



**OFFICE OF THE CONTROLLER**  
**CITY AND COUNTY OF SAN FRANCISCO**

Ben Rosenfield  
Controller

Todd Rydstrom  
Deputy Controller

**MEMORANDUM**

TO: All Departments

FROM: Todd Rydstrom, Deputy Controller

DATE: July 7, 2020

SUBJECT: Emergency Contracting Exceptions & Controller's Concurrence

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**CONTROLLER'S CONCURRENCE REQUIRED FOR EXCEPTIONS TO STANDARD CONTRACTING PROCEDURES PURSUANT TO THE THIRTEENTH SUPPLEMENT DATED May 11, 2020, TO MAYORAL PROCLAMATION DECLARING THE EXISTENCE OF A LOCAL EMERGENCY DATED FEBRUARY 25, 2020 ("Order").**

On May 11, 2020, the Mayor signed the thirteenth supplement to the Order, which provides in section (1) additional guidance to departments regarding the procurement of commodities or services, contracts for public works, and grant agreements during the COVID Emergency. The supplement states that departments shall comply with all procedural and substantive requirements in City laws and policies, except for COVID-19-Related Contracts in which those procedural and substantive requirements (such as local preference) would impede the City's ability to respond adequately to the emergency or obtain cost recovery from FEMA or the California Office of Emergency Services.

Because the City is still in a state of Emergency, and the City is within the Response period as defined by FEMA, departments may enter COVID-19-Related Contracts with a term of one year or less and may continue to handle such procurements on an emergency/exigency basis.

However, the supplement re-emphasizes the expectation that departments begin to transition to standard contracting procedures. This acknowledges both the long-term nature of this emergency as well as the necessity to obtain the best value for the City. This is imperative to ensuring maximum cost recovery from FEMA for City expenditures and an ensuring fair and transparent procurement.

Absent an RFP/Q process, all City Departments should be attempting to obtain at least three quotes from three different suppliers prior to entering the COVID-19-Related Contract. Please see the following guidance from OCA regarding solicitations:

[Emergency COVID-19 Purchases Logistics and EOC-OCA Roles \(6-10-20\).docx](#). If the Department determines that it is not feasible to obtain multiple quotes prior to executing the COVID-19-Related Emergency Contract, the Department Head must request Controller's Concurrence that the exception is necessary to support the City during this crisis.

The 13<sup>th</sup> Supplemental applies to:

- All COVID-related, new Purchase Orders and new Supplier Contracts
- Previously issued, COVID-related Contracts and Purchase Order agreements that are now being formalized or further documented, if they extend beyond emergency period.
- Certain amendments, where related to the below categories.

The Table below provides an overview of the exceptions contemplated by each section of the Supplemental.

Section	Topic	Exception Made/Concurrence Required
1 A	Solicitation and Procurement	Competitive solicitation was not feasible. Exigent circumstances prohibited the department from obtaining even 3 informal quotes/bids.
1 C i	Contract Terms	Department must <u>include</u> Contract Terms that may impede FEMA Cost Recovery (e.g. Local Preference).
1 C ii	Contract Terms	Department must <u>omit</u> Contract Terms that are not feasible to meet due to exigency measures required.
1D	Personal Protective and Medical Equipment	It is not feasible to buy PPE pursuant to the City Administrator's March 10, 2020 memorandum and any modifications to that memorandum authorized under Item 7 of the First Supplement to the Proclamation. (This exception requires an email from EOC-Logistics and approval from the City Administrator stating the Department may proceed.)

## EXISTING COVID-19 CONTRACTS

There are existing COVID-19 contracts that are just now being formalized or further documented and submitted for approval. These may have been authorized through an email, orally or through the creation of a Purchase Order (PO) prior to the Mayor's 13 Supplemental. These contracts do NOT need review since they were already entered into, during the emergency period, as long as the term ends before or on August 25, 2020 (6 months after Proclamation of Local Emergency Declaration).

However, if the term extends beyond 6 months, departments must obtain the Controller's Concurrence that an exception to standard procurement is necessary.

Also, if departments are changing or adding scope to these previously established emergency contracts, they must seek Controller's Concurrence that an exception is needed or create a new contract using standard procurement practices.

## NON-COVID CONTRACT AMENDMENTS: EXPEDITED PROCEDURES

The City established an expedited Contract Modification Policy for use during the emergency. (Follow this link: [Expedited Contract Modification Policy](#) ). This allows for expedited amendment procedures with the following restrictions:

- Amendment does not extend term by more than 6 months, or past December 31, 2020
- Amended contracts based on FY19-20 terms; budgets prorated for the extension duration.
- Increased budgets allowed to accommodate COVID-19 expenses, pending department approval.

## PROCESS FOR OBTAINING CONTROLLER'S CONCURRENCE FOR EXCEPTIONS

The following process ensures timely, electronic workflow and sightline for all those working remotely, at the EOC or at one of the City's DOCs. The steps are:

- 1) Departments should complete the form titled "Request for Controller's Concurrence", have it signed by the Department Head or the CFO as designee and attach to the relevant Purchase Order or Contract in **SF Procurement (PeopleSoft)** as it is submitted for approval.
- 2) Please add **Julie Ansell as Ad Hoc Approver** to your Purchase Order or Supplier Contract Workflow. Julie Ansell will convene the necessary reviewers for discussion of the exception and if all parties agree, will then approve the Contract or Purchase Order in PeopleSoft. Approval by Julie Ansell, SF Procurement Director, in the SF Procurement PeopleSoft system will serve as confirmation of the Controller's concurrence.
- 3) Departments do not have to email Julie directly or send Contract via DocuSign.

- 4) In order to automate required reporting, COVID-19-Related Contracts and Purchase Orders should continue to be designated as such by choosing the Purchasing Authority "COVID-19."
- 5) Please allow 3-4 days for this process.

#### Required Reporting & Additional Guidance

- 1) The supplement requires departments to provide a list of all COVID-19-Related Contracts to the Mayor's Office and Board of Supervisors. The Controller's Office will automate and simplify the Department's new responsibility to provide a list of these contracts by automating that report in SF Reports & Analytics, as a new COVID-19 Dashboard, and transmit the same to policymakers. All Departments are responsible for reviewing this dashboard and ensuring completeness for your department.
- 2) Please refer to the SF Knowledge Center job aid on "How to Add an Ad Hoc Approver" for more information.
- 3) Questions? Please send an email to: [Julie.Ansell@sfgov.org](mailto:Julie.Ansell@sfgov.org)

Thank you for your collaboration and the important public service work you are doing to help San Francisco respond and recover from this pandemic.



## OFFICE OF THE CONTROLLER

### CITY AND COUNTY OF SAN FRANCISCO

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Controller

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Deputy Controller

## Request for Controller's Concurrence

Pursuant to the 13<sup>th</sup> Supplemental to the Mayor's Emergency Declaration, and FEMA Regulations, Departments are encouraged to return to best procurement practices, including competitive bidding. Even as the City remains in a state of emergency due to the COVID Pandemic, departments should begin their transition back to competitive bidding and following the Administrative Code's contract regulations.

If the department cannot follow procurement procedures due to exigent circumstances prior to entering the COVID-19-Related Contract, this form should be completed and submitted to the Controller's Office via PeopleSoft (see instructions below).

**Please note:** You do not need to obtain the Controller's concurrence for Contract Amendments unless you are asking for an exception to our previous guidance concerning Contract Amendments, which, in brief, states that Contracts can be amended without review by the Controller if they are not amended to a date greater than June 30, 2021 and are not amended by an amount greater than that allowed (for example, amending the contract by more than 50% of the original amount) .

Department:

Contract Title:

Contract Amount:

Contract Term:

Supplier:

Reason for Contract:

Type of agreement (choose one):

- ☐ Grant
- ☐ Professional Services
- ☐ Commodities
- ☐ General Services
- ☐ Construction Services

## 2 | Request for Controller's Concurrence

We are seeking the Controller's (or designee's) concurrence that the following exception(s) is/are required pursuant to the 13<sup>th</sup> Supplemental:

Check Here	Section	TOPIC	Exception Requested
	1 A	Solicitation and Procurement	Competitive solicitation was not feasible. Exigent circumstances prohibited the department from obtaining even 3 informal bids.
	1 C i	Contract Terms	Department must include Contract Terms that may impede FEMA Cost Recovery (e.g. Local Preference)
	1 C ii	Contract Terms	Department must omit Contract Terms that are not feasible to meet due to exigency measures required.
	1D	Personal Protective and Medical Equipment	It is not feasible to buy PPE pursuant to the City Administrator's March 10, 2020 memorandum and any modifications to that memorandum authorized under Item 7 of the First Supplement to the Proclamation. <b>(This exception requires an email from EOC-Logistics and approval from the City Administrator stating the Department may proceed.)</b>

Please explain the specific exigent circumstances that are causing you to request this exception.

The Department Head acknowledges that not adhering to proper procurement procedures could result in the City & County (and so the department) forfeiting FEMA Cost Recovery funding.

Signature of Department Head: \_\_\_\_\_

Date: \_\_\_\_\_

The Controller's Designee will demonstrate concurrence through his or her approval in PeopleSoft. Please use the Purchasing Authority "COVID-19" and add Julie Ansell as an Ad Hoc Approver to the Supplier Contract or Purchase Order being submitted for approval.