



CIVIL SERVICE COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

Sent via Electronic Mail

E. DENNIS NORMANDY
PRESIDENT

October 9, 2014

DOUGLAS S. CHAN
VICE PRESIDENT

NOTICE OF CIVIL SERVICE COMMISSION MEETING

KATE FAVETTI
COMMISSIONER

SUBJECT: HUMAN SERVICES AGENCY'S REPORT ON PERSONAL SERVICE CONTRACT NUMBER 2003-08/09 AND THEIR DISCUSSIONS WITH SEIU, LOCAL 1021.

SCOTT R. HELDFOND
COMMISSIONER

GINA M. ROCCANOVA
COMMISSIONER

The above matter will be considered by the Civil Service Commission at a meeting to be held on **October 20, 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 Regular Agenda. Please refer to the attached Notice for procedural and other information about Commission hearings.

SANDRA ENG
ACTING EXECUTIVE OFFICER

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


SANDRA ENG
Acting Executive Officer

Attachment

Cc: David Curto, Human Services Agency
Luenna Kim, Human Services Agency
Laurie Juengert, Human Services Agency
David Canham, SEIU Local 1021
Leah Berlanga, SEIU Local 1021
Sin Yee Poon, SEIU Local 1021
Commission File
Commissioners' Binder
Chron

THIS DOCUMENT CONTAINS
CONFIDENTIAL INFORMATION 8

Bushman, Jennifer (Maglalang) (CSC)

From: Poon, SinYee (HSA)
Sent: Thursday, October 09, 2014 12:56 PM
To: Bushman, Jennifer (Maglalang) (CSC); Curto, David (HSA); Kim, Luenna (HSA); Juengert, Laurie (HSA); david.canham@seiu1021.org; Leah Berlanga <Leah.Berlanga@seiu1021.org> (Leah.Berlanga@seiu1021.org); DHR-PSCCoordinator, DHR (HRD)
Cc: Eng, Sandra (CSC); Bynum, Michael (HSA); Lazo, Irvin (HSA); Renato Peña (rpcromero@hotmail.com); XiuMin Li
Subject: RE: CSC Notice of Meeting - October 20, 2014

Thank you, Jennifer.

Sandra, please note and so inform the Commissioners that the Union has been asking to meet since July regarding this PSC and no meeting has been scheduled until this week. We will have our first and only meeting this afternoon at 3, and we believe it will be insufficient time for the parties to arrive at any substantive given the very small window for discussion.

Thank you.

Sin Yee Poon
HSA Chapter President
SEIU, Local 1021
(415) 557-6328

From: Bushman, Jennifer (Maglalang) (CSC)
Sent: Thursday, October 09, 2014 12:31 PM
To: Curto, David (HSA); Kim, Luenna (HSA); Juengert, Laurie (HSA); david.canham@seiu1021.org; Leah Berlanga <Leah.Berlanga@seiu1021.org> (Leah.Berlanga@seiu1021.org); Poon, SinYee (HSA); DHR-PSCCoordinator, DHR (HRD)
Cc: Eng, Sandra (CSC)
Subject: CSC Notice of Meeting - October 20, 2014

Dear Colleagues:

Please see the attached NOTICE OF CIVIL SERVICE COMMISSION MEETING regarding the Human Services Agency's Report on PSC# 2003-08/09 and their discussions with SEIU, Local 1021 scheduled before the Civil Service Commission for its review during its meeting of October 20, 2014. This shall serve as formal notification; you will not receive a hard copy via U.S. or inter-office mail.

Sincerely,

Jennifer Bushman, MBA
Appeals Coordinator
Civil Service Commission
25 Van Ness Avenue, Suite 720
San Francisco, CA 94102
Direct (415) 252-3252
Main (415) 252-3247

STAFF REPORT



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

CIVIL SERVICE COMMISSION REPORT TRANSMITTAL (FORM 22)

Refer to Civil Service Commission Procedure for Staff - Submission of
Written Reports for Instructions on Completing and Processing this Form

1. Civil Service Commission Register Number: _____ - _____ -
2. For Civil Service Commission Meeting of: October 20, 2014
3. Check One: Ratification Agenda
 Consent Agenda
 Regular Agenda X
 Human Resources Directors Report
4. Subject: Staff report regarding PSC #2003-08/09 related to CalWORKS Families and the provision of Child Care Services
5. Recommendation: CSC Approval Required
6. Report prepared by: David Curto Telephone number: (415) 557-5581
7. Notifications: **(Attach a list of the person(s) to be notified in the format described in IV. Commission Report Format -A).**
8. Reviewed and approved for Civil Service Commission Agenda:

Human Resources Director: *Laura Kimby*
Date: *10/9/2014*
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.

Attachment

CSC-22 (11/97)

<u>CSC RECEIPT STAMP</u>



Edwin M. Lee, Mayor

Department of Human Services
Department of Aging and Adult Services

Trent Rhorer, Executive Director

MEMORANDUM

Date: October 9, 2014

To: Civil Service Commission

From: David Curto, PSC Coordinator
Human Services Agency (Dept. 45)

RE: Staff report regarding PSC #2003-08/09 related to CalWORKS Families and the provision of Child Care Services

Dear Commissioners,

Per your direction on June 24, 2014, We are submitting a staff report relating to the conditional approved PSC #2003-08/09, requiring the Human Services Agency and the employee organization (SEIU, Local 1021) continue their discussions on the PSC, and provided that the Human Services Agency submits a written report to the Commission on October 20, 2014 on those discussions.

Background: The Human Services Agency has walk-in child care rooms at our client service sites located at:

- 170 Otis Street
- 3120 Mission Street
- 1440 Harrison Street
- 1800 Oakdale

The Department provides these drop-in childcare centers for the convenience of clients visiting our sites to participate in various public benefit programs. Since December of 2006, we have had a contract with the Family Support Services of the Greater Bay Area to provide mildly ill child care in the homes of our clients to enable them to continue with their mandated work participation requirements under the CalWORKS (formerly known as TANF- Temporary Assistance to Needy Families). We modified this contract to include emergency back-up childcare at the Department sites on an as needed basis due to staff vacancies, illness, medical leave, vacations etc.

The department has used this on-call service in order to keep our childcare centers open and maintain the proper ratios between the number of children and child care supervisors, during times when our internal staff could not fulfill these obligations. Our child care centers are of a

drop in nature so the number of children fluctuates during the hours of operation Monday through Friday 8 am -5pm.

The following is a list of all the email/telephone correspondence between David Curto and SEIU, local 1021 union members.

Date and time	Email from Subject	Email to
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PSC contract for childcare center

<i>7/16/14 2:06 pm</i>	<i>Xiu Min Li</i>	<i>Curto, David</i>
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I would like to request a meeting with you to discuss possible ways to resolve this issue. Please let me know when you are available to meet with us

<i>7/16/14 2:41 pm</i>	<i>Curto, David</i>	<i>Xiu Min Li</i>
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I believe this went to a step 2 grievance earlier today, so scheduling of that process would be through our labor relations staff. Attached is a list of the contracts that are under this PSC. Please review this list and let me know which contract(s) you would like to review, such as the contract document, scope of services, budget and any invoicing for a specific period of time. It will help tremendously to narrow down your request to those contracts that are pertinent to this grievance and to help us provide you with the documents you want to review

<i>7/16/14 2:50 pm</i>	<i>Poon, SinYee</i>	<i>Curto, David</i>
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Thank you for the list of contracts, Dave.
I would hate to further complicate the issue, but Xiu is now talking about the CSC process, not the grievance (which we moved to Step II today). (By the way, that is why we have a division of labor on this one – I am handling the grievance and Xiu is following up on the CSC approval.) I believe the CSC is going to hear a report back from the Parties in October on the Childcare PSC approval. Xiu is talking about a meeting to discuss the PSC. Again, this is separate from the grievance process (which ELR is now handling for HSA).

<i>7/16/14 3:15 pm</i>	<i>Curto, David</i>	<i>Poon, SinYee</i>
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I think if she just clarifies the request, we can provide the documents and meet on the specific contract issues.

It is my understanding that the grievance process is also part of the written report that I need to prepare for the CSC so they are combined to some degree.

7/16/14 3:38 pm

Poon, SinYee

Curto, David

I don't think you have to report on the grievance process. Jennifer always tells me that she does not want to get involved in the labor/management issues. They only want to know about the Union's "protest" on the PSC under the Civil Service Process/Civil Service Rules (not the contract provisions in a grievance) and how the parties can resolve their issues.

7/16/14 4:01 pm

Curto, David

Poon, SinYee

We have different impressions of what they asked me to report back on. Is not the grievance related to the contracting out for the HSA childcare rooms?

I will listen to the recording of the meeting but my instructions were to report back on the grievance process and any related meetings in regards to the HSA childcare rooms and the staffing of those childcare rooms.

7/16/14 4:15 pm

Xiu Min Li

Curto, David

Hi David,

See the attached info request made regarding this. I did not receive the information from the agency on most of this. I think item number 2 would be the information you can provide. But if there are others, please feel free to send them my way as well. Thank you!

7/17/14 10:26am

Curto, David

Alicia Broussard

We will pull that information
Thanks

7/17/14 4:15 pm

Xiu Min Li

Curto, David

Hi David,

What's the timeline for when the info will be provided? Also, do you want to meet and "attempt to resolve this issue?"

7/18/14 2:23pm

Alicia Broussard
Emailed documents

Xiu Min Li

Good afternoon,

Please see the following documents you have requested per David Curto.

8/5/14 7:32am

Xiu Min Li

Alicia Broussard

Need the hours worked by Family Support Services of the Bay Area in the Playroom and billed to the HSA playrooms. When can you get that to me?

8/6/14 8: 19am

Curto, David

Xiu Min Li

This is the information we have provided that shows the billings for the childcare centers at HSA sites.

Is your question how many hours do the dollars billed represent?

Thanks

8/6/14 3:38 pm

Xiu Min Li

Curto, David

Yes, I would like the hours billed and broken down at least on a monthly basis.

I imagine when a FSSBA employee works a shift at the HSA Child Care Center; he/she must submit a sign in sheet or log the hours somehow, right?

8/6/14 4:53 pm

Curto, David

Xiu Min Li

We can check the hours that equate to the billings per month.

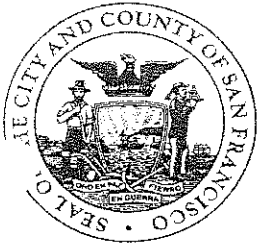
8/7/14 9:38 am Telephone call to Xiu Min Li from David Curto explaining that the invoices provided show both the hours billed for the childcare sites and the rate per hour billed and paid.

Since August 17, there has been no face to face meetings on this issue and several meeting requests have been made by SEIU Local 1021 representative Ms. Sin Yee Poon.

10/9/14: As of this date, the Department has fully staffed all of our 2919 employees and have established a TEX 16 pool to provide first tier back up to the 2919 childcare providers. It is our intention to only use the contracted on call services after we have exhausted our internal staff and the established TEX 16 pool. The department is confident that the above actions will resolve this complaint.

We are scheduled to meet today at 3:00 pm to present this information to SEIU Local 1021 representatives and provide them with copies of this summary report.

Respectfully Submitted,



CIVIL SERVICE COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

Sent via Electronic Mail

October 9, 2014

E. DENNIS NORMANDY
PRESIDENT

DOUGLAS S. CHAN
VICE PRESIDENT

KATE FAVETTI
COMMISSIONER

SCOTT R. HELDFOND
COMMISSIONER

GINA M. ROCCANOVA
COMMISSIONER

SANDRA ENG
ACTING EXECUTIVE OFFICER

NOTICE OF CIVIL SERVICE COMMISSION MEETING

SUBJECT: RECOMMENDATION TO ADOPT REVISIONS TO THE CIVIL SERVICE COMMISSION'S POLICY ON PERSONAL SERVICES CONTRACTS.

The above matter will be considered by the Civil Service Commission at a meeting to be held on **October 20, 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 Regular Agenda. Please refer to the attached Notice for procedural and other information about Commission hearings. The meeting agenda and all meeting materials will be posted on the Civil Service Commission's website at www.sfgov.org/Civil_Service under "Meeting" no later than end of day on Wednesday, October 15, 2014. If you would like a copy of the Executive Officer's staff report on the above-captioned matter emailed to you in advance of October 15th, please contact the Civil Service Commission's Office at CivilService@sfgov.org or (415) 252-3247.

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.

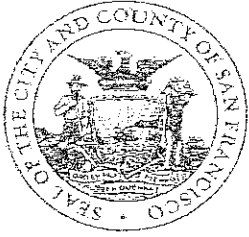
All non-privileged materials being considered by the Civil Service Commission for this item are available for public inspection and copying at the Civil Service Commission office Monday through Friday from 8:00 a.m. to 5:00 p.m.

CIVIL SERVICE COMMISSION

SANDRA ENG
Acting Executive Officer

Attachment

RECEIVED BY: SANDRA ENG
DATE: OCT 10 2014 9



CIVIL SERVICE COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

E. DENNIS NORMANDY
PRESIDENT

DOUGLAS S. CHAN
VICE PRESIDENT

KATE FAVETTI
COMMISSIONER

SCOTT R. HELDEFOND
COMMISSIONER

GINA M. ROCCANOVA
COMMISSIONER

JENNIFER C. JOHNSTON
EXECUTIVE OFFICER

Sent via Electronic Mail

September 23, 2014

NOTICE OF CIVIL SERVICE COMMISSION ACTION

SUBJECT: RECOMMENDATIONS FOR REVISIONS TO THE CIVIL SERVICE COMMISSION'S POLICY ON PERSONAL SERVICES CONTRACTS.

At its meeting of September 15, 2014 the Civil Service Commission had for its consideration the above matter.

The Commission adopted the Executive Officer's report. The Commission directed the Executive Officer to post the proposed amendments to the Personal Service Contract Policy with the Commission's additional revisions and on the condition that broiler plate language is added to the Notice of Actions; and to meet and discuss the amendments with any interested stakeholders.

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

A handwritten signature in cursive script, appearing to read "Jennifer Johnston".

JENNIFER JOHNSTON
Executive Officer

Cc: Commission File
Chron



CIVIL SERVICE COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

Sent via Electronic Mail

E. DENNIS NORMANDY
PRESIDENT

September 4, 2014

DOUGLAS S. CHAN
VICE PRESIDENT

NOTICE OF CIVIL SERVICE COMMISSION MEETING

KATE FAVETTI
COMMISSIONER

SUBJECT: RECOMMENDATIONS FOR REVISIONS TO THE CIVIL SERVICE COMMISSION'S POLICY ON PERSONAL SERVICES CONTRACTS.

SCOTT R. HELDFOND
COMMISSIONER

GINA M. ROCCANOVA
COMMISSIONER

The above matter will be considered by the Civil Service Commission at a meeting to be held on September 15, 2014 at 2:00 p.m. in Room 400, Fourth Floor, City Hall, 1 Dr. Carlton B. Goodlett Place.

JENNIFER C. JOHNSTON
EXECUTIVE OFFICER

This item will appear on the Regular Agenda. Please refer to the attached Notice for procedural and other information about Commission hearings. The meeting agenda and all meeting materials will be posted on the Civil Service Commission's website at www.sfgov.org/Civil_Service under "Meeting" no later than end of day on Wednesday, September 10, 2014. If you would like a copy of the Executive Officer's staff report on the above-captioned matter emailed to you in advance of September 10th, please contact the Civil Service Commission's Office at CivilService@sfgov.org or (415) 252-3247.

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 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

THIS DOCUMENT SUPPORTS
CIVIL SERVICE COMMISSION 13

STAFF REPORT



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

Date: October 6, 2014

To: Civil Service Commission

From: Sandra Eng, Acting Executive Officer *SE*

Subject: **Recommendation to Adopt the Revisions to the Civil Service Commission's Policy on Personal Service Contracts**

During its meeting of September 15, 2014, the Civil Service Commission ("Commission") adopted the Executive Officer's staff report proposing revisions to the Commission's policy on Personal Services Contracts ("PSC"), with additional revisions and on the condition that broiler plate language is added to the Notice of Actions; and directed the Executive Officer post the draft policy and guidelines, and to meet and discuss them with any interested stakeholders.

The Executive Officer posted the draft PSC policy amendments (as further revised by the Commission) on September 18, 2014 and scheduled two meetings to discuss them with any interested stakeholders—one on September 24th and one on September 25th, 2014. (See the attached copy of the posting.) No interested stakeholders attended the scheduled meetings; nor did the Executive Officer receive any inquiry regarding, or objection to, the proposed amendments.

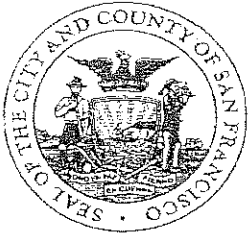
Recommendation:

Adopt the Executive Officer's report; and adopt the proposed amendments to the PSC policy as posted on September 18th.

Attachments: September 18, 2014 Draft PSC Policy Posting

TAKE ACTION REPORTS
9

ATTACHMENT



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

MEMORANDUM
CSC No. 2014 – 17

E. DENNIS NORMANDY
PRESIDENT

DOUGLAS S. CHAN
VICE PRESIDENT

KATE FAVETTI
COMMISSIONER

SCOTT R. HELDFOND
COMMISSIONER

GINA M. ROCCANOVA
COMMISSIONER

Date: September 18, 2014

To: Human Resources Representatives
PSC Coordinators
Labor Representatives

From: Jennifer Johnston
Executive Officer

Subject: Revisions to the Civil Service Commission's Policy on
Personal Services Contracts

JENNIFER C. JOHNSTON
EXECUTIVE OFFICER

At its meeting of September 15, 2014, the Civil Service Commission ("Commission") approved the Executive Officer's proposed revisions to its Policy on Personal Services Contracts ("PSC") (as further amended by the Commission during that meeting); and directed the Executive Officer to post the proposed revisions to the policy and to meet and discuss the amendments with any interested stakeholders. The proposed revisions are primarily intended to: 1) incorporate recently-adopted new guidelines so that departments may refer to one, comprehensive document stating the Commission's applicable PSC policies; 2) clarify some of the Commission's policies on PSC submissions, in order to address continued areas of confusion amongst the departments; and 3) propose notice and posting requirements for PSC contracts with continuing approval. Please see the attached draft revised PSC policy.

Any stakeholders interested in discussing the proposed policy revisions are invited to attend either or both of the following scheduled meetings:

Date: Wednesday, September 24th
Time: 3 p.m. to 5 p. m.

Date: Thursday, September 25th
Time: 9 a.m. to 11 a.m.

The meetings will take place in the Civil Service Commission's Offices, located at 25 Van Ness Avenue, Suite 720. Please contact Commission staff at CivilService@sfgov.org to RSVP for either or both meetings. You may also contact me directly at (415) 252-3250 or Jennifer.Johnston@sfgov.org should you have any questions or wish to discuss the proposed policy revisions further.

Respectfully submitted,

CIVIL SERVICE COMMISSION

A handwritten signature in black ink, appearing to read "Jennifer Johnston". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

JENNIFER JOHNSTON
Executive Officer

MEMORANDUM
CSC No. 2014-0X

Date: October ~~X25, 2013~~ 2014

To: Department Heads
Personnel Officers
Departmental Contract Coordinators

From: Jennifer Johnston
Executive Officer

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

The purpose of this memorandum is to serve as a comprehensive guide on the Civil Service Commission's ("Commission") Rules and policies on Personal Services Contracts ("PSCs") as updated and adopted by the Commission at its meeting on May 6, 2013 ~~October X, 2014~~, effective upon the issuance of this memorandum.

This memorandum shall serve to supersede all previously-issued memorandums on PSCs, including "Commission Policy Memorandum No. 2007-04" issued on May 30, 2007, and the "Amended Joint Department of Human Resources/Civil Service Commission Instructions for Processing Proposed Personal Services Contract Approval Requests" issued on September 16, 1996.

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

Authority

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

Longstanding Policy and Procedures

~~Over the years,~~ The Commission has adopted a number of policies and procedures on PSCs ~~over the years~~. On December 5, 1994, the Commission issued revised policies and procedures that clarified the roles of the Commission and DHR, streamlined and expedited the processing of PSCs, and provided for monitoring and auditing of the contracting procedure. The Commission and DHR

jointly issued updated PSC policy and procedures on September 16, 1996, and the Commission reiterated its policies in a memorandum on May 30, 2007. Those policies and procedures remained in place unchanged, with periodic reminders and clarifications issued by the Commission, until the Commission updated and reissued its policy with the launch of the City's PSC database on October 25, 2013. Issuance of this memorandum. The Commission updated its policy again with the issuance of this memorandum, primarily to provide more guidance on reporting and notice requirements for contracts executed during the preceding year under approved PSCs.

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

Personal Services Contract Review Criteria

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

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

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

- 1) Immediately needed services to address unanticipated or transitional situations, or services needed to address emergency situations. "Transitional situations" are those instances when contracting out is needed to bridge relatively short periods of time, such as during organizational restructuring that may be mandated by law or policy, or to facilitate a department's efforts to contract in services.
- 2) Short-term or capital projects requiring diverse skills, expertise and/or knowledge.
- 3) Services required on an as-needed, intermittent, or periodic basis (e.g., peaks in workload).
- 4) Regulatory or legal requirements, or requirements or mandates of funding source(s) which limit or preclude the use of Civil Service Employees.
- 5) Services that require resources that the City lacks (e.g., office space, facilities or equipment with an operator).

- 6) Circumstances where there is a demonstrable potential conflict of interest (e.g., independent appraisals, audits, inspections, third party reviews and evaluations).
- 7) Cases where future funding is so uncertain that the establishment of new civil service positions, classes or programs is not feasible (including situations where there is grant funding).

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

The Role of the Department of Human Resources

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

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

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

DHR is also responsible for reporting information regarding contract awards to the Commission on an annual basis. At the time that an approved PSC is processed for award, departments are required to submit to DHR information regarding the names, contract amounts and duration for all personal services contracts issued under the approved PSC. DHR, in turn, is required to submit that information for all PSCs awarded during the preceding year to the Commission no later than August 1st each year. Such DHR PSC contract award reports shall be made available for public inspection in the office of the Executive Officer, Civil Service Commission. [11]

Departmental Personal Services Contract Coordinator

Each City and County department that regularly utilizes PSCs must designate a departmental PSC coordinator. The PSC coordinator works closely with DHR and Commission staff to expedite the review of proposed contracts by explaining the evaluation criteria to departmental personnel and by ensuring that the proper documentation is sent to the Commission through DHR in a timely manner.

Departmental Requests for Personal Services Contracts

- 1) Timing of PSC Approval Submissions

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

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

2) PSC Approval Durations

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

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

3) Retroactive Requests for Extensions

The Commission also recognizes that there may be rare circumstances when a PSC for an active contract must unexpectedly be extended for a period of time without enough notice for the department to request the Commission's approval to modify the duration prior to its expiration. In such event, departments may submit a retroactive request to extend the duration of an approved but expired PSC, provided that it is within one year of the PSC's expiration, and with adequate justification as to why the department was unable to submit a timely request for modification. Requests beyond the one-year expiration date require the submission of a new request for PSC approval (and assignment of a new PSC number), irrespective of whether the contract under the PSC is still active.

4) Deadlines for PSC Submissions

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

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

5) Content of PSC Submissions

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

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

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

Personal Services Contract Submissions and Scope of Approvals

A department may only contract out personal services for the duration, amount, and type and scope of services specified in the approved PSC. Modification of Previously Approved Personal

Services Contracts

Departments are required to resubmit a PSC request (either as a request for a new PSC, or as a request for a "Modification" to change existing PSC, as noted below) when the circumstances of the original request change. This type of request is considered a "Modification". (10/16)

The following are changes that changes which warrant require Commission approval. All other changes require only DHR approval. a modification request for approval include: (10/17)

1. Changes to the type or scope of service provided under a PSC approved by the Commission;
or
2. Changes in legal or grant requirements for contracting under a PSC approved by the Commission; or
3. Increases of over fifty percent (50%) or more over of the Regular PSC contract amount last approved by the Commission or the Expedited PSC contract amount if the requested increase amount will exceed the \$100,000 threshold; or (10/18)
4. Extensions beyond the estimated term approved by the Commission for any length of time greater than fifty (50%) of the original duration approved by the Commission. As indicated above, departments may request a modification to extend a PSC that has expired in order to allow completion of the contracted services, provided that it is within one year of the expiration of the approved PSC duration. (10/19)

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

1. At its discretion, a department may submit a request for a new PSC (as opposed to a request for a Modification) to continue contracting out the same or substantially same services if it will extend the total duration of the PSC beyond ten (10) years. If it will not extend the total duration of the PSC beyond ten years, the department must submit the request as a modification to an existing PSC.
2. Departments must submit a request for new PSC for Commission approval any time a department is seeking to include new or materially different services not contained in the original approved PSC approved by the Commission. (10/20)

Any request for Commission PSC approval under either circumstance must include sufficient background information on the history of the PSC(s) under which the services have been provided; a copy of the Form 1 for last approved PSC and any documentation attached thereto; any changes in circumstances since the last time the PSC was reviewed (e.g. if any of the services have already been completed and therefore no longer require contracting out; if the training component has already been satisfied); and explanation of the reason(s) for the requested modification(s). (10/21)

10/21

Union Notice

Departments are required to notify affected employee organizations of a department's request for new PSCs (both Regular and Expedited PSCs) or modification thereto, prior to or at the time of forwarding the request for DHR review. (122) A copy of the notice from the department to the applicable employee organization must be attached with the department's submission to the Commission. Some Collective Bargaining Agreements have additional requirements that must be considered in this process. Departments must refer to the applicable Collective Bargaining Agreement to determine the additional requirements.

Posting

Once DHR has completed its review of all requests for new or modified Expedited or Regular PSCs, the department's request must be posted on the DHR website for seven (7) calendar days. (123) The posting must include the PSC number assigned by DHR, (124) the estimated amount, the scope of work to be considered, and the estimated duration.

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

Affected employee organizations must also be notified of the posting.

In limited circumstances and with sufficient justification, the Commission may grant a department's request to omit the posting process and go directly from DHR review to Commission review. Again, the department must provide a memorandum detailing the reasons for the request to waive posting requirements and the consequences of denying that request. PSCs for which an "Omit Posting" has been approved shall be placed on the Regular Agenda. (125)

Protests and Appeals (Civil Service Commission Rule Series 05.12)

Expedited PSCs: Protests of a posted proposed Expedited PSC must be received by the Human Resources Director by close of business on the seventh calendar day of posting. In the absence of any timely protest, approval of an Expedited PSC becomes final on close of business of the seventh calendar day of posting. An appeal of the Human Resources Director's action on a timely protest of a proposed Expedited PSC may be appealed to the Commission, provided such appeal is received by the Executive Officer by close of business on the fifth working day (excluding Saturdays, Sundays, and holidays) following the postmarked mailing/email date of notification of the Human Resources Director's action. (126)

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

Timely appeals will generally be considered by the Commission at its next regularly scheduled meeting. DHR forwards Personal Services Contracts submissions over \$100,000 where no appeal has been filed to the Executive Officer to calendar on the Ratification Agenda. [127]

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

Ratification Agenda

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

Civil Service Commission Approval

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

The Commission's role is distinguished from the roles of City departments, other commissions, and the City Administrator, the Director of the Department of Administrative Services, and the Human Rights Commission ("HRC"). It is not the Commission's role to be involved in the selection of individual contractors or the cost of such services. Again, the role of the Commission is to determine whether contracting is warranted; the selection of the individual contractor is done by City departments, with oversight and final decision making authority exercised as appropriate by commissions and the City Administrator, the Director of the Department of Administrative Services, and the HRC. [129]

Nor is it the Commission's role to determine positions where work or services can be performed by contract at a lesser cost than similar work performed by City and County employees. By Charter definition (Section 10:104-15) [130], this function, often called "Prop J" contracting, is performed by the Controller and the Board of Supervisors.

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

PSC. However, as noted above, attendance is required in the event that a PSC request is appealed; failure to attend will result in automatic postponement.

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

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

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

Continuing approval is granted by the Commission to comply with policy, funding or legal mandates. For example, those instances where: legal mandates direct the use of contractual services; or State or Federal funding requirements specify use of contractual services; or a City board, commission, the City Administrator, an elected official, or the Controller has determined that contracting is the most effective way to provide health and human welfare services; or the Retirement Board, consistent with its Charter and State constitutional authority, has determined that contracting is the most effective way to deliver investment management and actuarial services. Continuing approval is valid until revoked by the Commission. Unless otherwise authorized by the Commission, in the event that the Commission revokes its continuing approval for a PSC, the department may not execute any new contracts under that PSC; nor may the department increase the duration or amount of, or expand upon the scope of personal services contracted out under, any contracts executed under the authority of that PSC. However, revocation of continuing approval shall not serve to nullify contracts executed under that PSC, nor otherwise conflict with the City's contractual obligations.

For all PSCs for which the Commission approves a request for continuing approval, the requesting department must provide the Commission with annual reports listing the contracts awarded under the continuing approval. An annual report is to include the name of the contractor, type of service, amount, and duration of the contract. Annual reports are to be submitted to the Commission through DHR no later than August 1st of each year for the prior fiscal year. The Executive Officer will make all annual reports submitted under this section available for public inspection consistent with local and State law.

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

The Commission may also grant an interim, conditional approval known as "qualified approval" pending consideration of alternatives, requirements to report back to the Civil Service Commission or submission of additional information. Typically included with a qualified

approval will be a request to the department to examine the feasibility of either budgeting positions in appropriate classification or obtaining a Proposition J contract certification.

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

Reporting and Additional Requirements

PSCs with Regular and Annual Approval

DDHR is also responsible for reporting information regarding contract awards to the Commission on an annual basis. At the time that an approved PSC is processed for award, departments are required to submit to DHR information to DHR regarding the names, contract amounts and durations for all personal services contracts issued under the approved PSC at the time that those contracts are processed for award. DHR, in turn, is required to submit that information for all PSCs awarded during the preceding year to the Commission no later than August 1st each year. Such DHR PSC contract award reports shall be made available for public inspection in the office of the Executive Officer, Civil Service Commission's offices and on its website.

PSCs with Continuing Approval

For all PSCs for which the Commission approves a request for continuing approval, the requesting department must provide the Commission with annual reports listing the contracts awarded under the continuing approval. The annual report must include a memorandum providing a brief history of the PSC(s) that are being submitted in accordance with this reporting requirement and an overview of the services contracted out under the PSC(s), and attached thereto must be: the Form 1(s) for any PSC(s) with Continuing approval covered under that report; supporting documentation relevant to the PSCs (e.g., copies of any applicable policy, funding or legal mandates); and the name(s) of the contractor(s), type(s) of service(s), amount(s), and duration(s) of the contract(s). The annual reports must also indicate if there have been any changes to the affected classes or unions since the last report was given.

The annual reports are to be submitted to the Commission with a Transmittal Form 22 (which must also identify all affected unions) through DHR no later than August 1st of each year for the prior fiscal year. Once received, the Executive Officer shall place the reports on the Consent Agenda for the following Commission meeting, and forward a copy to the affected union(s) identified on the Transmittal Form 22. The Executive Officer will make all annual reports submitted under this section available for public inspection consistent with local and State law. Such reports shall be made available for public inspection in the Commission's offices and on its website.

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

Modification of Previously Approved Personal Services Contracts

~~Departments are required to resubmit a request when the circumstances of the original request change. This type of request is considered a "Modification." Changes which warrant a modification request for approval include:~~

QUESTIONS

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

CIVIL SERVICE COMMISSION

JENNIFER JOHNSTON
Executive Officer

Attachment (1)

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

Executive Officer's Staff Report from the Meeting of
September 15, 2014




CIVIL SERVICE COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

Date: September 18, 2014

To: Civil Service Commission

From: Jennifer Johnston, Executive Officer 

Subject: **Recommendations for Revisions to the Civil Service Commission's Policy on Personal Service Contracts**

I. Overview

The Civil Service Commission ("Commission") adopted revisions to its then-over 15 year-old policy on Personal Service Contracts ("PSCs") at its meeting of May 6, 2013. The revisions served to: create efficiencies (both in time and resources); realign the Commission's procedures with current practices; implement available technological capabilities; increase transparency and accountability; and improve communications and accessibility to information to ensure that the City does not contract out inappropriately or unnecessarily. The PSC Policy was later officially issued on October 25, 2013 with the launch of the new Citywide PSC Database. See Attachment A for the Commission's current PSC Policy, as adopted on May 6th and formally issued on October 25th.

However, additional issues regarding PSC submissions have arisen since then, requiring further policy clarifications and directives. At its meeting of March 17, 2014, the Commission adopted new guidelines to ensure consistency and transparency in departmental requests to contract out personal services beyond the terms approved under an existing PSC (i.e., when requests for extensions should be submitted as new PSCs or modifications to existing PSCs). See Attachment B for the Commission's March 21st Memorandum 2014-06. Later, at the Commission's two meetings in June 2014, affected departments and union representatives alike expressed continued confusion over the notice and reporting requirements for PSC contracts with continuing approval.

The purpose of this memorandum is to recommend revisions to the existing PSC Policy for the Commission's consideration, which are intended to: 1) incorporate the new guidelines adopted by the Commission at its meeting of March 17th (see Attachment B), so that departments may refer to one, comprehensive document stating the Commission's applicable PSC policies; 2) clarify some of the Commission's policies on PSC submissions, in order to address continued areas of confusion amongst the departments; and 3) propose notice and posting requirements for PSC contracts with continuing approval. Attachment C and D reflect the redlined and final proposed versions of the PSC Policy, respectively (note that any formatting issues will be corrected upon finalization).

II. Authority/Standards

Consistent with its Charter authority to oversee the merit system, the Commission determines the City's policy on the review and approval of departments' requests to contract out personal services that could otherwise be performed by civil service employees. This authority is underscored through case law and opinions by the City Attorney's Office.

III. Review of the Proposed Substantive Revisions

Unless otherwise noted below or in the redlined draft PSC Policy (Attachment C), most of the revisions are grammatical; updates to the existing policy; and/or are otherwise non-substantive, primarily intended to clarify the Commission's current policies. The following are substantive issues requiring further discussion:

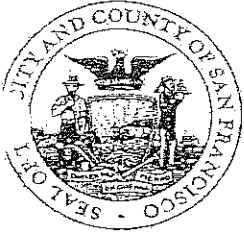
- Comment JJ8 on page 4: The Commission's current policy provides that departments must execute a contract under a PSC approved in terms of duration (instead of effective and expiration dates) within one year of Commission approval. However, the policy is silent on what the consequences are if the department fails to do so (i.e., does the PSC approval expire; and must the department submit a new or modified request for PSC approval?). Also, the Executive Officer proposes that the policy be clarified to provide that the first contract must be executed within one year (not all contracts), since the departments may enter into numerous contracts under the authority of a single PSC.
- The new section titled "Personal Services Contract Submissions and Scope of Approvals," beginning on page 5 of the revised draft policy, in large part incorporates the Commission's policies as articulated in Memorandum 2014-06 (Attachment B).
- Comment JJ27 on page 9: The Commission should specify what the consequences would be if it were to revoke its continuing approval for a PSC, particularly with respect to the impact on any contracts executed under the authority of that PSC.
- The new sections "PSCs with Regular and Annual Approval" and "PSCs with Continuing Approval" on page 10: The revisions are intended to specify and distinguish the notice and reporting requirements for PSCs with continuing approval (and the contracts executed thereunder), versus those PSCs with annual approval.

Recommendation: Adopt the Executive Officer's report; direct the Executive Officer to post the proposed revisions to the PSC Policy and to meet and discuss the amendments with any interested stakeholders.

Attachments:

- Attachment A: The Commission's Policy and Procedures on Personal Services Contracts, Issued October 25, 2013 (pages 3 through 24)
- Attachment B: The Commission's Policy on the Submission of Departmental Requests for Additional Approval to Contract Out Services Beyond the Terms Approved under an Existing Personal Services Contract, Adopted March 17, 2014 (pages 25-28)
- Attachment C: The Executive Officer's Proposed Revisions to the Commission's Policy and Procedures on Personal Services Contract – Redlined Version (pages 29 through 42)
- Attachment D: The Executive Officer's Proposed Revisions to the Commission's Policy and Procedures on Personal Services Contract – Clean Version (pages 43 through 54)

ATTACHMENT A



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

SCOTT R. HELDFOND
PRESIDENT

E. DENNIS NORMANDY
VICE PRESIDENT

DOUGLAS S. CHAN
COMMISSIONER

KATE FAVETTI
COMMISSIONER

GINA M. ROCCANOVA
COMMISSIONER

JENNIFER C. JOHNSTON
EXECUTIVE OFFICER

Date: October 25, 2013
To: Department Heads
Personnel Officers
Departmental Contract Coordinators
From: Jennifer Johnston
Executive Officer
Subject: Policy and Procedures on Personal Services Contracts

The purpose of this memorandum is to serve as a comprehensive guide on the Civil Service Commission's ("Commission") Rules and policies on Personal Services Contracts ("PSCs") as updated and adopted by the Commission on May 6, 2013, effective upon the issuance of this memorandum.

This memorandum shall serve to supersede previously issued memorandums on PSCs; including "Commission Policy Memorandum No. 2007-04" issued on May 30, 2007, and the "Amended Joint Department of Human Resources/Civil Service Commission Instructions for Processing Proposed Personal Services Contract Approval Requests" issued on September 16, 1996.

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

Authority

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

Longstanding Policy and Procedures

Over the years, the Commission has adopted a number of policies and procedures on PSCs. On December 5, 1994, the Commission issued revised policies and procedures

that clarified the roles of the Commission and DHR, streamlined and expedited the processing of PSCs, and provided for monitoring and auditing of the contracting procedure. The Commission and DHR jointly issued updated PSC policy and procedures on September 16, 1996, and the Commission reiterated its policies in a memorandum on May 30, 2007. Those policies and procedures remained in place unchanged, with periodic reminders and clarifications issued by the Commission, until the issuance of this memorandum.

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

Personal Services Contract Review Criteria

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

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

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

- 1) Immediately needed services to address unanticipated or transitional situations, or services needed to address emergency situations. "Transitional situations" are those instances when contracting out is needed to bridge relatively short periods of time, such as during organizational restructuring that may be mandated by law or policy, or to facilitate a department's efforts to contract in services.
- 2) Short-term or capital projects requiring diverse skills, expertise and/or knowledge.
- 3) Services required on an as-needed, intermittent, or periodic basis (e.g., peaks in workload).
- 4) Regulatory or legal requirements, or requirements or mandates of funding source(s) which limit or preclude the use of Civil Service Employees.
- 5) Services that require resources that the City lacks (e.g., office space, facilities or equipment with an operator).
- 6) Circumstances where there is a demonstrable potential conflict of interest (e.g., independent appraisals, audits, inspections, third party reviews and evaluations).

- 7) Cases where future funding is so uncertain that the establishment of new civil service positions, classes or programs is not feasible (including situations where there is grant funding).

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

The Role of the Department of Human Resources

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

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

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

DHR is also responsible for reporting information regarding contract awards to the Commission on an annual basis. At the time that an approved PSC is processed for award, departments are required to submit to DHR information regarding the names, contract amounts and duration for all personal services contracts issued under the approved PSC. DHR, in turn, is required to submit that information for all PSCs awarded during the preceding year to the Commission no later than August 1st each year. Such DHR PSC contract award reports shall be made available for public inspection in the office of the Executive Officer, Civil Service Commission.

Departmental Personal Services Contract Coordinator

Each City and County department that regularly utilizes PSCs must designate a departmental PSC coordinator. The PSC coordinator works closely with DHR and Commission staff to expedite the review of proposed contracts by explaining the evaluation criteria to departmental personnel and by ensuring that the proper documentation is sent to the Commission through DHR in a timely manner.

Departmental Requests for Personal Services Contracts

1) Timing of PSC Approval Submissions

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

Departments may submit proposed PSCs for approval as soon as the need arises and prior to the award of contract. Early submittals will expedite the PSC review and approval processes to ensure that the needed services can be performed as soon as possible.

2) PSC Approval Durations

Note that under the Commission's previous policies and procedures, departments were required to indicate specific effective and expiration dates for PSC approvals. However, there may be unanticipated delays in the contracting process, such that the actual contract award may occur several months to a year after the Commission has approved a request for PSC approval.

Therefore, effective upon the issuance of this memorandum, PSCs may be measured in terms of duration (e.g., one year, 18 months, three years, etc.) in order to provide departments with more flexibility and time to conclude the often time consuming contracting process. However, the contract(s) under an approved PSC measured in terms of duration must be executed within one year of the Commission meeting date at which the PSC was approved.

3) Retroactive Requests for Extensions

The Commission also recognizes that there may be rare circumstances when a PSC for an active contract must unexpectedly be extended for a period of time without enough notice for the department to request the Commission's approval to modify the duration prior to its expiration. In such event, departments may submit a retroactive request to extend the duration of an approved but expired PSC, provided that it is within one year of the PSC's expiration, and with adequate justification as to why the department was unable to submit a timely request for modification. Requests beyond the one-year expiration date require the submission of a new request for PSC approval (and assignment of a new PSC number), irrespective of whether the contract under the PSC is still active.

4) Deadlines for PSC Submissions

Departments must comply with all applicable DHR and Commission PSC deadlines as stated in DHR's PSC guidelines. All deadlines are necessary to allow sufficient time for DHR staff review, report preparation, and distribution of reports to the Civil Service Commissioners. Cover letters are generally not necessary, except in instances when non-typical circumstances arise and an explanation is needed to expedite the review process.

PSC requests submitted after a deadline will be considered at a subsequent Commission meeting. In emergency situations when it becomes necessary for PSC Coordinators to submit PSC approval requests after a deadline, the PSC Coordinator must obtain the Human Resources Director's approval (for DHR deadlines) and/or the Executive Officer's approval (for Commission deadlines).

5) Content of PSC Submissions

PSC requests must be comprehensive and thorough. When drafting the PSC request, departments should keep in mind the purpose of the Commission's review and focus the information appropriately. Information must be brief, but specific. Background material and information must be included to clearly and sufficiently describe the specific service to be

provided. It is crucial to clearly and adequately explain why City employees cannot perform the services being requested in the PSC.

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

Union Notice

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

Posting

Once DHR has completed its review of an Expedited or Regular PSC, the department's request must be posted. The posting must include the PSC number assigned by DHR, the estimated amount, the scope of work to be considered, and the estimated duration.

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

Affected employee organizations must also be notified of the posting.

In limited circumstances and with sufficient justification, the Commission may grant a department's request to omit the posting process and go directly from DHR review to Commission review.

Protests and Appeals (Civil Service Commission Rule Series 05.12)

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

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

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

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

Ratification Agenda

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

Civil Service Commission Approval

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

The Commission's role is distinguished from the roles of City departments, other commissions, the City Administrator, the Director of the Department of Administrative Services, and the Human Rights Commission ("HRC"). It is not the Commission's role to be involved in the selection of individual contractors or the cost of such services. Again, the role of the Commission is to determine whether contracting is warranted; the selection of the individual contractor is done by City departments, with oversight and final decision making authority exercised as appropriate by commissions, the City Administrator, the Director of the Department of Administrative Services, and the HRC.

Nor is it the Commission's role to determine positions where work or services can be performed by contract at a lesser cost than similar work performed by City and County employees. By Charter definition (Section 10.10445), this function, often called "Prop J" contracting, is performed by the Controller and the Board of Supervisors.

The Commission retains final authority to approve PSCs after DHR review and posting. The Commission strongly recommends that a department representative attend the Commission meeting at which the department's request for PSC approval will be heard in order to answer any questions the Commission may have regarding that PSC. Failure to appear and/or sufficiently respond to the

Commission's questions may result in only conditional approval, postponement or denial of the PSC.

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

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

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

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

For all PSCs for which the Commission approves a request for continuing approval, the requesting department must provide the Commission with annual reports listing the contracts awarded under the continuing approval. An annual report is to include the name of the contractor, type of service, amount, and duration of the contract. Annual reports are to be submitted to the Commission through DHR no later than August 1st of each year for the prior fiscal year. The Executive Officer will make all annual reports submitted under this section available for public inspection consistent with local and State law.

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

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

A notice of the Commission's action will be sent to the departmental PSC Coordinator, the Controller's Office and the Office of Contract Administration. The PSC coordinator will also

receive separate notifications whenever a Qualified Approval is granted by the Commission. Departments must maintain copies of Commission notifications for their files.

Modification of Previously Approved Personal Services Contracts

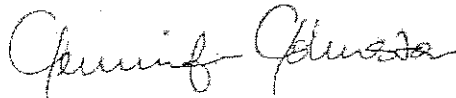
Departments are required to resubmit a request when the circumstances of the original request change. This type of request is considered a "Modification." Changes which warrant a modification request for approval include:

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

QUESTIONS

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

CIVIL SERVICE COMMISSION



JENNIFER JOHNSTON
Executive Officer

Attachment (1)

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

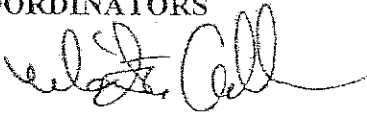


Edwin M. Lee
Mayor

Micki Callahan
Human Resources Director

DATE: October 25, 2013

TO: DEPARTMENT PERSONNEL OFFICERS
DEPARTMENT PERSONAL SERVICES CONTRACT COORDINATORS

FROM: MICKI CALLAHAN, HUMAN RESOURCES DIRECTOR 

SUBJECT: INSTRUCTIONS FOR PROCESSING PROPOSED PERSONAL SERVICE CONTRACTS

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

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

1) OVERVIEW

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

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

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

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

2) PSC BASICS

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

3) TYPES OF PSCs

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

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

EXPEDITED PSCs - \$100,000 AND UNDER

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

REGULAR PSCs – OVER \$100,000

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

4) SCHEDULING A PSC REQUEST BEFORE THE COMMISSION

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

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

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

5) ENTERING PSC REQUESTS INTO THE PSC DATABASE

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

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

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

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

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

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

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

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

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

7) PROCESSING A PSC REQUEST THROUGH DHR

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

8) POSTING PSCs PUBLICLY

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

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

9) APPEALING A PSC REQUEST

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

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

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

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

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

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

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

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

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

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

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

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

14) AFTER PSC APPROVAL

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

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

QUESTIONS?

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

ATTACHMENT - DHR PSC Memorandum October 25, 2013

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

ATTACHMENT B



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

MEMORANDUM
CSC No. 2014 - 06

SCOTT R. HELDFOND
PRESIDENT

E. DENNIS NORMANDY
VICE PRESIDENT

DOUGLAS S. CHAN
COMMISSIONER


KATE FAVETTI
COMMISSIONER

GINA M. ROCCANOVA
COMMISSIONER

JENNIFER C. JOHNSTON
EXECUTIVE OFFICER

Date: March 21, 2014

To: Department Heads
Departmental Personnel Officers
Departmental Contract Coordinators

From: Jennifer Johnston 
Executive Officer

Subject: Policy on the Submission of Departmental Requests for
Additional Approval to Contract Out Services Beyond the
Terms Approved under an Existing Personal Services Contract

Consistent with its Charter authority to oversee the merit system, the Civil Service Commission ("Commission") reviews requests from departments for approval of Personal Services Contracts ("PSC") to contract out services that could otherwise potentially be provided by civil service employees.

A department may only contract out personal services for the duration, amount, and type and scope of services specifically approved by the Commission under a PSC. However, there may be a change in circumstances which requires those personal services to be contracted out beyond the anticipated terms for which the department originally sought and received PSC approval. In such cases, the Commission's policy (located on the Commission's website at www.sfgov.org/Civil_Service) requires that the department return to the Commission to request additional PSC approval—either in the form of a request to modify the existing PSC or as a request for a new PSC.

At its meeting of March 17, 2014, the Commission adopted the following guidelines to ensure consistency and transparency in departmental requests to contract out personal services beyond the terms approved under an existing PSC:

- Departments may only submit a request for a new PSC for Commission approval to continue contracting out the same or substantially same services if it will extend the total duration of the PSC beyond ten (10) years. If it will not extend the total duration of the PSC beyond ten years, the department must submit the request as a modification to an existing PSC.
- Departments must submit a request for a new PSC for Commission approval any time a department is seeking to include new or materially

different services not contained in the original PSC approved by the Commission.

Any request for Commission approval of a new PSC under either circumstance must include sufficient background information on the history of the PSC(s) under which the services have been provided, as well as a copy of the last approved PSC.

You may contact me at (415) 252-3247 or Jennifer.Johnston@sfgov.org should you have any questions about the Commission's policies on PSC submissions.

ATTACHMENT C

MEMORANDUM
CSC No. 2014-0X

Date: October ~~X25, 2013~~ 2014
To: Department Heads
Personnel Officers
Departmental Contract Coordinators
From: Jennifer Johnston
Executive Officer
Subject: **Policy and Procedures on Personal Services Contracts**

The purpose of this memorandum is to serve as a comprehensive guide on the Civil Service Commission's ("Commission") Rules and policies on Personal Services Contracts ("PSCs") as updated and adopted by the Commission at its meeting on ~~May 6, 2013~~ October X, 2014, effective ~~upon the issuance of this memorandum.~~

This memorandum shall serve to supersede all previously-issued memorandums on PSCs, including "Commission Policy Memorandum No. 2007-04" issued on May 30, 2007, and the "Amended Joint Department of Human Resources/Civil Service Commission Instructions for Processing Proposed Personal Services Contract Approval Requests" issued on September 16, 1996.

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

Authority

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

Comment [JJ1]: These are non-substantive edits.

Longstanding Policy and Procedures

~~Over the years,~~ The Commission has adopted a number of policies and procedures on PSCs over the years. On December 5, 1994, the Commission issued revised policies and procedures that clarified the roles of the Commission and DHR, streamlined and expedited the processing of PSCs, and provided for monitoring and auditing of the contracting procedure. The Commission and DHR

jointly issued updated PSC policy and procedures on September 16, 1996, and the Commission reiterated its policies in a memorandum on May 30, 2007. Those policies and procedures remained in place unchanged, with periodic reminders and clarifications issued by the Commission, until the Commission updated and reissued its policy with the launch of the City's PSC database on October 25, 2013 ~~issuance of this memorandum~~. The Commission updated its policy again with the issuance of this memorandum, primarily to provide more guidance on reporting and notice requirements for contracts executed during the preceding year under approved PSCs.

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

Comment [JJ2]: These revisions are simply intended to update the policy.

Personal Services Contract Review Criteria

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

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

Comment [JJ3]: There are non-substantive edits.

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

- 1) Immediately needed services to address unanticipated or transitional situations, or services needed to address emergency situations. "Transitional situations" are those instances when contracting out is needed to bridge relatively short periods of time, such as during organizational restructuring that may be mandated by law or policy, or to facilitate a department's efforts to contract in services.
- 2) Short-term or capital projects requiring diverse skills, expertise and/or knowledge.
- 3) Services required on an as-needed, intermittent, or periodic basis (e.g., peaks in workload).
- 4) Regulatory or legal requirements, or requirements or mandates of funding source(s) which limit or preclude the use of Civil Service Employees.
- 5) Services that require resources that the City lacks (e.g., office space, facilities or equipment with an operator).

- 6) Circumstances where there is a demonstrable potential conflict of interest (e.g., independent appraisals, audits, inspections, third party reviews and evaluations).
- 7) Cases where future funding is so uncertain that the establishment of new civil service positions, classes or programs is not feasible (including situations where there is grant funding).

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

The Role of the Department of Human Resources

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

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

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

~~DHR is also responsible for reporting information regarding contract awards to the Commission on an annual basis. At the time that an approved PSC is processed for award, departments are required to submit to DHR information regarding the names, contract amounts and duration for all personal services contracts issued under the approved PSC. DHR, in turn, is required to submit that information for all PSCs awarded during the preceding year to the Commission no later than August 1st each year. Such DHR PSC contract award reports shall be made available for public inspection in the office of the Executive Officer, Civil Service Commission.~~

Comment [114]: This language has been moved to the section below under reporting requirements, with further revisions as indicated.

Departmental Personal Services Contract Coordinator

Each City and County department that regularly utilizes PSCs must designate a departmental PSC coordinator. The PSC coordinator works closely with DHR and Commission staff to expedite the review of proposed contracts by explaining the evaluation criteria to departmental personnel and by ensuring that the proper documentation is sent to the Commission through DHR in a timely manner.

Departmental Requests for Personal Services Contracts

- 1) Timing of PSC Approval Submissions

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

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

Comment [JJ5]: DHR requested this additional clarification, since inexperienced departmental representatives often underestimate the notice requirement.

2) PSC Approval Durations

Note that ~~under the Commission's previous policies and procedures, departments were required to indicate specific effective and expiration dates for PSC approvals. However, there may be unanticipated delays in the contracting process, such that the actual contract award may occur several months to a year after the Commission has approved a request for PSC approval. [Therefore, effective upon the issuance of this memorandum, departments now have the option of requesting PSCs may be measured in terms of by duration (e.g., one year, 18 months, three years, etc.) instead of by specific effective and expiration dates, in order to provide departments with more flexibility and time to conclude the often time consuming contracting process.~~

Again, this is at the department's option and will depend on the circumstances. However, the first contract(s) under an approved PSC measured in terms of duration must be executed within one year of the Commission meeting date at which the PSC was approved.

Comment [JJ6]: Departments have been un. on this point.

Comment [JJ7]: The department may issue many contracts under an approved PSC.

3) Retroactive Requests for Extensions

The Commission also recognizes that there may be rare circumstances when a PSC for an active contract must unexpectedly be extended for a period of time without enough notice for the department to request the Commission's approval to modify the duration prior to its expiration. In such event, departments may submit a retroactive request to extend the duration of an approved but expired PSC, provided that it is within one year of the PSC's expiration, and with adequate justification as to why the department was unable to submit a timely request for modification. Requests beyond the one-year expiration date require the submission of a new request for PSC approval (and assignment of a new PSC number), irrespective of whether the contract under the PSC is still active.

Comment [JJ8]: What happens if the department fails to do so? The Commission should state whether the department would need to submit a new or modified request.

4) Deadlines for PSC Submissions

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

Comment [JJ9]: This is to ensure that departmental submissions are clear and comprehensive.

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

Comment [JJ10]: This is a clarification of policy.

5) Content of PSC Submissions

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

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

Comment [JJ11]: These edits are intended to ensure that departmental submissions are clear and comprehensive.

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

Personal Services Contract Submissions and Scope of Approvals

A department may only contract out personal services for the duration, amount, and type and scope of services specified in the approved PSC. ~~Modification of Previously Approved Personal Services Contracts~~

Departments are required to resubmit a PSC request (either as a request for a new PSC, or as a request for a "Modification" to change existing PSC, as noted below) when the circumstances of the original request change. This type of request is considered a "Modification."

Comment [JJ12]: This incorporates a portion of Memorandum 2014-06 (Attachment B).

The following are changes that ~~Changes which warrant~~ require Commission approval. All other changes require only DHR approval. ~~a modification request for approval include:~~

Comment [JJ13]: This is to clarify the Commission's current policy so that departments understand when Commission approval (in addition to DHR approval) is required.

1. Changes to the type or scope of service provided under a PSC approved by the Commission;
or

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

Comment [JJ14]: Per DHR and the departments, paragraph (3) reflects DHR's practice. We need to bring the two in alignment, either by revising this section or correcting DHR's practices. Note: All requests for PSCs and modifications thereto—irrespective of whether they are Expedited or Regular PSCs— notices of are forwarded to the unions in advance and publicly posted (see the revisions below clarifying that).

Comment [JJ15]: Most of this is existing language taken from below.

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

1. At its discretion, a department may submit a request for a new PSC (as opposed to a request for a Modification) to continue contracting out the same or substantially same services if it will extend the total duration of the PSC beyond ten (10) years. If it will not extend the total duration of the PSC beyond ten years, the department must submit the request as a modification to an existing PSC.
2. Departments must submit a request for new PSC for Commission approval any time a department is seeking to include new or materially different services not contained in the original approved PSC approved by the Commission.

Comment [JJ16]: This reflects the Commission's new policy Memorandum 2014-06 (Attachment B), but I'm not entirely certain that it is needed since departments would still be required to submit a request for a modification in these circumstances.

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

Comment [JJ17]: This in large part folds in the Commission's previously adopted policy under Memorandum 2014-06 (Attachment B)

Union Notice

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

Comment [JJ18]: This is clarification of existing policy.

Posting

Once DHR has completed its review of ~~a~~ All requests for new or modified Expedited or Regular PSCs, the department's request must be posted on the DHR website for seven (7) calendar days. The posting must include the PSC number assigned by DHR, the estimated amount, the scope of work to be considered, and the estimated duration.

Comment [J119]: According to DHR, Expedited PSCs and all PSC Modifications are posted automatically at the time of union notification, prior to DHR review.

Comment [J120]: The system assigns the PSC number, not DHR.

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

Affected employee organizations must also be notified of the posting.

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

Comment [J121]: This is a clarification of existing policy.

Protests and Appeals (Civil Service Commission Rule Series 05.12)

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

Comment [J122]: This is clarification of existing policy.

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

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

Comment [J123]: This is also a non-substantive change, recognizing that there may be circumstances when a matter cannot be scheduled for the next meeting.

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

Ratification Agenda

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

Civil Service Commission Approval

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

The Commission's role is distinguished from the roles of City departments, other commissions, the City Administrator, ~~the Director of the Department of Administrative Services,~~ and the Human Rights Commission ("HRC"). It is not the Commission's role to be involved in the selection of individual contractors or the cost of such services. Again, the role of the Commission is to determine whether contracting is warranted; the selection of the individual contractor is done by City departments, with oversight and final decision making authority exercised as appropriate by commissions, the City Administrator, ~~the Director of the Department of Administrative Services,~~ and the HRC.

Comment [JJ24]: The Department of Administrative Services is the now General Services Agency, which is part of the City Administrator's Office; therefore, this reference is outdated and unnecessary.

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

Comment [JJ25]: FYI, Charter Section 10.104, Exclusions from Civil Service Appointment, provides in relevant part:

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

"All employees of the City and County shall be appointed through competitive examination unless exempted by this Charter. The following positions shall be exempt from competitive civil service selection, appointment and removal procedures, and the person serving in the position shall serve at the pleasure of the appointing authority: [...]"

15. Positions determined by the Controller and approved annually by the Board of Supervisors to be positions where the work or services can be practically performed under private contract at a lesser cost than similar work performed by employees of the City and County, except where such work or services are required to be performed by officers or employees of the City and County under the provisions of this Charter or other applicable law."

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

Comment [JJ26]: This is clarification of policy.

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

The Commission may grant an annual approval so that a proposed contract may be included in a department's annual budget consistent with the City and County's budgetary timeframes and

process. These approvals occur simultaneously with the budget process and must be submitted to DHR by March 1st. In the event the Mayor's budget deadlines are changed, the Human Resources Director is authorized to change the submission dates to conform to the revised schedule, provided that the PSC instructions are updated accordingly and the Executive Officer is notified of any changes to the schedule.

Continuing approval is granted by the Commission to comply with policy, funding or legal mandates. For example, those instances where: legal mandates direct the use of contractual services; or State or Federal funding requirements specify use of contractual services; or a City board, commission, the City Administrator, an elected official, or the Controller has determined that contracting is the most effective way to provide health and human welfare services; or the Retirement Board, consistent with its Charter and State constitutional authority, has determined that contracting is the most effective way to deliver investment management and actuarial services. Continuing approval is valid until revoked by the Commission. Unless otherwise authorized by the Commission, in the event that the Commission revokes its continuing approval for a PSC, the department may not execute any new contracts under that PSC, nor may the department increase the duration or amount of, or expand upon the scope of personal services contracted out under, any contracts executed under the authority of that PSC. However, revocation of continuing approval shall not serve to nullify contracts executed under that PSC, nor otherwise conflict with the City's contractual obligations.

Comment [JJ27]: The Commission should indicate what the consequences would be if the continuing approval were revoked.

~~For all PSCs for which the Commission approves a request for continuing approval, the requesting department must provide the Commission with annual reports listing the contracts awarded under the continuing approval. An annual report is to include the name of the contractor, type of service, amount, and duration of the contract. Annual reports are to be submitted to the Commission through DHR no later than August 1st of each year for the prior fiscal year. The Executive Officer will make all annual reports submitted under this section available for public inspection consistent with local and State law.~~

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

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

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

Reporting and Additional Requirements

Comment [JJ28]: The sections in double-underline indicate language that was removed from sections above.

PSCs with Regular and Annual Approval

DDHR is also responsible for reporting information regarding contract awards to the Commission on an annual basis. At the time that an approved PSC is processed for award, departments are required to submit to DHR information to DHR regarding the names, contract amounts and durations for all personal services contracts issued under the approved PSC at the time that those contracts are processed for award. DHR, in turn, is required to submit that information for all PSCs awarded during the preceding year to the Commission no later than August 1st each year. Such DHR PSC contract award reports shall be made available for public inspection in the office of the Executive Officer, Civil Service Commission's offices and on its website.

PSCs with Continuing Approval

For all PSCs for which the Commission approves a request for continuing approval, the requesting department must provide the Commission with annual reports listing the contracts awarded under the continuing approval. ~~An~~ The annual report ~~is to~~ must include a memorandum providing a brief history of the PSC(s) that are being submitted in accordance with this reporting requirement and an overview of the services contracted out under the PSC(s), and attached thereto must be: the Form 1(s) for any PSC(s) with Continuing approval covered under that report; supporting documentation relevant to the PSCs (e.g., copies of any applicable policy, funding or legal mandates); and the name(s) of the contractor(s), type(s) of service(s), amount(s), and duration(s) of the contract(s). The annual reports must also indicate if there have been any changes to the affected classes or unions since the last report was given.

The ~~a~~ Annual reports are to be submitted to the Commission with a Transmittal Form 22 (which must also identify all affected unions) through DHR no later than August 1st of each year for the prior fiscal year. Once received, the Executive Officer shall place the reports on the Consent Agenda for the following Commission meeting, and forward a copy to the affected union(s) identified on the Transmittal Form 22. The Executive Officer will make all annual reports submitted under this section available for public inspection consistent with local and State law. Such reports shall be made available for public inspection in the Commission's offices and on its website.

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

~~Modification of Previously Approved Personal Services Contracts~~

Departments are required to resubmit a request when the circumstances of the original request change. This type of request is considered a "Modification." Changes which warrant a modification request for approval include:

QUESTIONS

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

CIVIL SERVICE COMMISSION

JENNIFER JOHNSTON
Executive Officer

Attachment (1)

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

ATTACHMENT D

**MEMORANDUM
CSC No. 2014-0X**

Date: July X, 2014

To: Department Heads
Personnel Officers
Departmental Contract Coordinators

From: Jennifer Johnston
Executive Officer

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

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

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

Authority

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

Longstanding Policy and Procedures

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

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

Personal Services Contract Review Criteria

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

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

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

- 1) Immediately needed services to address unanticipated or transitional situations, or services needed to address emergency situations. "Transitional situations" are those instances when contracting out is needed to bridge relatively short periods of time, such as during organizational restructuring that may be mandated by law or policy, or to facilitate a department's efforts to contract in services.
- 2) Short-term or capital projects requiring diverse skills, expertise and/or knowledge.
- 3) Services required on an as-needed, intermittent, or periodic basis (e.g., peaks in workload).
- 4) Regulatory or legal requirements, or requirements or mandates of funding source(s) which limit or preclude the use of Civil Service Employees.
- 5) Services that require resources that the City lacks (e.g., office space, facilities or equipment with an operator).
- 6) Circumstances where there is a demonstrable potential conflict of interest (e.g., independent appraisals, audits, inspections, third party reviews and evaluations).
- 7) Cases where future funding is so uncertain that the establishment of new civil service positions, classes or programs is not feasible (including situations where there is grant funding).

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

The Role of the Department of Human Resources

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

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

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

Departmental Personal Services Contract Coordinator

Each City and County department that regularly utilizes PSCs must designate a departmental PSC coordinator. The PSC coordinator works closely with DHR and Commission staff to expedite the review of proposed contracts by explaining the evaluation criteria to departmental personnel and by ensuring that the proper documentation is sent to the Commission through DHR in a timely manner.

Requests for Personal Services Contracts

1) Timing of PSC Approval Submissions

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

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

2) PSC Approval Durations

Under the Commission's previous policies and procedures, departments were required to indicate specific effective and expiration dates for PSC approvals. However, there may be unanticipated delays in the contracting process, such that the actual contract award may occur several months to a year after the Commission has approved a request for PSC approval.

Therefore, departments now have the option of requesting PSC by duration (e.g., one year, 18 months, three years, etc.) instead of by specific effective and expiration dates, in order to provide departments with more flexibility and time to conclude the often time consuming contracting process.

Again, this is at the department's option and will depend on the circumstances; however, the first contract(s) under an approved PSC measured in terms of duration must be executed within one year of the Commission meeting date at which the PSC was approved.

3) Retroactive Requests for Extensions

The Commission also recognizes that there may be rare circumstances when a PSC for an active contract must unexpectedly be extended for a period of time without enough notice for the department to request the Commission's approval to modify the duration prior to its expiration. In such event, departments may submit a retroactive request to extend the duration of an approved but expired PSC, provided that it is within one year of the PSC's expiration, and with adequate justification as to why the department was unable to submit a timely request for modification. Requests beyond the one-year expiration date require the submission of a new request for PSC approval (and assignment of a new PSC number), irrespective of whether the contract under the PSC is still active.

4) Deadlines for PSC Submissions

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

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

5) Content of PSC Submissions

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

circumstances that require further explanation or if additional background information is needed.

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

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

Personal Services Contract Submissions and Scope of Approvals

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

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

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

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

1. At its discretion, a department may submit a request for a new PSC (as opposed to a request for a Modification) to continue contracting out the same or substantially same services if it

will extend the total duration of the PSC beyond ten (10) years. If it will not extend the total duration of the PSC beyond ten years, the department must submit the request as a modification to an existing PSC.

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

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

Union Notice

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

Posting

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

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

Affected employee organizations must also be notified of the posting.

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

Protests and Appeals (Civil Service Commission Rule Series 05.12)

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

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

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

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

Ratification Agenda

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

Civil Service Commission Approval

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

The Commission's role is distinguished from the roles of City departments, other commissions, the City Administrator, and the Human Rights Commission ("HRC"). It is not the Commission's role to be involved in the selection of individual contractors or the cost of such services. Again, the role of the Commission is to determine whether contracting is warranted; the selection of the individual contractor is done by City departments, with oversight and final decision making authority exercised as appropriate by commissions, the City Administrator and the HRC.

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

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

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

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

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

Continuing approval is granted by the Commission to comply with policy, funding or legal mandates. For example, those instances where: legal mandates direct the use of contractual services; or State or Federal funding requirements specify use of contractual services; or a City board, commission, the City Administrator, an elected official, or the Controller has determined that contracting is the most effective way to provide health and human welfare services; or the Retirement Board, consistent with its Charter and State constitutional authority, has determined that contracting is the most effective way to deliver investment management and actuarial services. Continuing approval is valid until revoked by the Commission. Unless otherwise authorized by the Commission, in the event that the Commission revokes its Continuing approval for a PSC, the department may not execute any new contracts under that PSC; nor may the department increase the duration or amount of, or expand upon the scope of personal services contracted out under, any contracts executed under the authority of that PSC. However, revocation of Continuing approval shall not serve to nullify contracts executed under that PSC, nor otherwise conflict with the City's contractual obligations.

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

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

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

Reporting and Additional Requirements

PSCs with Regular and Annual Approval

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

PSCs with Continuing Approval

For all PSCs for which the Commission approves a request for continuing approval, the requesting department must provide the Commission with annual reports listing the contracts awarded under the continuing approval. The annual report must include a memorandum providing a brief history of the PSC(s) that are being submitted in accordance with this reporting requirement and an overview of the services contracted out under the PSC(s), and attached thereto must be: the Form 1(s) for any PSC(s) with continuing approval covered under that report; supporting documentation relevant to the PSCs (e.g., copies of any applicable policy, funding or legal mandates); and the name(s) of the contractor(s), type(s) of service(s), amount(s), and duration(s) of the contract(s). The annual reports must also indicate if there have been any changes to the affected classes or unions since the last report was given.

The annual reports are to be submitted to the Commission with a Transmittal Form 22 (which must also identify all affected unions) no later than August 1st of each year for the prior fiscal year. Once received, the Executive Officer shall place the reports on the Consent Agenda for the following Commission meeting, and forward a copy to the affected union(s) identified on the Transmittal Form 22. Such reports shall be made available for public inspection in the Commission’s offices and on its website.

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

QUESTIONS

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

CIVIL SERVICE COMMISSION

JENNIFER JOHNSTON
Executive Officer

Attachment (1)

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



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

Sent via Electronic Mail

October 10, 2014

E. DENNIS NORMANDY
PRESIDENT

DOUGLAS S. CHAN
VICE PRESIDENT

KATE FAVETTI
COMMISSIONER

SCOTT R. HELDFOND
COMMISSIONER

GINA M. ROCCANOVA
COMMISSIONER

NOTICE OF CIVIL SERVICE COMMISSION ACTION

SUBJECT: RECOMMENDATION TO AMEND CIVIL SERVICE RULE 412.30
TENURE OF ELIGIBLE LISTS; AND RULE 412.31 PROVISION
FOR AUTOMATIC EXPIRATION OF ELIGIBLE LISTS.

At its meeting of October 6, 2014 the Civil Service Commission had for its consideration the above matter.

The Commission accepted the report and directed the Acting Executive Officer to post the proposed Rule 412.30 and 412.31 for adoption following meet and confer with the affected labor union.

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.

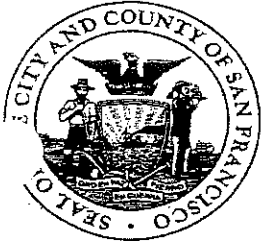
SANDRA ENG
ACTING EXECUTIVE OFFICER

CIVIL SERVICE COMMISSION

SANDRA ENG
Acting Executive Officer

Cc: Donald E. Ellison, Municipal Transportation Agency
Alicia John-Baptiste, Municipal Transportation Agency
Edward D. Reiskin, Municipal Transportation Agency
Simon Wong, TWU Local 200
Commission File
Chron

THIS DOCUMENT SUPPORTS
CALENDAR ITEM 10



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

Sent via Electronic Mail

September 25, 2014

NOTICE OF CIVIL SERVICE COMMISSION MEETING

**SUBJECT: RECOMMENDATION TO AMEND CIVIL SERVICE RULE 412.30
TENURE OF ELIGIBLE LISTS; AND RULE 412.31 PROVISION
FOR AUTOMATIC EXPIRATION OF ELIGIBLE LISTS.**

The above matter will be considered by the Civil Service Commission at a meeting to be held on **October 6, 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 Regular Agenda. Please refer to the attached Notice for procedural and other information about Commission hearings. The meeting agenda and all meeting materials will be posted on the Civil Service Commission's website at www.sfgov.org/Civil_Service under "Meetings" no later than end of day on Wednesday, October 1, 2014. If you would like a copy of the staff report on the above-captioned matter emailed to you in advance of October 1st, please contact the Civil Service Commission's Office at CivilService@sfgov.org or (415) 252-3247.

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 non-privileged materials being considered by the Civil Service Commission for this item will be 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

Cc: Donald E. Ellison, Municipal Transportation Agency
Alicia John-Baptiste, Municipal Transportation Agency
Edward D. Reiskin, Municipal Transportation Agency
Simon Wong, TWU Local 200
Commission File
Commissioners' Binder
Chron

THIS DOCUMENT SUPPORTS
CALENDAR ITEM 11

Acting Executive Officer's Staff Report



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

Date: October 20, 2014
To: Civil Service Commission
From: Sandra Eng, Acting Executive Officer *SE*
Subject: **Recommendation to Adopt the Proposed Amendments to Civil Service Rules 412.30 Tenure of Eligible Lists and 412.31 Provision for Automatic Expiration of Eligible Lists**

During its meeting of October 6, 2014, the Civil Service Commission (“Commission”) approved the Municipal Transportation Agency’s request to amend Civil Service Rules 412.30 Tenure of Eligible Lists and 412.31 Provision for Automatic Expiration of Eligible Lists, to a minimum duration of one (1) year and a maximum duration of three (3) years. In so doing, the Commission directed the Executive Officer to post the proposed amendment to Civil Service Rules 412.30 and 412.31 as required under the Charter and Civil Service Commission Rules and to meet and discuss the proposed revisions with any interested stakeholders.

The Executive Officer posted the proposed amendments to Civil Service Commission Rules 412.30 and 412.31 on October 8, 2014 and scheduled two meetings to discuss them with any interested stakeholders—one on October 16th and one on October 17th (see the attached copy of the posting.) No interested stakeholders requested to attend the scheduled meetings; nor did the Acting Executive Officer receive any inquiry regarding, or objection to, the proposed amendments.

Recommendation: Accept this staff report and adopt the amendments to Civil Service Commission Rules 412.30 Tenure of Eligible Lists and 412.31 Provision for Automatic Expiration of Eligible Lists.

Attachment (1)

THIS DOCUMENT SUPPORTS
CALENDAR ITEM 10



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

MEMORANDUM
CSC No. 2014 - 18

E. DENNIS NORMANDY
PRESIDENT

Date: October 8, 2014

DOUGLAS S. CHAN
VICE PRESIDENT

To: Ed Reiskin, Director of Transportation, MTA
Simon Wong, President TWU Local 200

KATE FAVETTI
COMMISSIONER

From: Sandra Eng
Acting Executive Officer

SCOTT R. HELDFOND
COMMISSIONER

Subject: **Notice of Posting: Proposed Amendments to Civil Service Rule 412 - Eligible Lists, Section 412.30 - Tenure of Eligible Lists and Section 412.31 - Provision for Automatic Expiration of Eligible Lists.**

GINA M. ROCCANOVA
COMMISSIONER

SANDRA ENG
ACTING EXECUTIVE OFFICER

The Civil Service Commission ("Commission") acted at its Regular Meeting of October 6, 2014, to direct its Executive Officer to post the Municipal Transportation Agency's proposed revisions to Civil Service Rule 412 - Eligible Lists, Section 412.30 - Tenure of Eligible Lists and Section 412.31 - Provision for Automatic Expiration of Eligible Lists; and to meet and discuss the proposed revisions with the affected labor union and other interested stakeholders.

Rules 412.30 and 412.31 apply to Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union Local 200. Currently, Civil Service Rule 412.30 provides that the minimum duration of the eligible list is two (2) years and the maximum duration of eligibility is four (4) years. Civil Service Rule 412.31 provides that the eligible list may automatically expire after two (2) months or up to four (4) years.

The proposed amendments to both Rule sections would keep the minimum duration of the eligible list to one (1) year and the maximum duration to three (3) years. The minimum and maximum duration of the eligible lists will be consistent and allow for an increase in opportunities for appointing officers to select the best candidate for the specific position in the department.

Affected employee organizations or other stakeholders interested in discussing the proposed revisions are invited to attend any or all of the following scheduled meetings:

Date: Thursday, October 16, 2014
Time: 3:00 p.m. - 5:00 p.m.

and/or

Date: Friday, October 17, 2014
Time: 9:00 a.m. - 11:00 a.m.

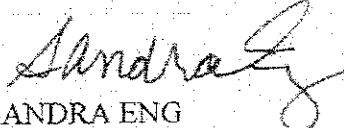
CSC Memorandum 2014 – 18 Posting: Proposed Amendments to Civil Service Rule 412
October 8, 2014
Page 2 of 2

The meetings will take place in the Civil Service Commission's Offices, located at 25 Van Ness Avenue, Suite 720. Please contact Commission staff at CivilService@sfgov.org to RSVP for either or both meetings.

Should you have any questions about the proposed amendments, you may contact me at (415) 252-3247 or at Sandra.Eng@sfgov.org.

Respectfully submitted,

CIVIL SERVICE COMMISSION


SANDRA ENG
Acting Executive Officer

Attachment

Cc: E. Dennis Normandy, President, CSC
Douglas S. Chan, Vice President, CSC
Kate Favetti, Commissioner, CSC
Scott R. Heldfond, Commissioner, CSC
Gina Roccanova, Commissioner, CSC

Attachment: Proposed Amendments to Civil Service Commission Rules 412.30 and 412.31

**Rule 412
Eligible Lists**

Article IV: Duration of Eligible Lists

Applicability: Article IV, Section 412.28 and 412.29, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Local 250A.

Sec. 412.28 Tenure of Eligible Lists

The MTA Director of Transportation/Designee may remove all names from the eligible lists after they have remained thereon for six (6) months and all names thereon shall be removed at the expiration of four (4) years.

Sec. 412.29 Provision for Automatic Expiration of Eligible Lists

The MTA Director of Transportation/Designee may provide in the examination announcement that the eligible lists secured thereby shall automatically expire at a date not less than six (6) months or more than four (4) years after the adoption of such list.

Applicability: Article IV, Sections 412.30 and 412.31 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union, Local 200.

Sec. 412.30 Tenure of Eligible Lists

The MTA Director of Transportation/Designee may remove all names from the eligible lists after they have remained thereon for ~~more than two (2)~~ one (1) years and all names thereon shall be removed at the expiration of ~~four (4)~~ three (3) years.

Sec. 412.31 Provision for Automatic Expiration of Eligible Lists

The MTA Director of Transportation/Designee may provide in the examination announcement that the eligible lists secured thereby shall automatically expire at a date not less than one (1) year ~~two (2)~~ months or more than three (3) ~~four (4)~~ years after the adoption of such list.

Acting Executive Officer's Staff Report from the Meeting
of October 6, 2014



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

Date: October 6, 2014

To: Civil Service Commission

From: Sandra Eng *SE*
Acting Executive Officer

Subject: **Request from the Municipal Transportation Agency to Adopt Amendments to Civil Service Commission Rule 412.30 Tenure of Eligible Lists and 412.31 Provision for Automatic Expiration of Eligible Lists**

I. Overview

The Municipal Transportation Agency ("MTA") submitted a staff report dated September 23, 2014 to request that the Civil Service Commission ("Commission") adopt amendments to Rule 412.30 and Rule 412.31 in Volume IV of the Civil Service Rules for MTA service-critical positions/classifications represented by the Transport Workers Union, Local 200. MTA requested clarification on the different eligible list durations between the two following Rules:

Rule 412.30 Tenure of Eligible Lists states, "The MTA Director of Transportation/Designee may remove all names from the eligible lists after they have remained thereon for more than two (2) years and all names thereon shall be removed at the expiration of four (4) years."

Rule 412.31 Provision for Automatic Expiration of Eligible Lists states, "The MTA Director of Transportation/Designee may provide in the examination announcement that the eligible lists secured thereby shall automatically expire at a date not less than two (2) months or more than four (4) years after the adoption of such list."

Rule 412.31 significantly differs in the minimum duration of eligibility of 2 months from Rule 412.30, a minimum duration of eligibility of 2 years.

II. Authority

Charter Section 10.101, General Powers and Duties, provides as follows:

"Changes to the rules may be proposed by members of the Commission, the Executive Assistant or the Human Resources Director and approved or rejected by the Commission. The Commission may, upon ten days' notice, make changes in the rules, which changes shall thereupon be printed and be in force; provided that no such changes in rules shall affect a case pending before the Commission."

Civil Service Rule Section 401.5, Amendment of Rules, provides as follows:

“The Commission may at any time amend these Rules. Any such proposed amendment shall be posted for a minimum of ten (10) consecutive calendar days prior to adoption. Upon adoption, changes in the Rules shall be in effect and shall be printed. No change in the Rules shall affect a case pending before the Civil Service Commission.”

III. Proposed Revision to Rules 412.30 and 412.31

Eligible list duration should be consistent and allow for an increase in opportunities for appointing officers to select the best candidate for the specific position in the department. MTA met with TWU Local 200 regarding the eligible list durations and both agree that the duration for eligible lists in classes represented by TWU Local 200 should be a minimum duration of one (1) year and a maximum duration of three (3) years (see attachment).

Recommendation: Accept the Acting Executive Officer’s report; direct the Acting Executive Officer to post the proposed Rule 412.30 and 412.31 for adoption following meet and confer with the affected labor union.

Attachment

Rule 412 Eligible Lists

Article IV: Duration of Eligible Lists

Applicability: Article IV, Section 412.28 and 412.29, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Local 250A.

Sec. 412.28 **Tenure of Eligible Lists**

The MTA Director of Transportation/Designee may remove all names from the eligible lists after they have remained thereon for six (6) months and all names thereon shall be removed at the expiration of four (4) years.

Sec. 412.29 **Provision for Automatic Expiration of Eligible Lists**

The MTA Director of Transportation/Designee may provide in the examination announcement that the eligible lists secured thereby shall automatically expire at a date not less than six (6) months or more than four (4) years after the adoption of such list.

Applicability: Article IV, Sections 412.30 and 412.31 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union, Local 200.

Sec. 412.30 **Tenure of Eligible Lists**

The MTA Director of Transportation/Designee may remove all names from the eligible lists after they have remained thereon for ~~more than two (2)~~ one (1) years and all names thereon shall be removed at the expiration of ~~four (4)~~ three (3) years.

Sec. 412.31 **Provision for Automatic Expiration of Eligible Lists**

The MTA Director of Transportation/Designee may provide in the examination announcement that the eligible lists secured thereby shall automatically expire at a date not less than one (1) year~~two (2) months~~ or more than three (3)~~four (4)~~ years after the adoption of such list.

Municipal Transportation Agency's
Staff Report

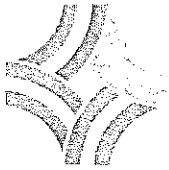
NOTIFICATIONS

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MEMORANDUM

DATE: September 23, 2014

TO: Honorable Civil Service Commission

THROUGH: Donald Ellison 
 Director, Human Resources

FROM: Derek Kim
 Manager of HR Operations

SUBJECT: Proposed Amendment to Article IV, Volume IV - Civil Service Commission Rules Applicable to Service-Critical Classes at the Municipal Transportation Agency, Rule 412, Section 412.30 – Tenure of Eligible Lists and Section 412.31 – Provision for Automatic Expiration of Eligible Lists

The Municipal Transportation Agency is proposing amendments to Section 412.30 – Tenure of Eligible Lists and Section 412.31 – Provision for Automatic Expiration of Eligible Lists of Rule 412, Article IV, Volume IV of the Civil Service Commission Rules pertaining to service-critical classes at the Municipal Transportation Agency. The purpose of the proposed amendments is to increase access to the Civil Service, to provide the Agency with a list of interested individuals who are available for immediate appointment and to provide greater flexibility in addressing immediate hiring needs.

BACKGROUND

On July 1, 2000, Volume IV of the Civil Service Commission Rules pertaining to service-critical classes at the Municipal Transportation Agency (MTA) was issued in its entirety. At that time, Section 412.28 Tenure of Eligible Lists provided that the MTA Director of Transportation might remove all eligibles from an eligible list after a minimum of two years, and that all eligibles would be removed at the expiration of four years. Similarly, Section 412.29 provided that the MTA Director of Transportation might provide for the automatic expiration of an eligible list on a date not less than two years, but no more than four years, after the date of the adoption of the list. This two year minimum, four year maximum discretion afforded the Director of Transportation regarding Civil Service eligibility applied to service-critical classes of the MTA represented by the Transport Workers Union (TWU), Locals 200 and 250A.

Subsequently, on November 6, 2000, the Civil Service Commission (“the Commission”) adopted an amendment to Sections 412.28 and 412.29 which changed the minimum duration of eligibility from two years to six months. The maximum duration of eligibility remained unchanged at four years.

Significantly, this Rule change was limited in applicability to classes of the MTA represented by TWU Local 250A. By intent, it was not applicable to classes represented by TWU Local 200.

While, after the November 2000 amendment, the language of the Rules is clear as to the minimum and maximum duration of eligibility for service-critical classes represented by TWU Local 250A, there is some confusion in the documentation as to the language applicable to service-critical classes represented by TWU Local 200. It is clear, however, as regards service-critical classes represented by TWU Local 200, the language of Sections 412.30 Tenure of Eligible Lists and 412.31 Provision for Automatic Expiration of Eligible Lists had been established by January 8, 2001. The language of those sections as it existed on January 8, 2001, remains unchanged in the current Rules as follows:

Applicability: Article IV, Sections 412.30 and 412.31 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union, Local 200.

Sec. 412.30 Tenure of Eligible Lists

The MTA Director of Transportation/Designee may remove all names from the eligible lists after they have remained thereon for more than two (2) years and all names thereon shall be removed at the expiration of four (4) years.

Sec. 412.31 Provision for Automatic Expiration of Eligible Lists

The MTA Director of Transportation/Designee may provide in the examination announcement that the eligible lists secured thereby shall automatically expire at a date not less than two (2) months or more than four (4) years after the adoption of such list.

It is important to note that the language as published in January 2001 regarding the minimum duration of eligibility contained in Section 412.30 differs significantly from that of Section 412.31: Section 412.30 states "... may remove all names ... after ... more than two (2) years ..." while Section 412.31 states "... shall automatically expire at a date not less than two (2) months ... after the adoption of such list." Notwithstanding the discrepancy in the foregoing language, the SFMTA is submitting this proposed amendment to address the more conservative reading of the language requiring a two year minimum eligibility period.

THE SFMTA PROPOSES AN AMENDMENT TO RULE SECTIONS 412.30 AND 412.31

In 2014, the SFMTA began meeting with Local 200 officers regarding the confusing eligible list durations. After several productive meetings, all parties agreed that the eligible list duration should be consistent and allow for increase access to civil service appointment. The SFMTA and Local 200 agreed that the ideal duration for eligible lists in classes represented by Local 200 should be minimum of one (1) year and maximum of three (3) years.

The SFMTA now requests that Civil Service Commission Rule Sections 412.30 and 412.31 be amended as follows:

Sec. 412.30 Tenure of Eligible Lists

The MTA Director of Transportation/Designee may remove all names from the eligible lists after they have remained thereon for ~~more than two (2) years~~ one (1) year and all names thereon shall be removed at the expiration of ~~four (4)~~ three (3) years.

Sec. 412.31 Provision for Automatic Expiration of Eligible Lists

The MTA Director of Transportation/Designee may provide in the examination announcement that the eligible lists secured thereby shall automatically expire at a date not less than ~~two (2)~~ one (1) year or more than ~~four (4)~~ three (3) years after the adoption of such list.

THE REQUESTED AMENDMENT PROVIDES GREATER ACCESS TO CIVIL SERVICE EMPLOYMENT

By providing for more frequent announcement and administration of Civil Service examinations, the proposed amendment provides increased opportunities for individuals to be considered for permanent Civil Service employment. Under the current Rules, qualified individuals who are interested in applying for permanent positions in service-critical classes represented by TWU Local 200 must generally wait for a two-year eligible list to expire before they may be considered for a permanent appointment. While the Rules contemplate the existence of concurrent eligible lists, the Rules addressing priority of eligible lists significantly curtail the utility of a later adopted eligible list during the life of an earlier adopted eligible list. Increasing the frequency of eligible list expiration and new list adoption increases the number of points of access at which an interested individual may enter the Civil Service.

THE REQUESTED AMENDMENT WILL AFFORD CURRENT ELIGIBLES THE OPPORTUNITY TO IMPROVE THEIR PLACEMENT ON ELIGIBLE LISTS

Currently, eligibles who are not in the reachable ranks for permanent positions in service-critical classes represented by TWU Local 200 must wait two years for the opportunity to place, or improve their placement, on an eligible list. The proposed amendments would allow prior applicants the opportunity to exhibit knowledge, abilities and skills gained since the last examination process without having to potentially wait two years. In this manner, the proposed amendments would ensure that eligible lists more accurately reflect the current abilities and experience of the eligibles.

THE REQUESTED AMENDMENT WILL HELP TO MAINTAIN AN UP-TO-DATE POOL OF QUALIFIED APPLICANTS

To the extent that the proposed amendment to Rule 412 will result in greater frequency of examinations, it will help to ensure that the pool of qualified candidates is refreshed on a regular basis. It also furthers a merit-based hiring process in that with more frequent eligible lists, the ability to select and hire the top scoring candidate is increased.

THE REQUESTED AMENDMENT IMPROVES THE ABILITY OF THE SFMTA TO ADDRESS STAFFING NEEDS AND RESOURCE REQUIREMENTS

By providing increased flexibility in establishing the duration of eligibility and eligible lists, the proposed amendment allows the SFMTA to better adjust the administration of Civil Service examinations to address fluctuations in staffing needs. Additionally, the proposed amendment provides for increased efficiency in the Agency's examination plan by allowing greater ability to plan and adjust exam schedules to match the availability of Merit System staff to administer examinations.

CONCLUSION

The SFMTA requests the Civil Service Commission to consider its proposal to amend Article IV of Volume IV of the Civil Service Rules to apply a one year minimum and three year maximum duration for eligibility.

The proposed amendment will increase access to the Civil Service by allowing more frequent opportunities for interested individuals to participate in Civil Service examinations. It will also provide SFMTA with greater ability to address staffing needs.

RECOMMENDATION

We respectfully request that the Civil Service Commission adopt this report and approve SFMTA's request to amend the minimum durations as one (1) year and maximum duration as three (3) years for rule sections 412.30 and 412.31.

CLOSED SESSION

**(11) Filling the vacancy of the position of Executive Officer – Personnel Matter.
(File No. 0181-14-1) – Discussion and Possible Action**

- A) Public Comment on all matters pertaining to the Agenda item and the potential closed session.
- B) Vote on whether to hold closed session pursuant to San Francisco Administrative Code Section 67.10 (b) and California Government Code Section 54957 (b) (1) - Public Employee Appointment – Human Resources Director. – Action Item
 - 1) PERSONNEL MATTER - Public Employee Appointment – Executive Officer (Discussion and Possible Action Item)
California Government Code Section 54957 (b) (1) and San Francisco Administrative Code Section 67.10 (b)
- C) Reconvene in open session:
 - 1) Vote to elect whether to disclose any or all discussions held in closed session. (San Francisco Administrative Code Section 67.12(a). (Action Item)
 - 2) Disclosure of action taken in closed session pursuant to California Government Code Section 54957.1 (a) (5) and San Francisco Administrative Code Section 67.12(b) (4).

**Commissioners'
Announcements!
Request**

Adjournment
