

City and County of San Francisco
Office of Labor Standards Enforcement (OLSE)



Request for Proposals
Formula Retail Employee Rights Ordinances
Outreach Services

Date issued:
Proposal due:

September 26, 2018
October 23, 2018 5:00 p.m.

Formula Retail Employee Rights Outreach Services

OLSE RFP# 2018-3 CONTACT: ellen.love@sfgov.org, (415) 554-6488

Background and Statement of Need

The San Francisco Board of Supervisors passed the Formula Retail Employee Rights Ordinances (also known as “FRERO” or the “Retail Worker Bill of Rights”) on November 25, 2014. The ordinances were the first of their kind in the country. The laws regulate employee scheduling and retention and the treatment of part-time employees at large formula retail employers.

Educating employees and employers covered by FRERO about these laws poses unique challenges. The requirements of the FRERO are unprecedented and multifaceted, and employee turnover in the retail industry is high.

The OLSE is seeking a Contractor who can lead an effective outreach campaign to inform employees about their rights and also educate the human resources staff and store managers at covered retail establishments about the requirements of the law.

The OLSE’s goal in seeking these services is to improve employee understanding of their rights and improve employer compliance with FRERO.

Intent of this RFP

It is the intent of the OLSE to identify the most responsive and qualified Proposer(s) to negotiate a contract for FRERO outreach services. Proposers are not guaranteed a contract.

The original contract period will be 2 years. The estimated initial contract amount will be \$150,000 in the first year and \$100,000 in the second year, for an estimated total of \$250,000. The City shall have the option to extend the agreement for an additional 1-year period, for a total possible contract period of 3 years.

Actual contract periods and contract value may vary at the City’s sole and absolute discretion. The contractor selected must be available to commence work on or before January 1, 2019.

Pursuant to Admin Code Chapter 14B, the Local Business Enterprise (LBE) sub-consulting requirement for this Request For Proposals (RFP) and resulting contract(s) is 20%.

Schedule

Each date subject to change. Check [OLSE website](#) for latest schedule.

RFP Issued	9-26-2018
Deadline for RFP questions and notification of errors or omissions	10-09-2018 (5:00 PM PT)
RFP questions answered online	10-16-2018
Deadline for proposals	10-23-2018 (5:00 PM PT)
Notice of intent to award contract	11-23-2018
Last day to protest contract award	11-30-2018
Anticipated contract start date	01-01-2019

City-Proposer Communications

OLSE will accept questions about this RFP by email, and OLSE staff will post answers on the OLSE website. E-mail your questions to **ellen.love@sfgov.org before 5:00 P.M. PDT on October 9, 2018.** After that date, no questions will be accepted with the exception of City vendor compliance or Contract Monitoring Division sub-consulting requirement questions.

A summary of the advance and pre-proposal questions and answers pertaining to this RFP will be posted on the OLSE website at <https://sfgov.org/olse/contracting-opportunities>.

1. Background on FRERO

1.1. Legislation

The San Francisco Board of Supervisors passed two ordinances, together known as the Formula Retail Employee Rights Ordinances, on November 25, 2014.

- Hours and Retention Protections for Formula Retail Employees Ordinance, codified as [San Francisco Police Code Article 33F](#).
- Fair Scheduling and Treatment of Formula Retail Employees Ordinance, codified as [San Francisco Police Code Article 33G](#).

1.2. Covered Employers

The Formula Retail Employee Rights Ordinances apply to [Formula Retail Establishments](#), as defined by the San Francisco Planning Code, with at least 40 stores worldwide and 20 or more employees in San Francisco, as well as their janitorial and security contractors.

1.3. Summary of FRERO Requirements

1.3.1. Hours: Covered employers must offer any extra work hours to current qualified part-time employees in writing before hiring new employees or using contractors or staffing agencies to perform additional work.

1.3.2. Retention: If a covered Formula Retail Establishment is sold, the successor employer must retain, for 90 days, eligible employees who worked for the former employer for at least six months prior to the sale. The employer must post a notice of the "change in control" and provide employees with a notice about their rights.

1.3.3. Notice of Work Schedules:

- Covered employers are required to provide new employees with a good faith estimate of the employee's expected minimum number of scheduled shifts per month.
- Employers must provide employees with their schedules two weeks in advance.

1.3.4. Predictability Pay for Schedule Changes / Pay for On Call Shifts:

- If changes are made to an employee's schedule with less than seven days' notice, the employer must pay the employee a premium of 1 to 4 hours of pay at the employee's regular hourly rate (depending on the amount of notice and the length of the shift).
- If an employee is required to be "on-call," but is not called in to work the employer must pay the employee a premium of 2 to 4 hours of pay at the employee's regular hourly rate (depending on the amount of notice and the length of the shift).
- *Exemptions:* Employers do not have to provide "predictability pay" or payment for on-call shifts if any of the following conditions apply:
 - Operations cannot begin or continue due to threats to employees or property;
 - Operations cannot begin or continue because public utilities fail;
 - Operations cannot begin or continue due to an Act of God or other cause not within the employer's control (such as an earthquake);

- Another employee previously scheduled to work that shift is unable to work and did not provide at least seven days' notice;
- Another employee failed to report to work or was sent home;
- The employer requires the employee to work overtime; or
- The employee trades shifts with another employee or requests a change in shifts.

1.3.5. Equal Treatment: Employers must provide equal treatment to part-time employees, as compared to full-time employees at their same level, with respect to (1) starting hourly wage, (2) access to employer-provided paid time off and unpaid time off; and (3) eligibility for promotions.

1.3.6. Janitorial and Security Contractors: Janitorial and security contractors of Formula Retail Establishments covered by these ordinances must comply with most of the provisions of Police Code Articles 33 F and G, and Formula Retail Establishments must notify their contractors of these requirements.

1.4. FRERO Survey Results and the Need for Outreach

In 2016, OLSE contracted with community groups to conduct initial outreach to conduct an employee survey about FRERO. The survey was developed by OLSE and with input from the Chinese Progressive Association, Young Workers United, and South of Market Community Action Network (SOMCAN). From July 2016 to November 2016, the Chinese Progressive Association, Young Workers United, and SOMCAN surveyed 185 employees who work for 74 formula retail chains covered by FRERO. This survey found potential violations were common and highlighted the importance of conducting an effective outreach campaign to both employees and employers.

2. Scope of Work

This scope of work is a general guide to the work the City expects the contractor to perform, and is not a complete listing of all services that the City may require.

Required Contractor Activities:

2.1. Develop and Produce Outreach Materials:

Working closely with OLSE, Contractor will write and design employee outreach materials and employer outreach materials to explain FRERO to each group. Contractor will draft and design materials for use in digital and print format. All outreach materials are subject to OSLE's review and approval.

After receiving written approval from OLSE on English-language employee outreach materials, Contractor will translate those employee outreach materials (or subcontract to have materials translated) into Traditional Chinese, Spanish, and Tagalog.

2.2. Employee Outreach

2.2.1. Formula Retail Worker In-Person Outreach:

The Contractor will conduct community outreach activities to inform workers covered by FRERO about their rights under the ordinances. At OLE's discretion, this outreach may

include activities such as canvassing malls or shopping centers, speaking at community events, or other activities.

2.2.2. Individual consultations:

The Contractor will provide consultations with individual workers regarding FRERO, and assist workers in filing claims for violations of the law.

2.2.3. Digital Media Outreach:

The Contractor will conduct a digital media outreach campaign to inform covered employees about their rights and encourage employees to report violations. Contractors are encouraged to propose innovative approaches to reaching covered workers.

2.3. Employer Outreach

2.3.1. Webinars

In collaboration with OLSE, the Contractor will lead webinars for employers covered by FRERO to educate them about the requirements of the ordinances.

2.3.2. Compliance Solutions Strategies

In collaboration with OLSE, the Contractor will lead discussions for employers covered by FRERO regarding technology options for maintaining records required by the law. These discussions could include the participation of software vendors, or they could be discussions among employers only to share best practices.

2.4. Program Monitoring and Evaluation

The Contractor will provide monthly and quarterly reports to the OLSE, summarizing progress towards the contract's deliverables, and will participate in quarterly meetings and monthly check-in calls with OLSE staff to review the Contractor's activities and plans.

3. Proposal Submission Requirements

3.1. Electronic Proposal Package

Potential Contractors must submit the electronic proposal package by the time and date and in the manner specified below. Hard-copy proposals will not be accepted.

Complete but concise proposals are recommended for ease of review by the Evaluation Team. All sections, pages, and tables should be numbered and clearly labeled.

The following items must be submitted electronically:

- I. PDF file of the Proposal (based on Attachment I Proposal Template).
- II. PDF files of **required Local Business Enterprise Forms** (signed, scanned PDF documents)
 - a. Form 2A CMD Contract Participation form
 - b. Form 2B CMD "Good Faith" Outreach Requirements form
 - c. Form 3 CMD Non-discrimination Affidavit
 - d. Form 4 CMD Joint Venture Form
 - e. Form 5 CMD Employment form

See Attachment II: Local Business Enterprise Forms for more information.

Submission: Electronic proposals and all related materials must be received by **5:00 pm on October 23, 2018.**

Proposers must email electronic proposal package to **ellen.love@sfgov.org**, with the **subject line “RFP #2018-3 Formula Retail Employee Rights Outreach Services.”**

3.2. Administrative Requirements (Vendor Registration)

Before the City can award any contract to a contractor, that contractor must register as a vendor with through the City’s Supplier Portal and complete the required forms. Please review the required steps online [here](#).

4. Evaluation Process and Criteria

4.1. Minimum Qualifications

Any proposal that does not demonstrate that the Proposer meets the minimum qualifications by the proposal deadline will be considered non-responsive and will not be eligible for award of the contract.

- 4.1.1.** The proposed Contractor must have at least two continuous years of experience providing outreach to employees about their rights under federal, state, or local labor laws.
- 4.1.2.** The proposal must be complete and include the all required forms and information described in RFP Attachment I - Proposal Template and Attachment II - Local Business Enterprise Forms.

4.2. Proposal Evaluation Criteria (100 points)

Four City representatives will make up the Evaluation Team, including up to 2 staff members from OLSE. This team will evaluate proposals that satisfy the minimum qualifications.

Each proposal will be evaluated in accordance with the criteria below.

- 4.2.1. Quality of Proposal (15 points)**
 - Clarity of organization and exposition; and
 - Overall quality of presentation including completeness and accuracy of information.
- 4.2.2. Staff and Organizational Qualifications (40 points)**
 - Proposed project staff’s experience developing outreach materials and conducting outreach to employees and employers on labor law;
 - Quality, comparability, and applicability of recently completed projects including scope, level of effort, timelines, deliverables and outcome.
- 4.2.3. Approach and Methodology (35 points)**
 - Likely effectiveness of proposed activities and of work schedule in increasing understanding of FRERO among covered employees and employers.

- Clarity of staff roles and responsibilities; and
- Reasonableness of start and completion dates for project activities

4.2.4. Cost (10 points)

5. Questions and Communications Regarding this RFP

- 5.1. To ensure fair and equal access to information about this solicitation, email your questions about the Request for Proposals to ellen.love@sfgov.org. Questions must be in writing and received before 5:00 PM P.T. on October 9, 2018.
- 5.2. A summary of all questions received pertaining to this solicitation and the answers to those questions will be posted on the OLSE website on the “Contracting Opportunities” page (<http://sfgov.org/olse/contracting-opportunities>) by 5:00 PM PT on October 16, 2018.
- 5.3. At any time before the October 23rd deadline for submitting proposals, proposers with questions about the LBE sub-consulting requirement can contact Ian Fernando at CMD, ian.fernando@sfgov.org or 415-581-2307.

6. Protest Procedures

6.1. Protest of Non-Responsiveness Determination

The City may issue a notice of non-responsiveness in response to proposals that do not meet the minimum qualifications specified. Within five (5) business days of the City's issuance of a notice of non-responsiveness, any Proposer that has submitted a proposal and believes that the City has incorrectly determined that its proposal is non-responsive may submit a written notice of protest by mail or e-mail (the OLSE will not accept notices of protest via fax). Such notice of protest must be received at the address listed below on or before the fifth (5th) business day following the City's issuance of the notice of non-responsiveness. The notice of protest must include a written statement specifying in detail each and every ground asserted for the protest. The protest must be signed by an individual authorized to represent the Proposer, and must cite the law, rule, local ordinance, procedure or RFP provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the City to determine the validity of the protest.

6.2. Protest of Contract Award

Within five (5) business days of the City's issuance of a notice of intent to award a contract under this RFP, any Proposer that has submitted a responsive proposal and believes that the City has incorrectly selected another Proposer for award may submit a written notice of protest by mail or e-mail (the OLSE will not accept notices of protest via fax). Such notice of protest must be received by the City on or before the fifth (5th) business day after the City's issuance of the notice of intent to award a contract.

The notice of protest must include a written statement specifying in detail each and every ground asserted for the protest. The protest must be signed by an individual authorized to represent the Proposer, and must cite the law, rule, local ordinance, procedure or RFP provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the City to determine the validity of the protest.

6.3. Delivery of Protests

All protests must be received by the due date. If a protest is mailed, the protestor bears the risk of non-delivery within the deadlines specified herein. Protests should be transmitted by a means that will objectively establish the date the City received the protest. Protests or notice of protests made orally (e.g., by telephone) or by fax will not be considered. Protests must be delivered to:

Ellen Love
Office of Labor Standards Enforcement
City Hall Room 430
1 Dr. Carlton B. Goodlett Place
ellen.love@sfgov.org

7. Chapter 14B Local Business Enterprise Requirements

CMD Contact Information: Ian Fernando, 415-581-2307 or ian.fernando@sfgov.org.

CMD Attachment 2: Chapter 14B requirements and forms are included in CMD Attachment 2. Please read CMD Attachment 2 carefully which can be found at the following link:

<http://sfgov.org/cmd/sites/default/files/Documents/CMD%20Attachment%20%20-%208.01.16.pdf>

LBE Ratings Bonus

- San Francisco Micro- and Small-LBE Primes will receive a **10% ratings bonus** for this project. LBE primes that apply for a ratings bonus must be certified by the proposal due date.
- SBA-LBEs will receive a **5%** ratings bonus, but, the SBA-LBE ratings bonus cannot be used to trump the bid of a competing Micro- or Small-LBE.
- If you are interested in becoming certified please contact our certification unit as soon as possible. Please be aware that CMD may not be able to complete the certification of new firms by the bid due date. The certification unit can be reached at stephanie.tang@sfgov.org
- **Joint Ventures** – The rating bonus for a Joint Venture (“JV”) with LBE participation that meets the requirements of Section 2.02 of Attachment 2 is as follows:
 - 10% for each JV among Small and/or Micro LBE prime proposers.
 - 5% for each JV which includes at least 35% (but less than 40%) participation by Small and/or Micro-LBE prime proposers..
 - 7.5% for each JV that includes 40% or more in participation by Small and/or Micro-LBE prime proposers.
 - SBA-LBE Proposal rating bonus provisions will apply to this project. However, the 5% Proposal rating bonus for SBA-LBEs shall not be applied if it would adversely affect a Micro-LBE or Small-LBE, or a JV with an LBE partner.
 - The rating bonus will be applied by adding 5%, 7.5%, or 10% (as applicable) to the score of each firm eligible for a bonus for purposes of determining the highest ranked firm. Pursuant to Chapter 14B.7(F), SBA-LBEs are not eligible for the rating bonus when joint venturing with a non LBE firm. However, if the SBA-LBE joint ventures with a Micro-LBE or a Small-LBE, the joint venture will be entitled to the joint venture rating bonus only to the extent of the Micro-LBE or Small-LBE participation described above.

LBE Subconsulting Requirement

- **The LBE subconsulting requirement is 20%**. The availability of Minority Business Enterprises ("MBE"), Woman Business Enterprises ("WBE") and Other Business Enterprises ("OBE") to perform sub work is: 5.4% MBE, 6.7% WBE, and 7.9% OBE.
- **Respondents MUST show how they will MEET the 20% LBE subconsulting requirement and identify all subcontractors at the time of submittal or the proposal may be deemed nonresponsive.** Teams should be created and LBE subcontracting requirement met

based on types of work identified in the corresponding Proposal documents.

- **LBEs submitting a proposal as primes or as part of a joint venture may not count their own LBE participation towards fulfilling the 20% subcontracting requirement.**

Good Faith Outreach

Please be advised that under the 14B Ordinance it is not sufficient to just meet the subcontracting requirement. The Prime Contractor must meet the subcontracting requirement and must also meet the Good Faith Outreach Requirements by one of the following options:

- **The Prime Contractor must meet the subcontracting requirement and must also submit CMD Form 2B, the Good Faith Outreach Requirements Form, along with all supporting documentation by Deadline for RFP Responses.** Proposers can request LBE subcontractors by using the link on the OCA page for this project. It is free and it will count towards your advertising requirement for your firm's CMD Good Faith Outreach Effort. **CMD Form 2B supporting documentation must include proof that Good Faith Outreach was completed 10 days prior to Deadline for RFP Responses.** For Good Faith Outreach requirements, please refer to CMD Attachment 2 located at this link:
<http://sfgov.org/cmd/sites/default/files/Documents/CMD%20Attachment%20%20-%2008.01.16.pdf>

OR

- The Prime Contractor must exceed the project's stated LBE participation requirement by 35%. For this contract, the prime contractor must exceed an LBE requirement of **27.00%** (since 35% of the 20% subcontracting requirement is 7) to waive the good faith outreach provisions. **LBEs submitting a proposal as primes or a joint venture can count their own LBE participation towards fulfilling the Good Faith Outreach Effort.**

Other Requirements

If you are interested in becoming a certified CMD LBE for this project, you must get in touch with our LBE certification unit as soon as possible at 415-581-2310. Let the certification unit know you are proposing on a project (including the proposal due date) and they will try to get you certified quickly. However, please be aware that CMD may not be able to complete the certification of new firms by the proposal due date.

Forms To Be Submitted With The Proposal

CMD Attachment 2:

- **Form 2A – LBE Participation Form**
- **Form 2B – “Good Faith Outreach” Requirements Form & Documentation**
- **Form 3 – CMD Non-Discrimination Affidavit**

- Form 4 – Joint Venture Form (If Applicable)
- Form 5 – CMD Employment Form

Each proposed prime or Joint Venture contractor is strongly encouraged to contact Ian Fernando, 415-581-2307 or ian.fernando@sfgov.org if you have any questions regarding any of the CMD requirements or forms.