accounting period, if rates are not under dispute. The consultant is responsible for providing documentation of its cognizant approved ICR and Cognizant Letter of Approval.

MOST COMMON AUDITS AND REVIEWS TO BE PERFORMED

INDIRECT COST RATE (ICR) AUDITS

During an ICR audit, the auditors (A&I or independent CPAs) will examine the consultant's proposed ICR for the applicable one-year accounting period on the proposed contract to ensure that unallowable costs have been removed from the overhead, that allowable costs have been correctly measured and properly allocated, and that the ICR has been developed in accordance with the FAR cost principles (as specified in 23 U.S.C. 112(b)(2)(B), 23 CFR 172.7(a), and 48 CFR Part 31). As a result of the audit, the local agency will work with the consultant to adjust the ICR where disallowed costs are identified based on audit recommendations.

ICR Audits apply to Case 1 and Case 2 contracts (see Case descriptions below) selected for audit. Cognizant Letters of Approval are issued with ICR Audits.

For guidance regarding the existing policies and procedures set forth in the Federal Regulations, and acceptable samples of ICR schedules, refer to the AASHTO Audit Guide, Chapter 5.

The review program in the AASHTO Uniform Audit Guide, Appendix A, should be used as a guide in performing ICR audits. This review program will be used for reviews of CPA audited ICR workpapers.

IMPORTANT NOTE FOR CPAs: Contracts receiving state or federal funds are highly scrutinized. Materiality levels tend to be lower and more testing required. Strict use of the AASHTO Audit Guide cannot be stressed enough.

CPA AUDITED ICR WORKPAPER REVIEWS

During a CPA Audited ICR Workpaper Review, A&I will review the CPA's workpapers of its ICR audit to determine whether it is appropriate to issue a Cognizant Letter of Approval. The workpaper review is conducted to determine whether: (a) the CPA's audit was conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS), (b) the CPA adequately considered the auditee's compliance with FAR Part 31 and related laws and regulations, and (c) the audit report format is acceptable. Chapter 11 of the AASHTO Audit Guide includes a recommended format for the audit report and required disclosures.

CPA Audited ICR Workpaper Reviews apply to Case 3 contracts (see Case descriptions below) selected for review. Cognizant Letters of Approval are issued with CPA workpaper reviews.

The review program in the AASHTO Uniform Audit Guide, Appendix A, will be used as a guide in performing CPA workpaper reviews.

IMPORTANT NOTE FOR CPAs: Contracts receiving state or federal funds are highly scrutinized. Materiality levels tend to be lower and more testing required. Strict use of the AASHTO Audit Guide cannot be stressed enough.

OTHER AUDITS AND REVIEWS THAT MAY BE PERFORMED

CONTRACT AUDITS

During a Contract Audit, auditors will review contracts and the consultants' financial management system to determine if:

- The consultants' accounting system is adequate to accumulate and segregate costs;
- Proposed costs are reasonable;
- The contract contains all necessary fiscal provisions.

RISK ASSESSMENTS

During a Risk Assessment auditors may require an ICQ and certification of the ICRs and may perform a certain level of analytical reviews of the ICRs. They may review the contract provisions, ICQ, ICR, and/or cost proposal(s) to determine if:

- The required fiscal provisions are in the proposed contract;
- The ICR and/or cost proposal(s) are mathematically accurate and in the proper format;
- The ICR and/or cost proposal(s) contain questionable costs.

INCURRED COST AUDITS

During an Incurred Cost Audit auditors will review contracts after project completion to determine if costs claimed are:

- Adequately supported;
- Reasonable in nature;
- Allowable, allocable, and reasonable;
- In compliance with state and federal laws and regulations;
- In compliance with the fiscal provisions stipulated in the contract.

FINANCIAL MANAGEMENT SYSTEM REVIEW

During a Financial Management System Review auditors will determine whether:

- The accrual basis of accounting was used to prepare the ICR;
- There is a job cost accounting system adequate to accumulate and segregate allocable and allowable project costs;
- The consultant complied with 49 CFR, Part 18.20, Standards for Financial Management Systems.

CASE 1: PROPOSED A&E CONSULTANT CONTRACTS OF \$150,000 OR MORE

CONSULTANTS:

Prime consultants with proposed contracts of \$150,000 or more, and any subconsultants listed on the contract, must certify the accuracy of their contract costs and adequacy of their financial management systems (See Exhibit 10-K *Consultant Certification of Contract Costs and Financial Management System*). The certification is to be submitted to the local agency who in turn will forward a copy to A&I.

Components include certification that:

- All costs included in the proposed contract to establish final ICR are allowable in accordance with the cost principle of the FAR, 48 CFR, Part 31.
- The proposed contract does not include any costs which are expressly unallowable under the cost principles of the FAR, 48 CFR, Part 31.
- All known material transactions or events that have occurred affecting the firm's ownership, organization, and ICRs have been disclosed.
- The consultant's financial management system meets the standards for financial reporting, accounting records, internal and budget controls set forth in the FAR 49 CFR, Part 18.20.
- The consultant has provided the approximate dollar amount of all A&E contracts awarded by Caltrans or a California local agency to the consultant within the last three calendar years, and for all state DOT and local agency contracts, and the number of states in which the firm does business.
- All direct costs included in the proposed contract are reasonable, allowable, and allocable in accordance with FAR 48 CFR, Part 31, in compliance with applicable accounting principles, and in compliance with the terms of the proposed contract.

Consultants must also ensure their ICRs are prepared in the acceptable ICR scheduled format, see AASHTO Guide, Chapter 5 tables.

LOCAL AGENCIES:

Local agencies are to forward copies of the consultant and subconsultant, if any, certification (Exhibit 10-K *Consultant Certification of Contract Costs and Financial Management System*) to A&I. All supporting documentation, including Exhibit 10-L *Local Agency Certification of Cost Analysis*, must be retained in the project files for the required retention period in the event an audit or review is performed.

Case 1 consultants and contracts may be selected for audit or review through a risk based approach described earlier in this section. Potential audits or reviews can be, but are not limited to:

- Contract Audits;
- Incurred Cost Audits;
- Financial Management System Review;
- ICR Audits;
- Risk Assessments.

CASE 2: PROPOSED A&E CONSULTANT CONTRACTS OF \$1 M OR MORE

Local agencies and consultants with proposed contracts between \$1M and \$3.5M must comply with all the requirements outlined in Case 1 above.

In addition, local agencies must send copies of the proposed contract and additional supporting documentation to A&I for review in conformance with requirements outlined in the LAPM. Once the proposed contract and additional supporting documentation are reviewed, A&I will issue a Conformance Letter noting any deficiencies, if any. A&I will issue the Conformance Letter within 30 business days of receipt of a **complete** packet.

A complete packet consists of the documents listed below. Local agencies are required to provide these documents to A&I (see Exhibit 10-A *A&E Consultant Audit Request Letter and Checklist*):

1. Proposed contract between the local agency and consultant;

2. Cost proposal(s) for prime consultant and all subconsultants;
3. Names, mailing addresses, phone numbers and email addresses for prime consultant and subconsultants;
4. Name of local agency contact person, phone number, mailing addresses and email addresses;
5. Consultant generated ICR schedule prepared in accordance with applicable CFRs;
6. A completed ICQ (see AASHTO Audit Guide, Appendix B);
7. Exhibit 10-K *Certification of Contract Costs and Financial Management System* for the prime and all subconsultants.

And one of the following, **if available**:

- A copy of the prior fiscal year, and most recently completed fiscal year cognizant approved ICR and approved state DOT Cognizant Letter of Approval;
- A copy of the prior fiscal year, and most recently completed fiscal year, ICR Schedules and audited report by an independent CPA. If a CPA audited ICR is available for the appropriate fiscal year (applicable one-year accounting period), then the consultant must use the audited ICR, or a lower ICR (*see 23 CFR 172.7(b) for guidelines*);
- A copy of the prior, and most recently completed fiscal year, ICR(s) evaluation or audit report on a prior Caltrans or local agency contract, and any other governmental agency report/review/attestation.

Through A&I's risk-based approach, consultants may be selected for an ICR Audit. If an ICR Audit is performed and the consultant's ICR is in compliance with the FAR principles, a Cognizant Letter of Approval will be issued.

CASE 3: PROPOSED A&E CONSULTANT CONTRACTS OF \$3.5 M OR MORE

Local agencies and consultants with proposed contracts of \$3.5 million or more must comply with all the requirements in Case 1 and 2 above. Also, consultants must provide the following to the local agency:

- A state DOT's approved ICR schedule **and** the Cognizant Letter of Approval;
- OR**
- CPA Audited ICR Audit Report; **And**
- A copy of the CPA audited financial statements, if any.

Through A&I's risk-based approach, CPA Audited ICR Workpaper Reviews may be selected. If a review is performed and the CPA's work is in compliance with the FAR principles, a Cognizant Letter of Approval will be issued.

REQUIREMENTS FOR A CONFORMANCE LETTER

The cost proposal(s) must be presented in the applicable format for the method of payment for the prime consultant and all subconsultants in the proposed contract (see Determine Method of Payment in Section 10.2 and Exhibit 10-H for the example formats). Cost proposals must contain a breakdown of all cost components outlined in the appropriate cost proposal format. A completed ICQ (see AASHTO Audit Guide, Appendix B) must be completed by the consultant if the contract is \$1M or more.

Consultants and subconsultants must use the accrual basis of accounting to prepare ICR(s), and must have an adequate financial management system (job cost accounting system).

The required fiscal provisions specified below must be included in the proposed contract (see Exhibit 10-R for provisional language and requirements):

1. Performance Period, begin and end date (Article IV);
2. Allowable Costs and Payments (Article V);
3. Termination (Article VI);
4. Cost Principles and Administrative Requirements (Article X);
5. Retention of Records/Audit (Article XII);
6. Audit Review Procedures, AUDIT CLAUSE (Article XIV. D.);
7. Subcontracting (Article XV);
8. Equipment Purchase (Article XVI);
9. State Prevailing Wage Rates (Article XXVII);
10. Conflict of Interest (Article XXVIII);
11. Rebates, Kickbacks or other Unlawful Consideration (Article XXIX);
12. Prohibition of Expending State or Federal Funds for Lobbying (Article XXX).

Contracts cannot be executed until the Conformance Letter is issued and noted deficiencies, if any, are corrected. Corrected deficiencies, however, do NOT need to be cleared through A&I before executing the contract.

Once executed, the local agency shall forward a copy of the executed contract to A&I for possible future audit or review at:

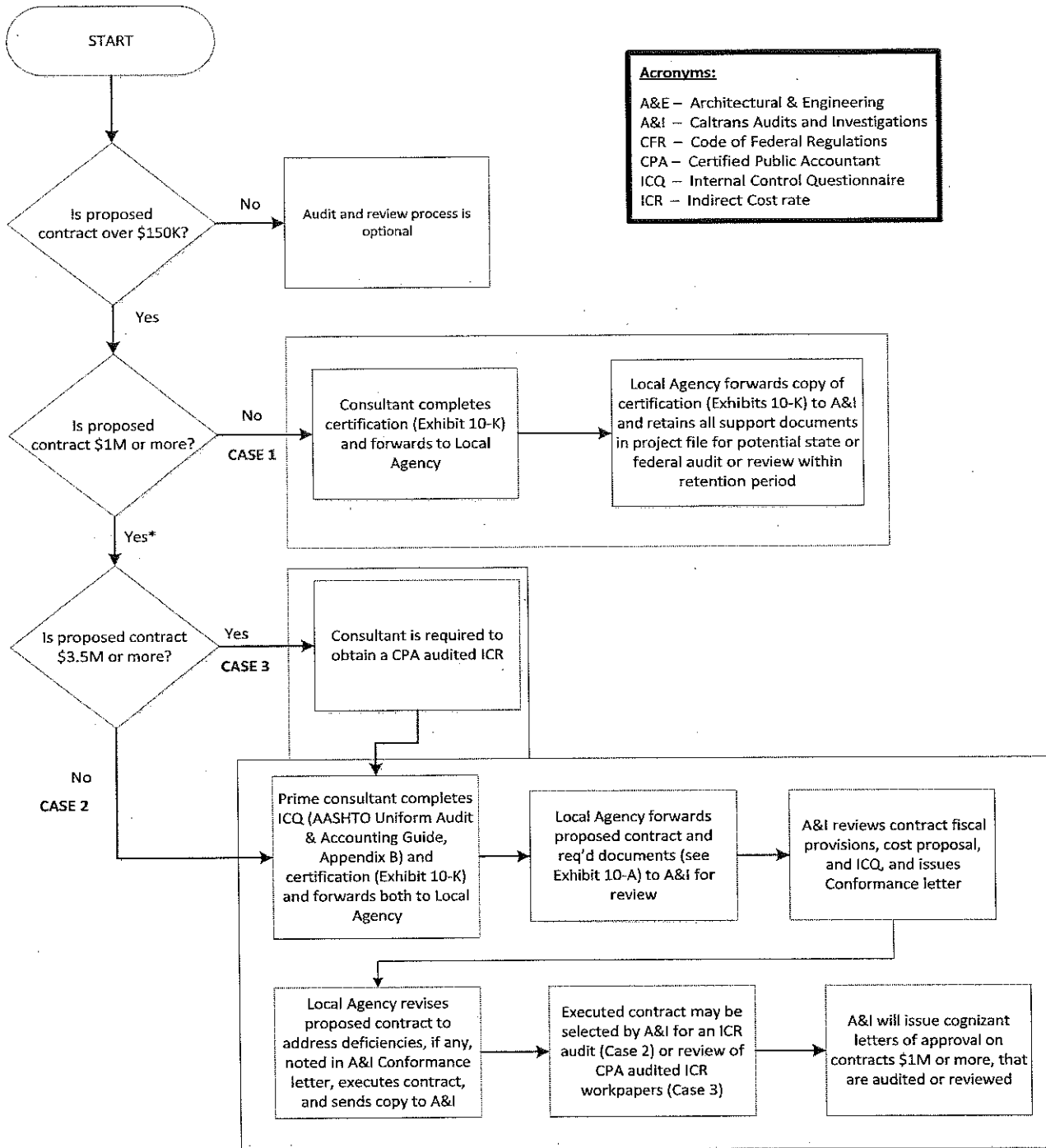
*Department of Transportation
Audits and Investigations, MS 2
Attention: External Audit Manager
P.O. Box 942874
Sacramento, CA 94274-0001*

Any deficient or missing supporting documentation noted in the Conformance Letter must also be forwarded to A&I.

SUMMARY OF CONTRACTS TO BE AUDITED OR REVIEWED

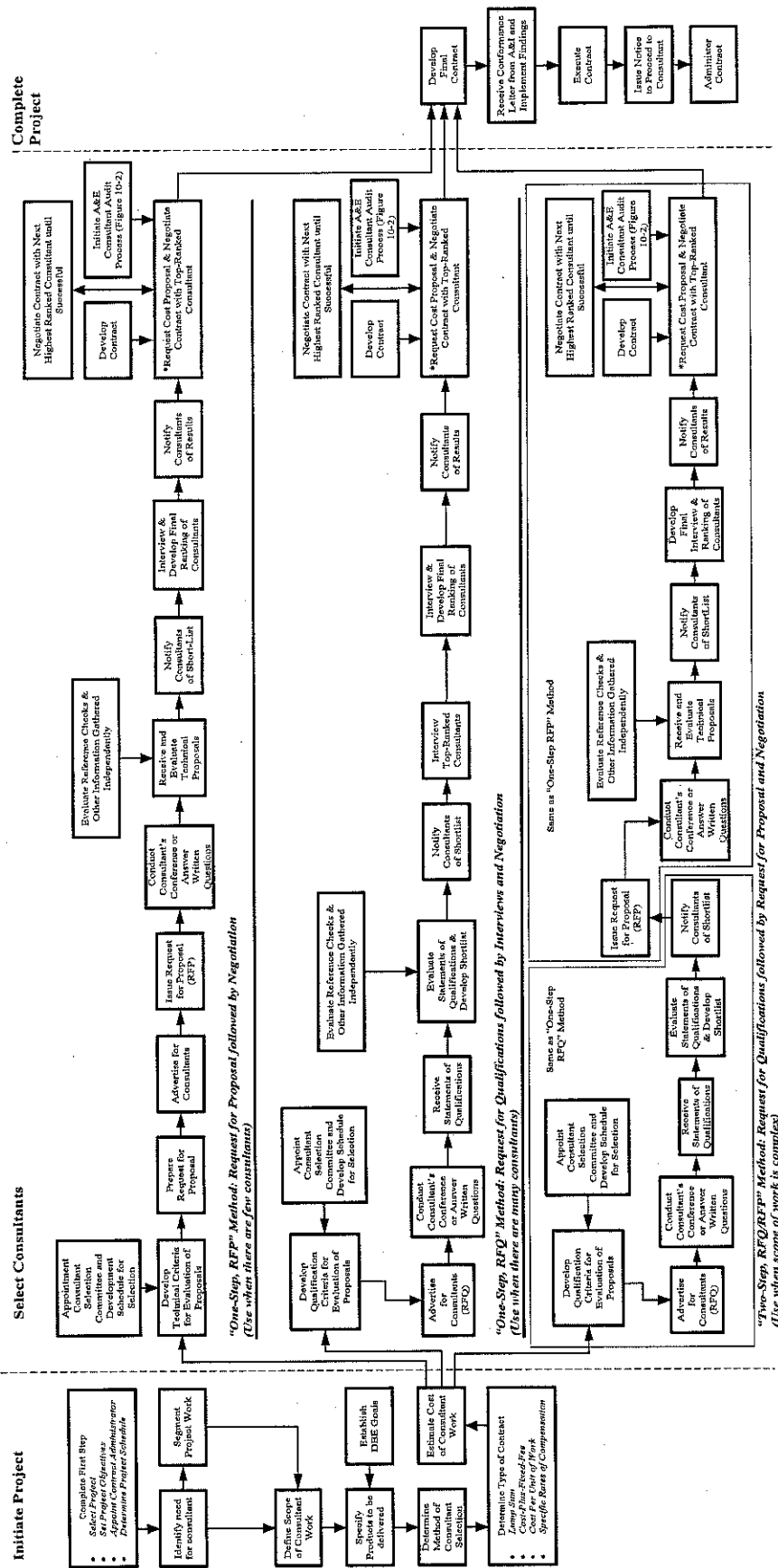
<i>Proposed Contract Amount</i>	<i>Documents Required</i>	<i>Conformance Letter Required?</i>	<i>Audit/Review Performed?</i>	<i>If Audited or Reviewed will Cognizant Letter of Approval be Issued?</i>
Small Purchase Procedure Less than \$150K	None	No	Audit/review optional	N/A
Case 1. Between \$150K and \$1M	Certification by Consultants (Exhibit 10-K)	No	May be selected for Audit or Review.	<i>If Indirect Cost Rate (ICR) Audit is performed.</i>
Case 2. Between \$1M and \$3.5M	Proposed contract, certifications, Internal Control Questionnaire, etc. (see Exhibit 10-A.)	Yes	May be selected for ICR Audit.	Yes
Case 3. \$3.5M or greater	Proposed contract, certifications, Internal Control Questionnaire, etc. AND CPA Audited ICR. (see Exhibit 10-A.)	Yes	May be selected for Review of CPA's workpapers of audited ICR	Yes

FIGURE 10-2 A&E CONSULTANT AUDIT AND REVIEW PROCESS



* Note: For A&E consultant contracts of \$1M or more, local agency may begin, but not conclude cost negotiations with the best qualified firm until a Conformance Letter is received from A&I.

FIGURE 10-3 CONSULTANT SELECTION FLOWCHART



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10.4 CONSULTANT SELECTION METHODS

Figure 10-3 “Consultant Selection Flowchart” shows the three methods normally used in selecting a consultant. They are:

- One-Step RFP;
- One-Step RFQ;
- Two-Step RFQ/RFP.

The method used depends upon the scope of work, the services required, the project’s complexity, and the time available for selection of the consultant.

In addition, there are other methods used in special situations such as noncompetitive procurement and small purchases under \$150,000.

Beginning with Section 10.4 “Consultant Selection Using the One-Step RFP Method,” each of the selection methods is explained in detail. Regardless of the method used, the local agency shall retain all consultant selection documentation in their project files (as required by 49 CFR 18.36(b)(9)).

ONE-STEP RFP

The One-Step RFP method may be used when the scope of the project is well defined. Other considerations include when the consultant’s services is highly specialized and there are few qualified consultants. This method is also used when a local agency has a modest number of projects per year, and the expected number of proposals is small—generally, less than ten.

ONE-STEP RFQ

The most common selection process is the One-Step RFQ method. It is used when typical services (such as preparation of Plans Specifications and Estimate (PS&E), environmental documents, or construction management services) are required, and there are many consultants. The One-Step RFQ method is also used when a local agency produces many projects, and there are numerous consultants who wish to participate. Either this process or the two step selection process is used for preparing an “on-call” list for the local agency.

TWO-STEP (RFQ FOLLOWED BY RFP)

The Two-Step RFQ/RFP method may be used when the scope of work is complex or unusual. This method also may be preferred by local agencies that are inexperienced about negotiations and procedures for establishing compensation. However, the Two-Step RFQ/RFP method requires substantially more work and time than the other two methods described above.

10.5 CONSULTANT SELECTION USING THE ONE-STEP RFP METHOD

Of the three methods discussed, this one is most easily modified for non-A&E consulting contracts. For non-A&E consulting contracts, a cost proposal may be part of the RFP and the selection criteria. For A&E contracts, the cost proposal is not requested until the consultants have been final ranked based upon their submitted technical proposal.

APPOINT CONSULTANT SELECTION COMMITTEE

A consultant selection committee with a minimum of three members is appointed at the beginning of the consultant selection process. The committee reviews materials submitted by consultants, develops a shortlist of qualified consultants, and develops a final ranking of the most qualified proposals. Representation on the committee includes the Contract Administrator and a representative from the project's functional area. The members should be familiar with the project/segment to be contracted out and with the local agency standards that will be used in the contract. Participation by a Caltrans district representative is at the option of the agency and subject to availability of the DLAE staff. Caltrans participation on the interview panel does not relieve the local agency of its responsibility to ensure that proper procurement procedures are followed and all requirements are met.

DEVELOP TECHNICAL CRITERIA FOR EVALUATION OF PROPOSALS

The Contract Administrator is responsible for developing the technical criteria, and their relative importance which are used to evaluate and rank the consultant proposals.

The criteria and relative weights must be included in the RFP, and the same criteria and relative weights must be used in the evaluation sheets. Failure to include criteria and relative weights and to use the same criteria and weights during the evaluation will result in the contract costs being ineligible for federal or state reimbursement. Exhibit 10-B *Suggested Consultant Evaluation Sheet* is a recommended evaluation sheet with criteria and rating points for A&E consultants, where cost is not used as a rating factor. This format is not mandatory, but it is recommended in the interest of developing consistency among the hundreds of agencies and consultants operating in the state. The local agency should consult with the DLAE before making major changes to the suggested approach.

DEVELOP SCHEDULE FOR CONSULTANT SELECTION

Before the contract is advertised, the Contract Administrator completes a contract schedule including key dates for consultant selection activities. The Contract Administrator should confirm key dates with all selection committee members before completing the schedule.

PREPARE RFP

The information required in a RFP includes the following:

- Description of project;
- Scope of work;
- Schedule of work (including estimated start and end dates);
- Proposal format;
- Method, criteria and weighting for selection;
- A DBE contract goal is specified (see Exhibit 10-I *Notice to Proposers DBE Information*), if a federal-aid contract;
- Protest procedures and dispute resolution process per 49 CFR 18.36(b)(12).

The RFP specifies the content of a proposal, the number of copies required, due date, mailing address, and a physical address where the submittals may be hand delivered if different from the mailing address. Two to four weeks is usually allowed between the time the RFP is mailed and time that proposals must be submitted. More time may be required for complex contracts or projects.

Items typically required in a technical proposal include:

- Work plan (specify what is to be covered);

- Organizational chart;
- Schedule and deadlines;
- Staffing plan;
- Proposed Team—complete for prime consultant and all key subconsultants;
- Key personnel names and classifications—key team members identified in the original proposal/cost proposal shall not change (be different than) in the executed contract;
- Staff resumes;
- Names of consultant's project manager and the individual authorized to negotiate the contract on behalf of the consulting firm;
- References.

FINANCIAL MANAGEMENT AND ACCOUNTING SYSTEM REQUIREMENTS

The local agency must ensure that consultant contract solicitation and advertising documents (RFQs) clearly specify that contracts shall not be awarded to a consultant without an adequate financial management and accounting system as required by 48 CFR Part 16.301-3, 49 CFR Part 18, and 48 CFR Part 31.

ADVERTISE FOR CONSULTANTS

The local agency advertises the availability of the RFP in a major newspaper of general circulation or technical publication of widespread circulation. The local agency shall send the RFPs to organizations qualified to do the specified work, as well as professional societies, and recognized DBE organizations (if federal-aid funds are being used). In some cases, it may be desirable to advertise nationwide for a particular project or service. Placing an RFP on the local agencies web site is not considered adequate advertising.

ISSUE RFP

The local agency shall issue the RFP to all consultants responding to the advertisement and keep a record of all consultants that received an RFP to ensure that any inquiry responses, addendums, or amendments to the RFP are given to all consultants that received the RFP.

CONDUCT PROPOSER'S CONFERENCE OR ANSWER WRITTEN QUESTIONS

The local agency may allow for clarification of the RFP by inviting submittal of written questions or by conducting a proposer's conference, or by doing both. The local agency must mail their responses to any written questions to all consultants receiving the RFP. No response should be given to verbal questions. It is important that all competing consultants receive the same information. If a proposer's conference is to be held, the exact time and place must be specified in the RFP. Attendance at a proposer's conference normally is not mandatory. However, consultants not attending the conference do not receive notes from the meeting unless they request the notes.

RECEIVE AND EVALUATE TECHNICAL PROPOSALS

The Contract Administrator must verify that each proposal contains all of the forms and other information required by the RFP. If all required information is not provided, a proposal may be considered nonresponsive and rejected without evaluation. Late submittals, submittals to the wrong location, or submittals with inadequate copies are considered nonresponsive and shall be rejected. Submittal of additional information after the due date shall not be allowed. Documentation of when each proposal was received

must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended.

The members of the consultant selection committee must evaluate each proposal in terms of the technical criteria listed in the RFP. The committee must also evaluate reference checks and other information gathered independently. Reference checks shall be completed and other information gathered before the interviews are conducted. If necessary, the results of the reference checks or other information may be discussed with the highest ranked qualified consultants at the interviews.

DEVELOP FINAL RANKING AND NOTIFY CONSULTANTS OF RESULTS

The selection committee discusses and documents the strengths and weaknesses of each proposal; interviews the three or more highest ranked consultants; and develops a final ranking of the highest ranked consultants. All consultants that submitted proposals must be informed about the final ranking of consultants. It is important that all competing consultants receive the same information.

Most consultants will request information as to why they were not the highest ranked. Therefore, the selection committee should keep notes as to why a particular consultant was not selected. When a consultant requests debriefing, the reasons for not being selected must be objective reasons. The consultant should not be compared to others, and should not be provided with information about other consultants during this debriefing. Normally, the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing.

Since the technical proposal normally contains information about the method(s) a consultant will use for the work and potential problems and solutions for a specific project or segment; this method of consultant selection should not be used to establish a list of qualified consultants (pre-qualified list).

NEGOTIATE CONTRACT WITH TOP-RANKED CONSULTANT

The top-ranked consultant is requested to submit a sealed cost proposal. Alternatively, if time is of the essence and it can be justified; sealed cost proposals may be requested from all of the consultants on the shortlist. The cost proposal for the most qualified consultant will be opened and used to begin negotiations. If agreement cannot be reached, then negotiations proceeds to the next most qualified consultant. Each consultant's cost proposal must remain sealed until negotiations commence with that particular consultant. The goal of negotiations is to agree on a final contract that delivers the services, or products required at a fair and reasonable cost to the local agency.

The independent cost estimate, developed by the local agency in advance of requesting a cost proposal from the top-ranked consultant, is an important basis and tool for negotiations or terminating unsuccessful negotiations with the most qualified consultant. It can be revised, if needed, for use in negotiations with the next most qualified consultant.

An audit may be required (see Section 10.3 *A&E Consultant Audit and Review Process* in this chapter). Negotiations may be completed after receipt of the Caltrans A&I Conformance Letter. An indirect cost audit may be performed within the record retention period of the contract.

Items typically negotiated include:

- Work plan;
- Schedule and deadlines (including contract begin and end dates);

- Products to be delivered;
- Classification, wage rates, and experience level of personnel to be assigned;
- Cost items, payments, and fees.

The consultant's ICR is not a negotiable item. A lower rate cannot be negotiated by the local agency.

For federal-aid consultant contracts, see Chapter 9, "Civil Rights and Disadvantaged Business Enterprises," of the LAPM and Exhibit 10-I *Notice to Proposers DBE Information* in this chapter.

Before executing the consultant contract, the local agency must make a review to ensure that all federal and state requirements have been met (see Exhibit 10-C *Consultant Contract Reviewers Checklist*). The completed checklist is to be signed by the Contract Administrator and the original retained in the project file, one copy is to be sent to the DLAE (for review of completeness) and filing within 30 days after awarding the contract.

10.6 CONSULTANT SELECTION USING THE ONE-STEP RFQ METHOD

APPOINT CONSULTANT SELECTION COMMITTEE

A consultant selection committee with a minimum of three members is appointed at the beginning of the consultant selection process. The committee reviews and scores the materials submitted by consultants in response to the RFQ, develops a shortlist of qualified consultants, interviews those consultants, and develops a final ranking of the most qualified consultants. Representation on the committee includes the Contract Administrator and a representative from the project's functional area. The members should be familiar with the project/segment to be contracted out and with the local agency standards that will be used in the contract. Participation by a Caltrans district representative is at the option of the local agency and subject to the availability of the DLAE staff. Caltrans participation on the interview panel does not relieve the local agency of its responsibility to ensure that proper procurement procedures are followed and all requirements are met.

DEVELOP SCHEDULE FOR CONSULTANT SELECTION

Before a contract is advertised, the Contract Administrator completes a contract schedule including key dates for consultant selection activities. The Contract Administrator should confirm target dates with all selection committee members before completing the schedule.

PREPARE RFQ

As a minimum, the RFQ generally includes the following:

- General description of the project(s);
- Scope of work;
- Schedule of work (including contract begin and end dates);
- Request for Statement of Qualifications (SOQ);
- Proposal format to be submitted;
- Method and criteria for selection;
- DBE Requirements.

The RFQ should state that the following items are required in the SOQ:

- Qualifications of key personnel proposed for the contract. Key team members identified in the original proposal/cost proposal shall not change (be different than) in the executed contract;
- Related projects that key personnel have worked on;
- Qualifications/experience of the firm;
- Organizational chart;
- References.

FINANCIAL MANAGEMENT AND ACCOUNTING SYSTEM REQUIREMENTS

The local agency must ensure that Consultant contract solicitation and advertising documents (RFQs) clearly specify that contracts shall not be awarded to a consultant without an adequate financial management and accounting system as required by 48 CFR Part 16.301-3, 49 CFR Part 18, and 48 CFR Part 31.

ADVERTISE FOR CONSULTANTS

Advertisements may take one of two approaches. The most common is advertisement or publication of the RFQ in a major newspaper of general circulation, or technical publication of widespread circulation. Placing an RFP on the local agencies web site is not considered adequate advertising. The RFQ must contain sufficient project work information, so that interested consultants can submit an appropriate SOQ.

In the second approach, the local agency advertises the availability of the RFQ in a major newspaper of general circulation or technical publication of widespread circulation, and request interested consultants to send for the RFQ. The RFQs shall be sent to professional societies and, if a federal-aid project, to recognized DBE organizations. In some cases, it may be desirable to advertise nationwide for a particular project or service.

The RFQ also specifies the content of a proposal, number of copies required, due date and time, mailing address, and physical address where the submittals may be hand delivered, if different from the mailing address. Two to four weeks is usually allowed between the time the RFQ is mailed, and time that proposals must be submitted. More time may be required for complex contracts or projects.

RECEIVE/EVALUATE STATEMENTS OF QUALIFICATIONS AND DEVELOP SHORTLIST

The first step in the evaluation process is to determine that each proposal contains all forms and other information required by the RFQ. Otherwise, the submittals may be considered nonresponsive and rejected without evaluation. Late submittals, submittals to the wrong location, and submittals with inadequate copies are considered nonresponsive and shall be rejected. Submittal of additional information after the due date shall not be allowed. Documentation of when each proposal was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended.

The consultant selection committee reviews the submitted SOQ according to the published evaluation criteria and weighting factors. The committee makes an independent random check of one or more of the consultant's references. This check applies to major subconsultants also. The committee establishes a shortlist of consultants who are considered to be best qualified to perform the contract work. The shortlist includes enough qualified consultants to ensure that at least three consultants are interviewed.

NOTIFY CONSULTANTS OF SHORTLIST

All consultants that submitted an SOQ must be notified of the results of the review. The notification also identifies those consultants that will be requested to attend interviews.

Most consultants will request information as to why they were not placed on the shortlist. Therefore, the selection committee should keep notes why a particular consultant was not selected for the shortlist. When a consultant requests a debriefing, the reasons given for not being selected must be objective reasons. Consultants should not be compared with each other during the debriefing. Normally, the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing.

INTERVIEW TOP-RANKED CONSULTANTS

Each consultant to be interviewed is given a copy of the draft of the proposed contract, defining the detailed project requirements and other information. This should be sent with the initial notification of the interview.

Between the time of the notification of the shortlist and interviews, the local agency may answer any questions concerning the project segment to be contracted out, if not done earlier during the solicitation. In addition, the local agency may conduct additional reference checks for each consultant to be interviewed. Consultants should submit their questions about the RFQ and receive their answers from the local agency in writing. It is important that all consultants on the shortlist receive the questions and answers and are given the same information.

The committee should evaluate reference checks and other information that is gathered independently. Reference checks shall be completed and other information gathered before the interviews are conducted. If necessary, the results of the reference checks and other information may be discussed with the consultant at the interview.

Interviews are to be structured and conducted in a formal manner. Each consultant shall be allowed the opportunity to make a presentation if desired; however, a time limit should be specified. Interview questions are prepared in advance.

Two types of questions may be asked:

- Questions that are to be asked of all competing consultants, and
- Questions relating to each specific consultant, based upon the reference checks, and the strengths and weaknesses identified during evaluation of the SOQ

The agency can request competing consultants to bring additional information or examples of their work to the interviews; if the additional information facilitates the interview or evaluation process.

Additional information requested should be kept at a minimum, that is, only information required to select the most qualified consultant for the contract. The selection committee or local agency shall not gather additional information concerning the consultants after the interviews are completed.

DEVELOP FINAL RANKING AND NOTIFY CONSULTANTS OF RESULTS

The selection committee discusses and documents the strengths and weaknesses of each SOQ and develops a final ranking of the most qualified consultants. All consultants interviewed must be informed about the final ranking of consultants. It is important that all competing consultants receive the same information.

Most consultants will request information as to why they were not selected as the most qualified. Therefore, the selection committee should keep notes as to why a particular consultant was not selected. When a consultant requests debriefing, the reasons for not

being selected must be objective. Consultants should not be compared with each other or provided with information about other consultants during the debriefing.

Normally, the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing.

CONDUCT SCOPING MEETING

The Contract Administrator meets with the first-ranked consultant's project manager to review the project, and to ensure that the consultant has a complete understanding of the work that is required. The consultant is shown as much material as is available regarding the project. Any technical questions regarding the project are answered for the consultant.

REQUEST COST PROPOSAL

The first-ranked consultant is asked to provide a cost proposal to perform the work described in the draft contract and discussed at the scoping meeting. The work is to be performed according to the conditions described in the draft contract using the payment method described therein. Alternatively, if time is of the essence and it can be justified, sealed cost proposals may be requested from all of the consultants on the shortlist.

If the contract involves more than one project, the consultant must provide a separate cost proposal for each project in addition to a summary cost proposal for the total contract. If the contract involves milestones, the consultant must furnish a separate cost proposal for each milestone with a summary cost proposal for the total costs. If the contract involves subconsultants, the prime consultant must include a separate cost proposal for each subconsultant. Each subconsultant's cost proposal must follow the same format as the prime consultant's cost proposal.

NEGOTIATE CONTRACT WITH TOP-RANKED CONSULTANT

After the top-ranked consultant submits a sealed cost proposal, the local agency reviews the cost proposal and enters into negotiations. The goal of negotiation is to agree on a final contract that delivers to the local agency the services or products required at a fair and reasonable cost. The independent cost estimate, developed by the local agency in advance of requesting a cost proposal from the top-ranked consultant, is an important basis and tool for negotiations.

Negotiations should commence with the most qualified consultant. If agreement on a fair and reasonable price cannot be reached, negotiations should then be formally terminated. Negotiations then proceed to the next most qualified consultant, and so on. Each consultant's cost proposal must remain sealed until negotiations commence with that particular consultant. An audit of the consultant's operations may be required (see Section 10.1 "General," in this chapter). Negotiations may be completed after receipt of the Caltrans A&I Conformance Letter. An indirect cost audit may be performed within the record retention period of the contract.

The items typically negotiated include:

- Work plan;
- Schedule (including contract begin and end dates);
- Products to be delivered;
- Classification, wage rates, and experience level of personnel to be assigned;
- Cost items, payments and fee.

The consultant's indirect cost rate is not a negotiable item. A lower rate cannot be negotiated by the local agency.

10.7 CONSULTANT SELECTION USING THE TWO-STEP RFQ/RFP METHOD

COMBINED RFQ AND RFP

Selecting consultants using the Two-Step RFQ/RFP method requires combining certain steps from each of the other two methods previously described. The consultants are rated based upon both their qualifications and their technical proposals.

The initial steps in this method (up to the development and notification of the shortlist) are the same as the steps followed when using the One-Step RFQ method. At this point, the consultants from the shortlist are issued an RFP. The remaining steps are the same as the later steps followed in the One-Step RFP method. The combination of these steps are indicated in Figure 10-3 *Consultant Selection Flowchart*.

Because it is a combination of the One-Step RFQ and One-Step RFP methods, this method of consultant selection requires more work and time than the other two methods. Consequently, the combined RFQ/RFP method is recommended for use only when the scope of work is very complex or unusual.

Since the technical proposal normally contains information about the method(s) and potential problems and solutions for a specific project or segment, this method of consultant selection should not be used to establish pre-qualified lists.

10.8 COMPLETING THE PROJECT

DEVELOP THE FINAL CONTRACT

The Contract Administrator requests a revised cost proposal from the consultant after: (1) negotiations have been completed, (2) the local agency and consultant have agreed to a fair and reasonable price, and (3) a Conformance Letter is released by Caltrans A&I and identified issues have been resolved. The Contract Administrator should review the revised cost proposal to ensure that all the items and changes discussed during negotiation were included. This revised cost proposal then becomes the final cost proposal, is attached to and made a part of the consultant contract. For informational purposes, sample contract language and format have been included as Exhibit 10-R *A&E Sample Contract Language*.

The Contract Administrator has responsibility to ensure that the final negotiated contract is complete and has verified that all required backup documents have been provided. Copies of the contract are sent to the consultant for signature first.

REVIEW AND APPROVAL OF CONTRACTS

Proposed contracts for consultant services including those for subcontracted work exceeding \$150,000, must be reviewed by the local agency to verify that:

- Compensation is fair and reasonable and includes prevailing wage rates, if applicable;
- Work activities and schedules are consistent with the nature and scope of the project;
- DBE goal is included if there are subcontracting opportunities and available DBE firms

- If applicable, the issues identified in the Conformance Letter have been addressed;
- Contract modification language entitling the local agency to retroactively adjust ICRs within the document retention period has been included in the contract (see Exhibit 10-R A&E Sample Contract Language, Article XXIV, paragraph D).

Exhibit 10-C *Consultant Contract Reviewers Checklist* and Exhibit 10-D *Consultant Contract Outline* must be used to ensure that required documentation has been provided. A cost proposal (see Exhibit 10-H *Sample Cost Proposal*), must include the costs of materials, direct salaries, payroll additions, other direct costs, indirect costs, fees, and backup calculations.

Before approving a contract for consulting services, the Contract Administrator must be satisfied that the consultant's organization:

- Is qualified to perform the services required;
- Is in a position, considering other work commitments, to provide competent and experienced personnel to perform the services in the time allowed;
- Is fully aware of all applicable federal and state laws including implementing regulations, design standards, specifications, previous commitments that must be incorporated into the design of the project, and administrative controls including those of Caltrans and FHWA.

The contract must provide for a defined level of acceptability and a statement to the effect that the consultant may be required to modify its work as necessary; to meet that level of acceptability as defined in the contract. The contract shall provide for local agency reviews at appropriate stages during performance of the work, to determine if any changes or other actions are warranted.

The contract shall also provide that the consultant establish a working office at a place acceptable to the local agency. The contract shall provide that the consultant and subconsultants shall maintain all books, documents, papers, accounting records, and other information pertaining to costs incurred. Such materials must be available for inspection and audit by federal, State, and local agency authorized representatives; and copies thereof shall be furnished, if requested.

Following final settlement of the contract accounts with the FHWA or State, such records and documents may be microfilmed at the option of the local agency, but in any event shall be retained for a three-year period after processing of the final voucher by the FHWA or State.

Contracts with consultants covered by this manual (exceeding \$150,000) must not be approved by the local agency until the certification shown in Exhibit 10-F *Certification of Consultant, Commissions & Fees* is executed and incorporated into the contract. The certification shall be executed by a principal or authorized corporate official of the consultant, and by a principal administrative officer of the governmental agency responsible for the selection of the consultant. It is essential that this certification be preserved in the project files.

RETENTION CLAUSES

At the option of the local agency, a retention clause may be included in the consultant contract. The usual retained amount is five percent; appropriate securities on deposit may be substituted for the retention. A retention clause in the consultant contract is recommended.

REVIEW OF LOCAL AGENCY ACTIONS

Issues identified in the Conformance Letter must be resolved before the local agency executes the contract.

Federal-aid or state reimbursement is contingent on meeting the federal or state requirements and can be withdrawn, if these procedures are not followed and documented. The local agency files are to be maintained in a manner to facilitate future FHWA or Caltrans process reviews and audits.

As specified in Section 10.4, "Consultant Selection," the Contract Administrator must review the proposed consultant contract before execution. Exhibit 10-C *Consultant Contract Reviewers Checklist* is to be completed and signed. A copy shall be sent to the DLAE within 30 days of contract award. This signed document must be retained in the local agency project files.

EXECUTE CONTRACT AND ISSUE NOTICE TO PROCEED TO CONSULTANT

The Contract Administrator sends the consultant a fully executed copy of the contract with an original signature and issues a notice to proceed. Funds may not be used to reimburse the agency for costs incurred before the "Authorization to Proceed" is issued, or for consultant costs incurred prior to the execution of the consultant contract. Local agency consultant selection and contract execution costs may be reimbursable.

ADMINISTER THE CONTRACT

Project work begins as specified in the contract after the notice to proceed is issued to the consultant. Thereafter, the local agency manages and administers the contract to ensure that a complete and acceptable product is received on time, within standards, and within budget.

Contract administration activities help to ensure that contractual obligations are completed satisfactorily. Generally, these activities include:

- Monitoring project progress and compliance with contract requirements;
- Receiving, reviewing and assessing reports, plans and other required products;
- Receiving and reviewing state prevailing wages. See Caltrans "*Consultant Guidelines for Prevailing Wage and Labor Compliance on Architectural and Engineering (A&E) Contracts*" at:
http://www.dot.ca.gov/hq/construc/A&E_Guidelines/A&EGuidelines.pdf;
- Reviewing invoices to ensure costs claimed are in accordance to the method of payment and contract cost proposal, approving payments;
- Record keeping and reporting;
- Controlling costs;
- Identifying changes to the scope of work and preparation of amendments;
- Completing performance evaluations.

SUBSTITUTION OF CONSULTANT PERSONNEL AND SUBCONSULTANTS

After contract execution the consultant should not substitute key personnel (project manager and others listed by name in the cost proposal) or subconsultants without prior written approval from the local agency. To do so can result in the costs being ineligible for federal or state reimbursement. The consultant must request and justify the need for the substitution and obtain approval from the local agency prior to use of a different

subconsultant on the contract. The proposed substituted person must be as qualified as the original, and at the same or lower cost.

For engineering types of consultant contracts, the consultant's project manager must be a registered engineer in the State of California.

INVOICING (OR PROGRESS PAYMENTS)

The frequency and format of the invoices/progress payments are to be determined by the contract. Program Supplement Agreements (see LAPM Chapter 3 – Agreements) need to have been prepared prior to any payments being requested. Payments to the consultant are to be in arrears. In other words, the consultant must have actually incurred and paid the costs before invoicing the local agency.

For federal or state reimbursement of consultant costs on a project, the local agency must submit the following to the DLAE, for each consultant or consulting firm used on the project (failure to do so will result the consultant's invoices for reimbursement being returned to the agency unprocessed):

- Copy of Executed Consultant contract;
- Exhibit 10-C *Consultant Contract Reviewers Checklist*;
- Exhibit 10-O1 *Consultant Proposal DBE Commitment* (federally funded projects only);
- Exhibit 10-O2 *Consultant Contract DBE Information* (federally funded projects only).

Invoices should include the following:

- Prepared on the consultant's letterhead;
- Signed by the consultant's project manager;
- Have a unique invoice number;
- Appropriate documentation attached;
- If the contract involved milestones, each milestone should be invoiced separately;
- If the contract involved subconsultants, a separate invoice for each subconsultant should be attached in the same format as the prime consultant's invoice and should be included in the summary of the prime consultant's invoice.

The following are requirements associated with each invoice that the local agency should include:

- A summary of the reimbursements to-date and a summary of the funds remaining in the contract. This should be compared to the local agency's own record of reimbursements to-date and a summary of the funds remaining in the contract.
- A summary of all payments to-date and funds remaining in the contract for each subconsultant.

The local agency is to follow the procedures given in Chapter 5 *Accounting/Invoices* of the LAPM to obtain reimbursement of federal or state funds.

CONTRACT AMENDMENTS

Contract amendments are required to modify the terms of the original contract for changes such as extra time, added work, or increased costs. Only work within the original advertised scope of services shall be added by amendment to the contract. The addition of work outside the original advertised scope will make that work ineligible for federal or

state reimbursement (see Q&As):
http://www.fhwa.dot.gov/programadmin/172qa_01.cfm.

There is no prescribed format for contract amendments. They may take the form of letter-type agreements meeting the legal requirements of the local agency, clearly outlining the changes and containing a mutually agreed upon method of compensation. Such agreements must conform to the requirements of this manual with regard to payment.

A consultant contract may be amended at any time prior to the expiration date of the original contract. The most common amendment is to extend the ending date of the contract. All contract amendments must be fully executed before the ending date of the contract.

For on-call consultant contracts, the amendment is restricted to the work (task order) that has already been started by the consultant and can not include any new work.

All contract amendments must be in writing and fully executed by the consultant and local agency before reimbursable work begins on the amendment. If an emergency exists of such magnitude that a delay cannot be tolerated, the local agency and the consultant may agree on an amendment initiating the work, so that reimbursable work may begin. The initiating amendment is then followed by a final amendment once the full scope of the emergency work is known and agreed to by both parties. In both cases, sufficient funding should be included in the amendments to pay for all work to be performed by the consultant. The final amendment must be executed as quickly as possible. Failure to fully comply with this section may result in the loss of local agency funding.

If an amendment increases the contract to over \$1M then the procedures in Case 2 under in Section 10.3 *A&E Consultant Audit and Review Process* of this chapter of the LAPM shall apply to the entire contract.

PERFORMANCE EVALUATION

Pursuant to 23 CFR §172.9(a) agencies are required to prepare an evaluation of the consultant when the project has been completed. The Contract Administrator evaluates the consultant's performance after the consultant's final report has been submitted, and the Contract Administrator has conducted a detailed evaluation with the consultant's project manager. See Exhibit 10-S *Consultant Performance Evaluation* for a suggested format for use by the local agency.

PROJECT RECORDS

Federal-Aid Highway Program funding recipients and sub-recipients must maintain adequate and readily accessible project performance and financial records, supporting documents, and other records considered pertinent to the grant agreement and in compliance with Federal laws and regulations (e.g. 23 U.S.C. 112; 40 U.S.C. 1101-1104, 23 CFR 172, 48 CFR 31, and 49 CFR 18.) These records shall be maintained for a minimum of three (3) years following issuance of the final voucher from FHWA (forwarded by Caltrans) and the closure of all other pending matters (49 CFR 18.42(b)).

For audit purposes, project records and documentation shall be kept for three (3) years after payment of the final federal or state voucher. Among the records to be retained are as follows:

- Copies of RFPs and RFQs;
- Documentation of DBE participation (including Exhibit 10-01 *Consultant Proposal DBE Commitment* and 10-02 *Consultant Contract DBE Information*);

- Solicitation and advertisement records;
- Identification of selection committee members;
- Evaluation and ranking records such as original score sheets from all panel members, short list questions and other documentation (see Exhibit 10-B *Suggested Consultant Evaluation Sheet*);
- Independent cost estimate (prepared in advance of receipt of RFPs and RFQs);
- Record of negotiations (to include a separate negotiations of profit in accordance with federal guidelines);
- Conformance and Cognizant Agency Letters, when applicable;
- CPA-audited ICR Audit Report or Approved State DOT Cognizant Indirect Rate Letter, if any;
- Consultant Certification of Costs and Financial Management (Exhibit 10-K *Consultant Certification of Contract Costs and Financial Management System*) for contracts over \$150,000;
- Executed consultant contracts, cost proposals and amendments (see Exhibit 10-R *A&E Sample Contract Language* and Exhibit 10-H *Sample Cost Proposal*);
- Contract oversight and progress meeting documents;
- Progress and final payments;
- Performance evaluation (see Exhibit 10-S *Consultant Performance Evaluation*);
- Consultant contract checklists (see Exhibit 10-C *Consultant Contract Reviewer's Checklist*);
- Accounting records documenting compliance with State and federal administrative requirements;
- Certifications and Conflict of Interest forms (Exhibit 10-F *Certification of Consultant, Commission & Fees*, Exhibit 10-L *Local Agency Certification of Cost Analysis*, Exhibit 10-T *Panel Member Conflict of Interest and Confidentiality Statement*, Exhibit 10-U *Consultant in Management Position Conflict of Interest and Confidentiality Statement* and Exhibit 10-Q *Disclosure of Lobbying Activities*, as appropriate).

10.9 MISCELLANEOUS CONSIDERATIONS

ENGINEERING SERVICES UNDER \$150,000

The procurement of consultant services by Small Purchase Procedures is in accordance with 23 CFR §172.5(a)(2) modified by FHWA Memorandum dated June 26, 1996, and 49 CFR 18.36(d).

Local agencies should be fully aware that consultant services costing in aggregate no more than \$150,000 per contract may be obtained through a relatively simple and informal method of procurement. This informal method must be sound and appropriate for the consulting services procured and the project files must contain justification for the selection. The method of procurement shall be an open and competitive process in selecting consultants and should consider a minimum of three different consultants whenever possible. The Brooks Act and the consultant audit process described in Section 10.3 of this Chapter do not apply to consultant service contracts under \$150,000. Although this method of procurement is informal, it must still comply with Sections 10.1, 10.2, 10.8 and 10.9 of this Chapter.

Price or rate quotation may be considered in the selection of A&E consultants on contracts below \$150,000 and must be documented in the project files. Qualified small business firms shall be considered for selection on federal-aid and state reimbursed contracts. Additionally, on federal-aid contracts, qualified DBE firms shall be considered for selection, and the appropriate federal contract language shall be included.

Should the amount of any contract modification or amendment that would cause the total contract amount to exceed the federal simplified acquisition threshold (currently established at \$150,000), the contract modification or amendment would be ineligible for federal funding. Also, FHWA reserves the right to withdraw all federal-aid funding from a contract if it is modified or amended above the applicable established simplified acquisition threshold.

NONCOMPETITIVE NEGOTIATED CONTRACTS (SOLE-SOURCE)

Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals (49 CFR Part 18.36).

FHWA considers these types of contracts as "Sole Source" contracts and should be used only in very limited circumstances. A Public Interest Finding prepared by the local agency and approved by Caltrans is required before establishing these services (23 CFR 172.5; also see LAPM Exhibit 12-F *Request for Approval of Cost-Effectiveness/Public Interest Finding*).

Conditions under which noncompetitive negotiated contracts may be acceptable include:

- Only one organization is qualified to do the work;
- An emergency exists of such magnitude that cannot permit delay;
- Competition is determined to be inadequate after solicitation of a number of sources.

The local agency shall:

- Follow its defined process for noncompetitive negotiation;
- Develop an adequate scope of work, evaluation factors, and cost estimate before solicitation;
- Conduct negotiations to ensure a fair and reasonable cost.

The local agency must carefully document details of the special conditions, obtain Caltrans approval on a Public Interest Finding and retain all documents in the project files for future Caltrans' or FHWA's review.

A Public Interest Finding (see LAPM Exhibit 12-F *Request for Approval of Cost-Effectiveness/Public Interest Finding*) is not required for a local agency to be reimbursed for contract administration activities associated with non-infrastructure type projects such as many Safe Routes to School or Transportation Alternatives Program projects. However, an indirect cost allocation plan must be approved in order to be reimbursed for this work (see <http://www.fhwa.dot.gov/legsregs/directives/policy/indirectcost.htm>).

PERSONAL SERVICES CONTRACTS

A personal services contract is characterized by the employer-employee relationship created between the local agency and the contract personnel who essentially perform similar duties as the employees. When personal engineering services less than \$150,000 or non-engineering consultant or vendor services for non-infrastructure programs are needed and federal or state reimbursement will be sought; these services may be obtained through Small Purchase Procedures up to a limit of \$150,000 each.

The \$150,000 is a cumulative limit for services provided by any individual consultant or consulting firm. Such services must be under the direction and control of a full-time employee of the local agency in responsible charge. Compensation for construction engineering services should be based on actual costs incurred, plus a fixed fee, or in the case of individual compensation on an agreed-upon hourly or daily rate. Lump sum payments should not be used for construction engineering services.

For personal service contracts, the following information must be documented by the local agency and retained in the project files:

- Explanation of the services needed, and why they cannot be provided by the local agency;
- Name and qualification of the consultant, who provided the services;
- Documentation of the fees showing how the fee was calculated, and that it is reasonable by comparative standards;
- Any other records needed to show compliance with federal-aid program regulations.

RETAINING A CONSULTANT AS AN AGENCY ENGINEER OR IN MANAGEMENT ROLE

A local agency may retain qualified consultants on its staff in professional capacities such as agency consultant engineers, architects, or public agency officials in a management role such as City Engineer (or equivalent). The agency consultants can be an individual or a firm providing professional or management services.

The use of a consultant in a management role should be limited to unique or very unusual situations. These situations require a thorough justification as to why the local agency cannot perform the management. Consultants used in management roles must be selected using the same procedures as those for other consultants specified in this chapter.

Eligibility for federal or state reimbursement for local agency engineering (or equivalent) services requires the following:

- Compliance with the selection procedures specified in this chapter;
- Existence of a contract between the local agency and the consultant specifying the local agency engineering services to be performed;
- Written designation by the local agency of the responsibilities and authority of the consultant as an agency engineer;
- Completion by the consultant designated as an agency engineer of the conflict of interest for public agency officials "Form 700" as required by State law;
- For a state funded or federal-aid project, completion of Exhibit 10-T *Panel Member Conflict of Interest and Confidentiality Statement* by all members (both consultants and employees) prior to participating in the Architect & Engineering (A&E) Selection Panel pertaining to the specific selection process and the firms being considered;
- For a state funded or federal-aid project, a local agency consultant in a management role shall not:
 - Participate in, or exercise authority over the A&E selection process, if that consultant's firm is one of the proposing firms, or subconsultant to a proposing firm;

- Participate in, or exercise authority over management of work performed by the consultant's firm, or to a consultant's firm of which the local agency consultant firm is a subconsultant. This would include, but not be limited to, managing or directing the work, approving changes in the schedule, scope, or deliverables; and approving invoices.
 - Apply for or receive reimbursement of federal-aid funds for the local agency's federal-aid project if either of the foregoing has occurred. However reimbursement for the construction contract portion of the project will still be allowed provided all other federal-aid requirements have been met.
 - Where benefiting more than a single federal-aid project, allocability of consultant contract costs for services related to a management role shall be distributed consistent with the cost principles applicable to the contracting agency in 49CFR 18.22.
- For a state funded or federal-aid project, completion of Exhibit 10-U *Consultant in Management Position Conflict of Interest and Confidentiality Statement* by all consultant engineering staff in management positions that exercise authority over the A&E selection panel pertaining to the specific selection process and the firms being considered.
 - A completed Exhibit 10-U *Consultant in Management Position Conflict of Interest and Confidentiality Statement* form shall be submitted to the DLAE by the local agency concurrently with submitting the request for the funding authorization of an A&E contract which will contain federal or state funds.
 - Selection of consultants for A&E management positions shall be by the use of qualification based selection procedures on an open and competitive basis resulting in a contract with defined beginning and ending dates not to exceed five (5) years.

If engineering services for a project are within the scope of the services described in the retained consultant's contract, these services may be performed by the person or firm designated as an agency engineer. If the services are not within the scope, eligibility for federal or state reimbursement for these services require a new consultant contract to be developed using the selection procedures in this chapter. Retained consultants involved in the preparation of the RFP or RFQ shall not be considered in the selection of consultants for the resulting project specific work.

When engineering or architectural consultants are procured with federal-aid funds, the local agency (subgrantee) shall fully comply with the following:

- Subparagraphs of 49 CFR §18.36(b)(2) "...maintain a contract administration system...."; and (3) "...maintain a written code of standards.... No employee, officer or agent of the ...subgrantee shall participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved...."
- Subparagraph of 23 CFR §172.9(d) "Consultant in management roles," requires that if a local agency has or intends to have a consultant in a management role (except as the designated public official, City Engineer or equivalent, as provided for under the terms of the local agency contract), the local agency shall receive approval from Caltrans. In addition, any federal-aid projects designated as "High Profile" projects may also need approval from FHWA.
- Liability insurance should normally be required from the consultant (errors and omissions, etc.).

CONSTRUCTION ENGINEERING SERVICES

Under federal-aid regulations and state policy, the primary responsibility for general supervision of construction must remain with the local agency. The local agency must also ensure that the work is performed in accordance with the approved plans and specifications, by employing or retaining as a consultant a registered engineer for construction engineering services on the project.

All activities performed by a consultant must be under the overall supervision of a full-time employee of the agency who is in responsible in-charge. These activities may include construction surveys, foundation investigations, measurement, and computation of quantities, testing of construction materials, checking of shop drawings, preparation of estimates, reports, and other inspection activities necessary to ensure that the construction is being performed in accordance with the plans and specifications. The construction engineering consultant's contract defines the relative authorities and responsibilities of the full-time employee of the local agency in charge of the project and the consultant's construction engineering staff.

If a technical inspection consultant is to provide professional assistance to the local agency, a formal consultant contract must be executed which follows this chapter's requirements. The contract shall provide for reviews at appropriate stages during performance of the work to determine if any changes or other actions are warranted. These reviews are to be made by the local agency.

10.10 REFERENCES

- 23 CFR, Part 172 – Administration of Engineering and Design Related Service Contracts
- 40 USC, Section 1104 - Brooks Act
- 41 CFR - Public Contracts and Property Management
- 41 USC – Public contracts
- 48 CFR, Chapter 1, Part 15.404
- 48 CFR, Chapter 1, Part 31
- Title 48, Part 16 – Types of Contracts
- 48 CFR 27, Subpart 27.3 - Patent Rights under Government Contracts
- 48 CFR 31.201-3
- 48 CFR, Chapter 99 – Cost Accounting Standards, Subpart 9900
- 49 CFR, Part 18
- 49 CFR, Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs
- American Association of State Highway and Transportation Officials (AASHTO) Uniform Audit and Accounting Guide
- Caltrans Division of Procurement and Contracts Website
- California Labor Code, Section 1775
- Government Auditing Standards (GAS) issued by the United States Government Accountability Office
- Government Code Sections 4525 through 4529.5
- OMB Circular A-110 - Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
- Standard Environmental Reference (SER)

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Additional Attachment(s) of Explanation

◇ **Section 1. Description of Work**

**1C. Has this service been provided in the past. If so, how?
If the service was provided via a PSC, provide the most recently approved PSC # and upload a copy of the PSC.**

PSC #4093-06/07

- **Prior CSC Notice of Action – Initial - Similar**
- **Prior PSC Form 1 – Initial - Similar**

PSC #4011-13/14

- **Prior PSC Form 1 – Initial - Similar**

4093-06/07
Similar



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

February 7, 2007

GAVIN NEWSOM
MAYOR

NOTICE OF CIVIL SERVICE COMMISSION ACTION

SUBJECT: REVIEW OF REQUEST FOR APPROVAL OF PROPOSED PERSONAL SERVICES CONTRACT NUMBERS 4092-06/07 THROUGH 4097-06/06 AND 4012-05/06.

THOMAS T. NG
PRESIDENT

At its meeting of February 5, 2007 the Civil Service Commission had for its consideration the above matter.

ALICIA D. BECERRIL
VICE PRESIDENT

It was the decision of the Commission to adopt the Human Resources Director's report. Notify the offices of the Controller and the Purchaser.

DONALD A. CASPER
COMMISSIONER

If this matter is subject to Code of Civil Procedure (CCP) Section 1094.5, the time within which judicial review must be sought is set forth in CCP Section 1094.6.

MORGAN R. GORRONO
COMMISSIONER

KATE FAVETTI
EXECUTIVE OFFICER

CIVIL SERVICE COMMISSION

KATE FAVETTI
Executive Officer

Attachment

- c: Parveen Boparai, Municipal Transportation Agency
- Connie Chang, Public Utilities Commission
- Gordon Choy, Department of Public Works
- Ed Harrington, Controller
- Jennifer Johnston, Department of Human Resources
- Naomi Kelly, Office of Contract Administration
- William Lee, Department of Emergency Management
- Galen Leung, San Francisco International Airport
- Jonathan Nelly, Department of Human Resources
- Mary Jane Winslow, City Attorney's Office
- Ted Yamasaki, Acting Human Resources Director
- Commission File
- Chron

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February 5, 2007

RECOMMENDED APPROVAL OF PROPOSED PERSONAL SERVICES CONTRACTS

PSC No.	DeptNo	DeptName	Approval		Contract Amount	Description of work	Duration
			Type				
4092-06/07	03	City Attorney's Office	Regular		\$750,000.00	Will contract with five qualified firms to provide subpoena preparation, process serving, and document retrieval services. These services involve access and acquisition of confidential documents at the City offices, etc.	01-Mar-09
4093-06/07	90	Public Works	Regular		\$600,000.00	Will perform a full range of environmental review services in conformance with provisions of the California Environmental Quality Act. This project requires consultants that may provide consultation for the duration of the project.	29-Feb-12
4094-06/07	40	Public Utilities Commission	Regular		\$240,000.00	Will provide technical advisory and review services for the New Irvington Tunnel Project in specified fields related to the design and construction of tunnels and associated structures/facilities.	14-Jan-09
4095-06/07	40	Public Utilities Commission	Regular		\$111,000.00	Will provide technical advisory and review services for Harry Tracy Water Treatment Plant (HTWTP) Long Term Improvements Project in specified fields related to the planning and conceptual design of water treatment, etc.	14-Feb-09
4096-06/07	77	Department of Emergency Management/Division of Emergency Services	Regular		\$750,000.00	Will complete a comprehensive risk and capabilities assessment based upon current emergency management standards, state and federal guidelines regarding emergency and disaster preparedness.	15-Feb-08
4097-06/07	27	Airport Commission	Regular		\$525,000.00	Will convert the Airport's only current chiller that uses an ozone-depleting refrigerant to a non-ozone-depleting refrigerant and possible as-needed repair work associated with the conversion.	31-Dec-07

4093-06/07
Similar

City and County of San Francisco

Department of Human Resources

PERSONAL SERVICES CONTRACT SUMMARY

DATE: December 21, 2006

DEPARTMENT NAME: PUBLIC WORKS DEPARTMENT NUMBER 90

TYPE OF APPROVAL: EXPEDITED REGULAR (OMIT POSTING _____)
 CONTINUING ANNUAL

TYPE OF REQUEST:
 INITIAL REQUEST MODIFICATION (PSC# _____)

TYPE OF SERVICE: Environmental Review Services for the San Francisco General Hospital Rebuild Program

FUNDING SOURCE: Departmental Work Orders

PSC AMOUNT: \$600,000 PSC DURATION: 3/1/2007 through 2/29/2012

1. DESCRIPTION OF WORK

A. Concise description of proposed work:

Consultants will perform a full range of environmental review services in conformance with provisions of the California Environmental Quality Act (CEQA), CEQA guidelines, and Chapter 31 of the San Francisco Administrative Code pertaining to the preparation and processing of an environmental evaluation for the San Francisco General Hospital (SFGH) Rebuild Program.

B. Explain why this service is necessary and the consequences of denial:

The existing general acute care hospital building does not comply with current California seismic safety requirements established under the 1994 amendment to the Alfred E. Atquist Hospital Seismic Safety Act of 1983 (Senate Bill 1953). It is required that all general acute care patients be relocated from the existing, non-conforming hospital before January 1, 2013. SFGH/the City is obligated to meet this mandate, which establishes the basis for the SFGH Rebuild Program. The environmental review work is a mandatory requirement for a rebuild of this nature.

C. Explain how this service has been provided in the past (if this service was previously approved by the Civil Service Commission, indicate most recent personal services contract approval number):

Environmental Review Services are normally provided by consultants that are awarded a professional services contract selected through the RFP or RFQ process. The department currently has as-needed consultants that were approved by PSC #4024-06/07 but these contracts are of limited use when they must expire with 3 to 5 years of award by ordinance; this project requires consultants that may provide consultation for the duration of the project if the project experiences delays.

D. Will the contract(s) be renewed: No

2. UNION NOTIFICATION: Copy of this summary is to be sent to employee organizations as appropriate (refer to instructions for specific procedures):

<u>Local 21</u>	<u>Gordon Chong</u>	<u>12/27/2006</u>
Union Name	Signature of person mailing/faxing form	Date
_____	_____	_____
Union Name	Signature of person mailing/faxing form	Date
RFP sent to <u>Local 21</u>	, on <u>_____</u>	To be sent <u>_____</u>
Union Name	Date	Signature

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# _____
STAFF ANALYSIS/RECOMMENDATION:

CIVIL SERVICE COMMISSION ACTION:

DESCRIPTION OF REQUIRED SKILLS/EXPERTISE

A. Specify required skills and/or expertise:

Requires qualified consultants with expertise in the preparation of environmental impact reports (EIR) and mitigated negative declarations for complex public works projects and encompassing multiple complex environmental issues, and to provide transportation, parking, noise, historic resource/cultural preservation, archaeological, shadow, and wind analysis, and public outreach services.

B. Which, if any, civil service class normally performs this work?

None. The Department of City Planning has City Planners who, by process, become the author(s) of the EIR, and review the EIR and the work of the consultants for conformance with CEQA, environmental, and City requirements. The consultants augment the work of the City Planners through this EIR process. For objectivity, third party consultants normally do the preparation of the EIR.

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:

Yes. Consultant will provide facilities, equipment, and computer software for noise, shadow, wind and other analysis.

WHY CLASSIFIED CIVIL SERVICE CANNOT PERFORM

A. Explain why civil service classes are not applicable:

The work of consultants will augment the work of the City Planners through this EIR process. The City's planners who are experienced with environmental review work, do not develop the EIR, but rather, substantiate that the processes and the development of the EIR is in conformance with regulatory requirements. Consultants augment the work of the City's planners and prepare the EIR. This is consistent with Department of City Planning's policies and procedures.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.

No. This work is project specific. Local projects of this type and size requiring this particular work are infrequent and will not be prudent use of taxpayers' money to adopt a civil service class to perform this work on a continuous basis. Further, the utilization of consultants to prepare the EIR is consistent with the City Planning Department's policy and procedures.

ADDITIONAL INFORMATION (if "yes," attach explanation)

A. Will the contractor directly supervise City and County employees?

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>

B. Will the contractor train City and County employees?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

- Describe the training and indicate approximate number of hours.
- Indicate occupational type of City and County employees to receive training (i.e., clerks, civil engineers, etc.) and approximate number to be trained.

C. Are there legal mandates requiring the use of contractual services?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

D. Are there federal or state grant requirements regarding the use of contractual services?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

E. Has a board or commission determined that contracting is the most effective way to provide this service?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

F. Will the proposed work be completed by a contractor that has a current personal services contract with your department? *Unknown, a RFQ will select the consultant.*

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD:

Gordon Choy
Signature of Departmental Personal Services Contract Coordinator

Gordon Choy
Print or Type Name

(415) 554-6230
Telephone Number

875 Stevenson Street, Room 420
San Francisco, CA 94103

Address

4011-13/14
Similar

PERSONAL SERVICES CONTRACT SUMMARY

DATE: 06/05/13

DEPARTMENT NAME: PUBLIC WORKS DEPARTMENT NUMBER 90

TYPE OF APPROVAL: EXPEDITED REGULAR (OMIT POSTING _____)
 CONTINUING ANNUAL

TYPE OF REQUEST: INITIAL REQUEST MODIFICATION (PSC# _____)

TYPE OF SERVICE: Environmental consulting & planning services for the Better Market Street Project

FUNDING SOURCE: Project funds

PSC AMOUNT: \$2,000,000 PSC DURATION: 9/1/2013 - 12/31/2019

1. DESCRIPTION OF WORK

A. Concise description of proposed work:

Consultants will perform a full range of highly specialized environmental services in conformance with the provisions of the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) for the Better Market Street (BMS) Project, a project to improve pedestrian, transit, bicycle, and vehicular mode circulation, and activate the street by adding street life zones between Octavia Blvd and the Embarcadero (and possibly Mission Street between S. Van Ness Avenue to the Embarcadero). It is expected that a joint Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) will be required. Consultants will conduct aesthetics/visual, air quality, biological resources, cultural resources, geology/soils, hazards and hazardous materials, land use and planning, noise, transportation and traffic, utilities and service systems and other analyses needed to support that analysis.

B. Explain why this service is necessary and the consequences of denial:

These specialized services and expertise are necessary because the City does not currently possess all of them. In addition, the work services are needed to provide the mandatory CEQA/NEPA services for the BMS Project. Denial of this request will hamper DPW's effort to comply with City direction and will delay the delivery of this major infrastructure project.

C. Explain how this service has been provided in the past (if this service was previously approved by the Civil Service Commission, indicate most recent personal services contract approval number):

Specialized Environmental Review Services for major infrastructure projects are routinely provided by consultants who possess unique qualifications. The most recent personal services contract for similar work was approved via PSC# 4093-06/07 on 2/05/2007, for the SF General Hospital Rebuild Program.

D. Will the contract(s) be renewed: No

2. UNION NOTIFICATION: Copy of this summary is to be sent to employee organizations as appropriate (refer to instructions for specific procedures):

Local 21 Carlos 6/05/13
Union Name Signature of person mailing/faxing form Date

Union Name Signature of person mailing/faxing form Date

RFP sent to _____, on _____
Union Name Date Signature

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# _____
STAFF ANALYSIS/RECOMMENDATION:

CIVIL SERVICE COMMISSION ACTION:

3. DESCRIPTION OF REQUIRED SKILLS/EXPERTISE

A. Specify required skills and/or expertise:

The project requires specialized CEQA/NEPA consultants with expertise in complex, major projects to analyze the environmental impact of the BMS Project. In particular, the consultants need CEQA/NEPA (where NEPA is administered by the US Department of Transportation) expertise to provide aesthetics/visual, air quality, biological resources, cultural resources, geology/soils, hazards and hazardous materials, land use and planning, noise, transportation and traffic, utilities and service systems and other analyses needed to support the joint CEQA/NEPA analysis.

B. Which, if any, civil service class normally performs this work?

None. The Department of City Planning and San Francisco Municipal Transportation Agency has planners (CS classes 5288 Transit Planner II, 5289 Transit Planner III, 5290 Transit Planner IV, 5291 Planner III, 5293 Planner IV, 5298 Planner III-Environmental Review, 5299 Planner IV-Environmental Review, 5620 Regulatory Specialist, 5642 Senior Environmental Specialist, 5644 Principal Environmental Specialist) who, by process, become the editors of the CEQA document, and review the work of the consultants for conformance with CEQA, environmental, and other City requirements. However, the City's Planners do not generally review NEPA documents. This is done by Caltrans on behalf of the US Department of Transportation. The consultants augment the work of the City's planners, who do not have specialized expertise required for many of the technical studies.

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:

Yes. The Consultant will provide facilities, equipment, and computer software for analyses needed for the work.

4. WHY CLASSIFIED CIVIL SERVICE CANNOT PERFORM

A. Explain why civil service classes are not applicable:

The broad and specialized scope of the necessary environmental services exceeds the City's current capabilities of staff and equipment. The work of consultants will also augment the work of the City Planners through the CEQA/NEPA process. The City's planners who are experienced with the work will review and substantiate that the environmental analysis and processes by the consultants, are in conformance with CEQA/NEPA Guideline requirements.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.

No, the work is highly specialized and project specific. Projects of this type and size requiring this particular work are infrequent so the adoption of a new civil service class to perform this work would be impractical. In addition, the utilization of consultants to prepare the environmental document is consistent with City Planning Department's policy and procedures (See attached Environmental Review Process Summary.)

5. ADDITIONAL INFORMATION (if "yes," attach explanation)

A. Will the contractor directly supervise City and County employees?

Yes No

B. Will the contractor train City and County employees?

- Describe the training and indicate approximate number of hours.
- Indicate occupational type of City and County employees to receive training (i.e., clerks, civil engineers, etc.) and approximate number to be trained.

C. Are there legal mandates requiring the use of contractual services?

D. Are there federal or state grant requirements regarding the use of contractual services?

E. Has a board or commission determined that contracting is the most effective way to provide this service?

F. Will the proposed work be completed by a contractor that has a current personal services contract with your department? UNKNOWN

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD:


Signature of Departmental Personal Services Contract Coordinator

Gordon Choy
Print or Type Name

(415) 554-6230
Telephone Number

1155 Market Street, 4th Floor
San Francisco, CA 94103
Address

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PERSONAL SERVICES CONTRACT SUMMARY ("PSC FORM 1")

Department: GENERAL SERVICES AGENCY - PUBLIC WORKS -- DPW Dept. Code: DPW

Type of Request: [X] Initial [] Modification of an existing PSC (PSC # _____)

Type of Approval: [] Expedited [X] Regular [] Omit Posting

Type of Service: Specialized Construction Management Support Services - OCME Facility

Funding Source: General Obligation Bond Sales PSC Duration: 2 years 39 weeks
PSC Amount: \$1,600,000 PSC Est. Start Date: 04/01/2014 PSC Est. End Date: 12/31/2016

1. Description of Work

A. Scope of Work:

Department of Public Works (DPW) is seeking a team of qualified consultants to provide construction management support services to the City staff to address the specialized expertise and temporary peak workloads during the pre-construction and construction phases services of the new Office of Chief Medical Examiner (OCME) facility. Services include, but are not limited to, budgeting and cost estimating, construction scheduling, constructability reviews, construction administration, and Leadership in Energy & Environmental Design (LEED)/sustainable building construction management.

B. Explain why this service is necessary and the consequence of denial:

Specialized Construction Management Support Services (CMSS) including, but not limited to, expertise in autopsy complexes and forensic laboratory construction, will significantly minimize risks of exceeding project schedules and budgets due to unforeseen conditions and constructability issues. The denial of use of specialized services and supplemental staff to address peak workloads poses the risk of not meeting program objectives, and may cause the project that is part of the Earthquake Safety and Emergency Response Program to be delivered above the established budgets and behind the schedule.

C. Has this service been provided in the past. If so, how? If the service was provided via a PSC, provide the most recently approved PSC # and upload a copy of the PSC.

This type of service was provided under PSC#4093-10/11 approved on 3/21/2011 for the Public Safety Building, PSC#4087-07/08 approved on 1/22/2008 for San Francisco General Hospital, and PSC#4172-07/08 approved 6/16/2008 for Laguna Honda Hospital Replacement Program. This service requires specialized expertise that is needed intermittently.

D. Will the contract(s) be renewed? No

2. Union Notification: On 12/09/2013, the Department notified the following employee organizations of this PSC/RFP request: Architect & Engineers, Local 21,

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# 42862 - 13/14

DHR Analysis/Recommendation:

Civil Service Commission Action:

Commission Approval Required

DHR Approved for 02/03/2014

3. Description of Required Skills/Expertise

A. Specify required skills and/or expertise:
See attached document titled PSC Attachment.

B. Which, if any, civil service class(es) normally perform(s) this work?
5201,5207,6318,5504,5203,

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:
No

4. Why Classified Civil Service Cannot Perform

A. Explain why civil service classes are not applicable:

Permanent civil service employees do not possess the experience and specialized expertise in construction management support services of delivering a new medical examiner facility.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.

No. These highly technical and specialized services for the delivery of a new medical examiner facility are needed once every 30 to 50 years.

5. Additional Information (if "yes", attach explanation)

	<u>YES</u>	<u>NO</u>
A. Will the contractor directly supervise City and County employee?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
B. Will the contractor train City and County employee? Risk management techniques for capital projects: 8 hours, Architects	<input checked="" type="checkbox"/>	<input type="checkbox"/>
C. Are there legal mandates requiring the use of contractual services?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
D. Are there federal or state grant requirements regarding the use of contractual services?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
E. Has a board or commission determined that contracting is the most effective way to provide this service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
F. Will the proposed work be completed by a contractor that has a current PSC contract with your department?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD
ON 01/08/2014 BY:

Name: Sung Kim Phone: 415-554-6417 Email: sung.kim@sfdpw.org

Address: 1155 Market Street, 4th Floor San Francisco, CA

Receipt of Union Notification(s)
◆ Local 21

Dang, Leorah

From: dhr-psccordinator@sfgov.org
Sent: Monday, December 09, 2013 10:14 AM
To: Kim, Sung; L21PSCReview@ifpte21.org; Lim, Michelle; DHR-PSCCoordinator, DHR; Isen, Richard
Subject: Receipt of Notice for new PCS over \$100K PSC # 42862 - 13/14

RECEIPT for Union Notification for PSC 42862 - 13/14 more than \$100k

The GENERAL SERVICES AGENCY - PUBLIC WORKS -- DPW has submitted a request for a Personal Services Contract (PSC) 42862 - 13/14 for \$1,600,000 for Initial Request services for the period 04/01/2014 – 12/31/2016. Notification of 30 days (60 days for SEIU) is required.

After logging into the system please select link below, view the information and verify receipt:

<http://apps.sfgov.org/dhrdrupal/node/953>

Email sent to the following addresses: L21PSCReview@ifpte21.org for Architect & Engineers, Local 21
jebrenner@ifpte21.org for Architect & Engineers, Local 21

Additional Attachment(s) of Explanation

◇ **Section 3. Description of Required Skills Expertise**

3A. Specify required skills and/or expertise

PSC Attachment:

Specify required skills and/or expertise:

Specialized expertise in Cost Estimating, Scheduling, Constructability Analysis, and Sustainable Building Construction Management applicable to construction of medical examiner facility with autopsy, toxicology/histology laboratory, associated lab support, and administration spaces. 80% of this facility is for laboratory functions. Experience in meeting accreditation requirements for Medical Examiner facilities, cross contamination, high security features to control chain-of-custody for evidence to be presented in court, and including biohazard isolation and expertise in achieving LEED Gold rating for laboratory facilities.

Additional Attachment(s) of Explanation

◇ Section 1. Description of Work

**1C. Has this service been provided in the past. If so, how?
If the service was provided via a PSC, provide the most recently approved PSC # and upload a copy of the PSC.**

PSC #4093-10/11

- **Prior Notice of Civil Service Action – Initial - Similar**
- **Prior PSC Form 1 – Initial - Similar**

PSC #4087-07/08

- **Prior Notice of Civil Service Action – Initial - Similar**
- **Prior PSC Form 1 – Initial - Similar**

PSC #4172-07/08

- **Prior Notice of Civil Service Action – Initial - Similar**
- **Prior PSC Form 1 – Initial - Similar**



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

4093-10/11
Similar

March 28, 2011

E. DENNIS NORMANDY
PRESIDENT

NOTICE OF CIVIL SERVICE COMMISSION ACTION

DONALD A. CASPER
VICE PRESIDENT

SUBJECT: REVIEW OF REQUEST FOR APPROVAL OF PROPOSED PERSONAL SERVICES CONTRACT NUMBERS 4086-10/11 THROUGH 4094-10/11; 4024-09/10; 4021-07/08; AND 4171-07/08.

MORGAN R. GORRONO
COMMISSIONER

At its meeting of March 21, 2011 the Civil Service Commission had for its consideration the above matter.

MARY Y. JUNG
COMMISSIONER

PLEASE NOTE: *It is important that a copy of this action be kept in the department files as you will need it in the future as proof of Civil Service Commission approval. Please share it with everyone responsible for follow-up.*

LISA SEITZ GRUWELL
COMMISSIONER

It was the decision of the Commission to:

ANITA SANCHEZ
EXECUTIVE OFFICER

- (1) Postpone PSC #4089-10/11 to the meeting of April 4, 2011 due to lack of vote for action. (Quorum consisted of three Commissioners and concurrence of all three needed for action; Commissioner Seitz Gruell recused, making only two votes available.)
- (2) Withdraw PSC #4090-10/11 at the request of the Municipal Transportation Agency.
- (3) Postpone PSC #4092-10/11 to the meeting of April 18, 2011 at the request of the Public Utilities Commission.
- * (4) Adopt the report; Approve request for PSC #4093-10/11 on the condition that one Bureau of Construction Management (BCM) employee be provided by BCM for two months at no cost to the ESER Program during the 2012-13 budget year. Notify the Office of the Controller and the Office of Contract Administration.
- (5) Adopt the report; Approve request for PSC #4094-10/11 on the condition that the Treasurer/Tax Collector consult with IFPTE Local 21 in efforts to transfer knowledge and research techniques in so far as possible; Report back to the Commission in six (6) months. Notify the Office of the Controller and the Office of Contract Administration.
- (6) Adopt the report; Approve request for PSC #4021-07/08 on the condition that existing vacant OLSE positions be filled and that there are no cuts to OLSE staff, and that this matter be revisited and reviewed in six (6) months. Notify the Office of the Controller and the Office of Contract Administration.
- (7) Adopt the report as verbally amended from Yes to No in 5E; Approve request for PSC #4171-07/08 on the condition that a minimum of eighteen BCM personnel will be trained in the JOC unit price information for future use. Notify the Office of the Controller and the Office of Contract Administration.
- (8) Adopt the report; Approve request for all remaining contracts. Notify the Office of the Controller and the Office of Contract Administration.

CONTRACT ADMINISTRATION
DEPT

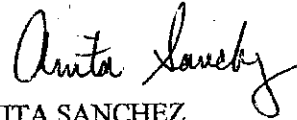
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RECEIVED

CSC Notice of Action
March 28, 2011
Page 2

If this matter is subject to Code of Civil Procedure (CCP) Section 1094.5, the time within which judicial review must be sought is set forth in CCP Section 1094.6.

CIVIL SERVICE COMMISSION



ANITA SANCHEZ
Executive Officer

Attachment

c: Parveen Boparai, Municipal Transportation Agency
Micki Callahan, Human Resources Director
Carino Carlos, Department of Public Works
Gordon Choy, Department of Public Works
Marie de Vera, Department of Human Resources
Oliver Hack, Mayor's Office of Housing
Kan Htun, Art Commission
Shamica Jackson, Public Utilities Commission
Florence Kyaun, Public Utilities Commission
Joan Lubamersky, General Services Agency
Maria Ryan, Department of Human Resources
Tajel Shak, Treasurer/Tax Collector
Shawn Wallace, San Francisco Police Department
Commission File
Chron

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11 MAR 30 AM 11:46
DPW
CONTRACT ADMINISTRATION

POSTING FOR
3/21/2011

PROPOSED PERSONAL SERVICES CONTRACTS
Regular, Continuing, Annual

FSC No	Dept No.	Dept Name	Approval Type	Contract Amount	Description of Work	Start Date - End Date
*4093-10/11	90	Public Works	Regular	\$6,700,000	Two contracts will be awarded to furnish construction management support services to City staff to address specialized expertise and temporary peak workloads for pre-construction and construction phase services for cost estimating, construction scheduling, constructability review, construction administration, construction inspections services, LEED/sustainable building construction management, and existing building forensic investigations for projects of the Earthquake Safety and Emergency Response (ESER) Bond Program, including the Public Safety Building, selected neighborhood fire stations, and selected projects of the Auxiliary Water Supply System.	4/25/2011 - 1/1/2017
4094-10/11	08	Treasurer/Tax Collector	Regular	\$100,000	A consultant will be engaged to assist the Treasurer-Tax Collector in implementing a Request for Proposals process for banking services that will result in a contract for bank services for the City and County of San Francisco.	3/21/2011 - (2/31/2012

DPFM
CONTRACT ADMINISTRATIONS

11 MAR 30 AM 11:46

RECEIVED

40913-10/11
Similar

PERSONAL SERVICES CONTRACT SUMMARY

DATE: February 14, 2011

DEPARTMENT NAME: PUBLIC WORKS DEPARTMENT NUMBER 90

TYPE OF APPROVAL: EXPEDITED REGULAR (OMIT POSTING _____)
 CONTINUING ANNUAL

TYPE OF REQUEST:
 INITIAL REQUEST MODIFICATION (PSC# _____)

TYPE OF SERVICE: Specialized Construction Management Support Services

FUNDING SOURCE: General Obligation Bond Sales

PSC AMOUNT: \$6,700,000 PSC DURATION: April 25, 2011- January 1, 2017

1. DESCRIPTION OF WORK

A. Concise description of proposed work:

Two contracts will be awarded to furnish construction management support services to City staff to address specialized expertise and temporary peak workloads for pre-construction and construction phase services for cost estimating, construction scheduling, constructability review, construction administration, construction inspections services, LEED/ sustainable building construction management, and existing building forensic investigations for projects of the Earthquake Safety and Emergency Response (ESER) Bond Program, including the Public Safety Building, selected neighborhood fire stations, and selected projects of the Auxiliary Water Supply System.

B. Explain why this service is necessary and the consequences of denial:

Specialized CM Support Services and existing-building forensic investigation will significantly minimize risks of exceeding project schedules and budgets due to unforeseen hidden conditions and constructability issues. The denial of use of specialized services and supplemental staff to address peak workloads poses the risk that program goals will not be met, and cause projects that are part of the Earthquake Safety and Emergency Response Program to not be delivered in accordance with established budgets and schedules.

C. Explain how this service has been provided in the past (if this service was previously approved by the Civil Service Commission, indicate most recent personal services contract approval number):

These specialized services have not been provided previously for the Public Safety Building or a similar Program of Essential Services Facilities.

D. Will the contract(s) be renewed: No

2. UNION NOTIFICATION: Copy of this summary is to be sent to employee organizations as appropriate (refer to instructions for specific procedures):

Local 21 Carina Carlos 2/15/11
Union Name Signature of person mailing/faxing form Date

RFP sent to Local 21, on 11/10/10 Carina Carlos for Jim Baker
Union Name Date Signature

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# _____
STAFF ANALYSIS/RECOMMENDATION:

CIVIL SERVICE COMMISSION ACTION:

3. DESCRIPTION OF REQUIRED SKILLS/EXPERTISE

A. Specify required skills and/or expertise:

Specialized expertise in Cost Estimating, Scheduling, Constructability Analysis, Sustainable Building Construction Management, and Existing-Building Forensic Investigations across a variety of project types that include new buildings, major and minor building alterations, and seismic improvement of the dedicated to fire-fighting high-pressure city-wide water system infrastructure. To avoid unanticipated program delays that could impair public safety, exceptional accuracy and precision in the above listed specialized skills particularly in renovation of multiple existing facilities in a dense, zero lot line, urban environment are required. Services provided by a Licensed Engineer or a Registered Architect in the State of California is highly-desirable and pertinent to the Program's success.

B. Which, if any, civil service class normally performs this work?

Resident Engineers and Construction Managers at DPW Bureau of Construction Management (BCM) normally provide services to perform core competencies of general construction management such as Construction Administration and Document Planning/Control. The construction management workload for certain ESER projects will exceed the capacity of staff at DPW BCM. Construction Administration and Document Planning tasks on individual neighborhood Fire Station projects may be performed by the Engineer Series (5201 - 5241);

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:

Yes. Existing-Building Forensic Investigation will require special equipment and apparatus for explorative and investigative purposes.

4. WHY CLASSIFIED CIVIL SERVICE CANNOT PERFORM

A. Explain why civil service classes are not applicable:

Permanent civil service employees do not possess the experience and specialized expertise in interdisciplinary coordination and delivery of the indicated services, which are beyond the core competencies of construction management. Timely delivery of Earthquake Safety and Emergency Response projects is critical for essential firefighting facilities and the Public Safety Building, but may be challenged by peak work load at Bureau of Construction Management.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.

No. The specialized expertise for these building types is needed on an intermittent basis.

ADDITIONAL INFORMATION (if "yes," attach explanation)

A. Will the contractor directly supervise City and County employees?

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>

B. Will the contractor train City and County employees?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

- Describe the training and indicate approximate number of hours.
- Indicate occupational type of City and County employees to receive training (i.e., clerks, civil engineers, etc.) and approximate number to be trained.

Constructability reviews and lesson learned seminars for about 8 architects, engineers, and construction management staff. Five seminars (1 per year) = 40 employees.

C. Are there legal mandates requiring the use of contractual services?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

D. Are there federal or state grant requirements regarding the use of contractual services?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

E. Has a board or commission determined that contracting is the most effective way to provide this service?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

F. Will the proposed work be completed by a contractor that has a current personal services contract with your department? **To Be Determined**

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD:


Signature of Departmental Personal Services Contract Coordinator

Gordon Choy

(415) 554-6230

Print or Type Name

Telephone Number

875 Stevenson Street, Room 420

San Francisco, CA 94103

Address

4087-07/08
Similar



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

GAVIN NEWSOM
MAYOR

January 25, 2008

NOTICE OF CIVIL SERVICE COMMISSION ACTION

ALICIA D. BECERRIL
PRESIDENT

DONALD A. CASPER
VICE PRESIDENT

MORGAN R. GORRONO
COMMISSIONER

MARY Y. JUNG
COMMISSIONER

YU-YEE WU
COMMISSIONER

ANITA SANCHEZ
EXECUTIVE OFFICER

SUBJECT: REVIEW OF REQUEST FOR APPROVAL OF PROPOSED PERSONAL SERVICES CONTRACT NUMBERS 4081-07/08; 4083-07/08 THROUGH 4085-07/08; 4087-07/08; 4080-07/08; 4082-07/08; 4347-00/01; 4081-05/06; 4064-06/07 AND 4086-07/08.

At its meeting of **January 22, 2008** the Civil Service Commission had for its consideration the above matter.

PLEASE NOTE: *It is important that a copy of this action be kept in the department files as you will need it in the future as proof of Civil Service Commission approval.*

It was the decision of the Commission to adopt the Human Resources Director's report. Notify the offices of the Controller and the Purchaser.

If this matter is subject to Code of Civil Procedure (CCP) Section 1094.5, the time within which judicial review must be sought is set forth in CCP Section 1094.6.

CIVIL SERVICE COMMISSION

ANITA SANCHEZ
Executive Officer

Attachment

- c: Micki Callahan, Human Resources Director
- Parveen Boparai, Municipal Transportation Agency
- Connie Chang, Public Utilities Commission
- Gordon Choy, Department of Public Works
- Nancy Gonchar, Arts Commission
- Ed Harrington, Controller
- Mikhael Hart, Planning Department
- Jennifer Johnston, Department of Human Resources
- Naomi Kelly, Office of Contract Administration
- Julian Low, Mayor's Office of Business & Economic Development
- Sean McFadden, Recreation & Parks Department
- Jonathan Nelly, Department of Human Resources
- Commission File
- Chron

**POSTING FOR
January 22, 2008**

RECOMMENDED APPROVAL OF PROPOSED PERSONAL SERVICES CONTRACTS

PSC No.	DeptNo	DeptName	Approval Type	Contract Amount	Description of work	Duration
4081-07/08	21	Mayor's Office of Economic and Workforce Development	Regular	\$500,000.00	Will provide real estate planning and development consulting services for mixed-use planning and development projects.	31-Dec-13
4083-07/08	29	Planning Department	Regular	\$100,000.00	Will provide a complete environmental document that analyzes the environmental impacts for the Enterprise Zone Project.	28-Feb-09
4084-07/08	40	San Francisco Public Utilities	Regular	\$7,000,000.00	Will provide power distribution scheduling coordination services as defined by the California Independent System Operator.	30-Jun-12
4085-07/08	40	San Francisco Public Utilities	Regular	\$900,000.00	Will provide as needed reference laboratory testing of drinking water, wastewater, groundwater, soils, sediments, solids, hazardous waste, and biota (issues).	30-Jun-11
4087-07/08	90	Public Works	Regular	\$8,000,000.00	Will provide preconstruction and construction services, and establish and maintain overall project controls during the design and construction phases of the SFGH Rebuild Project.	31-Dec-16

4087-07/08
Similar

PERSONAL SERVICES CONTRACT SUMMARY

DATE: December 19, 2007

DEPARTMENT NAME: PUBLIC WORKS DEPARTMENT NUMBER 90

TYPE OF APPROVAL: EXPEDITED REGULAR (OMIT POSTING _____)
 CONTINUING ANNUAL

TYPE OF REQUEST: INITIAL REQUEST MODIFICATION (PSC# _____)

TYPE OF SERVICE: Executive Construction Management Services

FUNDING SOURCE: Departmental Work Orders

PSC AMOUNT: \$8,000,000 PSC DURATION: January 1, 2008 through December 31, 2016

1. DESCRIPTION OF WORK

A. Concise description of proposed work:

The Executive Construction Management (CM) for the new hospital at SFGH Medical Center will be responsible for pre-construction and construction services, and for establishing and maintaining overall project controls during the design and construction phases of the SFGH Rebuild Project. CM services include project scheduling, cost estimating, and establishing an automated project master database for tracking and monitoring daily workflow processing and reporting. The CM will also be responsible for monitoring the Construction Manager/General Contractor's (CM/GC) quality assurance, safety programs, and hazardous material and construction mitigation controls, and for providing Inspector of Record (IOR) services as required by California Office of Statewide Health Planning and Development (OSHPD) for acceptance of the new hospital construction.

B. Explain why this service is necessary and the consequences of denial:

This service is critical for monitoring all phases of the project to ensure the SFGH Rebuild Project will stay on schedule and within budget, and will be completed by the State-mandated deadline of 1/1/2013. The IOR inspection services are part of the mandatory requirements for all projects under OSHPD's jurisdiction. Denial of this service would jeopardize the timely completion of the SFGH Rebuild Project and the SFGH would not be in compliance with the State-mandated seismic Safety Standards thus risking loss of licensing for Acute Care Services and closure after January 1, 2013.

C. Explain how this service has been provided in the past (if this service was previously approved by the Civil Service Commission, indicate most recent personal services contract approval number):

Similar services were provided on the Laguna Honda Hospital Rebuild Program by Cooper Pugaeda Management Services, awarded under PSC#4269-00/01, approved September 18, 2000.

D. Will the contract(s) be renewed: No

2. UNION NOTIFICATION: Copy of this summary is to be sent to employee organizations as appropriate (refer to instructions for specific procedures):

<u>Local 21</u>	<u>[Signature]</u>	<u>12-19-2007</u>
Union Name	Signature of person mailing/faxing form	Date
<u>Building Inspectors Assn.</u>	<u>[Signature]</u>	<u>12-19-2007</u>
Union Name	Signature of person mailing/faxing form	Date

RFP sent to	<u>Local 21: Bldg Insp Assn</u>	, on	<u>When available</u>	
	Union Name		Date	Signature

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# _____

STAFF ANALYSIS/RECOMMENDATION:

CIVIL SERVICE COMMISSION ACTION:

3. DESCRIPTION OF REQUIRED SKILLS/EXPERTISE

A. Specify required skills and/or expertise:

Requires a team of construction managers, scheduling/project control engineers, cost engineers, cost estimators, contract administrators, safety officers, QA/QC inspectors, and OSHPD-certified inspectors (IOR) who are experienced with OSHPD procedures, protocols and requirements.

B. Which, if any, civil service class normally performs this work?

The Civil Service Classifications that normally perform this work include 5201, Jr. Engineer; 5203, Asst. Engineer; 5207, Assoc Engineer; 5212, Principal Engineer; 5241, Engineer; 5218, Structural Engineer; 5219, Sr. Structural Engineer; 6318, Construction Inspector; 6319, Sr. Construction Engineer; 6331, Building Inspector; 6333, Sr. Building Inspector; 6334, Chief Building Inspector.

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:

No.

4. WHY CLASSIFIED CIVIL SERVICE CANNOT PERFORM

A. Explain why civil service classes are not applicable:

Civil Service Classifications are applicable, but the complexity and size of the SFGH Rebuild Project requires a significant amount of personnel resources with specific knowledge and expertise in cost estimating, scheduling, and OSHPD certifications as it pertains to delivering a licensed acute care facility. The SFGH Rebuild schedule dictates that a robust team of OSHPD experienced staff is engaged immediately to meet the third-party estimating requirements for the Board of Supervisors approved Integrated Project Delivery Ordinance. City staff will be integrated in the team as appropriate. City staff will also be responsible for directing the CM. Services for which applicable classifications do have expertise are specifically excluded from the scope of work in the CM RFQ, such as materials testing and special inspection services.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.

No. The aggressive SFGH Rebuild schedule does not allow for the creation of a new Civil Service Class specifically to perform this specific work. Additionally, the Bureau of Construction Management is currently in the process of creating a new "Cost Estimating and Scheduling Controls" section that will specialize in performing cost estimating and project scheduling services. Current City staff do not yet have the experience and expertise to perform the services for this project.

5. ADDITIONAL INFORMATION (if "yes," attach explanation)

	Yes	No
A. Will the contractor directly supervise City and County employees?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
B. Will the contractor train City and County employees?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Describe the training and indicate approximate number of hours.		
• Indicate occupational type of City and County employees to receive training (i.e., clerks, civil engineers, etc.) and approximate number to be trained.		
C. Are there legal mandates requiring the use of contractual services?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
D. Are there federal or state grant requirements regarding the use of contractual services?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
E. Has a board or commission determined that contracting is the most effective way to provide this service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
F. Will the proposed work be completed by a contractor that has a current personal services contract with your department? An RFP/RFQ will be in process to select the consultant.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD:

Gordon Choy

Signature of Departmental Personal Services Contract Coordinator

Gordon Choy

(415) 554-6230

Print or Type Name

Telephone Number

875 Stevenson Street, Room 420

San Francisco, CA 94103

Address



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

GAVIN NEWSOM
MAYOR

4172-07/08
Similar

June 4, 2008

NOTICE OF CIVIL SERVICE COMMISSION ACTION

DONALD A. CASPER
PRESIDENT

SUBJECT: REVIEW OF REQUEST FOR APPROVAL OF PROPOSED PERSONAL SERVICES CONTRACT NUMBERS 4160-07/08 THROUGH 4172-07/08; 4141-06/07; 4095-03/04; 4101-07/08; 4062-04/05; 4046-04/05; 4097-05/06; 2000-07/08; AND 2000-03/04.

MORGAN R. GORRONO
VICE PRESIDENT

At its meeting of June 2, 2008 the Civil Service Commission had for its consideration the above matter.

ALICIA D. BECERRIL
COMMISSIONER

PLEASE NOTE: *It is important that a copy of this action be kept in the department files as you will need it in the future as proof of Civil Service Commission approval.*

MARY Y. JUNG
COMMISSIONER

It was the decision of the Commission to:

YU-YEE WU
COMMISSIONER

- (1) Postpone PSC #4160-07/08 to the meeting of June 16, 2008 by mutual agreement of the Department of Children, Youth and Their Families and SEIU Local 1021.
- (2) Postpone PSC #4162-07/08 to the meeting of June 16, 2008 at the request of the Municipal Transportation Agency.
- (3) Postpone PSC #4101-07/08, PSC #4172-07/08 and PSC #2000-03/04 to the meeting of June 16, 2008.
- (4) Adopt the Human Resources Director's report on PSC #4165-07/08 and PSC #4166-07/08 as amended. Notify the offices of the Controller and the Purchaser.
- (5) Adopt the Human Resources Director's report on all remaining contracts. Notify the offices of the Controller and the Purchaser.

ANITA SANCHEZ
EXECUTIVE OFFICER

If this matter is subject to Code of Civil Procedure (CCP) Section 1094.5, the time within which judicial review must be sought is set forth in CCP Section 1094.6.

CIVIL SERVICE COMMISSION

ANITA SANCHEZ
Executive Officer

Attachment

- c:
- Parveen Boparai, Municipal Transportation Agency
 - Rachel Buerkle, Department of the Environment
 - Micki Callahan, Human Resources Director
 - Connie Chang, Public Utilities Commission
 - Gordon Choy, Department of Public Works
 - Jacquie Hale, Department of Public Health
 - Shamica Jackson, Public Utilities Commission
 - Jennifer Johnston, Department of Human Resources
 - Galen Leung, San Francisco International Airport
 - Artina Lim, Department of Children, Youth & Their Families
 - Joan Lubamersky, Administrative Services
 - Sheila Maxwell, Department of Telecommunications and Information Services
 - Jonathan Nelly, Department of Human Resources
 - Mary Ng, Department of Human Resources
 - Commission File

POSTING FOR
June 02, 2008

RECOMMENDED APPROVAL OF PROPOSED PERSONAL SERVICES CONTRACTS

PSC No.	DeptNo	DeptName	Approval Type	Contract Amount	Description of work	Duration
4170-07/08	90	Public Works	Regular	\$104,725.00	Will provide set-up of the CMMS database and share the system with the Department of Real Estate (DRE) to manage maintenance services.	30-Jun-11
4171-07/08	90	Public Works	Regular	\$4,000,000.00	Will provide professional services to assist DPW in administering job order contracting (JOC) system as provided for in San Francisco Administrative Code Section 6.62 for use in expediting the design and construction of small and/or urgent projects.	21-May-11
4172-07/08	90	Public Works	Regular	\$8,000,000.00	Will provide construction management services associated with Laguna Honda Hospital Replacement Program. Contract includes pre-construction and construction phase services for the Program.	31-Dec-10

122a

4172-07/08
Similar

City and County of San Francisco

Department of Human Resources

PERSONAL SERVICES CONTRACT SUMMARY

DATE: May 8, 2008

DEPARTMENT NAME: PUBLIC WORKS

DEPARTMENT NUMBER 90

TYPE OF APPROVAL: EXPEDITED REGULAR (OMIT POSTING _____)
 CONTINUING ANNUAL

TYPE OF REQUEST: INITIAL REQUEST MODIFICATION (PSC# _____)

TYPE OF SERVICE: Construction Management Services

FUNDING SOURCE: Proposition A, November 1999, \$299 Million Bonds; Tobacco Settlement Revenue proceeds; Interest Earned proceeds.

PSC AMOUNT: \$8,000,000 (see no. 1 below) PSC DURATION: 06/16/2008 through 12/31/2010

I. DESCRIPTION OF WORK

A. Concise description of proposed work:

Construction Management services associated with Laguna Honda Hospital Replacement Program. Contract includes pre-construction and construction phase services for the Program. The Program is scheduled to be completed in 2010. Construction costs are estimated at \$497.8M. Services were provided on an as-needed basis during the pre-construction phase and on a full-time basis during the construction phase. Services by the same consultant are continuing. \$7.0 M was previously approved under PSC#4269-00/01 which expired on 12/31/2007. To comply with DHR's procedural change relating to PSC expiration dates, this document is being submitted as an initial request.

B. Explain why this service is necessary and the consequences of denial:

Services are required to satisfy voter mandates as a result of Proposition A approved in the November 1999 election and to satisfy Federal and State licensing requirements. If services are denied, voter mandates and licensing requirements will not be satisfied, and the facility will be closed.

C. Explain how this service has been provided in the past (if this service was previously approved by the Civil Service Commission, indicate most recent personal services contract approval number):

This service was previously approved under PSC#4269-00/01. Similar contracts for large construction projects have been awarded in the past utilizing a combined City / Consultant team for construction management services. These projects include the City Hall Seismic Upgrade PSC#4062-95/98, New Main Library PSC#784-89/90, the 911 Emergency Operations Center PSC#4060-96/97, and the Moscone Center Expansion PSC#4028-98/99.

D. Will the contract(s) be renewed: No.

2. UNION NOTIFICATION: Copy of this summary is to be sent to employee organizations as appropriate (refer to instructions for specific procedures):

<u>Local 21</u> Union Name	<u>Yves Carina C. Carlas</u> Signature of person mailing/faxing form	<u>5/12/08</u> Date
_____ Union Name	_____ Signature of person mailing/faxing form	_____ Date
RFP sent to _____ Union Name	_____ on _____ Date	_____ Signature

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# 4172-07/08

STAFF ANALYSIS/RECOMMENDATION:

CIVIL SERVICE COMMISSION ACTION:

Approved 6/16/08

3. DESCRIPTION OF REQUIRED SKILLS/EXPERTISE

A. Specify required skills and/or expertise:

Required expertise includes but is not limited to developing construction staging and phasing plans, producing cost and resource-loaded construction schedules, preparing and reconciling cost estimates, and providing expert advice on technical issues relative to the construction of a large hospital project.

Experience with OSHPD permitted projects, construction projects conducted around an operating hospital facility, phased construction projects, renovation projects, utility relocation projects, large (\$50M+) City and County of San Francisco projects and projects using various delivery methods.

B. Which, if any, civil service class normally performs this work?

Civil, Mechanical, Electrical and Structural Engineering classifications series 5200 and 5300. Construction Inspector classifications series 6300.

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:

No.

4. WHY CLASSIFIED CIVIL SERVICE CANNOT PERFORM

A. Explain why civil service classes are not applicable:

Civil service classifications are applicable. However, the City has never undertaken a hospital project of this size and complexity before. Consequently, applicable classifications do not have the required expertise in developing construction staging and phasing plans, producing cost and resource-loaded construction schedules, preparing and reconciling cost estimates, and providing expert advice on technical issues relative to the construction of a large hospital project.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.

No. Civil Service classifications already exist. The condition created by the required specialized skills combined with the large size of the project occurs only periodically.

5. ADDITIONAL INFORMATION (if "yes," attach explanation)

A. Will the contractor directly supervise City and County employees?

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>

B. Will the contractor train City and County employees?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

- Describe the training and indicate approximate number of hours.
- Indicate occupational type of City and County employees to receive training (i.e., clerks, civil engineers, etc.) and approximate number to be trained.

C. Are there legal mandates requiring the use of contractual services?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

D. Are there federal or state grant requirements regarding the use of contractual services?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
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E. Has a board or commission determined that contracting is the most effective way to provide this service?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

F. Will the proposed work be completed by a contractor that has a current personal services contract with your department?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD:

Gordon Choy
Signature of Departmental Personal Services Contract Coordinator

Gordon Choy
Print or Type Name

(415) 554-8230
Telephone Number

875 Stevenson Street, Room 420
San Francisco, CA 94103
Address

PERSONAL SERVICES CONTRACT SUMMARY ("PSC FORM 1")

Department: DEPARTMENT OF EMERGENCY MANAGEMENT – ECD Dept. Code: ECD

Type of Request: [X] Initial [] Modification of an existing PSC (PSC # _____)

Type of Approval: [] Expedited [X] Regular [] Omit Posting

Type of Service: Regional Recovery and Community Resiliency Planning

Funding Source: Homeland Security Grant - UASI PSC Duration: 4 years
PSC Amount: \$500,000 PSC Est. Start Date: 01/01/2014 PSC Est. End Date: 12/31/2017

1. Description of Work

A. Scope of Work:

Contractor will identify standards and establish benchmarks for effective recovery planning (in the event of a man-made or natural disaster) for the Bay Area Region, which includes twelve counties and the core cities of San Francisco, Oakland, and San Jose. Contractor will perform an analysis of current recovery efforts throughout the Bay Area and identify gaps and needs in recovery planning. Contractor will draft the Continuity of Operations (COOP) and Continuity of Government (COG) plans and develop training, exercise, and evaluation activities needed to strengthen, build on, and improve the Bay Area Region's recovery capabilities.

B. Explain why this service is necessary and the consequence of denial:

The Urban Areas Security Initiative (UASI) Region is comprised of twelve counties and three core cities, which together receive federal funding to combat and respond to terrorism and related catastrophic disasters throughout the entire Bay Area. Denial of this request will hinder the Bay Area UASI Region's ability to develop future funding requests and secure increased funding for SF and all of the Bay Area cities and counties. This in turn can jeopardize the Bay Area UASI Region's ability to prevent, protect against, respond to and recover from acts of terrorism and other man-made or natural catastrophes in the Bay Area.

C. Has this service been provided in the past. If so, how? If the service was provided via a PSC, provide the most recently approved PSC # and upload a copy of the PSC. This service has not been provided in the past.

D. Will the contract(s) be renewed? Based on need, performance, and funding availability.

2. Union Notification: On 11/06/2013, the Department notified the following employee organizations of this PSC/RFP request: Municipal Executive Association, Architect & Engineers, Local 21,

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# 45476 - 13/14

DHR Analysis/Recommendation:

Civil Service Commission Action:

Commission Approval Required

DHR Approved for 02/03/2014

3. Description of Required Skills/Expertise

A. Specify required skills and/or expertise:

This service requires extensive knowledge and expertise in regional recovery planning throughout the entire Bay Area Region. The contractor must have experience in how to prevent, respond to, and recover from acts of terrorism or man-made/natural disasters at the regional level. The provider must have a thorough understanding of how the unique characteristics of each member county impacts, not only the county, but the entire Bay Area region during disaster recovery.

B. Which, if any, civil service class(es) normally perform(s) this work?

8604,0931,

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:

No.

4. Why Classified Civil Service Cannot Perform

A. Explain why civil service classes are not applicable:

Existing staff does not have the time to conduct a project of this magnitude. Also, because this service spans across twelve counties it is important that the provider be a neutral entity not associated with any of the counties.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.

No, because the regional, state, and national interaction required to perform this service would make it impractical for an SF civil service employee to perform this work for and on behalf of other counties. Also, we have reached the personnel cap from this time limited grant from Homeland Security.

5. Additional Information (if "yes", attach explanation)

YES NO

A. Will the contractor directly supervise City and County employee?

B. Will the contractor train City and County employee?

Please see additional attachment.

C. Are there legal mandates requiring the use of contractual services?

D. Are there federal or state grant requirements regarding the use of

contractual services? Please see additional attachment.

E. Has a board or commission determined that contracting is the most effective way to provide this service?

F. Will the proposed work be completed by a contractor that has a current PSC contract with your department?

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD

ON 01/02/2014 BY:

Name: William Lee

Phone: 415-558-3866

Email: william.lee@sfgov.org

Address: 1011 Turk Street

San Francisco, CA

Receipt of Union Notification(s)

◆ MEA

◆ Local 21

Dang, Leorah

From: dhr-psccordinator@sfgov.org
Sent: Wednesday, November 06, 2013 3:16 PM
To: Lee, William; staff@sfmea.com; jebrenner@ifpte21.org; L21PSCReview@ifpte21.org; Kim-Molina, Mikyung; DHR-PSCCoordinator, DHR; Isen, Richard
Subject: Receipt of Notice for new PCS over \$100K PSC # 45476 - 13/14

RECEIPT for Union Notification for PSC 45476 - 13/14 more than \$100k

The DEPARTMENT OF EMERGENCY MANAGEMENT -- ECD has submitted a request for a Personal Services Contract (PSC) 45476 - 13/14 for \$500,000 for Initial Request services for the period 01/01/2014 – 12/31/2017. Notification of 30 days (60 days for SEIU) is required.

After logging into the system please select link below, view the information and verify receipt:

<http://apps.sfgov.org/dhrdrupal/node/705>

Email sent to the following addresses: L21PSCReview@ifpte21.org for Architect & Engineers, Local 21
jebrenner@ifpte21.org for Architect & Engineers, Local 21 staff@sfmea.com for Municipal Executive Association
camaguey@sfmea.com for Municipal Executive Association

Additional Attachment(s) of Explanation

◇ **Section 5. Additional Information**

5B. Will the contractor train City and County employees?

- Describe training and indicate approximate number of hours.
- Indicate occupational type of City and County employees to receive training (e.g., clerks, civil engineers, etc.) and approximate number to be trained.

5D. Are there federal or state grant requirements regarding the use of contractual services?

**Federal Emergency Management, DHS
44 CFR Ch. 1 (10-1-11 Edition)
§ 13.36 Procurement**

NOA for PSC 45476-13/14 Regional Recovery and Community Resiliency Planning

Additional Attachment to 5B, Contractor Train City Employees Explanation Memo

Training sessions will be targeted towards Emergency Operations Center (EOC) staff throughout the entire UASI Region. In San Francisco, the training will be targeted towards the following positions (approximately 14 total):

8601 Emergency Services Coordinator I

8602 Emergency Services Coordinator II

8603 Emergency Services Coordinator III

8604 Emergency Services Coordinator IV

Federal Emergency Management Agency, DHS

§ 13.36

the current market value or proceeds from sale by the awarding agency's share of the equipment.

(3) In cases where a grantee or subgrantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or subgrantee to take excess and disposition actions.

(f) *Federal equipment.* In the event a grantee or subgrantee is provided federally-owned equipment:

(1) Title will remain vested in the Federal Government.

(2) Grantees or subgrantees will manage the equipment in accordance with Federal agency rules and procedures, and submit an annual inventory listing.

(3) When the equipment is no longer needed, the grantee or subgrantee will request disposition instructions from the Federal agency.

(g) *Right to transfer title.* The Federal awarding agency may reserve the right to transfer title to the Federal Government or a third part named by the awarding agency when such a third party is otherwise eligible under existing statutes. Such transfers shall be subject to the following standards:

(1) The property shall be identified in the grant or otherwise made known to the grantee in writing.

(2) The Federal awarding agency shall issue disposition instruction within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Federal awarding agency fails to issue disposition instructions within the 120 calendar-day period the grantee shall follow § 13.32(e).

(3) When title to equipment is transferred, the grantee shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

§ 13.33 Supplies.

(a) *Title.* Title to supplies acquired under a grant or subgrant will vest, upon acquisition, in the grantee or subgrantee respectively.

(b) *Disposition.* If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are

not needed for any other federally sponsored programs or projects, the grantee or subgrantee shall compensate the awarding agency for its share.

§ 13.34 Copyrights.

The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

(a) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and

(b) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.

§ 13.35 Subawards to debarred and suspended parties.

Grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

§ 13.36 Procurement.

(a) *States.* When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.

(b) *Procurement standards.* (1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms,

conditions, and specifications of their contracts or purchase orders.

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer or agent,
- (ii) Any member of his immediate family,
- (iii) His or her partner, or
- (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements

for procurement or use of common goods and services.

(6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(10) Grantees and subgrantees will use time and material type contracts only—

(i) After a determination that no other contract is suitable, and

(ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for

that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

(c) *Competition.* (1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of section 13.36. Some of the situations considered to be restrictive of competition include but are not limited to:

(i) Placing unreasonable requirements on firms in order for them to qualify to do business,

(ii) Requiring unnecessary experience and excessive bonding,

(iii) Noncompetitive pricing practices between firms or between affiliated companies,

(iv) Noncompetitive awards to consultants that are on retainer contracts,

(v) Organizational conflicts of interest,

(vi) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance of other relevant requirements of the procurement, and

(vii) Any arbitrary action in the procurement process.

(2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the

evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

(ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

(d) *Methods of procurement to be followed*—(1) *Procurement by small purchase procedures.* Small purchase procedures

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are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) Procurement by *sealed bids* (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in § 13.36(d)(2)(i) apply.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

(B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;

(C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when

prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(3) Procurement by *competitive proposals*. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(4) Procurement by *noncompetitive proposals* is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids

or competitive proposals and one of the following circumstances applies:

(A) The item is available only from a single source;

(B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(C) The awarding agency authorizes noncompetitive proposals; or

(D) After solicitation of a number of sources, competition is determined inadequate.

(i) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

(ii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

(e) *Contracting with small and minority firms, women's business enterprise and labor surplus area firms.* (1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in para-

graphs (e)(2) (i) through (v) of this section.

(f) *Contract cost and price.* (1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see §13.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(g) *Awarding agency review.* (1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

(i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets

these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) *Bonding requirements.* For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) *A bid guarantee from each bidder equivalent to five percent of the bid price.* The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) *A performance bond on the part of the contractor for 100 percent of the contract price.* A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) *A payment bond on the part of the contractor for 100 percent of the contract price.* A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(i) *Contract provisions.* A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)

(2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

(3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)

(4) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (All contracts and subgrants for construction or repair)

(5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation)

(6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

(10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

(11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)

(13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

[53 FR 8078, 8087, Mar. 11, 1988, as amended at 60 FR 19639, 19645, Apr. 19, 1995]

§ 13.37 Subgrants.

(a) *States.* States shall follow state law and procedures when awarding and administering subgrants (whether on a cost reimbursement or fixed amount basis) of financial assistance to local and Indian tribal governments. States shall:

(1) Ensure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations;

(2) Ensure that subgrantees are aware of requirements imposed upon them by Federal statute and regulation;

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PERSONAL SERVICES CONTRACT SUMMARY ("PSC FORM 1")

Department: DEPARTMENT OF EMERGENCY MANAGEMENT -- ECD Dept. Code: ECD

Type of Request: [X] Initial [] Modification of an existing PSC (PSC # _____)

Type of Approval: [] Expedited [X] Regular [] Omit Posting

Type of Service: Resource Inventory Project - Regional Data Exchange

Funding Source: Federal Homeland Security Grant PSC Duration: 1 year 52 weeks
PSC Amount: \$200,000 PSC Est. Start Date: 02/01/2014 PSC Est. End Date: 01/31/2016

1. Description of Work

A. Scope of Work:

Contractor will implement the following enhancements to the Bay Area Urban Areas Security Initiative (UASI) Resource Inventory Project: track the current status of emergency services equipment across county lines so that jurisdictions may easily communicate the current state of equipment for mutual aid during acts of terrorism or other catastrophic events; enhance the capability of the application to be compatible with modern mobile and tablet browsers for use in the field by emergency services workers; enhance the reporting capability to add a functionality to generate reports in the form of heat maps to help visualize the availability and distribution of resources in a given area; support and maintain the application for regional benefit.

B. Explain why this service is necessary and the consequence of denial:

The UASI Region is comprised of twelve counties and three core cities, which together receive federal funding to combat and respond to terrorism and related catastrophic disasters throughout the entire Bay Area. Denial of this request will hinder the Bay Area UASI Region's ability to develop future funding requests and secure increased funding for SF and all of the Bay Area cities and counties. This in turn can jeopardize the Bay Area UASI Region's ability to prevent, protect against, respond to and recover from acts of terrorism and other man-made or natural catastrophes in the Bay Area. It is important that the system is interoperable and consistent with national standards so that information can be shared with our region.

C. Has this service been provided in the past. If so, how? If the service was provided via a PSC, provide the most recently approved PSC # and upload a copy of the PSC. This service was never provided in SF. This service was provided to the region via a contract between the City of Cupertino and the vendor.

D. Will the contract(s) be renewed? Based on need, performance, and funding availability.

2. Union Notification: On 12/06/2013, the Department notified the following employee organizations of this PSC/RFP request: Municipal Executive Association, Architect & Engineers, Local 21,

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# 49993 - 13/14

DHR Analysis/Recommendation:

Civil Service Commission Action:

Commission Approval Required

DHR Approved for 02/03/2014

Receipt of Union Notification(s)

◆ MEA

◆ Local 21

Dang, Leorah

From: dhr-psscordinator@sfgov.org
Sent: Friday, December 06, 2013 9:15 AM
To: Lee, William; staff@sfmea.com; jebrenner@ifpte21.org; L21PSCReview@ifpte21.org; Kim-Molina, Mikyung; DHR-PSCCoordinator, DHR; Isen, Richard
Subject: Receipt of Notice for new PCS over \$100K PSC # 49993 - 13/14

RECEIPT for Union Notification for PSC 49993 - 13/14 more than \$100k

The DEPARTMENT OF EMERGENCY MANAGEMENT -- ECD has submitted a request for a Personal Services Contract (PSC) 49993 - 13/14 for \$200,000 for Initial Request services for the period 02/01/2014 – 01/31/2016. Notification of 30 days (60 days for SEIU) is required.

After logging into the system please select link below, view the information and verify receipt:

<http://apps.sfgov.org/dhrdrupal/node/924>

Email sent to the following addresses: L21PSCReview@ifpte21.org for Architect & Engineers, Local 21
jebrenner@ifpte21.org for Architect & Engineers, Local 21 staff@sfmea.com for Municipal Executive Association
camaguey@sfmea.com for Municipal Executive Association

Additional Attachment(s) of Explanation

◇ Section 5. Additional Information

5B. Will the contractor train City and County employees?

- **Describe training and indicate approximate number of hours.**
- **Indicate occupational type of City and County employees to receive training (e.g., clerks, civil engineers, etc.) and approximate number to be trained.**

NOA for PSC 49993-13/14 Resource Inventory Project/Regional Data Exchange

Additional Attachment to 5B, Contractor Train City Employees Explanation Memo

Training sessions will be targeted towards Emergency Operations Center (EOC) staff throughout the entire UASI Region. In San Francisco, the training will be targeted towards the following positions (approximately 14 total):

- 8601 Emergency Services Coordinator I
- 8602 Emergency Services Coordinator II
- 8603 Emergency Services Coordinator III
- 8604 Emergency Services Coordinator IV

PERSONAL SERVICES CONTRACT SUMMARY ("PSC FORM 1")

Department: MUNICIPAL TRANSPORTATION AGENCY -- MTA Dept. Code: MTA

Type of Request: [X] Initial [] Modification of an existing PSC (PSC # _____)

Type of Approval: [] Expedited [X] Regular [] Omit Posting

Type of Service: Drug and Alcohol Testing for Taxi Drivers

Funding Source: Operating Budget PSC Duration: 3 years
PSC Amount: \$2,700,000 PSC Est. Start Date: 03/01/2014 PSC Est. End Date: 02/28/2017

1. Description of Work

A. Scope of Work:

The contractor will provide comprehensive drug and alcohol testing services for taxicab drivers in compliance with the Department of Transportation (DOT) and non-DOT Drug and Alcohol Testing Regulations. The contractor will provide an off-site facility to collect urine and breath samples to conduct pre-employment, post-accident, reasonable suspicion, and random testing for taxicab drivers in accordance with Federal and State regulations. California's Government Code section 53075.5 requires a drug and alcohol testing program for taxicab drivers to be substantially consistent with testing requirements of the Federal Code of Regulations, Title 49, Part 40 and Part 382.

B. Explain why this service is necessary and the consequence of denial:

The objective of the program is to ensure driver fitness for duty and to protect taxicab drivers, passengers and the public from risks posed by the use of prohibited drugs and abuse of alcohol. Denial would result in non-compliance with State regulations for taxi operations.

C. Has this service been provided in the past. If so, how? If the service was provided via a PSC, provide the most recently approved PSC # and upload a copy of the PSC.

This service has not been provided for taxicab drivers. Similar services are provided for safety-sensitive employees at the San Francisco Municipal Transportation Agency (SFMTA) through PSC's #4026-12/13, #3068-11/12, and #4136-12/13.

D. Will the contract(s) be renewed? Yes. The SFMTA will evaluate whether to exercise three addi

2. Union Notification: On 11/08/2013, the Department notified the following employee organizations of this PSC/RFP request: Unrepresented Miscellaneous, SEIU 1021 Miscellaneous, Professional & Tech Engrs, Local 21, P

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# 49011 - 13/14

DHR Analysis/Recommendation:

Commission Approval Required

DHR Approved for 02/03/2014

Civil Service Commission Action:

3. Description of Required Skills/Expertise

A. Specify required skills and/or expertise:

The contractor must be a U.S. Department of Health and Human Services (DHHS) certified laboratory with qualified Medical Review Officer (MRO) and referral Substance Abuse Professional (SAP). The contractor is required to comply with all applicable medical standards and federal, state and local government safety codes, laws, and regulations related to drug and alcohol testing, for taxicab drivers. This includes the services of Substance Abuse Professionals and Medical Review Officers as determined by federal law.

B. Which, if any, civil service class(es) normally perform(s) this work?
2416,2220,2230,

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:

Yes. The contractor will provide a DHHS-certified laboratory facilities and/or equipment for the collection and testing of specimens and collection sites must comply with all requirements specified in 49 CFR Part 40, subparts D and K.

4. Why Classified Civil Service Cannot Perform

A. Explain why civil service classes are not applicable:

Civil service classes are not applicable because the knowledge and experience required for this type of work requires knowledge, experience and training specified by 49 CFR Part 40, Subpart D and K, L.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.

No. There are legal mandates 49 CFR Part 40, requiring the contractor to meet specific standards and adhere to specific procedures.

5. Additional Information (if "yes", attach explanation)

	<u>YES</u>	<u>NO</u>
A. Will the contractor directly supervise City and County employee?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
B. Will the contractor train City and County employee? See Attachment.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
C. Are there legal mandates requiring the use of contractual services?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
D. Are there federal or state grant requirements regarding the use of contractual services? See Attachment.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
E. Has a board or commission determined that contracting is the most effective way to provide this service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
F. Will the proposed work be completed by a contractor that has a current PSC contract with your department?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD ON 11/08/2013 BY:

Name: Cynthia Hamada Phone: 415.701.5381 Email: cynthia.hamada@sfmta.com

Address: One South Van Ness Avenue, 6th Fl. San Francisco, CA 94103

Receipt of Union Notification(s)

◆ **Local 1021**

◆ **Local 21**

◆ **MEA**

-----Original Message-----

From: Hamada, Cynthia

Sent: Friday, November 08, 2013 5:37 PM

To: DHR-PSCCoordinator, DHR; joe.tanner@seiu1021.net; Larry.Bradshaw@seiu1021.org; jebrenner@ifpte21.org; L21PSCReview@ifpte21.org; jduritz@uapd.com; camaguey@sfmea.com; staff@sfmea.com; DHR-PSCCoordinator, DHR
Subject: RE: Receipt of Notice for new PCS over \$100K PSC # 49011 - 13/14

DHR-PSC Coordinator: for your review and processing.

Unions: For your information.

Cynthia Hamada
Senior Personnel Analyst
Employee and Labor Relations
San Francisco Municipal Transportation Agency
415.701.5381

-----Original Message-----

From: dhr-psccordinator@sfgov.org [<mailto:dhr-psccordinator@sfgov.org>]

Sent: Friday, November 08, 2013 5:33 PM

To: Hamada, Cynthia; joe.tanner@seiu1021.net; Larry.Bradshaw@seiu1021.org; jebrenner@ifpte21.org; L21PSCReview@ifpte21.org; jduritz@uapd.com; camaguey@sfmea.com; staff@sfmea.com; Hamada, Cynthia; DHR-PSCCoordinator, DHR; Isen, Richard
Subject: Receipt of Notice for new PCS over \$100K PSC # 49011 - 13/14

Parse error*: syntax error, unexpected T_STRING in
*/var/www/html/dhrdrupal/sites/all/modules/rules/rules/modules/php.rules.inc(88)
: eval()'d code* on line *108*

Additional Attachment(s) of Explanation

◇ Section 1. Description of Work

1A. Scope of Work

- **California Government Code
Section 53075.5**
- **Electronic Code of Federal Regulations
Title 49: Transportation
Part 382: Controlled Substances & Alcohol Use and
Testing**

California Government Code Section 53075.5

(a) Notwithstanding Chapter 8 (commencing with Section 5351) of Division 2 of the Public Utilities Code, every city or county shall protect the public health, safety, and welfare by adopting an ordinance or resolution in regard to taxicab transportation service rendered in vehicles designed for carrying not more than eight persons, excluding the driver, which is operated within the jurisdiction of the city or county.

(b) Each city or county shall provide for, but is not limited to providing for, the following:

(1) A policy for entry into the business of providing taxicab transportation service. The policy shall include, but need not be limited to, all of the following provisions:

(A) Employment, or an offer of employment, as a taxicab driver in the jurisdiction, including compliance with all of the requirements of the program adopted pursuant to paragraph (3), shall be a condition of issuance of a driver's permit.

(B) The driver's permit shall become void upon termination of employment.

(C) The driver's permit shall state the name of the employer.

(D) The employer shall notify the city or county upon termination of employment.

(E) The driver shall return the permit to the city or county upon termination of employment.

(2) The establishment or registration of rates for the provision of taxicab transportation service.

(3) (A) A mandatory controlled substance and alcohol testing certification program. The program shall include, but need not be limited to, all of the following requirements:

(i) Drivers shall test negative for each of the controlled substances specified in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, before employment. Drivers shall test negative for these controlled substances and for alcohol as a condition of permit renewal or, if no periodic permit renewals are required, at such other times as the city or county shall designate. As used in this section, a negative test for alcohol means an alcohol screening test showing a breath alcohol concentration of less than 0.02 percent.

(ii) Procedures shall be substantially as in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, except that the driver shall show a valid California driver's license at the time and place of testing, and except as provided otherwise in this section. Requirements for rehabilitation and for return-to-duty and followup testing and other requirements, except as provided otherwise in this section, shall be substantially as in Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations.

(iii) A test in one jurisdiction shall be accepted as meeting the same requirement in any other jurisdiction. Any negative test result shall be accepted for one year as meeting a requirement for periodic permit renewal testing or any other periodic testing in that jurisdiction or any other jurisdiction, if the driver has not tested positive subsequent to a negative result. However, an earlier negative result shall not be accepted as meeting the pre-employment testing requirement for any subsequent employment, or any testing

requirements under the program other than periodic testing.

(iv) In the case of a self-employed independent driver, the test results shall be reported directly to the city or county, which shall notify the taxicab leasing company of record, if any, of positive results. In all other cases, the results shall be reported directly to the employing transportation operator, who may be required to notify the city or county of positive results.

(v) All test results are confidential and shall not be released without the consent of the driver, except as authorized or required by law.

(vi) Self-employed independent drivers shall be responsible for compliance with, and shall pay all costs of, this program with regard to themselves. Employing transportation operators shall be responsible for compliance with, and shall pay all costs of, this program with respect to their employees and potential employees, except that an operator may require employees who test positive to pay the costs of rehabilitation and of return-to-duty and followup testing.

(vii) Upon the request of a driver applying for a permit, the city or county shall give the driver a list of the consortia certified pursuant to Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations that the city or county knows offer tests in or near the jurisdiction.

(B) No evidence derived from a positive test result pursuant to the program shall be admissible in a criminal prosecution concerning unlawful possession, sale or distribution of controlled substances.

(c) Each city or county may levy service charges, fees, or assessments in an amount sufficient to pay for the costs of carrying out an ordinance or resolution adopted in regard to taxicab transportation services pursuant to this section.

(d) Nothing in this section prohibits a city or county from adopting additional requirements for a taxicab to operate in its jurisdiction.

(e) For purposes of this section, "employment" includes self-employment as an independent driver.

ELECTRONIC CODE OF FEDERAL REGULATIONS**e-CFR Data is current as of January 13, 2014**

Title 49: Transportation

PART 382—CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING

Contents**Subpart A—General**

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- §382.103 Applicability.
- §382.105 Testing procedures.
- §382.107 Definitions.
- §382.109 Preemption of State and local laws.
- §382.111 Other requirements imposed by employers.
- §382.113 Requirement for notice.
- §382.115 Starting date for testing programs.
- §382.117 Public interest exclusion.
- §382.119 Stand-down waiver provision.
- §382.121 Employee admission of alcohol and controlled substances use.

Subpart B—Prohibitions

- §382.201 Alcohol concentration.
- §382.205 On-duty use.
- §382.207 Pre-duty use.
- §382.209 Use following an accident.
- §382.211 Refusal to submit to a required alcohol or controlled substances test.
- §382.213 Controlled substance use.
- §382.215 Controlled substances testing.

Subpart C—Tests Required

- §382.301 Pre-employment testing.
- §382.303 Post-accident testing.
- §382.305 Random testing.
- §382.307 Reasonable suspicion testing.
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- §382.401 Retention of records.
- §382.403 Reporting of results in a management information system.
- §382.405 Access to facilities and records.
- §382.407 Medical review officer notifications to the employer.
- §382.409 Medical review officer record retention for controlled substances.
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Subpart E—Consequences for Drivers Engaging in Substance Use-Related Conduct


- §382.501 Removal from safety-sensitive function.
- §382.503 Required evaluation and testing.
- §382.505 Other alcohol-related conduct.
- §382.507 Penalties.

Subpart F—Alcohol Misuse and Controlled Substances Use Information, Training, and Referral

- §382.601 Employer obligation to promulgate a policy on the misuse of alcohol and use of controlled substances.
- §382.603 Training for supervisors.
- §382.605 Referral, evaluation, and treatment.

AUTHORITY: 49 U.S.C. 31133, 31136, 31301 *et seq.*, 31502; sec. 32934 of Pub. L. 112-141, 126 Stat. 405, 830; and 49 CFR 1.87.

SOURCE: 66 FR 43103, Aug. 17, 2001, unless otherwise noted.


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Subpart A—General

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§382.101 Purpose.

The purpose of this part is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles.

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§382.103 Applicability.

(a) This part applies to every person and to all employers of such persons who operate a commercial motor vehicle in commerce in any State, and is subject to:

- (1) The commercial driver's license requirements of part 383 of this subchapter;
- (2) The Licencia Federal de Conductor (Mexico) requirements; or
- (3) The commercial drivers license requirements of the Canadian National Safety Code.

(b) An employer who employs himself/herself as a driver must comply with both the requirements in this part that apply to employers and the requirements in this part that apply to drivers. An employer who employs only himself/herself as a driver shall implement a random alcohol and controlled substances testing program of two or more covered employees in the random testing selection pool.

(c) The exceptions contained in §390.3(f) of this subchapter do not apply to this part. The employers and drivers identified in §390.3(f) of this subchapter must comply with the requirements of this part, unless otherwise specifically provided in paragraph (d) of this section.

(d) *Exceptions.* This part shall not apply to employers and their drivers:

(1) Required to comply with the alcohol and/or controlled substances testing requirements of part 655 of this title (Federal Transit Administration alcohol and controlled substances testing regulations);
or

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Commerce means:

- (1) Any trade, traffic or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States; and
- (2) Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in paragraph (1) of this definition.

Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle

- (1) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or
- (2) Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds), whichever is greater; or
- (3) Is designed to transport 16 or more passengers, including the driver; or
- (4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

Confirmation (or confirmatory) drug test means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.

Confirmation (or confirmatory) validity test means a second test performed on a urine specimen to further support a validity test result.

Confirmed drug test means a confirmation test result received by an MRO from a laboratory.

Consortium/Third party administrator (C/TPA) means a service agent that provides or coordinates one or more drug and/or alcohol testing services to DOT-regulated employers. C/TPAs typically provide or coordinate the provision of a number of such services and perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members (e.g., having a combined random testing pool). C/TPAs are not "employers" for purposes of this part.

Controlled substances mean those substances identified in §40.85 of this title.

Designated employer representative (DER) is an individual identified by the employer as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The individual must be an employee of the company. Service agents cannot serve as DERs.

Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

(1) *Inclusions.* Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.

(2) *Exclusions.* (i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts.

(ii) Tire disablement without other damage even if no spare tire is available.

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(iii) Headlight or taillight damage.

(iv) Damage to turn signals, horn, or windshield wipers which make them inoperative.

DOT Agency means an agency (or "operating administration") of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing (14 CFR parts 61, 63, 65, 121, and 135; 49 CFR parts 199, 219, 382, and 655), in accordance with part 40 of this title.

Driver means any person who operates a commercial motor vehicle. This includes, but is not limited to: Full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.

Employer means a person or entity employing one or more employees (including an individual who is self-employed) that is subject to DOT agency regulations requiring compliance with this part. The term, as used in this part, means the entity responsible for overall implementation of DOT drug and alcohol program requirements, including individuals employed by the entity who take personnel actions resulting from violations of this part and any applicable DOT agency regulations. Service agents are not employers for the purposes of this part.

Licensed medical practitioner means a person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.

Performing (a safety-sensitive function) means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

Positive rate for random drug testing means the number of verified positive results for random drug tests conducted under this part plus the number of refusals of random drug tests required by this part, divided by the total number of random drug tests results (*i.e.*, positives, negatives, and refusals) under this part.

Refuse to submit (to an alcohol or controlled substances test) means that a driver:

(1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a C/TPA (see §40.61(a) of this title);

(2) Fail to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before the testing process commences (see §40.63(c) of this title) a pre-employment test is not deemed to have refused to test;

(3) Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations. Provided, that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see §40.63(c) of this title) for a pre-employment test is not deemed to have refused to test;

(4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen (see §§40.67(l) and 40.69(g) of this title);

(5) Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see §40.193(d)(2) of this title);

(6) Fail or declines to take a second test the employer or collector has directed the driver to take;

(7) Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under §40.193(d) of this title. In the case of a pre-

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employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;

(8) Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process); or

(9) Is reported by the MRO as having a verified adulterated or substituted test result.

Safety-sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

(1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;

(2) All time inspecting equipment as required by §§392.7 and 392.8 of this subchapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;

(3) All time spent at the driving controls of a commercial motor vehicle in operation;

(4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of §393.76 of this subchapter);

(5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and

(6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Screening test (or initial test) means:

(1) In drug testing, a test to eliminate "negative" urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs.

(2) In alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

Stand-down means the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test results.

Violation rate for random alcohol testing means the number of 0.04 and above random alcohol confirmation test results conducted under this part plus the number of refusals of random alcohol tests required by this part, divided by the total number of random alcohol screening tests (including refusals) conducted under this part.

[66 FR 43103, Aug. 17, 2001, as amended at 68 FR 75458, Dec. 31, 2003; 77 FR 59825, Oct. 1, 2012]

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§382.109 Preemption of State and local laws.

(a) Except as provided in paragraph (b) of this section, this part preempts any State or local law, rule, regulation, or order to the extent that:

(1) Compliance with both the State or local requirement in this part is not possible; or

(2) Compliance with the State or local requirement is an obstacle to the accomplishment and execution of any requirement in this part.

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(b) This part shall not be construed to preempt provisions of State criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees, employers, or the general public.

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§382.111 Other requirements imposed by employers.

Except as expressly provided in this part, nothing in this part shall be construed to affect the authority of employers, or the rights of drivers, with respect to the use of alcohol, or the use of controlled substances, including authority and rights with respect to testing and rehabilitation.

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§382.113 Requirement for notice.

Before performing each alcohol or controlled substances test under this part, each employer shall notify a driver that the alcohol or controlled substances test is required by this part. No employer shall falsely represent that a test is administered under this part.

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§382.115 Starting date for testing programs.

(a) All domestic-domiciled employers must implement the requirements of this part on the date the employer begins commercial motor vehicle operations.

(b) All foreign-domiciled employers must implement the requirements of this part on the date the employer begins commercial motor vehicle operations in the United States.

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§382.117 Public interest exclusion.

No employer shall use the services of a service agent who is subject to public interest exclusion in accordance with 49 CFR part 40, Subpart R.

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§382.119 Stand-down waiver provision.

(a) Employers are prohibited from standing employees down, except consistent with a waiver from the Federal Motor Carrier Safety Administration as required under this section.

(b) An employer subject to this part who seeks a waiver from the prohibition against standing down an employee before the MRO has completed the verification process shall follow the procedures in 49 CFR 40.21. The employer must send a written request, which includes all of the information required by that section to the Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590-0001.


(c) The final decision whether to grant or deny the application for a waiver will be made by the Administrator or the Administrator's designee.

(d) After a decision is signed by the Administrator or the Administrator's designee, the employer will be sent a copy of the decision, which will include the terms and conditions for the waiver or the reason for denying the application for a waiver.

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(e) Questions regarding waiver applications should be directed to the Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance (MC-EC), 1200 New Jersey Ave., SE., Washington, DC 20590-0001.

[66 FR 43103, Aug. 17, 2001, as amended at 72 FR 55700, Oct. 1, 2007]

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§382.121 Employee admission of alcohol and controlled substances use.

(a) Employees who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation and treatment requirements of this part and part 40 of this title, provided that:


- (1) The admission is in accordance with a written employer-established voluntary self-identification program or policy that meets the requirements of paragraph (b) of this section;
- (2) The driver does not self-identify in order to avoid testing under the requirements of this part;
- (3) The driver makes the admission of alcohol misuse or controlled substances use prior to performing a safety sensitive function (i.e., prior to reporting for duty); and
- (4) The driver does not perform a safety sensitive function until the employer is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.

(b) A qualified voluntary self-identification program or policy must contain the following elements:

- (1) It must prohibit the employer from taking adverse action against an employee making a voluntary admission of alcohol misuse or controlled substances use within the parameters of the program or policy and paragraph (a) of this section;
- (2) It must allow the employee sufficient opportunity to seek evaluation, education or treatment to establish control over the employee's drug or alcohol problem;
- (3) It must permit the employee to return to safety sensitive duties only upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert, i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor;
- (4) It must ensure that:
 - (i) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty test with a result indicating an alcohol concentration of less than 0.02; and/or
 - (ii) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty controlled substance test with a verified negative test result for controlled substances use; and
- (5) It may incorporate employee monitoring and include non-DOT follow-up testing.

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Subpart B—Prohibitions

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§382.201 Alcohol concentration.

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. No employer having knowledge that

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a driver has an alcohol concentration of 0.04 or greater shall permit the driver to perform or continue to perform safety-sensitive functions.

[66 FR 43103, Aug. 17, 2001, as amended at 77 FR 4483, Jan. 30, 2012]

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§382.205 On-duty use.

No driver shall use alcohol while performing safety-sensitive functions. No employer having actual knowledge that a driver is using alcohol while performing safety-sensitive functions shall permit the driver to perform or continue to perform safety-sensitive functions.

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§382.207 Pre-duty use.

No driver shall perform safety-sensitive functions within four hours after using alcohol. No employer having actual knowledge that a driver has used alcohol within four hours shall permit a driver to perform or continue to perform safety-sensitive functions.

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§382.209 Use following an accident.

No driver required to take a post-accident alcohol test under §382.303 shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

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§382.211 Refusal to submit to a required alcohol or controlled substances test.

No driver shall refuse to submit to a pre-employment controlled substance test required under §382.301, a post-accident alcohol or controlled substance test required under §382.303, a random alcohol or controlled substances test required under §382.305, a reasonable suspicion alcohol or controlled substance test required under §382.307, a return-to-duty alcohol or controlled substances test required under §382.309, or a follow-up alcohol or controlled substance test required under §382.311. No employer shall permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

[77 FR 4483, Jan. 30, 2012]

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§382.213 Controlled substance use.

(a) No driver shall report for duty or remain on duty requiring the performance of safety sensitive functions when the driver uses any drug or substance identified in 21 CFR 1308.11 Schedule I.

(b) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR part 1308 except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in §382.107, who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

(c) No employer having actual knowledge that a driver has used a controlled substance shall permit the driver to perform or continue to perform a safety-sensitive function.

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(d) An employer may require a driver to inform the employer of any therapeutic drug use.

[77 FR 4483, Jan. 30, 2012]

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§382.215 Controlled substances testing.

No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. No employer having knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances shall permit the driver to perform or continue to perform safety-sensitive functions.

[66 FR 43103, Aug. 17, 2001, as amended at 77 FR 4483, Jan. 30, 2012]

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Subpart C—Tests Required

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§382.301 Pre-employment testing.

(a) Prior to the first time a driver performs safety-sensitive functions for an employer, the driver shall undergo testing for controlled substances as a condition prior to being used, unless the employer uses the exception in paragraph (b) of this section. No employer shall allow a driver, who the employer intends to hire or use, to perform safety-sensitive functions unless the employer has received a controlled substances test result from the MRO or C/TPA indicating a verified negative test result for that driver.

(b) An employer is not required to administer a controlled substances test required by paragraph (a) of this section if:

(1) The driver has participated in a controlled substances testing program that meets the requirements of this part within the previous 30 days; and

(2) While participating in that program, either:

(i) Was tested for controlled substances within the past 6 months (from the date of application with the employer), or

(ii) Participated in the random controlled substances testing program for the previous 12 months (from the date of application with the employer); and

(3) The employer ensures that no prior employer of the driver of whom the employer has knowledge has records of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months.

(c)(1) An employer who exercises the exception in paragraph (b) of this section shall contact the controlled substances testing program(s) in which the driver participates or participated and shall obtain and retain from the testing program(s) the following information:

(i) Name(s) and address(es) of the program(s).

(ii) Verification that the driver participates or participated in the program(s).

(iii) Verification that the program(s) conforms to part 40 of this title.

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(iv) Verification that the driver is qualified under the rules of this part, including that the driver has not refused to be tested for controlled substances.

(v) The date the driver was last tested for controlled substances.

(vi) The results of any tests taken within the previous six months and any other violations of subpart B of this part.

(2) An employer who uses, but does not employ a driver more than once a year to operate commercial motor vehicles must obtain the information in paragraph (c)(1) of this section at least once every six months. The records prepared under this paragraph shall be maintained in accordance with §382.401. If the employer cannot verify that the driver is participating in a controlled substances testing program in accordance with this part and part 40 of this title, the employer shall conduct a pre-employment controlled substances test.

(d) An employer may, but is not required to, conduct pre-employment alcohol testing under this part. If an employer chooses to conduct pre-employment alcohol testing, it must comply with the following requirements:

(1) It must conduct a pre-employment alcohol test before the first performance of safety-sensitive functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions).

(2) It must treat all safety-sensitive employees performing safety-sensitive functions the same for the purpose of pre-employment alcohol testing (i.e., it must not test some covered employees and not others).

(3) It must conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test.

(4) It must conduct all pre-employment alcohol tests using the alcohol testing procedures of 49 CFR part 40 of this title.

(5) It must not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.04.

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§382.303 Post-accident testing.

(a) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each employer shall test for alcohol for each of its surviving drivers:

(1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(2) Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:

(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(b) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each employer shall test for controlled substances for each of its surviving drivers:

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- (1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- (2) Who receives a citation within thirty-two hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - (i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - (ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
- (c) The following table notes when a post-accident test is required to be conducted by paragraphs (a)(1), (a)(2), (b)(1), and (b)(2) of this section:

TABLE FOR §382.303(A) AND (B)

Type of accident involved	Citation issued to the CMV driver	Test must be performed by employer
i. Human fatality	YES NO	YES YES
ii. Bodily injury with immediate medical treatment away from the scene	YES NO	YES NO
iii. Disabling damage to any motor vehicle requiring tow away	YES NO	YES NO

(d)(1) *Alcohol tests.* If a test required by this section is not administered within two hours following the accident, the employer shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within eight hours following the accident, the employer shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.

(2) *Controlled substance tests.* If a test required by this section is not administered within 32 hours following the accident, the employer shall cease attempts to administer a controlled substances test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.

(e) A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the employer to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

(f) An employer shall provide drivers with necessary post-accident information, procedures and instructions, prior to the driver operating a commercial motor vehicle, so that drivers will be able to comply with the requirements of this section.

(g)(1) The results of a breath or blood test for the use of alcohol, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local alcohol testing requirements, and that the results of the tests are obtained by the employer.

(2) The results of a urine test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local controlled substances testing requirements, and that the results of the tests are obtained by the employer.

(h) *Exception.* This section does not apply to:

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- (1) An occurrence involving only boarding or alighting from a stationary motor vehicle; or
- (2) An occurrence involving only the loading or unloading of cargo; or

(3) An occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in §571.3 of this title) by an employer unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with §177.823 of this title.

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§382.305 Random testing.

(a) Every employer shall comply with the requirements of this section. Every driver shall submit to random alcohol and controlled substance testing as required in this section.

(b)(1) Except as provided in paragraphs (c) through (e) of this section, the minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of driver positions.

(2) Except as provided in paragraphs (f) through (h) of this section, the minimum annual percentage rate for random controlled substances testing shall be 50 percent of the average number of driver positions.

(c) The FMCSA Administrator's decision to increase or decrease the minimum annual percentage rate for alcohol testing is based on the reported violation rate for the entire industry. All information used for this determination is drawn from the alcohol management information system reports required by §382.403. In order to ensure reliability of the data, the FMCSA Administrator considers the quality and completeness of the reported data, may obtain additional information or reports from employers, and may make appropriate modifications in calculating the industry violation rate. In the event of a change in the annual percentage rate, the FMCSA Administrator will publish in the FEDERAL REGISTER the new minimum annual percentage rate for random alcohol testing of drivers. The new minimum annual percentage rate for random alcohol testing will be applicable starting January 1 of the calendar year following publication in the FEDERAL REGISTER.

(d)(1) When the minimum annual percentage rate for random alcohol testing is 25 percent or more, the FMCSA Administrator may lower this rate to 10 percent of all driver positions if the FMCSA Administrator determines that the data received under the reporting requirements of §382.403 for two consecutive calendar years indicate that the violation rate is less than 0.5 percent.

(2) When the minimum annual percentage rate for random alcohol testing is 50 percent, the FMCSA Administrator may lower this rate to 25 percent of all driver positions if the FMCSA Administrator determines that the data received under the reporting requirements of §382.403 for two consecutive calendar years indicate that the violation rate is less than 1.0 percent but equal to or greater than 0.5 percent.

(e)(1) When the minimum annual percentage rate for random alcohol testing is 10 percent, and the data received under the reporting requirements of §382.403 for that calendar year indicate that the violation rate is equal to or greater than 0.5 percent, but less than 1.0 percent, the FMCSA Administrator will increase the minimum annual percentage rate for random alcohol testing to 25 percent for all driver positions.

(2) When the minimum annual percentage rate for random alcohol testing is 25 percent or less, and the data received under the reporting requirements of §382.403 for that calendar year indicate that the violation rate is equal to or greater than 1.0 percent, the FMCSA Administrator will increase the minimum annual percentage rate for random alcohol testing to 50 percent for all driver positions.

(f) The FMCSA Administrator's decision to increase or decrease the minimum annual percentage rate for controlled substances testing is based on the reported positive rate for the entire industry. All

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information used for this determination is drawn from the controlled substances management information system reports required by §382.403. In order to ensure reliability of the data, the FMCSA Administrator considers the quality and completeness of the reported data, may obtain additional information or reports from employers, and may make appropriate modifications in calculating the industry positive rate. In the event of a change in the annual percentage rate, the FMCSA Administrator will publish in the FEDERAL REGISTER the new minimum annual percentage rate for controlled substances testing of drivers. The new minimum annual percentage rate for random controlled substances testing will be applicable starting January 1 of the calendar year following publication in the FEDERAL REGISTER.

(g) When the minimum annual percentage rate for random controlled substances testing is 50 percent, the FMCSA Administrator may lower this rate to 25 percent of all driver positions if the FMCSA Administrator determines that the data received under the reporting requirements of §382.403 for two consecutive calendar years indicate that the positive rate is less than 1.0 percent.

(h) When the minimum annual percentage rate for random controlled substances testing is 25 percent, and the data received under the reporting requirements of §382.403 for any calendar year indicate that the reported positive rate is equal to or greater than 1.0 percent, the FMCSA Administrator will increase the minimum annual percentage rate for random controlled substances testing to 50 percent of all driver positions.

(i)(1) The selection of drivers for random alcohol and controlled substances testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers.

(2) Each driver selected for random alcohol and controlled substances testing under the selection process used, shall have an equal chance of being tested each time selections are made.

(3) Each driver selected for testing shall be tested during the selection period.

(j)(1) To calculate the total number of covered drivers eligible for random testing throughout the year, as an employer, you must add the total number of covered drivers eligible for testing during each random testing period for the year and divide that total by the number of random testing periods. Covered employees, and only covered employees, are to be in an employer's random testing pool, and all covered drivers must be in the random pool. If you are an employer conducting random testing more often than once per month (e.g., daily, weekly, bi-weekly) you do not need to compute this total number of covered drivers rate more than on a once per month basis.

(2) As an employer, you may use a service agent (e.g., a C/TPA) to perform random selections for you, and your covered drivers may be part of a larger random testing pool of covered employees. However, you must ensure that the service agent you use is testing at the appropriate percentage established for your industry and that only covered employees are in the random testing pool.

(k)(1) Each employer shall ensure that random alcohol and controlled substances tests conducted under this part are unannounced.

(2) Each employer shall ensure that the dates for administering random alcohol and controlled substances tests conducted under this part are spread reasonably throughout the calendar year.

(l) Each employer shall require that each driver who is notified of selection for random alcohol and/or controlled substances testing proceeds to the test site immediately; provided, however, that if the driver is performing a safety-sensitive function, other than driving a commercial motor vehicle, at the time of notification, the employer shall instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible.

(m) A driver shall only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.


(n) If a given driver is subject to random alcohol or controlled substances testing under the random alcohol or controlled substances testing rules of more than one DOT agency for the same employer, the driver shall be subject to random alcohol and/or controlled substances testing at the annual percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the driver's function.

(o) If an employer is required to conduct random alcohol or controlled substances testing under the alcohol or controlled substances testing rules of more than one DOT agency, the employer may—

(1) Establish separate pools for random selection, with each pool containing the DOT-covered employees who are subject to testing at the same required minimum annual percentage rate; or

(2) Randomly select such employees for testing at the highest minimum annual percentage rate established for the calendar year by any DOT agency to which the employer is subject.

[66 FR 43103, Aug. 17, 2001, as amended at 67 FR 61821, Oct. 2, 2002; 68 FR 75459, Dec. 31, 2003]

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§382.307 Reasonable suspicion testing.

(a) An employer shall require a driver to submit to an alcohol test when the employer has reasonable suspicion to believe that the driver has violated the prohibitions of subpart B of this part concerning alcohol. The employer's determination that reasonable suspicion exists to require the driver to undergo an alcohol test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver.

(b) An employer shall require a driver to submit to a controlled substances test when the employer has reasonable suspicion to believe that the driver has violated the prohibitions of subpart B of this part concerning controlled substances. The employer's determination that reasonable suspicion exists to require the driver to undergo a controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.

(c) The required observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by a supervisor or company official who is trained in accordance with §382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver.

(d) Alcohol testing is authorized by this section only if the observations required by paragraph (a) of this section are made during, just preceding, or just after the period of the work day that the driver is required to be in compliance with this part. A driver may be directed by the employer to only undergo reasonable suspicion testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

(e)(1) If an alcohol test required by this section is not administered within two hours following the determination under paragraph (a) of this section, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the determination under paragraph (a) of this section, the employer shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

(2) Notwithstanding the absence of a reasonable suspicion alcohol test under this section, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor shall an employer permit the driver to perform or continue to perform safety-sensitive functions, until:

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(i) An alcohol test is administered and the driver's alcohol concentration measures less than 0.02;
or

(ii) Twenty four hours have elapsed following the determination under paragraph (a) of this section that there is reasonable suspicion to believe that the driver has violated the prohibitions in this part concerning the use of alcohol.

(3) Except as provided in paragraph (e)(2) of this section, no employer shall take any action under this part against a driver based solely on the driver's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test. This does not prohibit an employer with independent authority of this part from taking any action otherwise consistent with law.

(f) A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or company official who made the observations, within 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

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§382.309 Return-to-duty testing.

The requirements for return-to-duty testing must be performed in accordance with 49 CFR part 40, subpart O.

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§382.311 Follow-up testing.

The requirements for follow-up testing must be performed in accordance with 49 CFR part 40, subpart O.

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Subpart D—Handling of Test Results, Records Retention, and Confidentiality

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§382.401 Retention of records.

(a) *General requirement.* Each employer shall maintain records of its alcohol misuse and controlled substances use prevention programs as provided in this section. The records shall be maintained in a secure location with controlled access.

(b) *Period of retention.* Each employer shall maintain the records in accordance with the following schedule:

- (1) *Five years.* The following records shall be maintained for a minimum of five years:
 - (i) Records of driver alcohol test results indicating an alcohol concentration of 0.02 or greater,
 - (ii) Records of driver verified positive controlled substances test results,
 - (iii) Documentation of refusals to take required alcohol and/or controlled substances tests,
 - (iv) Driver evaluation and referrals,
 - (v) Calibration documentation,

(vi) Records related to the administration of the alcohol and controlled substances testing programs, and

(vii) A copy of each annual calendar year summary required by §382.403.

(2) *Two years.* Records related to the alcohol and controlled substances collection (process except calibration of evidential breath testing devices) shall be maintained for a minimum of 2 years.

(3) *One year.* Records of negative and canceled controlled substances test results (as defined in part 40 of this title) and alcohol test results with a concentration of less than 0.02 shall be maintained for a minimum of one year.

(4) *Indefinite period.* Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and drivers shall be maintained by the employer while the individual performs the functions which require the training and for two years after ceasing to perform those functions.

(c) *Types of records.* The following specific types of records shall be maintained. "Documents generated" are documents that may have to be prepared under a requirement of this part. If the record is required to be prepared, it must be maintained.

(1) Records related to the collection process:

(i) Collection logbooks, if used;

(ii) Documents relating to the random selection process;

(iii) Calibration documentation for evidential breath testing devices;

(iv) Documentation of breath alcohol technician training;

(v) Documents generated in connection with decisions to administer reasonable suspicion alcohol or controlled substances tests;

(vi) Documents generated in connection with decisions on post-accident tests;

(vii) Documents verifying existence of a medical explanation of the inability of a driver to provide adequate breath or to provide a urine specimen for testing; and

(viii) A copy of each annual calendar year summary as required by §382.403.

(2) Records related to a driver's test results:

(i) The employer's copy of the alcohol test form, including the results of the test;

(ii) The employer's copy of the controlled substances test chain of custody and control form;

(iii) Documents sent by the MRO to the employer, including those required by part 40, subpart G, of this title;

(iv) Documents related to the refusal of any driver to submit to an alcohol or controlled substances test required by this part;

(v) Documents presented by a driver to dispute the result of an alcohol or controlled substances test administered under this part; and

(vi) Documents generated in connection with verifications of prior employers' alcohol or controlled substances test results that the employer:

(A) Must obtain in connection with the exception contained in §382.301, and

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(B) Must obtain as required by §382.413.

(3) Records related to other violations of this part.

(4) Records related to evaluations:

(i) Records pertaining to a determination by a substance abuse professional concerning a driver's need for assistance; and

(ii) Records concerning a driver's compliance with recommendations of the substance abuse professional.

(5) Records related to education and training:

(i) Materials on alcohol misuse and controlled substance use awareness, including a copy of the employer's policy on alcohol misuse and controlled substance use;

(ii) Documentation of compliance with the requirements of §382.601, including the driver's signed receipt of education materials;

(iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol and/or controlled substances testing based on reasonable suspicion;

(iv) Documentation of training for breath alcohol technicians as required by §40.213(g) of this title; and

(v) Certification that any training conducted under this part complies with the requirements for such training.

(6) Administrative records related to alcohol and controlled substances testing:

(i) Agreements with collection site facilities, laboratories, breath alcohol technicians, screening test technicians, medical review officers, consortia, and third party service providers;

(ii) Names and positions of officials and their role in the employer's alcohol and controlled substances testing program(s);

(iii) Semi-annual laboratory statistical summaries of urinalysis required by §40.111(a) of this title; and

(iv) The employer's alcohol and controlled substances testing policy and procedures.

(d) *Location of records.* All records required by this part shall be maintained as required by §390.29 of this subchapter and shall be made available for inspection at the employer's principal place of business within two business days after a request has been made by an authorized representative of the Federal Motor Carrier Safety Administration.

(e) *OMB control number.* (1) The information collection requirements of this part have been reviewed by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control number 2126-0012.

(2) The information collection requirements of this part are found in the following sections: Sections 382.105, 382.113, 382.301, 382.303, 382.305, 382.307, 382.401, 382.403, 382.405, 382.409, 382.411, 382.601, 382.603.

[66 FR 43103, Aug. 17, 2001, as amended at 67 FR 61821, Oct. 2, 2002; 68 FR 75459, Dec. 31, 2003; 78 FR 58479, Sept. 24, 2013]

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§382.403 Reporting of results in a management information system.

(a) An employer shall prepare and maintain a summary of the results of its alcohol and controlled substances testing programs performed under this part during the previous calendar year, when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the employer or any of its drivers.


(b) If an employer is notified, during the month of January, of a request by the Federal Motor Carrier Safety Administration to report the employer's annual calendar year summary information, the employer shall prepare and submit the report to the FMCSA by March 15 of that year. The employer shall ensure that the annual summary report is accurate and received by March 15 at the location that the FMCSA specifies in its request. The employer must use the Management Information System (MIS) form and instructions as required by 49 CFR part 40 (at §40.26 and appendix H to part 40). The employer may also use the electronic version of the MIS form provided by the DOT. The Administrator may designate means (e.g., electronic program transmitted via the Internet); other than hard-copy, for MIS form submission. For information on the electronic version of the form, see: <http://www.fmcsa.dot.gov/safetyprogs/drugs/engtesting.htm>.

(c) When the report is submitted to the FMCSA by mail or electronic transmission, the information requested shall be typed, except for the signature of the certifying official. Each employer shall ensure the accuracy and timeliness of each report submitted by the employer or a consortium.

(d) If you have a covered employee who performs multi-DOT agency functions (e.g., an employee drives a commercial motor vehicle and performs pipeline maintenance duties for the same employer), count the employee only on the MIS report for the DOT agency under which he or she is randomly tested. Normally, this will be the DOT agency under which the employee performs more than 50% of his or her duties. Employers may have to explain the testing data for these employees in the event of a DOT agency inspection or audit.

(e) A service agent (e.g., *Consortium/Third party administrator* as defined in 49 CFR 382.107) may prepare the MIS report on behalf of an employer. However, a company official (e.g., *Designated employer representative*) must certify the accuracy and completeness of the MIS report, no matter who prepares it.

[66 FR 43103, Aug. 17, 2001, as amended at 68 FR 75459, Dec. 31, 2003; 78 FR 58479, Sept. 24, 2013]

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§382.405 Access to facilities and records.

(a) Except as required by law or expressly authorized or required in this section, no employer shall release driver information that is contained in records required to be maintained under §382.401.

(b) A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substances tests. The employer shall promptly provide the records requested by the driver. Access to a driver's records shall not be contingent upon payment for records other than those specifically requested.

(c) Each employer shall permit access to all facilities utilized in complying with the requirements of this part to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the employer or any of its drivers.


(d) Each employer shall make available copies of all results for employer alcohol and/or controlled substances testing conducted under this part and any other information pertaining to the employer's alcohol misuse and/or controlled substances use prevention program, when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the employer or any of its drivers.

(e) When requested by the National Transportation Safety Board as part of an accident investigation, employers shall disclose information related to the employer's administration of a post-accident alcohol and/or controlled substance test administered following the accident under investigation.

(f) Records shall be made available to a subsequent employer upon receipt of a written request from a driver. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the driver's request.


(g) An employer may disclose information required to be maintained under this part pertaining to a driver to the decision maker in a lawsuit, grievance, or administrative proceeding initiated by or on behalf of the individual, and arising from a positive DOT drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test results) of this part (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the driver). Additionally, an employer may disclose information in criminal or civil actions in accordance with §40.323(a)(2) of this title.

(h) An employer shall release information regarding a driver's records as directed by the specific written consent of the driver authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's specific written consent as outlined in §40.321(b) of this title.

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§382.407 Medical review officer notifications to the employer.

Medical review officers shall report the results of controlled substances tests to employers in accordance with the requirements of part 40, Subpart G, of this title.

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§382.409 Medical review officer record retention for controlled substances.

(a) A medical review officer or third party administrator shall maintain all dated records and notifications, identified by individual, for a minimum of five years for verified positive controlled substances test results.

(b) A medical review officer or third party administrator shall maintain all dated records and notifications, identified by individual, for a minimum of one year for negative and canceled controlled substances test results.

(c) No person may obtain the individual controlled substances test results retained by a medical review officer or third party administrator, and no medical review officer or third party administrator shall release the individual controlled substances test results of any driver to any person, without first obtaining a specific, written authorization from the tested driver. Nothing in this paragraph (c) shall prohibit a medical review officer or third party administrator from releasing, to the employer or to officials of the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the controlled substances testing program under this part, the information delineated in part 40, Subpart G, of this title.

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§382.411 Employer notifications.

(a) An employer shall notify a driver of the results of a pre-employment controlled substances test conducted under this part, if the driver requests such results within 60 calendar days of being notified of the disposition of the employment application. An employer shall notify a driver of the results of random, reasonable suspicion and post-accident tests for controlled substances conducted under this

part if the test results are verified positive. The employer shall also inform the driver which controlled substance or substances were verified as positive.

(b) The designated employer representative shall make reasonable efforts to contact and request each driver who submitted a specimen under the employer's program, regardless of the driver's employment status, to contact and discuss the results of the controlled substances test with a medical review officer who has been unable to contact the driver.

(c) The designated employer representative shall immediately notify the medical review officer that the driver has been notified to contact the medical review officer within 72 hours.

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§382.413 Inquiries for alcohol and controlled substances information from previous employers.

Employers shall request alcohol and controlled substances information from previous employers in accordance with the requirements of §40.25 of this title.

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Subpart E—Consequences for Drivers Engaging in Substance Use-Related Conduct

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§382.501 Removal from safety-sensitive function.

(a) Except as provided in subpart F of this part, no driver shall perform safety-sensitive functions, including driving a commercial motor vehicle, if the driver has engaged in conduct prohibited by subpart B of this part or an alcohol or controlled substances rule of another DOT agency.

(b) No employer shall permit any driver to perform safety-sensitive functions; including driving a commercial motor vehicle, if the employer has determined that the driver has violated this section.

(c) For purposes of this subpart, commercial motor vehicle means a commercial motor vehicle in commerce as defined in §382.107, and a commercial motor vehicle in interstate commerce as defined in part 390 of this subchapter.

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§382.503 Required evaluation and testing.

No driver who has engaged in conduct prohibited by subpart B of this part shall perform safety-sensitive functions, including driving a commercial motor vehicle, unless the driver has met the requirements of part 40, subpart O, of this title. No employer shall permit a driver who has engaged in conduct prohibited by subpart B of this part to perform safety-sensitive functions, including driving a commercial motor vehicle, unless the driver has met the requirements of part 40, subpart O, of this title.

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§382.505 Other alcohol-related conduct.

(a) No driver tested under the provisions of subpart C of this part who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform or continue to perform safety-sensitive functions for an employer, including driving a commercial motor vehicle, nor shall an employer permit the driver to perform or continue to perform safety-sensitive functions, until the start of


the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

(b) Except as provided in paragraph (a) of this section, no employer shall take any action under this part against a driver based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit an employer with authority independent of this part from taking any action otherwise consistent with law.


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§382.507 Penalties.

Any employer or driver who violates the requirements of this part shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. 521(b). In addition, any employer or driver who violates the requirements of 49 CFR part 40 shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. 521(b).

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Subpart F—Alcohol Misuse and Controlled Substances Use Information, Training, and Referral

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§382.601 Employer obligation to promulgate a policy on the misuse of alcohol and use of controlled substances.

(a) *General requirements.* Each employer shall provide educational materials that explain the requirements of this part and the employer's policies and procedures with respect to meeting these requirements.

(1) The employer shall ensure that a copy of these materials is distributed to each driver prior to the start of alcohol and controlled substances testing under this part and to each driver subsequently hired or transferred into a position requiring driving a commercial motor vehicle.

(2) Each employer shall provide written notice to representatives of employee organizations of the availability of this information.

(b) *Required content.* The materials to be made available to drivers shall include detailed discussion of at least the following:

(1) The identity of the person designated by the employer to answer driver questions about the materials;

(2) The categories of drivers who are subject to the provisions of this part;

(3) Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the work day the driver is required to be in compliance with this part;

(4) Specific information concerning driver conduct that is prohibited by this part;

(5) The circumstances under which a driver will be tested for alcohol and/or controlled substances under this part, including post-accident testing under §382.303(d);

(6) The procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver, including post-accident information, procedures and instructions required by §382.303(d);

(7) The requirement that a driver submit to alcohol and controlled substances tests administered in accordance with this part;

(8) An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendant consequences;

(9) The consequences for drivers found to have violated subpart B of this part, including the requirement that the driver be removed immediately from safety-sensitive functions, and the procedures under part 40, subpart O, of this title;

(10) The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04;

(11) Information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver's or a co-worker's); and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management.

(c) *Optional provision.* The materials supplied to drivers may also include information on additional employer policies with respect to the use of alcohol or controlled substances, including any consequences for a driver found to have a specified alcohol or controlled substances level, that are based on the employer's authority independent of this part. Any such additional policies or consequences must be clearly and obviously described as being based on independent authority.

(d) *Certificate of receipt.* Each employer shall ensure that each driver is required to sign a statement certifying that he or she has received a copy of these materials described in this section. Each employer shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver.

[66 FR 43103, Aug. 17, 2001, as amended at 78 FR 58479, Sept. 24, 2013]

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§382.603 Training for supervisors.

Each employer shall ensure that all persons designated to supervise drivers receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substances use. The training will be used by the supervisors to determine whether reasonable suspicion exists to require a driver to undergo testing under §382.307. The training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. Recurrent training for supervisory personnel is not required.

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§382.605 Referral, evaluation, and treatment.

The requirements for referral, evaluation, and treatment must be performed in accordance with 49 CFR part 40, Subpart O.

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For questions or comments regarding e-CFR editorial content, features, or design, email ecfr@nara.gov.
For questions concerning e-CFR programming and delivery issues, email webteam@gpo.gov.

Additional Attachment(s) of Explanation

◇ Section 5. Additional Information

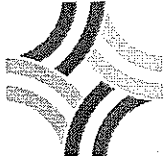
5B. Will the contractor train City and County employees?

- **Describe training and indicate approximate number of hours.**
- **Indicate occupational type of City and County employees to receive training (e.g., clerks, civil engineers, etc.) and approximate number to be trained.**

5D. Are there federal or state grant requirements regarding the use of contractual services?

Please refer to section 1A attachment

- **Electronic Code of Federal Regulations
Title 49: Transportation
Part 382: Controlled Substances & Alcohol Use and Testing
Note: Web link to 49 CFR Part 40 is provided here**



SFMTA
Municipal
Transportation
Agency

Edwin M. Lee, *Mayor*

Tom Nolan, *Chairman*

Malcolm Heinicke, *Director*

Joél Ramos, *Director*

Edward D. Reiskin, *Director of Transportation*

Cheryl Brinkman, *Vice-Chairman*

Jerry Lee, *Director*

Cristina Rubke, *Director*

Attachment to PSC #49011-13/14

5. ADDITIONAL INFORMATION

B. Will the contractor train City and County employees?

Yes. Two (2) hours of classroom training using PowerPoint slides for: (8) 9144 Investigator, Taxi & Accessible Services; (1) 9179 Manager V, MTA; and, 9183 Deputy Director I, MTA, on how to Conduct "reasonable suspicion" testing of taxi drivers.

D. Are there federal or state grant requirements regarding the use of contractual services? 49 CFR Part 40

See in entirety at the following link.

<http://www.ecfr.gov/cgi-bin/text->

[x?c=ecfr;sid=7be618c5eb56986bf8b5bd134450b9f3;rgn=div5;view=text;node=49%3](http://www.ecfr.gov/cgi-bin/text-?c=ecfr;sid=7be618c5eb56986bf8b5bd134450b9f3;rgn=div5;view=text;node=49%3)

[A5.1.1.2.25;idno=49;cc=ecfr](http://www.ecfr.gov/cgi-bin/text-?c=ecfr;sid=7be618c5eb56986bf8b5bd134450b9f3;rgn=div5;view=text;node=49%3A5.1.1.2.25;idno=49;cc=ecfr)

Additional Attachment(s) of Explanation

◇ Section 1. Description of Work

- 1C. Has this service been provided in the past. If so, how?
If the service was provided via a PSC, provide the most recently approved PSC # and upload a copy of the PSC.

PSC #4026-12/13

- Prior PSC Form 1 – Initial - Similar

PSC #3068-11/12

- Prior PSC Form 1 – Initial - Similar

PSC #4136-12/13

- Prior PSC Form 1 – Initial - Similar

4026-12/13
Similar

City and County of San Francisco

Department of Human Resources

PERSONAL SERVICES CONTRACT SUMMARY

DATE: July 9, 2012

DEPARTMENT NAME: San Francisco Municipal Transportation Agency DEPARTMENT NUMBER 68

TYPE OF APPROVAL: () EXPEDITED (X) REGULAR (OMIT POSTING)
() CONTINUING () ANNUAL

TYPE OF REQUEST: (X) INITIAL REQUEST () MODIFICATION (PSC)

TYPE OF SERVICE: Laboratory Testing Services

FUNDING SOURCE: Operating Budget

PSC AMOUNT: \$175,000.00 PSC DURATION: November 1, 2012 to October 31, 2017

1. DESCRIPTION OF WORK

A. Concise description of proposed work:

To provide federally mandated urine analysis for safety-sensitive employees with the San Francisco Municipal Transportation Agency (SFMTA).

B. Explain why this service is necessary and the consequences of denial:

This is a required service under the Department Of Transportation (DOT)/Federal Transit Administration (FTA) Rules. Denial will jeopardize continued transit agency federal assistance.

C. Explain how this service has been provided in the past (if this service was previously approved by the Civil Service Commission, indicate most recent personal services contract approval number):

These services were provided by Pharmatech under PSC # 4016-09/10 approved on July 20, 2009. The contract is due to expire on October 31, 2012.

D. Will the contract(s) be renewed:

Yes. The contract will be reviewed every three (3) years.

2. UNION NOTIFICATION: Copy of this summary is to be sent to employee organizations as appropriate (refer to instructions for specific procedures):

IFPTE, Local 21 Union Name Signature of person mailing / faxing form Date 7/9/12

RFP sent to Union Name on Date Signature

FOR DEPARTMENT OF HUMAN RESOURCES USE

SFMTA approved
7-9-12

PSC# 4026-12/13

STAFF ANALYSIS/RECOMMENDATION:
CIVIL SERVICE COMMISSION ACTION:

3. DESCRIPTION OF REQUIRED SKILLS/EXPERTISE

A. **Specify required skills and/or expertise:**

Contractor must be a U.S. Department of Health and Human Services (DHHS) certified laboratory. The City does not have DHHS certified laboratories.

B. **Which, if any, civil service class normally performs this work?**

Although Civil Service classifications at the Department of Public Health, such as 2456 Toxicologist, 2457 Assistant Toxicologist, and 2458 Forensic Toxicologist perform drug testing, only DHHS-certified drug testing laboratories permitted to participate in DOT testing may perform these regulated services. Certification is by DHHS under the National Laboratory Certification Program (NLCP).

C. **Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:**

Yes. Contractor must be a U.S. Department of Health and Human Services (DHHS) certified lab. The City does not have DHHS-certified labs.

4. WHY CLASSIFIED CIVIL SERVICE CANNOT PERFORM

A. **Explain why civil service classes are not applicable:**

Contractor must be a U.S. Department of Health and Human Services (DHHS) certified lab. The City does not have DHHS certified labs.

B. **Would it be practical to adopt a new civil service class to perform this work? Explain.**

No- Contract must be a U.S. Department of Health of Health and Human Services (DHHS) certified lab. The City does not have DHHS certified labs.

5. ADDITIONAL INFORMATION (if "yes", attach explanation)

	<u>Yes</u>	<u>No</u>
A. Will the contractor directly supervise City and County employees?	()	(X)
B. Will the contractor train City and County employees?	()	(X)
C. Are there legal mandates requiring the use of contractual services?	()	(X)
D. Are there federal or state grant requirements regarding the use of contractual services? <i>49 CFR Parts 40, 653 & 654</i>	(X)	()
E. Has a board or commission determined that contracting is the most effective way to provide this service?	()	(X)
F. Will the proposed work be completed by a contractor that has a current personal services contract with your department?	()	(X)

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD:

Parveen Boparai

Signature of Departmental Personal Services Contract Coordinator

Parveen Boparai
Print or Type Name

415-701-5377
Telephone Number

San Francisco Municipal Transportation Agency

1 South Van Ness Avenue, 7th Floor, San Francisco, CA 94103
Address

3068-11/12
Similar

City and County of San Francisco

Department of Human Resources

PERSONAL SERVICES CONTRACT SUMMARY

DATE: February 21, 2012

DEPARTMENT NAME: San Francisco Municipal Transportation Agency

DEPARTMENT NUMBER: 68

TYPE OF APPROVAL: (X) EXPEDITED () REGULAR (OMIT POSTING _____)

() CONTINUING () ANNUAL

TYPE OF REQUEST: (X) INITIAL REQUEST () MODIFICATION (PSC# _____)

TYPE OF SERVICE: Medical Review Officer

FUNDING SOURCE: SFMTA Operating Budget

PSC AMOUNT: \$50,000.00

PSC DURATION: August 1, 2012 through July 31, 2017

1. DESCRIPTION OF WORK

A. Concise description of proposed work:

To provide medical review officer consulting services for the San Francisco Municipal Transportation Agency (SFMTA).

B. Explain why this service is necessary and the consequences of denial:

This is a mandatory service under the Department of Transportation/Federal Transit Administration (DOT/FTA) regulations. Denial of this service will place the Substance Abuse Program out of compliance with the Federal regulations and also jeopardize transit agency Federal funding assistance. Denial would result in grave consequences for SFMTA's operations.

C. Explain how this service has been provided in the past (If this service was previously approved by the Civil Service Commission, indicate most recent personal services contract approval number):

University Services has previously provided this service under CSC personal services contract number 3094-07/08 for the period of August 1, 2008 through April 30, 2012.

D. Will the contract(s) be renewed:

Yes. The contract will be renewed every year for the next four (4) years.

2. UNION NOTIFICATION: Copy of this summary is to be sent to employee organizations as appropriate (refer to instructions for specific procedures):

IFPTE, Local 21 [Signature] 2/21/12
Union Name Signature of person mailing / faxing form Date

Union Name Signature of person mailing / faxing form Date

RFP sent to _____ on _____
Union Name Date Signature

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# 3068-11/12

SFMTA approved
2-21-12
FB

Approval Date: 2/24/12

Received 2/21/12

By: [Signature]
FOR Micki Callahan, Human Resources Director

CMR
PSC FORM 1 (9/96)

3. DESCRIPTION OF REQUIRED SKILLS/EXPERTISE

A. Specify required skills and/or expertise:

Contractor must be a licensed physician who possesses specialized knowledge and experience in substance abuse disorders to direct the administration of drug tests and interpret drug test results in accordance with the Federal DOT/FTA Substance Abuse regulations.

B. Which, if any, civil service class normally performs this work?

Classifications such as 2220, Physician or 2230 Physician Specialist may perform this work. However, these classifications may not possess the specialized discipline and experience (knowledge of substance abuse disorders with appropriate training and certification) that is required by the Federal DOT/FTA regulations.

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:

Yes. The contractual services will include all necessary facilities and/or equipment which the City is unable to provide. With the contractor providing its own facilities and necessary equipment, the City will not expend any additional monies to set-up a specialized medical facility, purchase equipment and provide staffing.

4. WHY CLASSIFIED CIVIL SERVICE CANNOT PERFORM

A. Explain why civil service classes are not applicable:

Civil services classes are not applicable because the knowledge and experience required for this type of work requires a classification of physician who is licensed and possesses the knowledge, experience, certification, and medical training in substance abuse disorders and drug test results interpretation. This type of specialized position is not classified by the City.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.

No: Adopting a new civil service class may result in a recruitment and retention problem due to the as-needed nature of the service.

5. ADDITIONAL INFORMATION (if "yes", attach explanation)

	<u>Yes</u>	<u>No</u>
A. Will the contractor directly supervise City and County employees?	()	(X)
B. Will the contractor train City and County employees?	()	(X)
C. Are there legal mandates requiring the use of contractual services? <i>49 CFR Part 40</i>	(X)	()
D. Are there federal or state grant requirements regarding the use of contractual services? <i>49 CFR Part 40</i>	(X)	()
E. Has a board or commission determined that contracting is the most effective way to provide this service? <i>(MTA Resolution #99-116)</i>	(X)	()
F. Will the proposed work be completed by a contractor that has a current personal services contract with your department? <i>University Services is providing Medical Review Officer services.</i>	(X)	()

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD:

Parveen Boparai

Signature of Departmental Personal Services Contract Coordinator

Parveen Boparai

Print or Type Name

415-701-5377

Telephone Number

San Francisco Municipal Transportation Agency

1 S. Van Ness Ave., 7th Floor, San Francisco, CA 94103

Address

4136-12/13
Similar

City and County of San Francisco

Department of Human Resources

PERSONAL SERVICES CONTRACT SUMMARY

DATE: May 9, 2013

DEPARTMENT NAME: San Francisco Municipal Transportation Agency

DEPARTMENT NUMBER 68

TYPE OF APPROVAL: () EXPEDITED (X) REGULAR (OMIT POSTING___)

() CONTINUING () ANNUAL

TYPE OF REQUEST: (X) INITIAL REQUEST () MODIFICATION

TYPE OF SERVICE: Offsite and Onsite Urine and Breath Sample Collection

FUNDING SOURCE: Operating Budget

PSC AMOUNT: \$1,200,000.00

PSC DURATION: December 1, 2013 through November 30, 2018

1. DESCRIPTION OF WORK

A. Concise description of proposed work:

To provide an off-site facility to collect pre-employment, post-accident, return-to-duty, reasonable suspicion breath and urine samples during normal working hours and/or after hours for San Francisco Municipal Transportation Agency (SFMTA) employees and contractors and to provide a mobile on-site facility to collect random, follow-up, reasonable suspicion and post-accident breath and urine collection in compliance with DOT/FTA Drug and Alcohol Testing Regulations.

B. Explain why this service is necessary and the consequences of denial:

Urine and breath collection is a mandatory service under the Department of Transportation/Federal Transit Administration (DOT/FTA) Rules. Denial of this service will jeopardize continued transit agency Federal funding assistance.

C. Explain how this service has been provided in the past (if this service was previously approved by the Civil Service Commission, indicate most recent personal services contract approval number):

This service was provided in the past through PSC No. 4023-08/09 that was approved by the Civil Service Commission on September 15, 2008, and PSC No. 3034-08/09, approved on September 25, 2008. At this time the SFMTA elects to allow the current contract to expire, and then proceed to solicit proposals for collection services with the goal of establishing a new contract.

D. Will the contract(s) be renewed:

Yes. At the end of this contract the SFMTA will issue a Request for Proposal for breath and urine collection services.

2. UNION NOTIFICATION: Copy of this summary is to be sent to employee organizations as appropriate (refer to instructions for specific procedures):

IFPTE Local 21 [Signature] 5/9/13
Union Name Signature of person mailing / faxing form Date

Union Name Signature of person mailing / faxing form Date

RFP sent to _____ on _____
Union Name Date Signature

FOR DEPARTMENT OF HUMAN RESOURCES USE SFMTA approved

PSC# _____ 5-9-13

STAFF ANALYSIS/RECOMMENDATION:
CIVIL SERVICE COMMISSION ACTION:

3. DESCRIPTION OF REQUIRED SKILLS/EXPERTISE

A. Specify required skills and/or expertise:

The collection personnel must be trained in procedures designed to comply with 49 CFR Part 40, Subparts C and J, and shall demonstrate proficiency in complying with these procedures. Collection procedures for urine samples should be designed to comply with 49 CFR Subparts C, D and E. The collection of breath samples must be designed to comply with 49 CFR Part 40, Subparts J, K, L, M and N.

B. Which, if any, civil service class normally performs this work?

No civil service class normally performs this work.

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:

The contractual services will include all necessary facilities and/or equipment for the collection of specimens and collection sites must comply with all requirements specified in 40 CFR Part 40, Subparts D and K. The firm selected must have the appropriate off-site facilities and personnel dedicated solely to SFMTA's drug and alcohol testing program to provide a clean, secure and private environment.

4. WHY CLASSIFIED CIVIL SERVICE CANNOT PERFORM

A. Explain why civil service classes are not applicable:

Civil service classes are not applicable because the knowledge and experience required for this type of work requires knowledge, experience and training related to the collection of urine and breath samples as specified by 49CFR Part 40, Subpart C, D, E, J, K, L, M, and N.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.

No, it would not be practical to adopt a new civil service class, because adopting a new civil service class may result in a recruitment and retention problem and consequently affect the required services under DOT/FTA rules. There are legal mandates (49 CFR Part 40) requiring contractor to meet specific standards and adhere to specific procedures. Contracting is the most effective way to provide this service.

5. ADDITIONAL INFORMATION (if "yes", attach explanation)

	<u>Yes</u>	<u>No</u>
A. Will the contractor directly supervise City and County employees?	()	(X)
B. Will the contractor train City and County employees?	()	(X)
C. Are there legal mandates requiring the use of contractual services?	()	(X)
D. Are there federal or state grant requirements regarding the use of contractual services? - 49 CFR Part 40	(X)	()
E. Has a board or commission determined that contracting is the most effective way to provide this service?	()	(X)
F. Will the proposed work be completed by a contractor that has a current personal services contract with your department?	()	(X)

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD:

Parveen Boparai

Signature of Departmental Personal Services Contract Coordinator

Parveen Boparai
Print or Type Name

415-701-5377
Telephone Number

San Francisco Municipal Transportation Agency, Human Resources

1 S. Van Ness Ave., 6th Floor, San Francisco, CA 94103
Address

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PERSONAL SERVICES CONTRACT SUMMARY ("PSC FORM 1")

Department: POLICE – POL Dept. Code: POL

Type of Request: [X] Initial [] Modification of an existing PSC (PSC # _____)

Type of Approval: [] Expedited [X] Regular ([] Omit Posting)

Type of Service: Orchid Cellmark

Funding Source: General Fund PSC Duration: 3 years 1 day
PSC Amount: \$2,000,000 PSC Est. Start Date: 04/01/2014 PSC Est. End Date: 04/01/2017

1. Description of Work

A. Scope of Work:

The deoxyribonucleic acid (DNA) testing that the San Francisco Police Department (SFPD) is requesting for contract consist of extracting and testing samples of DNA-containing substances. The substance must be identified, confirmed as a DNA-containing substance, extracted and DNA strains and substances. Substances are tested through chemical and scientific processes. The cases that would be sent out for contract are those that current staffing has been unable to address. This will be an interim solution until new staff are recruited and trained.

B. Explain why this service is necessary and the consequence of denial:

This service is necessary in order to address crime. The test results provide additional proof of identity for individuals to be prosecuted in criminal cases in the criminal justice system. This work is required of the San Francisco Police Department and should this work be denied, individuals potentially suspected of homicides, sexual assaults, burglaries and other violent crimes will continue to remain unidentified and potentially committing additional crimes.

C. Has this service been provided in the past. If so, how? If the service was provided via a PSC, provide the most recently approved PSC # and upload a copy of the PSC. This service is currently provided under PSC #4165-09/10. The department is asking for a new PSC and will put out a Request for Proposal (RFP) to seek a new contractor

D. Will the contract(s) be renewed? Unknown

2. Union Notification: On 12/06/2013, the Department notified the following employee organizations of this PSC/RFP request: Professional & Tech Engrs, Local 21, Management & Superv Local 21, Architect & Engineers, Lo

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# 49198 - 13/14

DHR Analysis/Recommendation:

Civil Service Commission Action:

Commission Approval Required

DHR Approved for 02/03/2014

3. Description of Required Skills/Expertise

A. Specify required skills and/or expertise:

A thorough and complete knowledge of DNA extraction and testing in order to conduct case work is needed. Employees must go through a skills testing and certification process that can take up to 12-18 months to complete in order to work on cases. These skills include identification and confirmation as a DNA-containing substances, extraction, and isolation of DNA strains and markers. Substances are tested through chemical and scientific processes. Chemical testing and analysis of suspected DNA containing substances,

B. Which, if any, civil service class(es) normally perform(s) this work?
8260,

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:
Possibly, it is not a requirement for the contract, but if a contractor has higher-quality equipment at a comparable price to other contractors, the City would benefit from selection of that contractor.

4. Why Classified Civil Service Cannot Perform

A. Explain why civil service classes are not applicable:

There is a backlog of cases requiring DNA testing that SFPD needs to resolve and their current staffing levels will not allow for resolution of this backlog until additional positions are filled.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.
No. The current classification are sufficient for this work.

5. Additional Information (if "yes", attach explanation)

	<u>YES</u>	<u>NO</u>
A. Will the contractor directly supervise City and County employee?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
B. Will the contractor train City and County employee?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
C. Are there legal mandates requiring the use of contractual services?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
D. Are there federal or state grant requirements regarding the use of contractual services?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
E. Has a board or commission determined that contracting is the most effective way to provide this service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
F. Will the proposed work be completed by a contractor that has a current PSC contract with your department?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD
ON 12/23/2013 BY:

Name: Joseph Valdez Phone: 415-734-3254 Email: joe.valdez@sfgov.org

Address: 850 Bryant St Rm. 577-17 San Francisco, CA

Receipt of Union Notification(s)
◆ Local 21

Dang, Leorah

From: dhr-psccordinator@sfgov.org
Sent: Friday, December 06, 2013 8:12 AM
To: Valdez, Joe; L21PSCReview@ifpte21.org; Valdez, Joe; DHR-PSCCoordinator, DHR; Isen, Richard
Subject: Receipt of Notice for new PCS over \$100K PSC # 49198 - 13/14

RECEIPT for Union Notification for PSC 49198 - 13/14 more than \$100k

The POLICE -- POL has submitted a request for a Personal Services Contract (PSC) 49198 - 13/14 for \$2,000,000 for Initial Request services for the period 04/01/2014 – 04/01/2017. Notification of 30 days (60 days for SEIU) is required.

After logging into the system please select link below, view the information and verify receipt:

<http://apps.sfgov.org/dhrdrupal/node/711>

Email sent to the following addresses: L21PSCReview@ifpte21.org for Professional & Tech Engrs, Local 21
jebrenner@ifpte21.org for Professional & Tech Engrs, Local 21

Additional Attachment(s) of Explanation

- **Request for Qualification for SFPD
DNA Backlog Forensic Laboratory Services
RFQ#CON2010-7**



City and County of San Francisco

San Francisco Police Department
Forensic Services Division

REQUEST FOR QUALIFICATIONS FOR SFPD DNA Backlog Forensic Laboratory Services RFQ#CON2010-7

CONTACT: Randle McClure, Randle.McClure@sfgov.org, (415) 554-5344

Background

San Francisco is the fourth largest city in California and serves as a center for business, commerce and culture for the West Coast. The City and County of San Francisco ("the City"), established by Charter in 1850, is a legal subdivision of the State of California with the governmental powers of both a city and a county under California law. The City's powers are exercised through a Board of Supervisors serving as the legislative authority, and a Mayor and other independent elected officials serving as the executive authority.

The San Francisco Police Department Crime Lab has an existing backlog of approximately 250 DNA cases that it desires to clear from its processing queue. These cases could provide additional proof of identity for individuals suspected of robberies, burglaries, arson and other crimes in the criminal justice system. Failure to process these DNA cases could allow suspects to remain unidentified and free to commit additional crimes. Proper chain of custody and documentation of these analyses according to standard rules of evidence result in criminal convictions that help keep the streets of San Francisco safe for its citizens and visitors.

Respondents with demonstrated experience in DNA sample forensic laboratory services are sought to perform comprehensive forensic analyses on this backlog of approximately 250 cases.

Schedule*

RFQ issued	09-01-10
Pre-response conference	09-20-10 (1pm PT)
RFQ re-issued	10-04-10
Advance questions deadline	10-08-10 (12pm PT)
Answers posted online	10-15-10 (5pm PT)
Deadline for RFQ responses	11-05-10 (12pm PT)
Pre-qualification notification	12-10-10

*Each date subject to change. All hours are Pacific Time.
Check website for latest schedule.

Intent of this RFQ

On behalf of the San Francisco Police Department, it is the intent of the Controller's Office to create a pre-qualified list of contractors from which the SFPD may choose for DNA forensic laboratory services on an as-needed basis. This RFQ specifies three distinct service areas of DNA sample analysis for which the City may require service; respondents are encouraged to respond only for those service areas in which experience and qualifications can be demonstrated.

Anticipated Contract Period

Selected Respondents will remain eligible for consideration for selection for contracts on an as-needed basis for two years. Actual contract periods will vary depending upon service needs. Selected Respondents are not guaranteed a contract.

Anticipated Contract Budget

The anticipated not-to-exceed contract budget is \$1,900,000. Responses providing a lower cost estimate are welcomed due to the City's budgetary constraints.

Subcontracting Requirement

There is no Human Rights Commission Local Business Enterprise (LBE) subcontracting requirement for this RFQ or resulting contract(s). However, all Respondents must submit the forms required as part of RFQ Attachment II. LBEs are strongly encouraged to submit responses and will be eligible for rating discounts in accordance with RFQ Attachment II.

City-Respondent Communications

The City conducted a pre-response conference on September 20, 2010, under the initial RFQ schedule. The City will not conduct an additional pre-response conference, but will accept written questions pursuant to the schedule for this re-issued RFQ, and as described in Section 3.2.

1. Introduction

1.1 General terms used in this RFQ

Terms and abbreviations used throughout this RFQ include:

- **A2LA** – The American Association for Laboratory Accreditation.
- **Accrediting Body** – A2LA, ASCLD-LAB or FQS.
- **ASCLD-LAB** – American Society of Crime Laboratory Directors Laboratory Accreditation Board.
- **Chain of Custody** – The chronological documentation, and/or paper trail, showing the seizure, custody, control, transfer, analysis, and disposition of evidence, physical or electronic
- **CODIS** – Combined DNA Index System, the FBI-funded computer system that assists criminal prosecution by searching DNA profiles developed by federal, state, and local crime laboratories.
- **Contractor** – The Respondent who is awarded a contract for services under this RFQ.
- **Crime Lab** – The San Francisco Police Department Crime Lab, part of the Forensic Services Division of the Office of Administration. This lab supports the department and criminal justice system through the “efficient and reliable evaluation, analysis and comparison of physical evidence.”
- **Discovery Requests** – Compulsory pretrial disclosures of documents relevant to a case; enables one side in a litigation to elicit information from the other side concerning the facts in the case.
- **District Attorney** – An official prosecutor for a judicial district, specifically San Francisco
- **DNA** – Deoxyribonucleic Acid.
- **DNA Technical Lead** – The assigned SFPD officer or criminalist responsible for facilitating the backlog with the contractor(s).
- **FQS** – Forensic Quality Services.
- **Local Business Enterprise (LBE)** – A business that is certified as an LBE under Admin Code §14B.3. LBEs may be Small-LBEs, Micro-LBEs, or SBA-LBEs.
- **NDIS** – National DNA Index System.
- **Respondent** – Any entity submitting a response to this re-issued Request for Qualifications (RFQ).
- **SDIS** – State DNA Index System.
- **SFPD or Department** – San Francisco Police Department.

1.2 Background of the San Francisco Police Department and Crime Lab

The San Francisco Police Department was first established on August 13, 1849. Since that time the organization has grown into a nationally known police department providing public safety services to one of the most recognized cities in the United States.

The Police Chief is nominated by the City's Police Commission and appointed by the Mayor. The Chief reports to a Police Commission consisting of seven members with four members appointed by the Mayor and confirmed by the City's Board of Supervisors (legislative branch), and the remaining three positions appointed directly by the Board of Supervisors.

The Department has approximately 2,297 sworn officers and 382 civilian employees working in one of three offices each managed by an Assistant Chief. The Department is organized as follows:

- Office of Chief of Staff
- Office of Operations
- Office of Administration

The Crime Lab section is part of the Forensic Services Division of the Office of Administration. This section supports the Department and criminal justice system through the "efficient and reliable evaluation, analysis and comparison of physical evidence." The goal of the section is to provide clear, objective interpretations and findings. The lab has received full accreditation from the ASCLD-LAB (Legacy Program). Services performed include: firearms identification; operability and legality; forensic ballistics; serial number restoration; gunshot residue detection; document examination; and body fluid identification and DNA typing.

The San Francisco Police Department's proposed budget for fiscal year 2010-11 is \$446,541,021, of which \$78,713,888 has been allocated for investigations. For additional information about the Department, please see the SFPD website at <http://www.sfgov.org/police>.

1.3 Statement of Need and Intent

What Does the City Seek? The City and County of San Francisco, California ("City"), seeks responses from contractors demonstrating successful experience in providing DNA forensic laboratory services, divided into three service areas, including:

- A. *Robbery/Burglary Crimes*, including approximately 125 cases of crimes involving robbery or burglary containing an average of one to two DNA samples per case.
- B. *Firearm Crimes*, including approximately 100 cases of crimes involving possession of firearms with an average of one to two DNA samples per case.
- C. *Other Crimes*, including approximately 25 cases of crimes involving but not limited to arson, vehicular crimes, etc, containing an average of one to two DNA samples per case.

Respondents must have experience working with municipalities (or similar government agencies) on complex DNA forensic services involving the above criminal activities.

With Whom Will Contractors Work? Contractors will work with San Francisco Police Department Crime Lab personnel, specifically the DNA Technical Lead of the Forensic Services Division.

What is the City's Intent with this RFQ? Based on responses to this RFQ, it is the intent of the City to create a pre-qualified list of consultants from which the City shall choose prospective contractors on an as-needed basis for consulting projects indicated below in Section 2, Scope of Work. This list may be used by the City, at its sole and absolute discretion, for contractor selection and negotiations for two years following establishment of the pre-qualified list. No pre-qualified or selected Respondent is guaranteed a contract.

1.4 Role of Controller's Office / City Services Auditor (CSA)

Proposition C, passed in November 2003, amended City Charter Section 3.105 to instruct the City's Controller to serve as City Services Auditor. This role makes the Controller's Office responsible for providing objective, rigorous measurement of City service levels and effectiveness and authorizes it to contract with outside, independent experts for a variety of consultant services. CSA staff will be providing RFQ process administration and oversight as described in this RFQ. For more information regarding CSA roles and responsibilities, visit <http://www.sfgov.org/controller>.

2. Scope of Work

This scope of work is a general guide to the work the City expects to be performed, and is not a complete listing of all services that may be required or desired. The City is soliciting qualifications to create a pre-qualified list of consultants that may be selected for the services described below.

What if My Laboratory is Interested in Being Considered for More than One Service Area? Respondents are asked to indicate the Service Area Types for which they would like to be considered in RFQ Attachment V, Response Template. Given the broad range of possible opportunities, we encourage labs to respond for all Service Areas for which they meet or exceed minimum qualifications as described in this RFQ. Please note that qualifications will be evaluated separately for each Service Area.

Is My Laboratory Expected to Propose for a Specific Project? No. The Controller's Office will create a list of consultant labs to draw from for a diverse set of possible DNA forensic analyses. Each Respondent should demonstrate its capabilities by providing concise, but comprehensive responses in RFQ Attachment V, Response Template, including representative service area Sample Reports. The City will negotiate the specific scope of services, budget, deliverables and timeline with pre-qualified labs selected for contract negotiations. There is no guarantee of a minimum amount of work or compensation for any Respondent(s) selected for contract negotiations. The City may select Contractors from the pre-qualified list in its sole and absolute discretion.

Does the City prefer Laboratories to Form a Large Group or Consortium to Cover More Services, or to Focus on an Area of Expertise and Respond Individually? The City prefers individual laboratory responses focused on the Service Areas that the lab and its lead staff can demonstrate possession of appropriate qualifications. For any proposed Respondent partnerships, at least 50% of proposed work effort on the City's forensic analyses must come from the lead Respondent lab.

2.1 Provide DNA Forensic Laboratory Services

The City seeks contractors to provide DNA forensic laboratory services, divided into three service areas. Respondents can apply to provide services for a specific service area alone or multiple service areas collectively.

Note: SFPD will provide a complete case breakdown (number and offense type) for the requisite testing at contract execution.

- A. *Robbery/Burglary Crimes*, including approximately 125 cases of crimes involving robbery or burglary containing an average of one to two DNA samples per case.
- B. *Firearm Crimes*, including approximately 100 cases of crimes involving possession of firearms with an average of one to two DNA samples per case.
- C. *Other Crimes*, including approximately 25 cases of crimes involving but not limited to arson, vehicular crimes, etc, containing an average of one to two DNA samples per case.

Respondent must adhere to the following activities and task requirements for each DNA case analysis performed regardless of service area chosen.

Contractor tasks and activities shall include:

- *Biological Screening on an As-Needed Basis*. A first step in DNA cases involving identification of bodily fluids from crime scene items and sexual assault evidence kits to

determine if there are DNA samples available for testing (including presumptive tests not limited to screening for blood and semen and confirmatory tests for semen).

- *DNA Case Analysis.*

- *Requisite Technology and Methodologies.* The required methodologies to perform these DNA analyses include Organic/Differential Extraction, and EZ1 Extraction, Quantifiler Total Human DNA assay w/ ABI 7000 (or 7500) SDS. The required technology to perform these DNA analyses includes AmpFISTR Profiler Plus and COfiler, and ABI 310 Genetic Analyzer with Macintosh Genescan and Genotyper proprietary software.
- *Proprietary Chemistry Kits and Software.* When proprietary chemistry kits/software are used to develop DNA profiles, manufacturers' guidelines are to be followed without modification. This includes, but is not limited to, thermal cycling parameters, capillary electrophoresis injection times and data analysis.
- *Unknown Suspects.* In DNA cases involving crimes with no criminal suspects, Contractor shall develop 13 marker DNA profiles using the AmpFISTR Profiler Plus and COfiler DNA typing systems for submission to the national level of the Combined DNA Index System (CODIS).
- *Known Suspects.* In DNA cases involving crimes with known criminal suspects, Contractor shall provide a direct comparison between the evidence samples (i.e., gun swabs, blood, etc.) to the known reference sample(s) from the suspect(s) and victim(s) using AmpFISTR Profiler Plus only.
- *Sample Preservation.* When possible, the Contractor shall retain a portion of each evidentiary item for future 're-testing;' if complete consumption of an item is required in order to obtain an interpretable result, the Contractor shall notify and discuss with the SFPD Crime Lab DNA Technical Lead before proceeding with the analysis.
- *Sample Inhibition:* Alternative methods of quantification should be employed when possible (e.g., dilution of DNA extract, additional TE (10 mM tris-HCL-0.1 mM EDTA pH8.0) buffer washes, and/or alternative DNA purification methods) to overcome the inhibition before proceeding to amplification.
- *Quantification results:* If an evidentiary sample exhibits a result of 'not detected' (ND) for quantification with a normal C_T value (~27) on the Internal Positive Control (IPC), the Contractor shall proceed with amplification with AmpFISTR Profiler Plus and/or COfiler DNA typing system(s).

- *DNA Case Accessioning.*

- *Chain of Custody.* The Contractor shall ensure proper chain of custody throughout each case analysis, including providing a certified weekday (Monday through Friday) courier service once daily between the hours of 8:30 am and 3:30 pm to pick up DNA samples from the Property Control Division of the SFPD at the Hall of Justice and/or Building 606 at the Hunter's Point facility, and producing a complete written documentation of each step in the analysis. See Appendix B for an example of a case submission form.
- *Items Given to the Contractor.* SFPD will hand off the following items to the Contractor corresponding to each DNA case file:

- Laboratory Examination Request (SFPD 64 Form)
 - Laboratory Assignment Memo indicating items for testing and nature of requests
 - SFPD Police Narratives and supporting documentation
- *DNA Case Disposition & Case File Documentation.*
 - *Time Limit.* The Contractor shall return each DNA case sample to the SFPD Property Control Division within sixty (60) days of receipt.
 - *Case Files.* The Contractor shall produce written DNA case files that include, at a minimum, hard copies of the following information:
 - Case identifying numbers as provided by SFPD
 - Biological Screening documentation
 - DNA Extraction Data Sheet
 - Quantifiler Data Sheet
 - Amplification Data Sheet
 - Short Tandem Repeat (STR) Run Data Sheet (hand written or electronic) and a printed copy of the "Sample Summary Sheet"
 - ABI Prism 310 Injection List
 - Internal Lane Size Standard Verification (GS500/ROX plots and tables)
 - Genescan plots for all items injected on genetic analyzer
 - Genotyper Plots (blue, green, yellow) for all evidence and known reference items
 - Genotyping Summary
 - Formal Report of Laboratory Examination
 - Case Technical Review
 - Evidence tracking (chain of custody) information with a clear list of names and dates of those interacting with the case exhibits
 - Qualifications of the analyst performing the work
 - *Electronic Data.* All electronic files related to a particular case must be stored on a compact disk (CD) and provided in case file documentation. Each CD shall contain the case number, the analyst's initials, and the date.
 - *Discovery Requests/Testimony.* The Contractor shall provide timely assistance, as requested, to the SFPD and District Attorney with discovery requests and/or expert testimony for trial, including but not limited to preliminary hearing interviews.
 - *Auditing.* The Contractor shall provide onsite access to SFPD management and other relevant auditing agencies as requested for purposes of the inspection of the Contractor's facilities.

3. City-Respondent Communications

Interested parties, including Respondents, are specifically directed NOT to contact any employees or officials of the City other than those specifically designated in this RFQ and its Attachments. Unauthorized contact may be cause for rejection of responses at the City's sole and absolute discretion.

3.1 Pre-Response Conference

Note: this section applied to the original issuance of the RFQ only.

The City conducted a pre-response conference on September 20, 2010, under the initial RFQ schedule and will not conduct another pre-response conference for this re-issued RFQ.

Additional Questions

Additional Questions regarding this re-issued RFQ will be accepted through 12pm PT on Friday, October 8, 2010, after which no questions or requests for interpretation will be accepted with the exception of City vendor compliance or Human Rights Commission subcontracting requirement questions.

Summary of Questions and Answers

A summary of any questions and answers pertaining to this re-issued RFQ will be posted on the Controller's Office website **by close of business on Friday, October 15, 2010** at <http://www.sfcontroller.org/solicitations>.

4. Response Submission Requirements

4.1 Time and Place for Submission of Responses

Responses and all related materials must be received by **12 pm PT on Friday, November 5, 2010**. Responses may be delivered to the Reception Desk at City Hall, Room 316 or delivered or mailed to:

*Randle McClure
Office of the Controller
City Hall, Room 388
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102*

Postmarks will not be considered in judging the timeliness of submissions. Responses submitted by e-mail or fax will not be accepted. Late submissions will not be considered, including those submitted late due to postal or delivery service failure. Note that Respondents hand-delivering responses to City Hall may be required to open and make packages accessible for examination by security staff.

4.2 Response Package

The following items must be included in your response and packaged in a box or envelope clearly marked **RFQ#CON2010-7 SFPD DNA Backlog Forensic Laboratory Services RFQ**.

Complete, but concise responses, are recommended for ease of review by the Evaluation Team. Responses should provide a straightforward, concise description of the Respondent's capabilities to satisfy the requirements of the RFQ. Marketing and sales type information should be excluded. All parts, pages, figures, and tables should be numbered and clearly labeled.

- A. **One (1) original printed response (with original signatures) labeled as "Original."** The pages should be bound by a method in which the sheets may be easily separated (e.g. 3-hole binder, binder clip, comb binding, velo binding, etc).

RFQ Attachment I Acknowledgement of RFQ Terms and Conditions

RFQ Attachment II Human Rights Commission Local Business Enterprise Forms – 2 copies

RFQ Attachment III City's Administrative Requirements

RFQ Attachment IV City's Agreement Terms and Conditions

RFQ Attachment V Response Template

- B. **One (1) CD-ROM containing entire contents of response, including all RFQ Attachments.** The CD-ROM and electronic files on the CD-ROM must be labeled with the Respondent's name. All files should be submitted in unprotected PDF or Word format. Electronic files should include signatures, where applicable.

- C. **Ten (10) complete printed copies of RFQ Attachment V.** The pages may be bound by a method of the Respondent's choosing. Respondents are advised to review RFQ Attachments I through IV before beginning work on the response template in RFQ Attachment V to ensure they can meet the City's requirements.

5. Evaluation Criteria

This section describes the guidelines used for analyzing and evaluating the responses and for Respondent pre-qualification. It is the City's intent to pre-qualify Respondent(s) that provide the best overall qualifications to the City inclusive of fee considerations. Consultant labs selected for pre-qualification are not guaranteed a contract. This RFQ does not in any way limit the City's right to solicit contracts for similar or identical services if, in the City's sole and absolute discretion, it determines the pre-qualified list is inadequate to satisfy its needs.

5.1 Evaluation Team

Representatives from the San Francisco Police Department, other City departments and other jurisdictions will serve on the Evaluation Team responsible for evaluating Respondents. Specifically, the team will be responsible for the evaluation and rating of the responses for pre-qualification, for conducting reference checks, and for interviews, if desired by the City.

5.2 Minimum Qualifications

The Minimum Qualifications are used by the City to determine whether the Respondent and the proposed staff have had experience in DNA forensic analysis comparable to the services the City is requesting. Respondents not meeting these minimum qualifications, as determined by the City, will not be considered, and their responses will be deemed non-responsive and not be evaluated or eligible for award of any subsequent contract(s).

By submitting a response, the Respondent certifies that:

- A. RFQ ATTACHMENTS: It has completed the requirements and submitted the forms described in RFQ Attachments I, II, III, IV, and V as part of its RFQ response, as applicable.

B. EXPERIENCE:

It has submitted compliance and accreditation documents in accordance with RFQ Attachment V, Section B, clearly demonstrating current laboratory compliance with FBI Quality Assurance standards, as described in Appendix A, for handling of DNA samples and accreditation for DNA samples from an Accrediting Body.

It also uses state of the art technology and methodologies for its DNA analyses, including but not limited to the following:

- Organic/Differential Extraction
- EZ1 Extraction
- Quantifiler Total Human DNA assay w/ ABI 7000 SDS
- AmpFISTR Profiler Plus and Cofiler
- ABI 310 Genetic Analyzer with Macintosh Genescan and Genotyper proprietary software

It has submitted two Sample Reports that includes comprehensive documentation for separate cases involving: 1) a single-source DNA profile and, 2) a mixed-source DNA profile serviced by the Respondent's laboratory within the last year of the issuance date of this RFQ.

C. STAFFING:

The laboratory manager and/or technical lead proposed to be assigned to this project individually have had a similar role at Respondent's laboratory for a minimum of one (1) year prior to the issuance of this RFQ.

5.3 Evaluation Criteria for Pre-Qualification (100 points)

Each RFQ response will be evaluated in accordance with the criteria below. A Respondent must receive a score of 70 points or above out of the 100 total possible points to be pre-qualified.

5.3.1 Respondent Qualifications – 20 points

- a) Respondent's laboratory history and structure;
- b) Respondent's depth and relevance of experience/familiarity providing forensic services comparable to those under this RFQ including experience in:
 - Robbery/Burglary DNA sample analysis;
 - Firearm (gun swabs) DNA sample analysis;
 - Other DNA sample analysis (e.g., arson);
 - Previous external DNA analytical experience;
- c) Pending litigation;
- d) Client relationships severed for reasons other than convenience;
- e) Respondent's capacity and resources to provide the services under this RFQ.

5.3.2 Proposed Staff Qualifications – 40 points

- a) Clarity and appropriateness of proposed staffing structure, including proposed staff organization chart;
- b) Appropriateness of proposed staff roles and responsibilities;
- c) Applicability of proposed staff qualifications, experience (including bench readiness and enrolled in a regularly scheduled proficiency testing program), education, and background of those who will be analyzing the samples. Staff qualifications shall include appropriate background investigations and no legal impediments to providing qualified court room testimony;
- d) Appropriate procedures for notifying the SFPD of any occurrences which would affect the ability of proposed staff to provide credible testimony, and appropriate procedures in place for removing such proposed staff if necessary. Such occurrences shall include arrests or other conduct which would bear upon the credibility of the staff.

5.3.3 Approach and Cost – 30 points

- a) Work plan/approach demonstrates understanding of the required services and the tasks to be performed. Demonstrates ability to perform services in a timely manner;
- b) Has appropriate expectations of client involvement or level of effort and knowledgeable questions and data/resource requests;
- c) Has developed sufficient expertise or methodology to create competitive differences that will be beneficial to the City;
- d) Cost response is sufficiently detailed, reasonable and appropriate for the services requested.

5.3.4 Quality of Response Submission – 10 points

- a) Response conforms with RFQ requirements and concisely but comprehensively addresses RFQ requirements;
- b) Response is professionally presented and contains organized content and format.

5.4 Contractor Selection Processes

Respondents scoring 70 points and above for each Service Area will be added to the pre-qualified list for as-needed services in that Service Area. Due to the varied nature of the services to be performed, the City reserves the right to contract with any or all pre-qualified Respondents.

Selection Interviews

Following the City's pre-qualification determination, pre-qualified consultant labs may be invited to interviews with the Evaluation Team for specific projects. Interviews, if pursued by the City, will consist of standard questions asked of all selected Respondents, and specific questions regarding individual responses. The lead staff members that will be assigned to the project should be present for the interview, as well as the lead staff of other partner(s), including Local Business Enterprise firms.

The City has sole and absolute discretion over whether interviews will be conducted or not to select Respondents for contract negotiations.

Reference Checks

Following the City's pre-qualification determination, reference checks may be used to determine the applicability of pre-qualified consultant labs' experience with the services the City is requesting and the quality of services and staffing provided to prior clients, as well as adherence to schedules/budgets and Respondent's problem-solving, project management, and communication abilities including performance on deliverables and outcomes and effectiveness in meeting or project objectives.

Other Terms and Conditions

The City may issue mini-Request(s) for Proposals or Request(s) for Quotes to the pre-qualified laboratory list to better assess qualifications for a specific scope of service, which may include staffing, Human Rights Commission Local Business Enterprise subcontracting, scheduling, deliverable, and cost considerations.

The selection of any pre-qualified Respondent for contract negotiations shall not imply acceptance by the City of all terms of the response, which may be subject to further negotiation and approvals before the City may be legally bound thereby.

If a satisfactory contract cannot be negotiated in a reasonable time with any pre-qualified Respondent, then the City, in its sole discretion, may terminate negotiations and begin contract negotiations with any other remaining pre-qualified Respondents.

The City, in its sole discretion, has the right to approve or disapprove any staff person assigned to a lab's projects before and throughout the contract term. The City reserves the right at any time to approve, disapprove or modify proposed project plans, timelines and deliverables. Such approvals will not be unreasonably withheld.

6. Protest Procedures

6.1 Protest of Non-Responsiveness Determination

Within five (5) working days of the City's issuance of a notice of non-responsiveness, any consultant lab that has submitted a response and believes that the City has incorrectly determined that its response is non-responsive may submit a written notice of protest. Such notice of protest must be received by the City on or before the fifth (5th) working day following the City's issuance of the notice of non-responsiveness. The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the Respondent, and must cite the law, rule, local ordinance, procedure or RFQ provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the City to determine the validity of the protest.

6.2 Protest of Establishment of Pre-Qualified Consultant List

Within five (5) working days of the City's issuance of a notice of intent to establish a pre-qualified consultant list, any consultant lab that has submitted a responsive response and believes that the City has incorrectly selected another Respondent for pre-qualification may submit a written notice of protest. Such notice of protest must be received by the City on or before the fifth (5th) working day after the City's issuance of the notice of intent to establish a pre-qualified consultant list.

The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the Respondent, and must cite the law, rule, local ordinance, procedure or RFQ provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the City to determine the validity of the protest.

6.3 Delivery of Protests

All protests must be received by the due date. Protests may be transmitted by e-mail only, which is a means that will objectively establish the date the City received the protest. Protests or notice of protests made orally (e.g., by telephone) or by fax will not be considered. Protests must be e-mailed to: Richard.Kurylo@sfgov.org.

Appendix A – FBI Quality Assurance Standards

Vendor Compliance with FBI Quality Assurance Standards

The chosen vendor Laboratory performing forensic DNA analysis shall demonstrate compliance with the FBI Quality Assurance Standards ("QAS") (effective July 1, 2009) through a recognized Accrediting Body (ASCLD-LAB, FQS, or A2LA) and fulfill external audit requirements.

SFPD and the Contractor must comply with the following QAS standards for outsourcing agreements of DNA casework as follows:

STANDARD 17.1.1: An NDIS participating laboratory that outsources DNA sample(s) to a vendor laboratory to generate DNA data that will be entered into CODIS shall require the vendor laboratory to provide documentation of compliance with these Standards and the accreditation requirements of federal law. The NDIS participating laboratory shall maintain such documentation.

STANDARD 17.2: Except as provided in Standard 17.2.1, an NDIS participating laboratory's technical leader shall document approval of the technical specifications of the outsourcing agreement with a vendor laboratory before it is awarded. Such documentation shall be maintained by the NDIS participating laboratory.

- **STANDARD 17.2.1:** A vendor laboratory that is performing forensic DNA analysis for a law enforcement agency or other entity and generating DNA data that may be entered into or searched in CODIS shall not initiate analysis for a specific case or set of cases until documented approval has been obtained from the appropriate NDIS participating laboratory's technical leader of acceptance of ownership of the DNA data.

STANDARD 17.3: An NDIS participating laboratory shall not upload or accept DNA data for upload to or search in CODIS from any vendor laboratory or agency without the documented prior approval of the technical specifications of the outsourcing agreement and/or documented approval of acceptance of ownership of the DNA data by the NDIS participating laboratory's technical leader.

STANDARD 17.4: An NDIS participating laboratory shall have and follow a procedure to verify the integrity of the DNA data received through the performance of the technical review of DNA data from a vendor laboratory.

STANDARD 17.5: Prior to the upload or search of DNA data to SDIS, the technical review of a vendor laboratory's DNA data shall be performed by an analyst or technical reviewer employed by the NDIS participating laboratory who is qualified or previously qualified in the technology, platform and typing amplification test kit used to generate the data and participates in the laboratory's proficiency testing program.

- **STANDARD 17.5.1:** The technical review shall include the following elements:
 - **STANDARD 17.5.1.1:** A review of all DNA types to verify that they are supported by the raw and/or analyzed data (electropherograms or images).
 - **STANDARD 17.5.1.2:** A review of all associated controls, internal lane standards and allelic ladders to verify that the expected results were obtained.
 - **STANDARD 17.5.1.3:** A review of the final report (if provided) to verify that the results/conclusions are supported by the data. The report shall address each tested items (or its probative fractions) submitted to the vendor laboratory.

- **STANDARD 17.5.1.4:** Verification of the DNA types, eligibility, and the correct specimen category for entry into CODIS.

STANDARD 17.6: An NDIS participating laboratory or multi-laboratory system outsourcing DNA sample(s) to a vendor laboratory or accepting ownership of DNA data from a vendor laboratory shall have and follow a procedure to perform an on-site visit(s) of the vendor laboratory. This procedure shall include, at a minimum, the following elements:

- **STANDARD 17.6.1:** A documented initial on-site visit prior to the vendor laboratory's beginning of casework analysis for the laboratory.
 - **STANDARD 17.6.1.1:** The on-site visit shall be performed by the technical leader, or a designated employee of the NDIS participating laboratory who is a qualified or previously qualified DNA analyst in the technology, platform and typing amplification test kit, used to generate the DNA data.
- **STANDARD 17.6.2:** If the outsourcing agreement extends beyond one year, an annual on-site visit shall be required. Each annual on-site visit shall occur every calendar year and shall be at least 6 months and no more than 18 months apart.
 - **STANDARD 17.6.2.1:** An NDIS participating laboratory may accept an on-site visit conducted by another NDIS participating laboratory using the same technology, platform and typing amplification test kit, for the generation of the DNA data and shall document the review and approval of such on-site visit.

Appendix B – Case Submission Form

CASE SUBMISSION FORM

San Francisco Police Department
850 Bryant St. (Building 606) SF CA 94103

SFPD INFORMATION

Case Number
Agency Phone
Address Fax
City/State/Zip

SENTANALYTICAL REPORT : Yes / No

SENTHARD COPY of ANALYTICAL DATA & DATA

SHEETS: Yes / No

CASE SUBMISSION TYPE:

New Case
Reopen Existing Case
Name of Suspect(s)
Name of Victim(s)
Offense

CASE & EVIDENCE DESCRIPTION:

Item Number
Description
OK to Consume?
Type of Testing: Biological Screening / STR Analysis

EVIDENCE DISPOSITION:

Narrative and relevant documentation included: Yes / No
Return evidence within 60 Days of case completion: Yes / No

Additional Attachment(s) of Explanation

◇ Section 1. Description of Work

**1C. Has this service been provided in the past. If so, how?
If the service was provided via a PSC, provide the most recently approved PSC # and upload a copy of the PSC.**

PSC #4165-09/10

- **Prior Notice of Civil Service Action – Mod2 – Similar**
- **Prior DHR Approved PSC Form 1 – Mod2 - Similar**
- **Prior CSC Meeting Minutes – Mod2 (Conditional Follow-Up) – Similar**
- **CSC Report Transmittal (Form 22)**
- **Prior DHR Approved PSC Form 1 – Mod3 - Similar**



CIVIL SERVICE COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

October 3, 2012

4165-09/10
Mod #2
Similar

NOTICE OF CIVIL SERVICE COMMISSION ACTION

SUBJECT: REVIEW OF REQUEST FOR APPROVAL OF PROPOSED
PERSONAL SERVICES CONTRACT NUMBERS 4027-12/13;
4028-12/13; 4030-12/13 THROUGH 4034-12/13; 3013-11/12; 4164-09/10
AND 4165-09/10.

KATE FAVETTI
PRESIDENT

SCOTT R. HELDFOND
VICE PRESIDENT

MARY Y. JUNG
COMMISSIONER

E. DENNIS NORMANDY
COMMISSIONER

At its meeting of October 1, 2012 the Civil Service Commission had for its consideration the above matter.

PLEASE NOTE: It is important that a copy of this action be kept in the department files as you will need it in the future as proof of Civil Service Commission approval. Please share it with everyone responsible for follow-up.

JENNIFER C. JOHNSTON
EXECUTIVE OFFICER

The Commission:

- (1) Withdrew PSC #s.4028-12/13 and 4030-12/13 by mutual request of the Department of Human Resources and the Department of Emergency Management.
- (2) Adopted the report; Approved the request for approval of PSC #4165-09/10 on the condition that a joint report by IFPTE Local 21 and the San Francisco Police Department be submitted at the meeting of November 5, 2012.
- (3) Postponed PSC #3013-11/12 to the meeting of October 15, 2012.
- (4) Adopted the report; Approved the request for all remaining contracts. Notified the Office of the Controller and the Office of Contract Administration.

If this matter is subject to Code of Civil Procedure (CCP) Section 1094.5, the time within which judicial review must be sought is set forth in CCP Section 1094.6.

CIVIL SERVICE COMMISSION

JENNIFER JOHNSTON
Executive Officer

Attachment

- c: Cynthia Avakian, Airport Commission
Micki Callahan, Human Resources Director
Leorah Dang, Department of Human Resources
Jaci Fong, Office of Contract Administration
William Lee, Department of Emergency Management
Lucy Palileo, Department of Human Resources
Merrick Pascual, Mayor's Office of Economic & Workforce Development
Ben Rosenfield, Controller
Shawn Wallace, San Francisco Police Department
Commission File
Chron

POSTING FOR
10/1/2012

PROPOSED PERSONAL SERVICES CONTRACTS
MODIFICATION TO INCREASE CONTRACT AMOUNT/DURATION

PSC No	Dept No	Dept Description	Approval Type	Modified Amount	Cumulative Total	Description of Work	Start Date - End Date
3013-11/12	21	Business, Economic Development	Regular	\$100,000	\$149,900	The consultant will increase capacity with OEWD grantees who operate the City's One Stop Career Link Centers. Contractor's work will be focused on sector-based training research, including sectors in demand and performance of training providers currently on the State's Eligible Training Provider Listing. Consultants will conduct technical assistance and training with One-Stop staff, Sector Academy Staff, and and/or OEWD staff on research, best practices, high performing training providers, and growth industries/sectors to ensure that all parties can assist Workforce Investment Act program participants to make informed choices about training options. The consultant will assist in overseeing the implementation of any program or operational changes and may also facilitate partnerships.	8/24/2011 - 1/23/2013
4164-09/10	38	Police	Regular	\$2,800,000	\$4,300,000	The control substance testing consists of, but is not limited to, maintaining a chain-of-custody, weighing or measuring, testing, analysis, documenting, completing reports of controlled substances. The work includes interaction with investigators, the District Attorney's Office & offering expert court testimony. Testing is performed through chemical & scientific process within ASCLAD standards.	11/1/2010 - 2/28/2017
4165-09/10	38	Police	Regular	\$900,000	\$2,900,000	The DNA Testing that the SPPD is requesting for contract consists of extracting and testing samples of DNA-containing substances. The substance must be identified, confirmed as a DNA-containing substance, extracted, and DNA stains and markers identified. Substances are tested through chemical and scientific processes. The cases that would be sent out for contract are those that current staffing has been unable to address. This will be an interim solution until new staff are recruited and trained.	11/1/2010 - 9/30/2013

Sum of Modified Amounts: \$3,800,000

3. DESCRIPTION OF REQUIRED SKILLS/EXPERTISE

A. Specify required skills and/or expertise:

A thorough and complete knowledge of DNA extraction and testing in order to conduct case work. Employees must go through a skills testing and certification process that can take up to 12-18 months to complete in order to work on cases. These skills include identification and confirmation as a DNA-containing substance, extraction, and isolation of DNA strains and markers. Substances are tested through chemical and scientific processes. Chemical testing and analysis of suspected DNA-containing substances, ability to isolate DNA markers, and a thorough working knowledge of scientific principles.

B. Which, if any, civil service class normally performs this work?

Classifications 8262 Criminalist III and 8260 Criminalist II perform this work. Class 8259 Criminalist I might also be able to do some of the work.

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:

Possibly. It is not a requirement for the contract, but if a contractor has higher-quality equipment at a comparable price to other contractors, the City would benefit from selection of that contractor.

4. WHY CLASSIFIED CIVIL SERVICE CANNOT PERFORM

A. Explain why civil service classes are not applicable:

This contract will be used only as a backup in case the Police Department runs into a backlog and an emergency rush order situation.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.

No. The current classifications are sufficient for this work.

5. ADDITIONAL INFORMATION (if "yes," attach explanation)

A. Will the contractor directly supervise City and County employees?

Yes No

B. Will the contractor train City and County employees?

- Describe the training and indicate approximate number of hours.
- Indicate occupational type of City and County employees to receive training (i.e., clerks, civil engineers, etc.) and approximate number to be trained.

C. Are there legal mandates requiring the use of contractual services?

D. Are there federal or state grant requirements regarding the use of contractual services?

E. Has a board or commission determined that contracting is the most effective way to provide this service?

F. Will the proposed work be completed by a contractor that has a current personal services contract with your department? Orchid Cellmark Inc.

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD:

Shawn T. Wallace

Signature of Departmental Personal Services Contract Coordinator

Officer Shawn Wallace #1104

553-1096

Print or Type Name

Telephone Number

850 Bryant Street

San Francisco, Calif. 94103

Address

Meet #2
Similar

Civil Service Commission Meeting Minutes

Regular Meeting of November 5, 2012

0377-12-1 Proposed Civil Service Commission Meeting Schedule for Calendar Year 2013.
(Item No. 11)

Speakers: None.

Action: Adopted the report. (Vote of 3 to 0)

0345-12-8 Follow-Up report from IFPTE Local 21 and the San Francisco Police Department on the conditional approval of Personal Services Contract #4165-09/10. (Item No. 12)

PSC#	Department	Amount	Type of Service	Type of Approval	Duration
4165-09/10	Police	Current Approved Amount \$2,000,000 Increase Amount Requested \$900,000 New Total Amount Requested \$2,900,000	The DNA Testing that the SFPD is requesting for contract consists of extracting and testing samples of DNA-containing substances. The substance must be identified, confirmed as a DNA-containing substance, extracted, and DNA stains and markers identified. Substances are tested through chemical and scientific processes. The cases that would be sent out for contract are those that current staffing has been unable to address. This will be an interim solution until new staff are recruited and trained.	Modification	09/30/13

October 1, 2012: Adopted the report; Approved the request for approval of PSC #4165-09/10 on the condition that a joint report by IFPTE Local 21 and the San Francisco Police Department be submitted at the meeting of November 5, 2012. (Vote of 4 to 0)

Speakers: Captain Louis Cassanego, San Francisco Police Department
Kim Carter, IFPTE Local 21

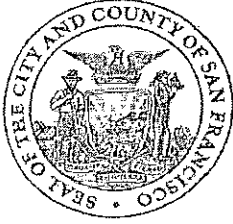
Action: Adopted the report. The San Francisco Police Department and IFPTE Local 21 will submit a joint report in May 2013.
(Vote of 3 to 0)

COMMISSIONERS' ANNOUNCEMENTS/REQUESTS (Item No. 13)

None.

ADJOURNMENT (Item No. 14)

2:59 p.m.



Civil SERVICE COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

CIVIL SERVICE COMMISSION REPORT TRANSMITTAL (FORM 22)

Refer to Civil Service Commission Procedure Number Two for Instructions on
Completing and Processing this Form

1. Civil Service Commission Register Number: 4164 - 09/10 -

2. For Civil Service Commission Meeting of: November 5, 2012

3. Check One:
Ratification Agenda
Consent Agenda
Regular Agenda XXX
Human Resources Directors Report

4. Subject: Personal Services Contract -- DNA Testing

5. Recommendation: Approval

6. Report prepared by: Capt. Louis Cassanego Telephone number: 553-1122

7. Notifications: **Kate Favetti, President; Scott R. Heldfond, Vice President;
Mary Y. Jung, Commissioner; E. Dennis Normandy,
Commissioner; Jennifer C. Johnston, Executive Director**

8. Reviewed and approved for Civil Service Commission Agenda:

Human Resources Director:

Date:

9. Submit the original time-stamped copy of this form and person(s) to be notified
(see Item 7 above) along with the required copies of the report to:

Executive Officer
Civil Service Commission
25 Van Ness Avenue, Suite 720
San Francisco, CA 94102

10. Receipt-stamp this form in the ACSC RECEIPT STAMP box to the right using the time-stamp in the CSC Office.

CSC RECEIPT STAMP

Attachment

Katie Favetti, President
Scott R. Heldfond, Vice President
Mary Y. Jung, Commissioner
E. Dennis Normandy, Commissioner
Jennifer C. Johnston, Executive Director

Memorandum

San Francisco Police Department



To: Deputy Chief Lyn Tomioka
Administration Bureau

From: Captain Louis A. Cassanego
Forensic Services Division

Date: Thursday, October 25, 2012

Subject: Semi-annual Report to the Civil Service Commission
Regarding the Personal Services Contract #4165-09/10 - DNA Testing

APPROVED YES NO
[Signature]
THOMAS P. CLEARY #721
A/C CAPTAIN [Signature]
GREGORY P. SUIR
Chief of Police

Issue:

On June 24, 2010, the Civil Service Commission approved Personal Services Contract #4165-09/10 for DNA Testing on the conditions that:

- 1) the processing through normal hiring procedures of additional criminalists to perform DNA testing work in the Police Department's crime lab move forward;
- 2) the Police Department and IFPTE Local 21 discuss the long range plans for DNA testing in the Police Department's crime lab; and,
- 3) both parties report back to the commission every six (6) months during the term of the DNA testing contract. Notify the Office of the Controller and the Office of Contract Administration.

The San Francisco Police Department submitted a Personal Services Contract renewal on October 1, 2012. The Commission inquired as to the status of the conditions as stated above, since they never received a report.

This memorandum is submitted to address and fulfill these three conditions for the Commission's November 5, 2012 meeting.

Discussion:

Responses to each of the three above stated conditions are as follows:

- 1. The Police Department has increased its staff significantly from mid-2011 of one DNA supervisor and four DNA criminalists to the present day of two DNA supervisors and thirteen DNA criminalists. The Department has requested in its 2012 Budget for an additional DNA supervisor and three criminalists and will be moving forward to hire these positions.

- DNA testing will continue to be a foundation at the Crime Lab. The work has proven beneficial to the justice system to solve crimes and punish the guilty. DNA can also be used to provide exculpatory evidence to exonerate the innocent. As more criminalists become fully trained and more criminalists are hired, the need for outsourcing will greatly diminish.

Below is a table of outsourced cases and costs presented in a quarterly basis. Except for the quarter of April-June 2012, outsourced cases have steadily decreased, proving the fact that our criminalists are successfully shouldering the workload.

Table 1

Quarter	Seri Cases	Seri Costs	Orchid Cases	Orchid Costs	Total Cases	Total Costs
July-Sept 2010	54	\$332,225.00	0	0	54	\$332,225.00
Oct-Dec 2010	129	\$141,437.00	0	0	129	\$141,437.00
Jan-March 2011	143	\$265,863.00	0	0	143	\$265,863.00
April-June 2011	71	\$307,100.50	0	0	71	\$307,100.50
July-Sept 2011	62	\$268,631.00	0	0	62	\$268,631.00
Oct-Dec 2011	11	\$211,650.00	36	\$31,370.00	47	\$243,020.00
Jan-March 2012	3	\$77,025.00	54	\$72,225.00	57	\$149,250.00
April-June 2012	7	\$10,150.00	68	\$209,645.00	75	\$219,795.00
July-Sept 2012	5	\$12,028.00	35*	\$41,600.00*	40*	\$53,628.00*

*September 2012 Orchid-Cellmark cases not completed.

- It is the intent of the Department and Local 21 to report back every six months during the term of the DNA testing contract. The contract sunsets in September 2013. The next report will be issued in May 2013.

Union Local 21

Union Local 21 Representative Kim Carter has requested five points to be included in this report.

- Total number of outsourced cases and costs.
- The number of fully trained DNA Criminalists compared to non-fully trained DNA Criminalists.
- The size limitation of the new Crime Lab facility compared to the number of DNA staff.
- The present situation and plans of the new Crime Lab facility.
- The addition of a laboratory technician for the DNA Unit.

Responses are as follows:

1. The total number of outsourced cases and costs are represented in Table 1.
2. The DNA Unit has:
 - a. Two DNA supervisors (Criminalist III),
 - b. Ten trained criminalists (Criminalist II), and
 - c. Three not fully trained criminalists (Criminalist I).

Of the ten Criminalist IIs, five are completing their training and proficiency tests for new technologies which will be fully implemented by early next year. The new technologies are the Identifiler Chemistry Kit, the 3130 Instrument and the Genemapper.

Table 2 represents all the criminalists and their statuses.

Table 2

Criminalist III	Criminalist II	Criminalist II	Criminalist I
Supervisor	Fully Trained	New Technology Training	Not Fully Trained
Boland Salmon	Dunbar Jackson Mead Sylvester Walicki	Barkwill Burg Kilpatrick Newton Rigley	Cowan Chukwujindu Ha

3. The San Francisco Police Department has projected a capacity of forty DNA criminalists by the year 2027. The exact number is in negotiation with the Department of Public Works (DPW), since there is a balance between staffing numbers and the cost of the facility. DPW is aware of the projected demands on the Crime Lab and should accommodate our needed capacity.
4. The Crime Lab cannot stay at its present location at the Hunter's Point Naval Shipyards indefinitely. The Police Department has been working with the Department of Public Works to find a new location for the Crime Lab. We have explored existing buildings in the mid-Market corridor, undeveloped land in the Bayview neighborhood and even a different building within the naval shipyard.

At this time, the Department is looking at the old Parisian Bakery site at 1995 Evans. It offers 89,200 square feet footprint of buildable area. Chief Suhr has authored a letter to Chief Administrator Steve Kawa of our interest in the site

(attached). The Chief has also met with Mr. Kawa and his staff on September 25, 2012 to discuss the possibility to locate the Crime Lab at the Evans Avenue location.

I have met with DPW on several occasions. I was offered a very preliminary view of a building footprint design (attached). The project is subject to a future bond measure to be voted upon by the City's residents, probably in the fall of 2014. Therefore, the Department, the City Administrator's Office and DPW are planning to move forward in anticipation of the bond's passage.

5. The Department is exploring the possibility of transferring a Criminalist I (8259) requisition to a Laboratory Technician I (2402). This would free a criminalist to focus on DNA work rather than stocking supplies and mixing re-agents. I have worked with DNA Unit members to draft a requisition with a special condition.

Conclusion:

I conclude the Department has successfully complied with the three conditions as set forth by the Civil Service Commission and addressed the five points requested by Union Local 21.

Recommendation:

I recommend this memorandum be approved and submitted to the Civil Service Commission for their adoption by October 26, 2012 for their November 5, 2012 meeting.

Attachments:

CSC Form 22
Civil Service Commission Memorandum Dated June 24, 2010
Letter to City Administrator Steve Kawa
Preliminary Crime Lab Footprint Design

41165-09/10 Mod#3
Similar

City and County of San Francisco

Department of Human Resources

PERSONAL SERVICES CONTRACT SUMMARY ("PSC FORM 1")

Department: POLICE Dept. Code: POL

Type of Request: Initial Modification of an existing PSC (PSC # 4165-09/10)

Type of Approval: Expedited Regular (Omit Posting)

Type of Service: Orchid Cellmark

Funding Source: General Fund

PSC Original Approved Amount: \$2,000,000

PSC Original Approved Duration: 11/01/10 - 06/30/12 (1 year 34 weeks)

PSC Mod#1 Amount: no amount added

PSC Mod#1 Duration: 07/01/12-03/31/13 (39 weeks 1 day)

PSC Mod#2 Amount: \$900,000

PSC Mod#2 Duration: 04/01/13-09/30/13 (26 weeks 1 day)

PSC Mod#3 Amount: no amount added

PSC Mod#3 Duration: 10/01/13-03/31/14 (26 weeks)

PSC Mod#4 Amount: _____

PSC Mod#4 Duration: _____

PSC Cumulative Amount Proposed: \$2,900,000

PSC Cumulative Duration Proposed: 3 years 21 weeks

1. Description of Work

A. Scope of Work:

The desoxyribonucleic acid (DNA) testing that the San Francisco Police Dept. (SFPD) is requesting for contract consist of extracting and testing samples of DNA- containing substances. The substance must be identified, confirmed as a DNA- containing substance, extracted and DNA strains and substances. Substances are tested through chemical and scientific processes. The cases that would be sent out for contract are those that current staffing has been unable to address. This will be an interim solution until new staff are recruited and trained.

B. Explain why this service is necessary and the consequence of denial:
PLEASE SEE ORIGINAL PSC

C. Has this service been provided in the past. If so, how? If the service was provided via a PSC, provide the most recently approved PSC # and upload a copy of the PSC.
Services have been provided in the past through earlier PSC request. See 4165-09/10

D. Will the contract(s) be renewed? Unknown

2. Union Notification: On 11/20/13, the Department notified the following employee organizations of this PSC/RFP request: Architect & Engineers, Local 21;

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# 4165-09/10

DHR Analysis/Recommendation:

Civil Service Commission Action:

Commission Approval Not Required

Approved by DHR on 12/04/2013

217

3. Description of Required Skills/Expertise

A. Specify required skills and/or expertise:

A thorough and complete knowledge of DNA extraction and testing in order to conduct case work is needed. Employees must go through a skills testing and certification process that can take up to 12-18 months to complete in order to work on cases. These skills include identification and confirmation as a DNA-containing substances, extraction, and isolation of DNA strains and markers. Substances are tested through chemical and scientific processes. Chemical testing and analysis of suspected DNA containing substances,

B. Which, if any, civil service class(es) normally perform(s) this work?
8260,

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:
Possibly, it is not a requirement for the contract, but if a contractor has higher-quality equipment at a comparable price to other contractors, the City would benefit from selection of that contractor.

4. Why Classified Civil Service Cannot Perform

A. Explain why civil service classes are not applicable:

There is a backlog of cases requiring DNA testing that SFPD needs to resolve and their current staffing levels will not allow for resolution of this backlog until additional positions are filled.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.
No. The current classification are sufficient for this work.

5. Additional Information (if "yes", attach explanation)

YES NO

- A. Will the contractor directly supervise City and County employee? YES NO
- B. Will the contractor train City and County employee? YES NO
- C. Are there legal mandates requiring the use of contractual services? YES NO
- D. Are there federal or state grant requirements regarding the use of contractual services? YES NO
- E. Has a board or commission determined that contracting is the most effective way to provide this service? YES NO
- F. Will the proposed work be completed by a contractor that has a current PSC contract with your department? YES NO

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD
ON 11/20/13 BY:

Name: Joseph Valdez Phone: 415-734-3254 Email: joe.valdez@sfgov.org

Address: 850 Bryant St Rm. 577-17 San Francisco, CA

PERSONAL SERVICES CONTRACT SUMMARY ("PSC FORM 1")

Department: PUBLIC UTILITIES COMMISSION -- PUC (SFPUC) MW Dept. Code: PUC

Type of Request: [X] Initial [] Modification of an existing PSC (PSC # _____)

Type of Approval: [] Expedited [X] Regular [] Omit Posting

Type of Service: Technical Support & Maintenance Service - Digital Wall (CS-357)

Funding Source: 525GG Operations Budget PSC Duration: 3 years 1 day
PSC Amount: \$500,000 PSC Est. Start Date: 01/06/2014 PSC Est. End Date: 01/06/2017

1. Description of Work

A. Scope of Work:

The Digital Arts Wall is used to showcase and educate the public on the SFPUCs Water, Power and Sewer systems as well as provide real-time information about building performance relating to energy and water efficiency. This helps fulfill a Leadership Energy Environmental Design (LEED) requirement to incorporate educational components related to sustainability into a LEED certified building. Contractor will provide support and ongoing maintenance of the \$1.2M Digital Arts Wall located at 525 Golden Gate Ave. The Digital Arts Wall consists of (160) Christie Microtiles which provide a seamless digital video canvas with a resolution of 24,000 x 1,800.

B. Explain why this service is necessary and the consequence of denial:

The proprietary software operating the Digital Arts Wall requires regular software updates/maintenance/fixes to prevent service interruption or loss of functionality. Currently, the Digital Arts Wall is in a partially functional state due to lack of software maintenance - only 1 of 4 applications is functional. Denial of this service agreement will prevent the SFPUC from regaining full functionality of the Digital Arts Wall.

C. Has this service been provided in the past. If so, how? If the service was provided via a PSC, provide the most recently approved PSC # and upload a copy of the PSC. This service hasn't been provided in the past.

D. Will the contract(s) be renewed? This is a new service agreement.

2. Union Notification: On 12/02/2013, the Department notified the following employee organizations of this PSC/RFP request: all unions were notified

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# 45090 - 13/14

DHR Analysis/Recommendation:

Commission Approval Required

DHR Approved for 02/03/2014

Civil Service Commission Action:

3. Description of Required Skills/Expertise

A. Specify required skills and/or expertise:

Requires Christie Authorized service technician to perform Christie Microtile maintenance which includes but is not limited to; Microtile screen and housing cleaning, source lamp alignment and color calibration and firmware updates.

B. Which, if any, civil service class(es) normally perform(s) this work?
none,

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:
No.

4. Why Classified Civil Service Cannot Perform

A. Explain why civil service classes are not applicable:

Civil service classes are not applicable because a proprietary software framework used to operate the Digital Arts Wall.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.

This would not be practical or possible since the technology used to operate the Digital Arts Wall is intellectual property and they do not license their software for commercial use or development outside of their organization.

5. Additional Information (if "yes", attach explanation)

	<u>YES</u>	<u>NO</u>
A. Will the contractor directly supervise City and County employee?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
B. Will the contractor train City and County employee?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
C. Are there legal mandates requiring the use of contractual services?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
D. Are there federal or state grant requirements regarding the use of contractual services?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
E. Has a board or commission determined that contracting is the most effective way to provide this service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
F. Will the proposed work be completed by a contractor that has a current PSC contract with your department?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD ON 01/08/2014 BY:

Name: Shamica Jackson Phone: 415-554-0727 Email: SJackson@sfgwater.org

Address: 525 Golden Gate Avenue, 8th Floor San Francisco, CA

Receipt of Union Notification(s)

◆ All Unions

Dang, Leorah

From: dhr-psccordinator@sfgov.org
Sent: Monday, December 02, 2013 11:24 AM
To: Jackson, Shamica; rmittchell@twusf.org; grojo@local39.org; jduritz@uapd.com; staff@sfmea.com; mike@dc16.us; khughes@ibew6.org; L21PSCReview@ifpte21.org; jebrenner@ifpte21.org; david.canham@seiu1021.org; joe.tanner@seiu1021.net; Larry.Bradshaw@seiu1021.org; L21PSCReview@ifpte21.org; LiUNA.local261@gmail.com; local200twu@sbcglobal.net; jvannucchi@sbcglobal.net; camaguey@sfmea.com; dwilson1877@yahoo.com; tiya.thlang@seiu1021.org; Jackson, Shamica; DHR-PSCCoordinator, DHR; Isen, Richard
Subject: Receipt of Notice for new PCS over \$100K PSC # 45090 - 13/14

RECEIPT for Union Notification for PSC 45090 - 13/14 more than \$100k

The PUBLIC UTILITIES COMMISSION -- PUC has submitted a request for a Personal Services Contract (PSC) 45090 - 13/14 for \$500,000 for Initial Request services for the period 01/06/2014 -- 01/06/2017. Notification of 30 days (60 days for SEIU) is required.

After logging into the system please select link below, view the information and verify receipt:

<http://apps.sfgov.org/dhrdrupal/node/822>

Email sent to the following addresses:

Modification
Personal Services Contracts

Blank Page

PERSONAL SERVICES CONTRACT SUMMARY

DATE: 10/28/13
 DEPARTMENT NAME: Department of Public Health (DPH) MW DEPARTMENT NUMBER 81

TYPE OF APPROVAL: EXPEDITED REGULAR (OMIT POSTING _____)
 CONTINUING ANNUAL

TYPE OF REQUEST: INITIAL REQUEST MODIFICATION (PSC# 4045-04/05)

TYPE OF SERVICE: Reimbursement and revenue optimization services

FUNDING SOURCE: DPH-Community Health Network Funds

PSC AMOUNT:	<u>\$1,300,000 or \$260,000 per year (5 yrs)</u>	PSC DURATION:	<u>4/1/05-3/31/10</u>
Mod AMOUNT: #1	<u>\$ 0 (fees only; see 1.A.) (4 yrs)</u>	PSC DURATION: #1	<u>4/1/10-3/31/14</u>
PSC AMOUNT:	<u>\$1,300,000 (fee only; see 1.A.) (9 yrs)</u>	PSC DURATION:	<u>4/1/05-3/31/14</u>
Mod AMOUNT: #2	<u>\$2,500,000 (fee only; see 1.A.) (5 yrs)</u>	PSC DURATION: #2	<u>4/1/14-3/31/19</u>
PSC AMOUNT:	<u>\$3,800,000 (fee only; see 1.A.) (14 yrs)</u>	PSC DURATION:	<u>4/1/05-3/31/19</u>

I. DESCRIPTION OF WORK

- A. Concise description of proposed work:
- Contractor will generate highly specialized step-down cost reports to allocate administrative and other costs to revenue-generating units of San Francisco General Hospital, Laguna Honda Hospital, and the Health At Home program. Contractor will work with Federal Intermediaries and State Agencies when reports are audited. Contractor will provide interpretation and analysis of new and proposed Medicare and Medi-cal regulations affecting reimbursement and optimize DPH's revenues and reimbursements within the regulations and instructions of Medicare, Medi-cal and other third party insurers.
 - Contractor will pursue Medicare and Medi-cal appeals, as necessary, related to filed cost reports.. including those formed prior to and during the length of this agreement.

B. Explain why this service is necessary and the consequences of denial:
 These services enable DPH to file annual cost reports to third party insurers and maximize its revenues from non-City revenue sources, as well as determining DPH's Medicare and Medi-Cal disproportionate share payments. The services will enable DPH to join in statewide and national Medicare and Medi-Cal appeals which we would not otherwise be able to do, resulting in significant potential increase in revenues. Denial of services could result in lost revenue and reduction of services to the City.

C. Explain how this service has been provided in the past (if this service was previously approved by the Civil Service Commission, indicate most recent personal services contract approval number):

These services were previously approved under PSC#4045-04/05.

D. Will the contract(s) be renewed: Yes. MW

2. UNION NOTIFICATION: Copy of this summary is to be sent to employee organizations as appropriate (refer to instructions for specific procedures):

<input checked="" type="checkbox"/> SEIU Local 1021 Union Name	<u>Jacquie Hale</u> Jacquie Hale <i>mw</i> Signature of person mailing/faxing form	<u>October 28, 2013</u> Date
<input checked="" type="checkbox"/> IFPTE Local 21 Union Name	_____ Signature of person mailing/faxing form	<u>October 28, 2013</u> Date
RFP sent to <u>SEIU Local 1021 & IFPTE Local 21</u> Union Name	<u>September 25, 2013</u> Date	<u>Junko Craft</u> Signature

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# 4045-04/05
 STAFF ANALYSIS/RECOMMENDATION: Approved MW 1/16/2014

CIVIL SERVICE COMMISSION ACTION:

CIVIL SERVICE COMMISSION ACTION:

3. DESCRIPTION OF REQUIRED SKILLS/EXPERTISE

A. Specify required skills and/or expertise:

At least 8 years of experience in the health care industry, working with governmental teaching hospitals and Medicare and Medi-Cal cost-report regulatory issues is required, because changes in regulations and rulings on the interpretation of these regulations can reach back seven years and be retroactive. At least 5 years of extensive experience in all aspects of financial accounting in the health care industry is necessary to perform the services.

B. Which, if any, civil service class normally performs this work?

No current classes perform this work. If classes were to be utilized for this work, they would likely be managerial classes such as 0955 Deputy Director V, 0943 Manager VII, and/or 0923 Manager II.

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:

No.

4. WHY CLASSIFIED CIVIL SERVICE CANNOT PERFORM

A. Explain why civil service classes are not applicable:

The services require technical expertise to generate Federal and State step-down, cost reports. The regulations change frequently and it is more practical to have a large team of high-level, highly specialized experts to be available as specific regulatory needs and questions arise. Also, the services allow DPH to join with other hospitals and jurisdictions both statewide and nationally in order to appeal Medicare and Medi-Cal regulations and decisions, which the City would not have the resources to do otherwise.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.

No. The work is intermittent and requires specialized knowledge and expertise.

5. ADDITIONAL INFORMATION (if "yes," attach explanation)

A. Will the contractor directly supervise City and County employees?

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>

B. Will the contractor train City and County employees?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

- Describe the training and indicate approximate number of hours.
- Indicate occupational type of City and County employees to receive training (i.e., clerks, civil engineers, etc.) and approximate number to be trained.

C. Are there legal mandates requiring the use of contractual services?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

D. Are there federal or state grant requirements regarding the use of contractual services?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

E. Has a board or commission determined that contracting is the most effective way to provide this service?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

F. Will the proposed work be completed by a contractor that has a current personal services contract with your department? *Contractor at time of initial PSC was Toyon Intl*

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD:

Jacquie Hale
 Signature of Departmental Personal Services Contract Coordinator

Jacquie Hale

Print or Type Name

(415) 554-2609

Telephone Number

101 Grove Street, Room 307

San Francisco, CA 94102

Address

Receipt of Union Notification(s)

◆ **Local 1021**

◆ **Local 21**



Junko Craft/DPH/SFGOV
10/28/2013 01:17 PM

To pattie.tamura@seiu1021.org, ed.warshauer@seiu1021.org,
brook.demmerie@seiu1021.org, l21pscreview@sfple21.org
cc Yvonne Eckhoff, Jacquie Hale/DPH/SFGOV@SFGOV

bcc

Subject PSC4045-04/05

On behalf of: Jacquie Hale, Director of Contract Management and Compliance, Please find attached a draft of the following Personal Services Contract Summaries, which we plan to request for calendaring on the January 8, 2014, Civil Service Commission meeting agenda:



PSC4045-0405 Reimb Rev Optimzn Svcs to unions 10-28-13.pdf

thanks

Junko Craft, Contract Analyst
Office of Contract Management & Compliance
City and County of San Francisco
Department of Public Health
1380 Howard Street, Room 419c
San Francisco, CA 94103
Telephone (415) 255-3543
Fax (415) 252-3088



"Rebecca Rhine"
<rebecca@sfmea.com>
11/06/2013 08:11 PM

To "Junko Craft" <Junko.Craft@sfdph.org>
cc
bcc

Subject RE: PSC 4045-04/05 Reimbursement and Revenue Optimization Services

History: This message has been forwarded.

Not necessary. Thank you for the clarification.

Rebecca

-----Original Message-----

From: Junko Craft [mailto:Junko.Craft@sfdph.org]
Sent: Tuesday, November 05, 2013 2:20 PM
To: Rebecca Rhine
Cc: 'Jacquie Hale'; raquel@sfmea.com; 'Yvonne Eckhoff'
Subject: RE: PSC 4045-04/05 Reimbursement and Revenue Optimization Services

Hi, Rebecca,

Thanks for reviewing the PSC promptly.

This is on-going program with a new contract as the current contract will be expired. Understand that DHR would like us to indicate "Modification" as we are adding additional amount to the PSC, rather than creating a new PSC for a new contract.

The answer to 1D is Yes. Should we resend the document to you? Please let us know.

Junko Craft, Contract Analyst
Office of Contract Management & Compliance
City and County of San Francisco
Department of Public Health
1380 Howard Street, Room 419c
San Francisco, CA 94103
Telephone (415) 255-3543
Fax (415) 252-3088

"Rebecca Rhine"
<rebecca@sfmea.com>
11/05/2013 01:32 PM

"Junko Craft"
<Junko.Craft@sfdph.org>,
<raquel@sfmea.com>

To

cc

"Jacquie Hale"
<Jacquie.Hale@sfdph.org>," Yvonne Eckhoff"
<Yvonne.Eckhoff@sfdph.org>

Subject

RE: PSC 4045-04/05 Reimbursement and Revenue Optimization Services

Is the modification on the term?

Question 1D was not answered.

Rebecca

Rebecca Rhine
Executive Director
Municipal Executives Association
870 Market Street, Suite 840
San Francisco, CA 94102
(415) 989-7244 phone
(415) 989-7077 fax

-----Original Message-----

From: Junko Craft [mailto:Junko.Craft@sfdph.org]
Sent: Tuesday, November 05, 2013 1:15 PM
To: Rebecca@sfmea.com; raquel@sfmea.com
Cc: Jacquie Hale; Yvonne Eckhoff
Subject: PSG 4045-04/05 Reimbursement and Revenue Optimization Services

On behalf of: Jacquie Hale, Director of Contract Management and Compliance,
Please find attached Personal Services Contract Summaries, which we plan to
request for calendaring on the January 6, 2014, Civil Service Commission
meeting agenda:

(See attached file: 4045-0405 Reimb Rev Optmzn Svcs - MEA.pdf)

thanks

Junko Craft, Contract Analyst
Office of Contract Management & Compliance City and County of San Francisco
Department of Public Health 1380 Howard Street, Room 419c San Francisco, CA
94103 Telephone (415) 255-3543 Fax (415) 252-3088

Department's Letter of Explanation

- **Proposed PSC requesting 5 years or more**




City and County of San Francisco

San Francisco Department of Public Health

Barbara A. Garcia, MPA
Director of Health

DATE: January 14, 2014

TO: Jennifer Johnston, Executive Officer, Civil Service Commission

FROM: Jacquie Hale, Director, DPH Office of Contracts Management and Compliance 

RE: Request for Approval of Modification to PSC 4045-04/05, Reimbursement and Revenue Optimization Services for an additional Five Years

We have requested that the above-referenced Personal Services Contract (PSC) be calendared for approval by the Civil Service Commission at its next meeting.

Please note that we expect the need for these services to continue. The most recent competitive solicitation conducted for these services provided for a maximum contract term of eight years, as well as language which allows DPH to conduct another RFP within those eight years, at its discretion, to solicit services from additional providers.

We understand that the marketplace is especially changeable at this time due to the implementation of the Affordable Care Act, and we will be reviewing the need for the specific services described in this PSC as we proceed with our implementation of the Act in San Francisco. We are aware that should the scope of work change significantly, we would be required to request further approval to modify this PSC.

I hope this provides the information needed. If you need more information, please do contact me.

Thank you for your time and consideration.

/jh

cc: Valerie Inouye, DPH Deputy Chief Financial Officer

The mission of the San Francisco Department of Public Health is to protect and promote the health of all San Franciscans.
We shall ~ Assess and research the health of the community ~ Develop and enforce health policy ~ Prevent disease and injury ~
~ Educate the public and train health care providers ~ Provide quality, comprehensive, culturally-proficient health services ~ Ensure equal access to all ~

Jacquie.hale@sfdph.org – office 415-554-2509 fax 415 554-2555
101 Grove Street, Room 307, San Francisco, CA 94102

Additional Attachment(s) of Explanation

◇ **Section 1. Description of Work**

**1C. Has this service been provided in the past. If so, how?
If the service was provided via a PSC, provide the most
recently approved PSC # and upload a copy of the PSC.**

PSC #4045-04/05

- **Prior CSC Notice of Action – Mod1 - Current**
- **Prior PSC Form 1–Mod1 - Current**

4045-04/05
Mod #1



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

GAVIN NEWSOM
MAYOR

May 5, 2010

MORGAN R. GORRONO
PRESIDENT

E. DENNIS NORMANDY
VICE PRESIDENT

DONALD A. CASPER
COMMISSIONER

MARY Y. JUNG
COMMISSIONER

ANITA SANCHEZ
EXECUTIVE OFFICER

NOTICE OF CIVIL SERVICE COMMISSION ACTION

SUBJECT: REVIEW OF REQUEST FOR APPROVAL OF PROPOSED PERSONAL SERVICES CONTRACT NUMBERS 4126-09/10 THROUGH 4131-09/10; 4001-05/06 AND 4045-04/05.

At its meeting of **May 3, 2010** the Civil Service Commission had for its consideration the above matter.

PLEASE NOTE: *It is important that a copy of this action be kept in the department files as you will need it in the future as proof of Civil Service Commission approval. Please share it with everyone responsible for follow-up.*

It was the decision of the Commission to: Approve request for proposed personal services contracts. Notify the offices of the Controller and the Office of Contract Administration.

If this matter is subject to Code of Civil Procedure (CCP) Section 1094.5, the time within which judicial review must be sought is set forth in CCP Section 1094.6.

CIVIL SERVICE COMMISSION

ANITA SANCHEZ
Executive Officer

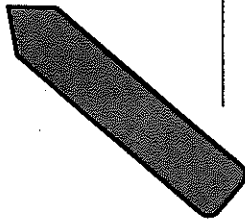
Attachment

- c: Cynthia Avakian, Airport Commission
- Parveen Boparai, Municipal Transportation Agency
- Micki Callahan, Human Resources Director
- Jacque Hale, Department of Public Health
- Shamica Jackson, Public Utilities Commission
- Naomi Kelly, Office of Contract Administration
- Florence Kyaun, Public Utilities Commission
- Sean McFadden, Recreation and Parks Department
- Mary Ng, Department of Human Resources
- Ben Rosenfield, Controller
- Shawn Wallace, San Francisco Police Department
- Commission File
- Chron

POSTING FOR
5/3/2010

PROPOSED PERSONAL SERVICES CONTRACTS
MODIFICATION TO INCREASE CONTRACT AMOUNT/DURATION

DeptNo	PSC No	Dept Description	Approval Type	Change	Contract Amount	Description of Work	Duration
27	4001-05/06	Airport Commission	Modification	\$75,000	\$487,500	Will provide on-going, coordinated communications with the Bay Area Congressional delegation in Washington, D.C., on matters relating to the Airport. This modification will allow the Airport to exercise the final one-year option to the existing contract.	6/30/2011
81	4045-04/05	Public Health	Modification	\$0	\$1,300,000	Will generate highly specialized step-down cost reports to allocate administrative and other costs to revenue-generating units of San Francisco General Hospital, Laguna Honda Hospital, and the Health At Home program, as well as financial consultation services for specific areas of hospital operations, in order to optimize DPH's revenues and reimbursements within the regulations and instructions of Medicare, Medi-Cal and other third-party insurers. New services under this modification will include advising and including SFGH in Medicare group appeal issues.	3/31/2014



4045-04/05
Mod #1

PERSONAL SERVICES CONTRACT SUMMARY

DATE: March 31, 2010; rev. Apr. 6, 2010

DEPARTMENT NAME: Department of Public Health DEPARTMENT NUMBER 81

TYPE OF APPROVAL: EXPEDITED REGULAR (OMIT POSTING _____)
 CONTINUING ANNUAL

TYPE OF REQUEST:
 INITIAL REQUEST MODIFICATION (PSC# 4045-04/05)

TYPE OF SERVICE: Reimbursement and revenue optimization services

FUNDING SOURCE: DPH Community Health Network (CHNB) funds

PSC AMOUNT:	<u>\$1,300,000 or \$260,000 per year (5 yrs.)</u>	PSC DURATION:	<u>4/1/05-3/31/10</u>
Mod. Amount:	<u>\$ 0 (fees only; see 1.A.) (4 yrs.)</u>	PSC DURATION:	<u>4/1/10-3/31/14</u>
PSC AMOUNT:	<u>\$1,300,000 (fees only; see 1.A.) (9 yrs.)</u>	PSC DURATION:	<u>4/1/05-3/31/14</u>

1. DESCRIPTION OF WORK

A. Concise description of proposed work:

- Contractor will continue to generate highly specialized step-down cost reports to allocate administrative and other costs to revenue-generating units of San Francisco General Hospital, Laguna Honda Hospital, and the Health At Home program, as well as financial consultation services for specific areas of hospital operations, in order to optimize DPH's revenues and reimbursements within the regulations and instructions of Medicare, Medi-Cal and other third-party insurers.
- Contractor's fees average approximately 20% of total contract amount; the remainder is revenue. Revenues for the next 4 years are estimated to be \$3,600,000.
- New services under this modification will include advising and including SFGH in Medicare group appeal issue(s), including those formed prior to and during the length of this agreement.

B. Explain why this service is necessary and the consequences of denial:

These services enable DPH to file annual cost reports to third party insurers and maximize revenues from non-City revenue sources, as well as determining DPH's Medicare and Medi-Cal disproportionate share payments. The new services will enable DPH to join in statewide and national Medicare and Medi-Cal appeals which we would not otherwise be able to do, resulting in significant potential increase in revenues. Denial of Services could result in lost revenue and reduction of services to the City.

C. Explain how this service has been provided in the past (if this service was previously approved by the Civil Service Commission, indicate most recent personal services contract approval number):

These services were previously approved under PSC#4045-04/05.

D. Will the contract(s) be renewed:

2. **UNION NOTIFICATION:** Copy of this summary is to be sent to employee organizations as appropriate (refer to instructions for specific procedures):

X	<u>SEIU Local 1021</u> Union Name	<u>Jacquie Hale</u> Signature of person mailing/faxing form	<u>2/18/10</u> Date
X	<u>IFPTE Local 21</u> Union Name	<u>Jacquie Hale</u> Signature of person mailing/faxing form	<u>2/18/10</u> Date

RFP sent to	_____	_____	_____
	Union Name	Date	Signature

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# 4045-04/05

STAFF ANALYSIS/RECOMMENDATION: May 3, 2010

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PERSONAL SERVICES CONTRACT SUMMARY ("PSC FORM 1")

Department: GENERAL SERVICES AGENCY - PUBLIC WORKS Dept. Code: DPW

Type of Request: [] Initial [x] Modification of an existing PSC (PSC # 4063-11/12)

Type of Approval: [] Expedited [x] Regular ([] Omit Posting)

Type of Service: As - Needed Surveying Services

Funding Source: Interdepartmental Work Orders

PSC Original Approved Amount: \$1,200,000 PSC Original Approved Duration: 01/02/12 - 01/02/16 (4 years 1 day)
PSC Mod#1 Amount: \$600,000 PSC Mod#1 Duration: no duration added
PSC Mod#2 Amount: no amount added PSC Mod#2 Duration: 01/03/16-06/06/16 (22 weeks 1 day)
PSC Mod#3 Amount: \$3,600,000 PSC Mod#3 Duration: 06/07/16-01/02/20 (3 years 30 weeks)
PSC Mod#4 Amount: PSC Mod#4 Duration:
PSC Cumulative Amount Proposed: \$5,400,000 PSC Cumulative Duration Proposed: 8 years 2 days

1. Description of Work

A. Scope of Work:

As needed land surveying duties such as a single, 2-person or 3-person crew to assist with topographic, boundary and construction surveys, photogrammetric work, laser 3D scanner field and office assistance and training, Autocad Civil 3D drafting, help with special projects (monumentation, Geographic Information System (GIS) mapping, Global Position Satellite (GPS) network, etc.). Bureau of Street Use and Mapping (BSM) -- Surveying Services anticipate awarding up to 12 as-needed contracts, each not to exceed 5 years.

B. Explain why this service is necessary and the consequence of denial:

Services are needed to assist DPW-BSM on difficult or unique projects that require specialized expertise and skills. We anticipate that we will need additional assistance to meet scheduling demands when the workload exceeds department resources. Denial of this service could result in failure to meet client department requirements and project delays that could increase survey costs. Delays can also jeopardize or increase cost of projects. At present, the City does not own laser scanning equipment. A project that requires scanning must be provided by an outside service provider.

C. Has this service been provided in the past. If so, how? If the service was provided via a PSC, provide the most recently approved PSC # and upload a copy of the PSC.

Services have been provided in the past through earlier PSC request. See 4063-11/12

D. Will the contract(s) be renewed? Yes.

2. Union Notification: On 01/08/14, the Department notified the following employee organizations of this PSC/RFP request: Architect & Engineers, Local 21;

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# 4063-11/12

DHR Analysis/Recommendation:

Civil Service Commission Action:

Commission Approval Required

DHR Approved for 02/03/2014

3. Description of Required Skills/Expertise

A. Specify required skills and/or expertise:

Various levels of expertise depending on specific project. Expected needs include chain person, instrument person, licensed land surveyor, persons with experience in laser scanning, GPS, GIS and Autocad Civil 3D drafting.

B. Which, if any, civil service class(es) normally perform(s) this work?

5216,5314,5312,5310,

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:

Yes, they will supply additional surveying equipment (total stations, differential levels, GPS receivers, etc) and a laser 3D scanner.

4. Why Classified Civil Service Cannot Perform

A. Explain why civil service classes are not applicable:

Excessive fluctuating workloads. Services are needed to assist DPW-BSM on difficult or unique projects that require specialized expertise and skills. We anticipate that we will need additional assistance to meet scheduling demands when the workload exceeds department resources.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.

No, incoming survey work tends to fluctuate so there are times when we need to hire extra help to accommodate the overload. We do not want to turn work away due to lack of manpower. Also we often have large projects that are time sensitive requiring additional survey crews.

5. Additional Information (if "yes", attach explanation)

YES NO

- A. Will the contractor directly supervise City and County employee?
- B. Will the contractor train City and County employee?
See attached explanation.
- C. Are there legal mandates requiring the use of contractual services?
- D. Are there federal or state grant requirements regarding the use of contractual services?
- E. Has a board or commission determined that contracting is the most effective way to provide this service?
- F. Will the proposed work be completed by a contractor that has a current PSC contract with your department?

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD ON 01/08/14 BY:

Name: Sung Kim Phone: 415-554-6417 Email: sung.kim@sfdpw.org

Address: 1155 Market Street, 4th Floor San Francisco, CA 94103

Receipt of Union Notification(s) and 7-Day Waiver
◆ Local 21

Dang, Leorah

From: Ging Louie <glouie@ifpte21.org>
Sent: Friday, January 10, 2014 5:16 PM
To: Ellenburg, Rochelle
Cc: DHR-PSCCoordinator, DHR; Storrs, Bruce
Subject: RE: PSC 4063-11/12 Mod #3 for As-Needed Surveying - Local 21 waiver confirmation
Attachments: RE: PSC Mod #2 for As-Needed Surveying

Hello Rochelle,

While I am waiving the departmental notification requirement for this PSC concerning as-needed surveying services, Bruce and I also had come to an earlier agreement to hammer out details around some conditions to be tied to this PSC between now and the February Civil Service Commission meeting. I copied and am inserting into this message the text of the email I sent to Bruce (January 7) memorializing the conversation and subsequent agreement.

Text from January 7, 2013 Email from Ging Louie (L21) to Bruce Storrs (DPW):

Hello Bruce,

I appreciated speaking with you and learning more about DPW's surveying work as we talked through the As-Needed Surveying Services PSC the Department is pursuing.

Local 21 will waive the 30-day review period concerning the as-needed contract. Further the Union approves of DPW moving forward with the PSC. However this approval is conditioned on the development of a mechanism (which you and I briefly discussed and tentatively agreed to in a phone conversation we just concluded) by which there is some not-overly-onerous review of the as-needed service prior to it going out to determine whether there is some legitimate advantage to Local 21 members to keep it in-house. This is a discussion-in-progress, but I do not foresee there being any hiccups between now and when the matter will be calendared before the Commission.

Best,
Ging

I am also attaching the email. I hope this sufficiently meets your needs.

Ging

Ging M. Louie
Union Representative/Organizer
IFPTE Local 21
1182 Market Street, Suite 425
San Francisco, CA 94102
415.864.2100 (phone)
415.864.2166 (fax)

You Can Now Find Us on FaceBook! Follow Union developments, get an update on your contract negotiations, or post a comment.



Help Maintain public services and jobs. Invest in your future. Be part of the TJ Anthony Political Action Fund - <http://www.ifpte21.org/content/donate-tj-anthony-fund>

**** This e-mail message and any attachments contain confidential information that is legally privileged and intended solely for the use of the addressee(s) named above. If you are not the intended recipient(s), or person responsible for delivering it to the intended recipient(s), you are hereby notified that any review, disclosure, copying, distribution or use of any of the information contained herein is strictly prohibited. If you have received this confidential communication in error, please contact the sender by reply e-mail and permanently delete the original transmission and any attachments without reading or saving in any manner.^^ ****

From: Ellenburg, Rochelle [<mailto:Rochelle.Ellenburg@sfdpw.org>]
Sent: Friday, January 10, 2014 11:41 AM
To: Ging Louie
Cc: DHR-PSCCoordinator, DHR; Storrs, Bruce
Subject: PSC 4063-11/12 Mod #3 for As-Needed Surveying - Local 21 waiver confirmation

Dear Ging,

I'm emailing in regards to the PSC 4063-11/12 Mod #3 which was submitted on Wednesday January 8, 2011. Please confirm Local 21 has waived the 7-day union notification requirement for PSC modifications (Note: 30 days' notice is required for initial PSC requests). This email is also to clarify that PSC 4063-11/12 Modification #3 for As-Needed Surveying Services will be going before the Civil Service Commission on February 3rd.

Please email your confirmation prior to January 16, 2013.

Thank you and have a great day.

Regards,



Rochelle Ellenburg

DPW | Department of Public Works
Contract Administration
1155 Market Street, 4th Floor
San Francisco, CA 94103
Tel: (415) 554-5424
E-Mail: Rochelle.Ellenburg@sfdpw.org

Dang, Leorah

From: dhr-psccordinator@sfgov.org
Sent: Wednesday, January 08, 2014 1:50 PM
To: Kim, Sung; L21PSCReview@ifpte21.org; Ellenburg, Rochelle; DHR-PSCCoordinator, DHR; Isen, Richard
Subject: Receipt of a REGULAR Modification Request to PSC # 4063-11/12 - MODIFICATIONS

PSC RECEIPT of Modification notification sent to DHR

The GENERAL SERVICES AGENCY - PUBLIC WORKS -- DPW has submitted a modification request for a Personal Services Contract (PSC) for \$3,600,000 for services for the period June 7, 2016 – January 2, 2020. For REGULAR Modification requests, there is a 30/60 day period before the request is scheduled for Civil Service.

After logging into the system please select link below:

<http://apps.sfgov.org/dhrdrupal/node/1189>

Email sent to the following addresses: L21PSCReview@ifpte21.org

Additional Attachment(s) of Explanation

◇ Section 5. Additional Information

5B. Will the contractor train City and County employees?

- **Describe training and indicate approximate number of hours.**
- **Indicate occupational type of City and County employees to receive training (e.g., clerks, civil engineers, etc.) and approximate number to be trained.**

5(B). Will the contractor train City and County employees? Yes.

- Describe the training and indicate approximate number of hours.

Anticipate computer aided design and drafting (CADD) training for new releases of software.

- Indicate occupational type of City and County employees to receive training (i.e., clerks, civil engineers, etc.) and approximate number to be trained.

All levels: Civil Services Classifications: 5216(Chief Surveyor), 5314(Surveyor Associate), 5312(Surveyor Assistant II), 5310 (Surveyor Assistant I) may require training. Anticipated training: 100 hours total.

Additional Attachment(s) of Explanation

◇ Section 1. Description of Work

- 1C. Has this service been provided in the past. If so, how?
If the service was provided via a PSC, provide the most recently approved PSC # and upload a copy of the PSC.**

PSC #4063-11/12

- **Prior CSC Notice of Action – Initial - Current**
- **Prior PSC Form 1– Initial – Current**
- **Prior DHR Administrative Approval – Mod1 – Current**
- **Prior DHR Administrative Approval – Mod2 - Current**



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

4063-11/12
Initial

December 13, 2011

E. DENNIS NORMANDY
PRESIDENT

KATE FAVETTI
VICE PRESIDENT

MARY Y. JUNG
COMMISSIONER

ANITA SANCHEZ
EXECUTIVE OFFICER

NOTICE OF CIVIL SERVICE COMMISSION ACTION

SUBJECT: REVIEW OF REQUEST FOR APPROVAL OF PROPOSED PERSONAL SERVICES CONTRACT NUMBERS 4056-11/12 THROUGH 4063-11/12 AND 4064-07/08.

At its meeting of December 5, 2011 the Civil Service Commission had for its consideration the above matter.

PLEASE NOTE: *It is important that a copy of this action be kept in the department files as you will need it in the future as proof of Civil Service Commission approval. Please share it with everyone responsible for follow-up.*

The Commission:

- (1) Withdrew PSC #4060-11/12 at the request of the Public Utilities Commission.
- (2) Adopted the report; Approved the request for PSC #4058-11/12 on the condition that the Municipal Transportation Agency submit an annual status report beginning with the first meeting of December 2012. Notified the Office of the Controller and the Office of Contract Administration.
- (3) Adopted the report; Approved the request for all remaining contracts. Notified the Office of the Controller and the Office of Contract Administration.

If this matter is subject to Code of Civil Procedure (CCP) Section 1094.5, the time within which judicial review must be sought is set forth in CCP Section 1094.6.

CIVIL SERVICE COMMISSION

Sandra
ANITA SANCHEZ for
Executive Officer

Attachment

- c: Cynthia Avakian, Airport Commission
Parveen Boparai, Municipal Transportation Agency
Micki Callahan, Human Resources Director
Carina Carlos, Department of Public Works
Gordon Choy, Department of Public Works
Marie de Vera, Department of Human Resources
Jacquie Hale, Department of Public Health
Shamica Jackson, Public Utilities Commission
Florence Kyaun, Public Utilities Commission
Maria Ryan, Department of Human Resources
Commission File
Chron

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MAYOR'S OFFICE

POSTING FOR
12/5/2011

PROPOSED PERSONAL SERVICES CONTRACTS - Regular

PSC No.	Dept No.	Dept Name	Approval Type	Contract Amount	Description of Work	Duration
4061-11/12	40	Public Utilities Commission	Regular	\$2,700,000	The contractor will provide database development, consulting and maintenance services for the City's existing Power Enterprise Meter Data Management System (PE MDMS) as well as continued documentation and training of staff to assume full responsibility for continued development and maintenance. Additional capacity is included, if necessary, to allow development response to added requirements of replacement of the PG&E Interconnection Agreement, Scheduling coordinator change, implementation of Community Choice Aggregation (CCA) and interfacing with new scheduling software.	2/1/2012 - 1/31/2016
4062-11/12	40	Public Utilities Commission	Regular	\$9,000,000	Provide technical evaluation, project development, financial analysis, design, permitting, and construction management of renewable energy and energy storage technologies.	1/1/2012 - 1/1/2017
4063-11/12	90	Public Works	Regular	\$1,200,000	As needed land surveying duties such as a single, 2-person or 3-person crew to assist with topographic, boundary and construction surveys, photogrammetric work, laser 3D scanner field and office assistance and training, AutoCAD Civil 3D drafting, help with special projects (monumentation, GIS mapping, GPS network, etc.). BSI Surveying Services anticipate awarding up to 12 as-needed contracts, each not to exceed 5 years.	1/2/2012 - 1/2/2016

Total Amount - Regular: \$38,000,000

RECEIVED
11 DEC 14 AM 10:10

4063-11/12
Initial

City and County of San Francisco

Department of Human Resources

PERSONAL SERVICES CONTRACT SUMMARY

DATE: October 21, 2011

DEPARTMENT NAME: PUBLIC WORKS DEPARTMENT NUMBER 90

TYPE OF APPROVAL: EXPEDITED REGULAR (OMIT POSTING _____)
 CONTINUING ANNUAL

TYPE OF REQUEST:
 INITIAL REQUEST MODIFICATION (PSC# _____)

TYPE OF SERVICE: As - Needed Surveying Services

FUNDING SOURCE: Project funds from interdepartmental work orders

PSC AMOUNT: \$1,200,000.00 PSC DURATION: 01/02/2012 - 01/02/2016

1. DESCRIPTION OF WORK

A. Concise description of proposed work:

As needed land surveying duties such as a single, 2-person or 3-person crew to assist with topographic, boundary and construction surveys, photogrammetric work, laser 3D scanner field and office assistance and training, Autocad Civil 3D drafting, help with special projects (monumentation, GIS mapping, GPS network, etc.). BSM - Surveying Services anticipate awarding up to 12 as-needed contracts, each not to exceed 5 years.

B. Explain why this service is necessary and the consequences of denial:

Services are needed to assist DPW-BSM on difficult or unique projects that require specialized expertise and skills. We anticipate that we will need additional assistance to meet scheduling demands when the workload exceeds department resources. Denial of this service could result in failure to meet client department requirements and project delays that could increase survey costs. Delays can also jeopardize or increase cost of projects. At present, the City does not own laser scanning equipment. A project that requires scanning must be provided by an outside service provider.

C. Explain how this service has been provided in the past (if this service was previously approved by the Civil Service Commission, indicate most recent personal services contract approval number):

Individual City Departments, BOE, Department of Recreation and Park, MTA, PUC have contracted with outside surveyors and engineers. By our direct contracting outside service providers, we can eliminate unnecessary cost, duplication of work, providing efficient service and a product that meets client needs.

D. Will the contract(s) be renewed: Yes

2. UNION NOTIFICATION: Copy of this summary is to be sent to employee organizations as appropriate (refer to instructions for specific procedures):

Local 21 Carina Corlas 10/21/11
Union Name Signature of person mailing/faxing form Date

Union Name Signature of person mailing/faxing form Date

RFP sent to Local 21, on When available
Union Name Date Signature

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# _____
STAFF ANALYSIS/RECOMMENDATION:

CIVIL SERVICE COMMISSION ACTION:

3. DESCRIPTION OF REQUIRED SKILLS/EXPERTISE

A. Specify required skills and/or expertise:

Various levels of expertise depending on specific project. Expected needs include chain person, instrument person, licensed land surveyor, persons with experience in laser scanning, GPS, GIS and Autocad Civil 3D drafting.

B. Which, if any, civil service class normally performs this work?

Civil Services Classifications: 5216(Chief Surveyor), 5314(Surveyor Associate), 5312(Surveyor Assistant II), 5310 (Surveyor Assistant I).

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:

Yes, they will supply additional surveying equipment (total stations, differential levels, GPS receivers, etc) and a laser 3D scanner. The city does not currently possess a laser scanner.

4. WHY CLASSIFIED CIVIL SERVICE CANNOT PERFORM

A. Explain why civil service classes are not applicable:

Excessive fluctuating workloads. Services are needed to assist DPW-BSM on difficult or unique projects that require specialized expertise and skills. We anticipate that we will need additional assistance to meet scheduling demands when the workload exceeds department resources.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.

No, incoming survey work tends to fluctuate so there are times when we need to hire extra help to accommodate the overload. We do not want to turn work away due to lack of manpower. Also we often have large projects that are time sensitive requiring additional survey crews.

5. ADDITIONAL INFORMATION (if "yes," attach explanation)

A. Will the contractor directly supervise City and County employees?

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>

B. Will the contractor train City and County employees?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

- Describe the training and indicate approximate number of hours.

Anticipate CADD training for new releases of software.

- Indicate occupational type of City and County employees to receive training (i.e., clerks, civil engineers, etc.) and approximate number to be trained.

All levels: Civil Services Classifications: 5216(Chief Surveyor), 5314(Surveyor Associate), 5312(Surveyor Assistant II), 5310 (Surveyor Assistant I) may require training. Anticipated training: 100 hours total.

C. Are there legal mandates requiring the use of contractual services?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

D. Are there federal or state grant requirements regarding the use of contractual services?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

E. Has a board or commission determined that contracting is the most effective way to provide this service?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

F. Will the proposed work be completed by a contractor that has a current personal services contract with your department?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD:

Signature of Departmental Personal Services Contract Coordinator

Gordon Choy

(415) 554-6230

Print or Type Name

Telephone Number

875 Stevenson Street, Room 420

San Francisco, CA 94103

Address

Mod#1

City and County of San Francisco



Edwin M. Lee, Mayor
Mohammed Nuru, Director

San Francisco Department of Public Works
Office of the Deputy Director for Financial Management and Administration
Division of Contract Administration
1155 Market Street, 4th Floor
San Francisco, CA 94103
(415) 554-6230 ■ www.sfdpw.org



Gordon Choy, Division Manager

MEMORANDUM

May 28, 2013

TO: Citywide Personal Services Contract Coordinator
Department of Human Resources

FROM: Gordon Choy, PSC Coordinator *Gordon Choy*
Department of Public Works (90)

SUBJECT: Civil Service Commission PSC Modification Up To 50% of Approved Amount or Time

The Public Works Department is proposing to modify an approved Personal Services Contract Summary (PSC) and is requesting your consideration for an administrative review of the PSC Modification because the proposed modification is up to 50% of the Civil Service Commission's approved PSC amount and/or duration.

Following is the information about the PSC modification:

PSC No. 4063-11/12 Approved on: 12/05/2011

Description: As-Needed Surveying Services

Original Approved Amount	<u>\$1,200,000</u>	Original Approved Duration	<u>1/2/2012 – 1/2/2016</u>
Modification Amount:	<u>\$ 600,000</u>	Modification of Duration	<u>No change</u>
Total Modified Amount:	<u>\$1,800,000</u>	Total Modified Duration:	<u>1/2/2012 – 6/6/2016</u> <i>1/2/2016</i>

Reason for the modification:

Due to current demand in surveying services, DPW Surveying Group has used most of the original approved amount. DPW needs these as-needed surveying contracts in order to continue to meet all project schedules.

Attachment: Copy of Approved PSC Summary

Thank you for your consideration in issuing an administrative decision on this PSC Modification. Please call me at (415) 554-6230 if there are any questions.

Cc: Severino Caranto, PCS - Contract Manager
Tammy Wong, GSA Human Resources

FOR DEPARTMENT OF HUMAN RESOURCES USE

DHR ACTION: Approved

Approval Date: 6/5/2013

By: *Micki Callahan*
Micki Callahan, Human Resources Director



Met#2

City and County of San Francisco



Edwin M. Lee, Mayor
Mohammed Nuru, Director

San Francisco Department of Public Works
Office of the Deputy Director for Financial Management and Administration
Division of Contract Administration
1155 Market Street, 4th Floor
San Francisco, CA 94103
(415) 554-6230 ■ www.sfdpw.org



Gordon Choy, Division Manager

MEMORANDUM

June 14, 2013

TO: Citywide Personal Services Contract Coordinator
Department of Human Resources

FROM: Gordon Choy, PSC Coordinator
Department of Public Works (90) *Gordon Choy*

SUBJECT: Civil Service Commission PSC Modification Up To 50% of Approved Amount or Time

The Public Works Department is proposing to modify an approved Personal Services Contract Summary (PSC) and is requesting your consideration for an administrative review of the PSC Modification because the proposed modification is up to 50% of the Civil Service Commission's approved PSC amount and/or duration.

Following is the information about the PSC modification:

PSC No. 4063-11/12 Approved on: 12/05/2011

Description: As-Needed Surveying Services

Original Approved Amount	<u>\$1,200,000</u>	Original Approved Duration	<u>1/2/2012 – 1/2/2016</u>
Modification #1 Amount:	<u>\$ 600,000</u>	Modification of Duration	<u>No change</u>
Modification #2 Amount:	<u>\$ 0</u>	Modification of Duration	<u>1/3/2016 – 6/6/2016</u>
Total Modified Amount:	<u>\$1,800,000</u>	Total Modified Duration:	<u>1/2/2012 – 6/6/2016</u>

Reason for the modification:

Extending PSC end date to cover the contract duration of all Master Agreements awarded under this PSC.

Attachment: Copy of Approved PSC Summary

Thank you for your consideration in issuing an administrative decision on this PSC Modification. Please call me at (415) 554-6230 if there are any questions.

Cc: Severino Caranto, PCS - Contract Manager
Tammy Wong, GSA Human Resources

.....
FOR DEPARTMENT OF HUMAN RESOURCES USE

DHR ACTION: Approved

Approval Date: 6/17/2013

By: *Mick Callahan*
Mick Callahan, Human Resources Director



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PERSONAL SERVICES CONTRACT SUMMARY ("PSC FORM 1")

Department: PUBLIC UTILITIES COMMISSION Dept. Code: PUC

Type of Request: [] Initial [x] Modification of an existing PSC (PSC # 4161-08/09)

Type of Approval: [] Expedited [x] Regular [] Omit Posting

Type of Service: Power Engineering Design and Environmental Analysis Services (CS-991)

Funding Source: Hetch Hetchy Power Capital

PSC Original Approved Amount: \$3,000,000 PSC Original Approved Duration: 01/01/10 - 07/15/12 (2 years 27 weeks)
PSC Mod#1 Amount: \$2,000,000 PSC Mod#1 Duration: 07/16/12-08/15/14 (2 years 4 weeks)
PSC Mod#2 Amount: no amount added PSC Mod#2 Duration: 02/03/14-03/01/19 (4 years 28 weeks)
PSC Cumulative Amount Proposed: \$5,000,000 PSC Cumulative Duration Proposed: 9 years 8 weeks

1. Description of Work

A. Scope of Work:

Contract work consists of engineering design and cost estimates with additional environmental and permitting services for a Newark to San Francisco submarine High Voltage Direct Current (HVDC) power cable. The design work will include substation sites and transmission routes from the existing Newark Substation to a new substation on or near Treasure island with additional possible connections in the Greater Bay Area. The environmental work includes preparation of California Environmental Quality Act (CEQA) documents, environmental background reports and permit applications. Coordination and work plan preparation; environmental document scoping; environmental background and field studies; alternatives analysis; preparation of draft environmental documents; public review of draft environmental documents; response to public comments; preparation of final environmental documents; and mitigation monitoring plan preparation.

B. Explain why this service is necessary and the consequence of denial:

The SFPUC has been directed by the Board of Supervisors and the Mayor to develop City-owned transmission projects including the Newark-San Francisco Project and the Potrero-Embarcadero Project with a "transmission-only" solution to expedite closure of the Potrero Power Plant. Denial would not provide the SFPUC the opportunity to complete this requirement.

C. Has this service been provided in the past. If so, how? If the service was provided via a PSC, provide the most recently approved PSC # and upload a copy of the PSC.

Services have been provided in the past through earlier PSC request. See 4161-08/09

D. Will the contract(s) be renewed? No.

2. Union Notification: On 12/09/13, the Department notified the following employee organizations of this PSC/RFP request: Architect & Engineers, Local 21;

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# 4161-08/09

DHR Analysis/Recommendation:

Commission Approval Required

DHR Approved for 02/03/2014

Civil Service Commission Action:

3. Description of Required Skills/Expertise

A. Specify required skills and/or expertise:
Please see additional attachment.

B. Which, if any, civil service class(es) normally perform(s) this work?
5241,5211,5278,5298,5299,5602,

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:
No.

4. Why Classified Civil Service Cannot Perform

A. Explain why civil service classes are not applicable:
Please see additional attachment.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.
Please see additional attachment.

5. Additional Information (if "yes", attach explanation)

	<u>YES</u>	<u>NO</u>
A. Will the contractor directly supervise City and County employee?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
B. Will the contractor train City and County employee?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
C. Are there legal mandates requiring the use of contractual services?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
D. Are there federal or state grant requirements regarding the use of contractual services?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
E. Has a board or commission determined that contracting is the most effective way to provide this service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
F. Will the proposed work be completed by a contractor that has a current PSC contract with your department? Contractor: URS Corporation Americas	<input checked="" type="checkbox"/>	<input type="checkbox"/>

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD
ON 12/09/13 BY:

Name: Sharnica Jackson Phone: 415-554-0727 Email: SJackson@sfgwater.org

Address: 525 Golden Gate Avenue, 8th Floor San Francisco, CA

Receipt of Union Notification(s)
◆ Local 21

Dang, Leorah

From: dhr-psccordinator@sfgov.org
Sent: Monday, December 09, 2013 5:22 PM
To: Jackson, Shamica; rmittchell@twusf.org; grojo@local39.org; jduritz@uapd.com; staff@sfmea.com; mike@dc16.us; khughes@ibew6.org; L21PSCReview@ifpte21.org; jebrenner@ifpte21.org; david.canham@seiu1021.org; joe.tanner@seiu1021.net; Larry.Bradshaw@seiu1021.org; L21PSCReview@ifpte21.org; LiUNA.local261@gmail.com; local200twu@sbcglobal.net; jvannucchi@sbcglobal.net; camaguey@sfmea.com; dwilson1877@yahoo.com; tiya.thlang@seiu1021.org; Jackson, Shamica; DHR-PSCCoordinator, DHR; Isen, Richard
Subject: Receipt of a REGULAR Modification Request to PSC # 4161-08/09 - MODIFICATIONS

PSC RECEIPT of Modification notification sent to DHR

The PUBLIC UTILITIES COMMISSION -- PUC has submitted a modification request for a Personal Services Contract (PSC) for \$0 for services for the period February 3, 2014 – March 1, 2019. For REGULAR Modification requests, there is a 30/60 day period before the request is scheduled for Civil Service.

After logging into the system please select link below:

<http://apps.sfgov.org/dhrdrupal/node/960>

Email sent to the following addresses: Please check the record to see if you selected a union where a corresponding mail in the TO: field isn't present.

Either you selected none or there is no email entered in the system by that particular union

Additional Attachment(s) of Explanation

◇ **Section 3. Description of Required Skills/Expertise**

3A. Specify required skills and/or expertise

◇ **Section 4. Why Classified Civil Service Cannot Perform**

4A. Explain why civil service classes are not applicable

4B. Would it be practical to adopt a new civil service class to perform this work?

Supplemental Attachment A

3. DESCRIPTION OF REQUIRED SKILLS/EXPERTISE

A. Specify required skills and/or expertise:

Engineering: Civil, structural, electrical and mechanical engineering in designing high voltage power transmission engineering is needed. The scope of work requires knowledge of principles and practices of including Federal, State, and Local Laws, ordinances, codes, standards, rules, and regulations applicable to planning and design, construction, maintenance, and operation of high voltage power transmission facilities and systems; and research and data analysis methods and techniques. Other requirements include ability to oversee, the operation of a complex power engineering project; convey technical ideas and information in a clear and concise manner; to read, review, evaluate and interpret power transmission technical materials, research reports, and scientific studies; organize written information in a logical sequence to prepare clear and concise reports, correspondence, contracts and other documents to support project activity; and use proper investigative and evaluation methods to solve difficult engineering problems in the field and office. Possession of a baccalaureate degree and a California Certificate of Registration as a Professional Engineer are required.

Environmental: Requires detailed knowledge of the principles and practices of environmental analysis; of California Environmental Quality Act (CEQA) statutes, regulations, and guidance; comprehensive expertise in environmental disciplines (e.g., biology, archeology, geology, hydrology, transportation, etc.), survey protocols, mitigation and environmental permitting/approval requirements; and expert environmental analysis and report writing skills and the completion of a baccalaureate degree.

4. WHY CLASSIFIED CIVIL SERVICE CANNOT PERFORM

A. Explain why civil service classes are not applicable:

With respect to the engineering scope of work; civil service classes are not applicable because High Voltage Direct current (HVDC) power cable engineering is a highly specialized technical field. Engineers in current civil classifications perform some of the more routine engineering work. Specialized engineering will be required that is not normally performed by engineers in these current civil service classifications, such as design of HVDC cable, transmission towers, AC/DC converter stations, and materials testing/inspection. There are not enough individuals with this type of experience needed within the City.

With respect to the CEQA/environmental review work, classes 5278, 5298, 5299 and 5602 work in support of the SF Planning Department and produce CEQA-related documentation. The classifications do not require the specialized training and expertise necessary to conduct the multidisciplinary environmental surveys and analyses necessary for the completion of specialized environmental studies and the required CEQA environmental documents. The environmental reviewer classifications are generalists. Planners are typically listed without the necessary specialized expertise of specific disciplines such as biology, archeology, geology, hydrology, transportation. Environmental management are typically not listed with the requirements for specific skills, for example, environmental permitting related to endangered species, the wetlands, etc.

B. Would it be practical to adopt a new civil service class to perform this work? Explain

No; designing and constructing high voltage power transmission lines is an unusual and singular project activity at the SFPUC. Engineers are needed to perform engineering design for projects, but the level of resources required for this project is not a long term need warranting personnel to be hired. There will be nominal opportunity for hiring power high voltage power transmission engineers for design work in the future. Similarly for the CEQA/environmental work tasks, it would not be practical to adopt a new class due to the specialized nature of the environmental services required for completion of the CEQA documents. None of the required services are required on a full-time basis.

Additional Attachment(s) of Explanation

◇ Section 1. Description of Work

**1C. Has this service been provided in the past. If so, how?
If the service was provided via a PSC, provide the most recently approved PSC # and upload a copy of the PSC.**

PSC #4161-08/09

- **Prior Notice of CSC Minutes – Mod1 – Current**
- **Prior PSC Form 1– Mod1 – Current**



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

GAVIN NEWSOM
MAYOR

4161-08/09
Mod 1

MORGAN R. GORRONO
PRESIDENT

E. DENNIS NORMANDY
VICE PRESIDENT

DONALD A. CASPER
COMMISSIONER

MARY Y. JUNG
COMMISSIONER

ANITA SANCHEZ
EXECUTIVE OFFICER

MINUTES Regular Meeting April 19, 2010

2:00 p.m.
ROOM 400, CITY HALL
1 Dr. Carlton B. Goodlett Place

CALL TO ORDER

2:24 p.m.

ROLL CALL

President Morgan R. Gorrondo	Present
Vice President E. Dennis Normandy	Present
Commissioner Donald A. Casper	Present
Commissioner Mary Y. Jung	Present

President Morgan R. Gorrondo presided.

PUBLIC COMMENT ON MATTERS APPEARING ON THE AGENDA

Joe Brenner, IFPTE requested to sever PSC #4113-09/10, 4122-09/10 and 4123-09/10.

APPROVAL OF MINUTES

Regular Meeting of April 5, 2010

Action: Approve. (Vote of 4 to 0)

Civil Service Commission Meeting Minutes

Regular Meeting of April 19, 2010

0155-10-8

Review of request for approval of proposed personal services contracts.
(Item No. 5)

PSC#	Department	Amount	Type of Service	Type of Approval	Duration
4113-09/10	Recreation & Parks Commission	\$1,500,000	Conduct thorough peer constructability review, cost estimating and scheduling for drawings and specifications of 2008 Clean & Safe Bond projects. Reviews will be conducted to confirm completeness and coordination of trades. Includes thorough review of the design and/or contract documents relative to issues that could impact the actual construction process, including established Project Design Standards, intersystem compatibility, subsurface information, existing facilities and utilities, interfaces with existing operations and other construction projects, access, egress, availability of proposed building materials, long lead procurement, and labor sources. In addition provide independent cost estimates and engage with architect to provide reconciliation estimates when necessary or directed by RPD CM.	Regular	04/08/14
4114-09/10	Public Utilities Commission	\$3,500,000	San Francisco is interested in establishing a Community Choice Aggregation program (CCA) that would allow the City to provide energy on the behalf of business and residents of San Francisco. SFPUC is interested in contracting with an outside vendor that has the necessary expertise and experience in deploying renewable-based economic programs. The contractor shall assist SFPUC to become ready to serve retail end-use electric customers should SFPUC be called upon to do so. The proposed work shall include, but not limited to, organizational development, integrated resource planning, retail services, information technology, and legislative and regulatory affairs.	Regular	06/30/15
4019-07/08 <i>Withdrawn</i>	Public Utilities Commission	Increase Amount \$100,000 New Amount \$200,000	Will perform outreach and related activities for SFPUC projects. The work will include developing and maintaining a database of companies and related resources; marketing and promoting potential and specific SFPUC contracting opportunities. SFPUC is requesting modification of money and time because there is an ongoing need to outreach to local business enterprise/firms to ensure the participation of these firms in an effort to deliver SFPUC's major infrastructure projects on time and on budget. In particular, we need outreach services to meet Human Rights Commission's subcontracting goal requirements.	Modification	12/30/11

4161-08/09	Public Utilities Commission	Increase Amount \$2,000,000 New Amount \$5,000,000	Will provide preliminary engineering design and cost estimates with additional environmental and permitting support services for a Newark to San Francisco submarine High Voltage Direct Current (HVDC) power cable. Design work will include substation sites and transmission routes from the existing Newark Substation to a new substation on or near Treasure Island with additional possible connections in the Greater Bay Area. Environmental work includes preparation of CEQA documents, environmental background reports and permit applications. Coordination and work plan preparation; environmental document scoping; environmental background and field studies; alternatives analysis; preparation of draft environmental documents; public review of draft environmental documents; response to public comments; preparation of final environmental documents; and mitigation monitoring plan preparation.	Modification	8/15/14
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April 5, 2010:

- (1) Postpone PSC #s4114-09/10, 4019-07/08 and 4161-08/09 to the meeting of April 19, 2010 at the request of the Public Utilities Commission.
- (2) Postpone PSC #4113-09/10 to the meeting of April 19, 2010 at the request of IFPTE Local 21.

Speakers:

Joe Brenner, IFPTE Local 21 and Toks Ajike, Recreation and Parks Department spoke on PSC #4113-09/10.
 Kofo Domingo and Frank Smith, Public Utilities Commission spoke on PSC #4114-09/10.
 Bonita McGee and Deidre Appel, Public Utilities Commission spoke on PSC #4161-08/09.

Action:

- (1) Approve request by the Public Utilities Commission to withdraw PSC #4019-07/08. (Vote of 4 to 0)
- (2) Approve request for PSC #4113-09/10 on the condition that 1) IFPTE Local 21 members and staff be given the opportunity to raise concerns as well as request supporting documentation concerning the Peer Constructability Review's substantive content, especially as it may concern the Review's methodology and assumptions. Local 21, within a reasonable amount of time, will submit any comments concerning the Review to RPD. Recreation and Parks Department agrees to meet with Local 21 members and staff to discuss the comments, 2) All recommendations and concerns raised in the Peer Constructability Review and which need to be addressed by Local 21-represented employees will be submitted to those respective parties at least six (6) weeks prior to the project going out to bid, and a copy concurrently will be sent to Local 21, and;

0155-10-8 (continued)

- 3) A follow-up meeting will be held between RPD, DPW/BCM, and Local 21 to address comments from Local 21, including coming up with a final schedule and allocation of work. Notify the offices of the Controller and the Office of Contract Administration. (Vote of 4 to 0)
- (3) Approve request for PSC #s 4114-09/10 and 4161-08/09. Notify the offices of the Controller and the Office of Contract Administration. (Vote of 4 to 0)

0161-10-8 Review of request for approval of proposed personal services contracts.
(Item No. 6)

PSC#	Department	Amount	Type of Service	Type of Approval	Duration
4121-09/10	Human Resources	\$200,000	Provide technical consulting services necessary to 1) analyze the physical ability requirements for Q-2 Police Officer; 2) review the design and content of the current Q-2 physical ability examination, and revise it if necessary, based on those requirements to ensure the selection procedure is valid, and; 3) recommend a passing point on the physical ability examination component to ensure that it is valid and defensible.	Regular	12/31/11
4122-09/10 <i>Postpone to meeting of 5/3/10</i>	Mayor	\$520,000	Prepare ERR for MOH capital projects funded by HUD. ERR need to comply with National Environmental Policy Act, Council on Environmental Quality regulations and 24 CFR Part 58. MOH is responsible for preparing and reviewing ERR for HUD projects in San Francisco. These records include Statutory Worksheets, Environmental Assessments and Environmental Impact Statements.	Regular	06/30/15
4123-09/10	Public Utilities Commission	\$20,000,000	Provide professional construction management services to oversee the Water System Improvement Program (WSIP) construction project of the Harry Tracy Water Treatment Plant Long Term Improvements Project on behalf of the SFPUC. The work includes inspection oversight and enforcement of contract requirements for construction protocols, seismic safety design, quality compliance, and environmental mitigation measures.	Regular	06/30/15
4124-09/10	Public Utilities Commission	\$3,700,000	Specialized and technical services in the areas of recycled water treatment, storage, distribution, operations, water quality, regulatory permitting, and other additional services related to the overall development and implementation of SFPUC recycled water projects.	Regular	06/30/15

Speakers:

John Kraus, Department of Human Resources spoke on PSC #4121-09/10.
Harlan Kelly, Jr. and Carol Isen, Public Utilities Commission and Larry Wong, IFPTE Local 21 spoke on PSC #4123-09/10.

4161-08/09
Mod #1

PERSONAL SERVICES CONTRACT SUMMARY

ATE: 03/03/2010

DEPARTMENT NAME: San Francisco Public Utilities Commission DEPARTMENT NUMBER 40

TYPE OF APPROVAL: [] EXPEDITED [x] REGULAR (OMIT POSTING)
[] CONTINUING [] ANNUAL

TYPE OF REQUEST: [] INITIAL REQUEST [x] MODIFICATION (PSC# 4161-08/09)

TYPE OF SERVICE: Power Engineering Design and Environmental Analysis Services (CS-991)

FUNDING SOURCE: Hetch Hetchy Power Capital

PSC AMOUNT: Original Amount: \$3,000,000 Modification Amount \$2,000,000 Total Amount \$5,000,000
PSC DURATION: PSC Duration: 01/15/2010 to 07/15/2012 PSC Duration: 07/16/2012 to 08/15/2014 Total PSC Duration: 01/15/2010 to 08/15/2014

1. DESCRIPTION OF WORK

A. Concise description of proposed work:
See Supplemental Attachment A.

B. Explain why this service is necessary and the consequences of denial:
The SFPUC has been directed by the Board of Supervisors and the Mayor to develop City-owned transmission projects including the Newark-San Francisco Project and the Potrero-Embarcadero Project with a "transmission-only" solution to expedite closure of the Potrero Power Plant. Denial would not provide the SFPUC the opportunity to complete this requirement.

C. Explain how this service has been provided in the past (if this service was previously approved by the Civil Service Commission, indicate most recent personal services contract approval number):
This service has not been provided in the past. PSC No. 4161-08/09 is being modified to add time, money, tasks and deliverables to the originally approved PSC.

D. Will the contract(s) be renewed: No.

2. UNION NOTIFICATION: Copy of this summary is to be sent to employee organizations as appropriate (refer to instructions for specific procedures):

L21
Union Name

Shamica Jackson
Signature of person mailing/faxing form

03/10/2010
Date

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC#

STAFF ANALYSIS/RECOMMENDATION:

CIVIL SERVICE COMMISSION ACTION:

3. DESCRIPTION OF REQUIRED SKILLS/EXPERTISE

A. Specify required skills and/or expertise:

See Supplemental Attachment A.

B. Which, if any, civil service class normally performs this work?

- 5241 Engineer (Electrical) 5241- Engineers and 5211- Senior Engineers with Civil, Electrical, Mechanical, Structural and Geotechnical specialties normally perform engineering work.
- 5278-Planner II, Environmental Review; 5298-Planner III, Environmental Review; 5299- Planner IV, Environmental Review; 5602-Utility Specialist normally perform CEQA/environmental review work.

C. Will contractor provide facilities and/or equipment not currently possessed by the City? If yes, explain:

No.

4. WHY CLASSIFIED CIVIL SERVICE CANNOT PERFORM

A. Explain why civil service classes are not applicable:

See Supplemental Attachment A.

B. Would it be practical to adopt a new civil service class to perform this work? Explain.

No; designing and constructing high voltage power transmission lines is an unusual and singular project activity at the SFPUC. Engineers are needed to perform engineering design for projects, but the level of resources required for this project is not a long term need warranting personnel to be hired. There will be nominal opportunity for hiring power high voltage power transmission engineers for design work in the future. Similarly for the CEQA/environmental work tasks, it would not be practical to adopt a new class due to the specialized nature of the environmental services required for completion of the CEQA documents. None of the required services are required on a full-time basis.

5. ADDITIONAL INFORMATION (if "yes," attach explanation)

Yes No

A. Will the contractor directly supervise City and County employees?

B. Will the contractor train City and County employees?

- Describe the training and indicate approximate number of hours.
- Indicate occupational type of City and County employees to receive training (i.e., clerks, civil engineers, etc.) and approximate number to be trained.

C. Are there legal mandates requiring the use of contractual services?

D. Are there federal or state grant requirements regarding the use of contractual services?

E. Has a board or commission determined that contracting is the most effective way to provide this service?

F. Will the proposed work be completed by a contractor that has a current personal services contract with your department?

THE ABOVE INFORMATION IS SUBMITTED AS COMPLETE AND ACCURATE ON BEHALF OF THE DEPARTMENT HEAD:

Signature of Departmental Personal Services Contract Coordinator

Shamica Jackson

Print or Type Name

415-554-0727

Telephone Number

1155 Market Street, 9th Floor

San Francisco, CA 94103

Address

Supplemental Attachment A

CS-991

1. DESCRIPTION OF WORK

A. Concise description of proposed work:

Contract work consists of preliminary engineering design and cost estimates with additional environmental and permitting services for a Newark to San Francisco submarine High Voltage Direct Current (HVDC) power cable. The design work will include substation sites and transmission routes from the existing Newark Substation to a new substation on or near Treasure Island with additional possible connections in the Greater Bay Area. The environmental work includes preparation of CEQA documents, environmental background reports and permit applications. Coordination and work plan preparation; environmental document scoping; environmental background and field studies; alternatives analysis; preparation of draft environmental documents; public review of draft environmental documents; response to public comments; preparation of final environmental documents; and mitigation monitoring plan preparation.

3. DESCRIPTION OF REQUIRED SKILLS/EXPERTISE

A. Specify required skills and/or expertise:

Engineering: Civil, structural, electrical and mechanical engineering in designing high voltage power transmission engineering is needed. The scope of work requires knowledge of principles and practices of including Federal, State, and Local Laws, ordinances, codes, standards, rules, and regulations applicable to planning and design, construction, maintenance, and operation of high voltage power transmission facilities and systems; and research and data analysis methods and techniques. Other requirements include ability to oversee, the operation of a complex power engineering project; convey technical ideas and information in a clear and concise manner; to read, review, evaluate and interpret power transmission technical materials, research reports, and scientific studies; organize written information in a logical sequence to prepare clear and concise reports, correspondence, contracts and other documents to support project activity; and use proper investigative and evaluation methods to solve difficult engineering problems in the field and office. Possession of a baccalaureate degree and a California Certificate of Registration as a Professional Engineer are required.

Environmental: Requires detailed knowledge of the principles and practices of environmental analysis; of California Environmental Quality Act (CEQA) statutes, regulations, and guidance; comprehensive expertise in environmental disciplines (e.g., biology, archeology, geology, hydrology, transportation, etc.), survey protocols, mitigation and environmental permitting/approval requirements; and expert environmental analysis and report writing skills and the completion of a baccalaureate degree.

4. WHY CLASSIFIED CIVIL SERVICE CANNOT PERFORM

A. Explain why civil service classes are not applicable:

With respect to the engineering scope of work; civil service classes are not applicable because High Voltage Direct Current (HVDC) power cable engineering is a highly specialized technical field. Engineers in current civil classifications perform some of the more routine engineering work. Specialized engineering will be required that is not normally performed by engineers in these current civil service classifications, such as design of HVDC cable, transmission towers, AC/DC converter stations, and materials testing/inspection. There are not enough individuals with this type of experience needed within the City.

With respect to the CEQA/environmental review work, classes 5278, 5298, 5299 and 5602 work in support of the SF Planning Department and produce CEQA-related documentation. The classifications do not require the specialized training and expertise necessary to conduct the multidisciplinary environmental surveys and analyses necessary for the completion of specialized environmental studies and the required CEQA environmental documents. The environmental reviewer classifications are generalists. Planners are typically listed without the necessary specialized expertise of specific disciplines such as biology, archeology, geology, hydrology, transportation. Environmental management are typically not listed with the requirements for specific skills, for example, environmental permitting related to endangered species, the wetlands, etc.