



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

Sent Via Electronic Mail

October 27, 2022

NOTICE OF CIVIL SERVICE COMMISSION MEETING

SUBJECT: REVIEW OF PERSONAL SERVICES CONTRACT 44123-22/23 FROM THE DEPARTMENT OF TECHNOLOGY – OMIT POSTING.

The above matter will be considered by the Civil Service Commission at a hybrid meeting (in-person and virtual) to be held in Room 400, City Hall, 1 Dr. Goodlett Place, San Francisco, California 94102 on **November 7, 2022 at 2:00 p.m.**

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

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

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG
Executive Officer

Attachment

Cc: Wil Dere, Department of Technology
Jolie Gines, Department of Technology
tmathews@ifpte21.org
ewallace@ifpte21.org
Commission File
Commissioners' Binder
Chron

NOTICE OF COMMISSION HEARING POLICIES AND PROCEDURES

A. Commission Office

The Civil Service Commission office is located at, 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. The telephone number is (628) 652-1100. The fax number is (628) 652-1109. The email address is civilservice@sfgov.org and the web address is www.sfgov.org/civilservice/. Office hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday.

B. Policy Requiring Written Reports

It is the policy of the Civil Service Commission that except for appeals filed under Civil Service Commission Rule 111A Position-Based Testing, all items appearing on its agenda be supported by a written report prepared by Commission or departmental staff. All documents referred to in any Agenda Document are posted adjacent to the Agenda, or if more than one (1) page in length, a available for public inspection and copying at the Civil Service Commission office. Reports from City and County personnel supporting a agenda items are submitted in accordance with the procedures established by the Executive Officer. Reports not submitted according to procedures, in the format and quantity required, and by the deadline, will not be calendared.

C. Policy on Written Submissions by Appellants

All written material submitted by appellants to be considered by the Commission in support of an agenda item shall be submitted to the Commission office, no later than 5:00 p.m. on the fourth (4th) business day preceding the Commission meeting for which the item is calendared (ordinarily, on Tuesday). An original copy on 8 1/2-inch X 11 inch paper, three-hole punched on left margin, and page numbered in the bottom center margin, shall be provided. Written material submitted for the Commission's review becomes part of a public record and shall be open for public inspection.

D. Policy on Materials being Considered by the Commission

Copies of all staff reports and materials being considered by the Civil Service Commission are a available for public view 72 hours prior to the Civil Service Commission meeting on the Civil Service Commission's website at www.sfgov.org/CivilService, and in its office located at 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. If any materials related to an item on this agenda have been distributed to the Civil Service Commission after distribution of the agenda packet, those materials will be a available for public inspection at the Civil Service Commission's during normal office hours (8:00 a.m. to 5:00 p.m. Monday through Friday).

E. Policy and Procedure for Hearings to be Scheduled after 5:00 p.m. and Requests for Postponement

A request to hear an item after 5:00 p.m. should be directed to the Executive Officer as soon as possible following the receipt of notification of an upcoming hearing. Requests may be made by telephone at (628) 652-1100 and confirmed in writing or by fax at (628) 652-1109.

A request for a postponement (continuance) to delay an item to another meeting may be directed to the Commission Executive Officer by telephone or in writing. Before acting, the Executive Officer may refer certain requests to another City official for recommendation. Telephone requests must be confirmed in writing prior to the meeting. Immediately following the "Announcement of Changes" portion of the agenda at the beginning of the meeting, the Commission will consider a request for a postponement that has been previously denied. Appeals filed under Civil Service Commission Rule 111A Position-Based Testing shall be considered on the date it is calendared for hearing except under extraordinary circumstances and upon mutual agreement between the appellant and the Department of Human Resources.

F. Policy and Procedure on Hearing Items Out of Order

Requests to hear items out of order are to be directed to the Commission President at the beginning of the agenda. The President will rule on each request. Such requests may be granted with mutual agreement among the affected parties.

G. Procedure for Commission Hearings

All Commission hearings on disputed matters shall conform to the following procedures: The Commission reserves the right to question each party during its presentation and, in its discretion, to modify any time allocations and requirements.

If a matter is severed from the *Consent Agenda* or the *Ratification Agenda*, presentation by the opponent will be for a maximum time limit of five (5) minutes and response by the departmental representative for a maximum time limit of five (5) minutes. Requests by the public to sever items from the [*Consent Agenda* or] *Ratification Agenda* must be provided with justification for the record.

For items on the *Regular Agenda*, presentation by the departmental representative for a maximum time of five (5) minutes and response by the opponent for a maximum time limit of five (5) minutes.

For items on the *Separations Agenda*, presentation by the department followed by the employee or employee's representative shall be for a maximum time limit of ten (10) minutes for each party unless extended by the Commission.

Each presentation shall conform to the following:

1. Opening summary of case (brief overview);
2. Discussion of evidence;
3. Corroborating witnesses, if necessary; and
4. Closing remarks.

The Commission may allocate five (5) minutes for each side to rebut evidence presented by the other side.

H. Policy on Audio Recording of Commission Meetings

As provided in the San Francisco Sunshine Ordinance, all Commission meetings are audio recorded in digital form. These audio recordings of open sessions are available starting on the day after the Commission meeting on the Civil Service Commission website at www.sfgov.org/civilservice/.

I. Speaking before the Civil Service Commission

Speaker cards are not required. The Commission will take public comment on all items appearing on the agenda at the time the item is heard. The Commission will take public comment on matters not on the Agenda, but within the jurisdiction of the Commission during the "Requests to Speak" portion of the regular meeting. Maximum time will be three (3) minutes. A subsequent comment after the three (3) minute period is limited to one (1) minute. The timer shall be in operation during public comment. Upon any specific request by a Commissioner, time may be extended.

J. Public Comment and Due Process

During general public comment, members of the public sometimes wish to address the Civil Service Commission regarding matters that may come before the Commission in its capacity as an adjudicative body. The Commission does not restrict this use of general public comment. To protect the due process rights of parties to its adjudicative proceedings, however, the Commission will not consider, in connection with any adjudicative proceeding, statements made during general public comment. If members of the public have information that they believe to be relevant to a matter that will come before the Commission in its adjudicative capacity, they may wish to address the Commission during the public comment portion of that adjudicative proceeding. The Commission will not consider public comment in connection with an adjudicative proceeding without providing the parties an opportunity to respond.

K. Policy on use of Cell Phones, Pagers and Similar Sound-Producing Electronic Devices at and During Public Meetings

The ringing and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

Information on Disability Access

The Civil Service Commission normally meets in Room 400 (Fourth Floor) City Hall, 1 Dr. Carlton B. Goodlett Place. However, meetings not held in this room are conducted in the Civic Center area. City Hall is wheelchair accessible. The closest accessible BART station is the Civic Center, located 2 ½ blocks from City Hall. Accessible MUNI lines serving City Hall are 47 Van Ness Avenue, 9 San Bruno and 71 Haight/Noriega, as well as the METRO stations at Van Ness and Market and at Civic Center. For more information about MUNI accessible services, call (415) 923-6142. Accessible curbside parking has been designated at points in the vicinity of City Hall adjacent to Grove Street and Van Ness Avenue.

The following services are available on request 48 hours prior to the meeting; except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week. For American Sign Language interpreters or the use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please contact the Commission office to make arrangements for the accommodation. Late requests will be honored, if possible.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our ADA coordinator at (628) 652-1100 or email civilservice@sfgov.org to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Know your Rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, or to obtain a free copy of the Sunshine Ordinance, contact Victor Young, Administrator of the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102-4689 at (415) 554-7724, by fax: (415) 554-7854, by e-mail: sotf@sfgov.org, or on the City's website at www.sfgov.org/bdsupvrs/sunshine.

San Francisco Lobbyist Ordinance

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (San Francisco Campaign and Governmental Conduct Code Section 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 25 Van Ness Ave., Suite 220, San Francisco, CA 94102, telephone (415) 252-3100, fax (415) 252-3112 and web site <http://www.sfgov.org/ethics/>.



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: November 7, 2022
3. Check One:
Ratification Agenda X
Consent Agenda
Regular Agenda
Human Resources Director=s Report
4. Subject: Review of Personal Services Contract #44123-22/23 from the Department of Techno
5. Recommendation: Adopt the report. Approve the request for proposed Personal Services Contr
6. Report prepared by: Jolie Gines Telephone number: 628 652 5074
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: _____

Date: _____
9. Submit the original time-stamped copy of this form and person(s) to be notified
(see Item 7 above) along with the required copies of the report to:

**Executive Officer
Civil Service Commission
25 Van Ness Avenue, Suite 720
San Francisco, CA 94102**

10. Receipt-stamp this form in the ACSC RECEIPT STAMP box to the right using the time-stamp in the CSC Office.

Attachment

CSC-22 (11/97)

<p><u>CSC RECEIPT STAMP</u></p>
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Notification for PSC 44123-22/23:

Department of Technology:

Jolie Gines, jolie.gines@sfgov.org

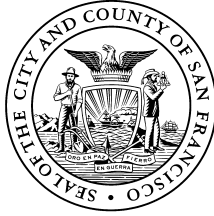
Wil Dere, wilfred.dere@sfgov.org

IFPTE21

Timothy Mathews, tmathews@ifpte21.org

Emily Wallace, ewallace@ifpte21.org

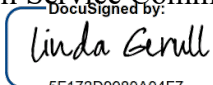
City & County of San Francisco
London N. Breed, Mayor



Office of the City Administrator
Carmen Chu, City Administrator
Linda J. Gerull, CIO & Executive Director,
Department of Technology

Date: October 14, 2022

To: Sandra Eng
Director, Civil Service Commission

From: Linda Gerull 
CIO, Executive Director

Subject: Emergency Request-Omit Posting for DT PSC 44123-22/23 for DocuSign Software as a Service Amendment Agreement for November 7, 2022 Civil Service Commission Meeting

MEMORANDUM

We are requesting an emergency posting of PSC 44123 - 22/23 for DocuSign Software as a Service for the Department of Technology to the Civil Service Commission Meeting on November 7, 2022.

In 2015, OCA conducted a solicitation to find an electronic signature solution for the City. DocuSign was selected as the solution provider. DocuSign's solution is an agreement management application that enables the City to create, send, and automate a wide variety of forms and contracts, and enables signees to sign documents electronically, thereby eliminating the need for hard copies. Such electronic signatures would carry full legal enforceability and effect. The DocuSign solution is provided to the City as a software-as-a-service (hereinafter "SaaS"). SaaS is a way of delivering applications over the internet. Instead of installing and maintaining software on individual desktops or City servers, City employees simply access the DocuSign e-signature platform online. One of the many benefits of a SaaS is to not be responsible for any complex software management; all software engineering services required to eliminate bugs and update the program are performed by DocuSign employees on DocuSign servers. The software program and the entire e-signature platform are hosted on DocuSign servers. The City does NOT have access to, nor are responsible for any upgrades to DocuSign's proprietary software.

Based on the understanding of how a SaaS is deployed, whereby the City does NOT have access to and is NOT responsible for expending any labor hours to maintain the software and platform, neither OCA nor DT sought Civil Service Commission approval when the contract was executed in 2015. DT continued along this line of reasoning when it amended the contract several times between 2015-2022 without seeking CSC approval. In 2018, DT obtained email confirmation from CSC's Michael Brown and Sandra Eng, that CSC approval is not required when dealing with a proprietary software system in which City employees are unable to provide the service, see attachment. Since the City does not have access to DocuSign's proprietary software and servers, it is clear City employees are neither responsible for nor able to provide any services.

Contrary to CSC's position in the past, the Commission has recently requested review of all contracts that are SaaS. Since DT is seeking to amend this contract to extend it for another two(2) years, this request is now made to apply retroactively to its start in 2015. An "envelope" is an electronic record containing one or more documents that are uploaded to the DocuSign system, and which may be processed for electronic signature. There are NO professional services in this amendment.

The union affected by this request, L21, has waived its thirty (30) day review period. In addition, the Department of Technology did ask the Office of Contract Administration for permission to use its Proprietary Cloud Software, Software Support and Equipment Installation and Maintenance, PSC 11945 - 20/21, approved on September 20, 2021, but was informed that its ten (10) million dollar capacity could not accommodate the Department of Technology's DocuSign agreement renewal amount of Seven Million Five Hundred Thirty Five Thousand Six Hundred Dollars (\$7,535,600), see attachment. With this new information, the Department of Technology will seek Civil Service Approval for its SaaS agreements going forward.

For these reason noted above, we request that DT PSC 44123-22/23 for DocuSign Software as a Service be granted emergency posting status for the November 7, 2022 Civil Service Commission meeting.

Please contact Jolie Gines, jolie.gines@sfgov.org , 628 652 5074 and Wil Dere, wilfred.dere@sfgov.org, 628 652 5057 if you require additional information and if you have any further questions.

Attachments: PSC 44123-22/23 DocuSign
2018 CSC Exempt email
PSC 11945 - 20/21
L21 30 Day Waiver

PERSONAL SERVICES CONTRACT SUMMARY ("PSC FORM 1")

Department: GENERAL SERVICES AGENCY - TECHNOLOGY -- TIS

Dept. Code: TIS

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

Type of Approval: Expedited Regular Annual Continuing
(Omit Posting)

Type of Service: DocuSign Software-As-A-Service

Funding Source: Department Funds

PSC Amount: \$7,535,600

PSC Est. Start Date: 11/01/2015

PSC Est. End Date
10/31/2024

1. Description of Work

A. Scope of Work/Services to be Contracted Out:

Contrary to CSC's position in the past, the Commission has recently requested review of all contracts that are software-as-a-service. Since DT is seeking to amend this contract to extend it for another 2-years, this request is now made to apply retroactively to its start in 2015. DT is seeking to amend the contract to provide for a citywide purchase of 500,000 envelopes for departments to use over the next 2-years. An "envelope" is an electronic record containing one or more documents that are uploaded to the DocuSign system, and which may be processed for electronic signature. There are NO professional services in this amendment.

All required services to maintain the proprietary software are performed by DocuSign employees on DocuSign servers. The City does NOT have access to any of the DocuSign servers and are not authorized to perform any engineering services to their proprietary software. The term "Service" in the SaaS naming convention refers to the manufacturer's service to its customers by hosting the platform on their own servers, thereby eliminating the need for any customer maintenance. The term "Service" is not used to refer to any labor services that can be performed by City employees.

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

DT intends to amend the existing enterprise agreement to extend it for another 2-years and purchase an additional 500,000 envelopes for departments to use citywide. If DT is unable to amend this agreement, city departments such as TTX, DPH and CON, will not have an electronic signature product to continue its business with the public. These three departments to name a few, conduct a good amount of business with the public utilizing the DocuSign e-signature process.

C. Has this service been provided in the past? If so, how? If the service was provided under a previous PSC, attach copy of the most recently approved PSC.

The agreement was entered into with DocuSign in 2015 and has been the City's primary e-signature solution. Based on past CSC guidance, neither OCA nor DT sought CSC approval at the time.

D. Will the contract(s) be renewed?

Yes. This contract will be renewed as a Citywide EA in 2024, so that 20+ departments can continue using this e-signature platform.

- E. If this is a request for a new PSC in excess of five years, or if your request is to extend (modify) an existing PSC by another five years, please explain why.

In 2015, OCA conducted a solicitation to find an electronic signature solution for the City. DocuSign was selected as the solution provider. DocuSign's solution is an agreement management application that enables the City to create, send, and automate a wide variety of forms and contracts, and enables signees to sign documents electronically, thereby eliminating the need for hard copies. Such electronic signatures would carry full legal enforceability and effect. The DocuSign solution is provided to the City as a software-as-a-service (hereinafter

2. Reason(s) for the Request

- A. Indicate all that apply (be specific and attach any relevant supporting documents):

Services that require resources that the City lacks (e.g., office space, facilities or equipment with an operator).

- B. Explain the qualifying circumstances:

The City desires to continue having an e-signature solution for citywide use. The City is unable to develop any such platform itself, and has determined the procurement of a SaaS solution is the most efficient and cost-effective use of public monies.

3. Description of Required Skills/Expertise

A. Specify required skills and/or expertise: As a SaaS offering, by definition all software engineering requirements for their proprietary software are performed by DocuSign employees, thus it is difficult to articulate what skills and expertise is required. However, DT assumes at a minimum, software and network engineers would be required for DocuSign to maintain its product.

B. Which, if any, civil service class(es) normally perform(s) this work? 1042, IS Engineer-Journey;

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

4. If applicable, what efforts has the department made to obtain these services through available resources within the City?

None. Since DT is not responsible for any engineering services, it did not seek resources within the City.

5. Why Civil Service Employees Cannot Perform the Services to be Contracted Out

A. Explain why civil service classes are not applicable.

Civil service classes are not applicable because professional services are not a part of the contract.

B. If there is no civil service class that could perform the work, would it be practical and/or feasible to adopt a new civil service class to perform this work? Explain. No. Class already exists.

6. Additional Information

A. Will the contractor directly supervise City and County employee? If so, please include an explanation.

No.

- B. Will the contractor train City and County employees and/or is there a transfer of knowledge component that will be included in the contract? If so, please explain what that will entail; if not, explain why not.
No. No training will be provided because there are no professional services under this contract.
- C. Are there legal mandates requiring the use of contractual services?
No.
- D. Are there federal or state grant requirements regarding the use of contractual services? If so, please explain and include an excerpt or copy of any such applicable requirement.
No.
- E. Has a board or commission determined that contracting is the most effective way to provide this service? If so, please explain and include a copy of the board or commission action.
No.
- F. Will the proposed work be completed by a contractor that has a current PSC contract with your department? If so, please explain.
No.

7. Union Notification: On 10/13/2022, the Department notified the following employee organizations of this PSC/RFP request:
Architect & Engineers, Local 21

I CERTIFY ON BEHALF OF THE DEPARTMENT THAT THE INFORMATION CONTAINED IN AND ATTACHED TO THIS FORM IS COMPLETE AND ACCURATE:

Name: Jolie Gines Phone: 628 652 5074 Email: jolie.gines@sfgov.org

Address: One South Van Ness Ave, 2nd Flr. San Francisco, CA 94103

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# 44123 - 22/23

DHR Analysis/Recommendation:

Civil Service Commission Action:

Commission Approval Required

DHR Approved for 11/07/2022

Receipt of Union Notification(s)

Published on *Personal Services Request Database* (<https://apps.sfgov.org/dhrdrupal>)

[Home](#) > Union Receipt: 44123 - 22/23

Union Receipt: 44123 - 22/23

Posted October 13, 2022 - 17:05 by [tmathews21](#)

30 Day waiver - PLEASE CHECK the box if you agree to waive your 30 day right: Yes, I waive my rights to the 30 day period

Union Contact (verify correct user name): [tmathews21](#)

Modified PSC Record:

Initial PSC Record: [44123 - 22/23](#)

Date Accessed: October 13, 2022

Choi, Suzanne (HRD)

From: dhr-psccordinator@sfgov.org on behalf of jolie.gines@sfgov.org
Sent: Thursday, October 13, 2022 2:28 PM
To: Gines, Jolie (TIS); ecassidy@ifpte21.com; WendyWong26@yahoo.com; wendywong26@yahoo.com; tmathews@ifpte21.org; kschumacher@ifpte21.org; kpage@ifpte21.org; eerbach@ifpte21.org; pkim@ifpte21.org; l21pscreview@ifpte21.org; Dere, Wilfred (TIS); DHR-PSCCoordinator, DHR (HRD)
Subject: Receipt of Notice for new PCS over \$100K PSC # 44123 - 22/23

RECEIPT for Union Notification for PSC 44123 - 22/23 more than \$100k

The GENERAL SERVICES AGENCY - TECHNOLOGY -- TIS has submitted a request for a Personal Services Contract (PSC) 44123 - 22/23 for \$7,535,600 for Initial Request services for the period 11/01/2015 – 10/31/2024. Notification of 30 days (60 days for SEIU) is required.

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

<http://apps.sfgov.org/dhrdrupal/node/19290> For union notification, please see the TO: field of the email to verify receipt. If you do not see all the unions you intended to contact, the PSC Coordinator must change the state back to NOT READY, make sure the classes and unions you want to notify are selected and SAVE. Then VIEW the record and verify the list of unions and emails. EDIT the document again , change the state back START UNION NOTIFICATION and SAVE. You should receive the email with all unions to the TO: field as intended

Additional Attachment(s)

From: [Eng, Sandra \(CSC\)](#)
To: [Xie, Hao \(TIS\)](#)
Cc: [Brown, Michael \(CSC\)](#)
Subject: RE: Policy question regarding software customer service support -- Admin Code 21.30 policy direction regarding streamlined procurement
Date: Monday, May 14, 2018 3:21:18 PM
Attachments: [image001.png](#)

Good Afternoon Hao,

Our response is the still the same. This is a proprietary software system in which City employees are unable to provide the service. The department is not required to obtain CSC approval.

Thank you for checking.

Sandra

*Sandra Eng
Assistant Executive Officer
Civil Service Commission
City and County of San Francisco
25 Van Ness Avenue, Suite 720
San Francisco, CA 94102
Direct (415) 252-3254
Main (415) 252-3247
Fax (415) 252-3260*

From: Xie, Hao (TIS)
Sent: Friday, May 11, 2018 3:49 PM
To: Eng, Sandra (CSC)
Subject: FW: Policy question regarding software customer service support -- Admin Code 21.30 policy direction regarding streamlined procurement

Hi Sandra,

Michael Brown is out of office. We hope to get this contract signed by end of May so that there is no project delay for several City Departments to implement the Accela Permits and Project Tracking System. Could you kindly provide your guidance on this?

Thanks a lot!

Hao

Hao Xie
Strategic Sourcing Manager
1 South Van Ness Ave. 2nd Floor



San Francisco CA 94103-0948
415-581-4066 (office)
925-998-8892 (Cell)

[We Value Your Feedback!](#)

From: Xie, Hao (TIS)

Sent: Friday, May 11, 2018 3:25 PM

To: Brown, Michael (CSC) <michael.brown@sfgov.org>

Subject: RE: Policy question regarding software customer service support -- Admin Code 21.30 policy direction regarding streamlined procurement

Hi Michael,

I am very sorry to come back to you again on a very similar question.

DT is negotiating a Software Maintenance and Hosting Agreement with Accela, and the agreement includes the following term:

- Accela will provide up to thirty-six (36) hours (“Success Hours”) of this support during each three (3) month period, commencing on the effective date of these Platinum Support Terms. Success Hours are required to be utilized during each three (3) month period and any hours not consumed at the required three (3) month minimum utilization will be forfeited.
- Customer Success Hours requests must be made by Customer within forty-five (45) days of the commencement of each three (3) month period for all hours allocated for that period. Accela will work with Customer to provide Success Hours according to the requirements set forth by the Customer (City).
- Customer may purchase up to forty-eight (48) additional Success Hours during each annual term, at a minimum of eight (8) hour blocks, at a fifteen percent discount from list price.

The above support services for Accela’s proprietary software system is available only from the licensor (Accela Inc.). For your reference, I also attach the Sole Source Waiver recently approved by OCA.

I believe that you have given us very clearly guidance in your previous email. However, some of our colleagues in the City still want me to double check. Could you kindly confirm that this contract is covered by Admin Code 21.30 (b) and therefore does not require CSC and Union approvals?

Thank you very much again for your guidance!!

Hao



Hao Xie
Strategic Sourcing Manager
1 South Van Ness Ave. 2nd Floor
San Francisco CA 94103-0948
415-581-4066 (office)
925-998-8892 (Cell)

[We Value Your Feedback!](#)

From: Brown, Michael (CSC)
Sent: Thursday, August 31, 2017 3:22 PM
To: Xie, Hao (TIS) <hao.xie@sfgov.org>
Cc: Gutierrez, Margarita (CAT) <margarita.gutierrez@sfgov.org>
Subject: RE: Policy question regarding software customer service support -- Admin Code 21.30 policy direction regarding streamlined procurement

Dear Hao,

Attached is our policy on Personal Service Contracts from 2014. PSC's that are reviewed by the Civil Service Commission are 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 CSC reviews PSC to prevent services which City and County of San Francisco employees can perform from being contracted out. There is specific criteria outlined in the policy that the Commission will consider before approval.

As a general rule, licenses are not personal service contracts that provide a service for the residents of the City. You referenced Admin Code 21.30. The Board of Supervisors has jurisdiction over software licenses, support, escrow, finance, and equipment maintenance agreements. It is my opinion contracts which fall under this section Admin Code 21.30 don't need to appear before CSC. (FYI. Section 21.03 refers to bidding process and Chapter 67 refers to public records and transparency.)

ADMINISTRATIVE CODE

SEC. 21.30. SOFTWARE LICENSES, SUPPORT, ESCROW, FINANCE, AND EQUIPMENT MAINTENANCE AGREEMENTS.

(a) The Board of Supervisors hereby approves the execution of perpetual, nonexclusive software licensing agreements which warrant performance of the software according to specifications and which are for an amount of less than ten million dollars, including any associated escrow agreement for source code or finance agreement, without further Board approval.

(b) Software licensing procurements are not subject to the contracting requirements of the Administrative or Environment Code, but shall be subject to the requirements established by Section [21.03\(j\)](#) and [Chapter 67](#). For the purpose of this section, software licensing procurements shall be deemed to include both the licensed software product, any escrow agreement for source code, finance agreements, and support services for such product where support for that product is available only from the licensor.

(c) Agreements for the development of software shall include acceptance testing of the software and/or performance criteria, and shall condition payments on successful completion of the acceptance test or satisfaction of the performance criteria specified in the contract.

(d) Where a vendor has proprietary rights to software or where maintenance of equipment by a particular vendor is required to preserve a warranty, software support and equipment maintenance agreements entered into with that vendor shall be treated as a sole source for the purposes of any contract requirements included in the Municipal Code.

(e) A Contracting Officer is authorized to make payment for software license fees and software support, equipment maintenance and associated escrow and finance fees in advance of receiving services under a contract.

(Added by Ord. 156-99, File No. 990743, App. 6/2/99; amended by Ord. 115-05, File No. 050595, App. 6/17/2005)

[http://library.amlegal.com/nxt/gateway.dll?
f=templates&fn=default.htm&vid=amlegal:sanfrancisco_ca](http://library.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco_ca)

Please check with the Citywide Contract Administrator for more guidance.

Michael L. Brown
Executive Officer
Civil Service Commission
City & County of San Francisco
25 Van Ness Avenue, Suite 720
San Francisco, CA 94102
Direct: 415/252-3250
Reception: 415/252-3247
FAX: 415/252-3260

From: Xie, Hao (TIS)
Sent: Thursday, August 31, 2017 12:27 PM

To: Brown, Michael (CSC)
Cc: Gutierrez, Margarita (CAT)
Subject: RE: Policy question regarding software customer service support -- Admin Code 21.30 policy direction regarding streamlined procurement

Hi Michael,

This is Hao again from Department of Technology. I am writing to seek your confirmation that the purchases of software maintenance and support is not under the jurisdiction of the Civil Service Commission.

Every year the City has to pay annual maintenance and support for hundreds of software applications. Software maintenance and support is required for almost all software purchases, so that the software companies can correct faults, improve performance or other attributes after the software applications are sold. Sometimes the support and maintenance is titled as maintenance service or support services, and thus confusing some people and making them think it is the same as other traditional services. In reality, however, software maintenance and support is typically provided behind the scene by the software developers (e.g., an automatic update pushed by Microsoft to your desktop computer), and cannot be provided by anyone other than the licensors/developers of the software themselves.

For many years, we always pay software maintenance and support without seeking any CSC review, because few people would think it is in the scope of CSC review. To avoid having to check with you for every software we purchase, could you please kindly confirm that DT does not need to seek CSC approval when we purchase maintenance and support for software licenses?

Thanks and have a great day,
Hao



Hao Xie
Strategic Sourcing Manager
1 South Van Ness Ave. 2nd Floor
San Francisco CA 94103-0948
415-581-4066 (office)
925-998-8892 (Cell)

[We Value Your Feedback!](#)

From: Brown, Michael (CSC)
Sent: Thursday, October 6, 2016 5:32 PM
To: Xie, Hao (TIS) <hao.xie@sfgov.org>

Cc: Lu, Kathy (TIS) <kathy.lu@sfgov.org>

Subject: RE: Policy question regarding software customer service support -- Admin Code 21.30 policy direction regarding streamlined procurement

Hao,

This does not appear to be under the jurisdiction of the Civil Service Commission. Have you contacted anyone in the Contract Compliance Office? Unfortunately my consultant, Brent Lewis at DHR is out until October 17th.

If the monies used for the software agreement were awarded through a personal services contract approved by the Civil Service Commission initially, you would be requesting to modify an existing contract and increasing the amount. Is there an existing PSC contract number for me to research?

I believe you are on the correct path of having this contract extension approved by the Board of Supervisors. Especially if you find the original contract was approved through the Board.

The attached report may be informative.

Michael L. Brown
Executive Officer
Civil Service Commission
Direct: 415/252-3250
Reception: 415/252-3247
FAX: 415/252-3260

From: Xie, Hao (TIS)
Sent: Tuesday, October 04, 2016 4:42 PM
To: Brown, Michael (CSC)
Cc: Lu, Kathy (TIS)
Subject: RE: Policy question regarding software customer service support -- Admin Code 21.30 policy direction regarding streamlined procurement

Hi Michael,

This is Hao from Department of Technology again. I would like to seek your approval to amend two existing software agreements without going through the regular CSC Approval process, **because the agreements do not include any professional services.**

In quick summary, two enterprise agreements exist between the City and Microsoft Corporation through En Pointe LLC (a reseller), and both will expire on May 31, 2017. Agreement #1 is used to subscribe to the Microsoft Office365 software products and purchase software licenses &

maintenance for Windows Servers, with a contract limit of about \$9.6 million for three years (FY14-17). Agreement #2 is for other Microsoft software products, with a contract limit of about \$9.9 million (FY14-17). Now both agreements have reached the contract limits. We need to immediately increase the limit of Agreement #1 by \$4.3 million and Agreement #2 by \$4.7 million in order to prevent disruption to the City's operations. We are working with the City Attorney and Board of Supervisors to amend these two agreements as quickly as possible.

1. List of products covered by Agreement #1:
 - a. Office365 with archives and related programs such as
 - i. Email
 - ii. Calendar,
 - iii. Word, Excel, and PowerPoint
 - iv. SharePoint Online,
 - v. Skype for Business,
 - vi. Project Lite and
 - vii. Visio Lite.
 - b. Windows Servers
2. List of products covered by Agreement #2:
 - a. Windows Servers,
 - b. Windows SQL,
 - c. Project Pro,
 - d. Visio Pro, and
 - e. BridgeCAL licenses departments need to operate programs and email.

Again, these two agreements only include software licenses and maintenance, and subscriptions to Microsoft's online software applications. All professional services are outside the scope of these two agreements.

Please let me know if you would like to discuss or need additional information.

Thank you very much for your guidance!

Hao

Hao Xie
Strategic Sourcing Manager
Department of Technology
City and County of San Francisco
415-581-4066 (office)
925-998-8892 (Cell)
hao.xie@sfgov.org
sfgov.org/dt
One South Van Ness, 2nd Floor, Office 2202, San Francisco, CA 94103

From: Brown, Michael (CSC)
Sent: Friday, July 29, 2016 3:54 PM
To: Xie, Hao (TIS) <hao.xie@sfgov.org>
Cc: Lewis, Brent (HRD) <brent.lewis@sfgov.org>; Gines, Jolie (TIS) <jolie.gines@sfgov.org>
Subject: RE: Policy question regarding software customer service support -- Admin Code 21.30 policy direction regarding streamlined procurement

Hao,

Yes you should be able to negotiate this software support agreement. After speaking with Jolie I am comfortable with you proceeding. If your counsel wants to discuss further with me, please provide them with my number.

FYI. Not all PSC's are approved through the Civil Service Commission. Any PSC that involves over \$100,000 would come to the attention of the Civil Service Commission. Anything \$100,000 or less would be subject to approval through the Department of Human Resources in an expedited process.

For your needs as explained to me, you will not be required to seek approval by either method.

Michael L. Brown
Executive Officer
Civil Service Commission
Direct: 415/252-3250
Reception: 415/252-3247
FAX: 415/252-3260

From: Xie, Hao (TIS)
Sent: Friday, July 29, 2016 11:25 AM

To: Brown, Michael (CSC)
Cc: Lewis, Brent (HRD); Gines, Jolie (TIS)
Subject: RE: Policy question regarding software customer service support -- Admin Code 21.30 policy direction regarding streamlined procurement

Hi Michael,

Just to follow up on our past conversation. Can we negotiate this agreement without getting the CSC approval, because it does not include any professional service other than free and infrequent customer support over the phone?

Many thanks again for your guidance!

Hao

Hao Xie
Strategic Sourcing Manager
Department of Technology
City and County of San Francisco
415-581-4066 (office)
925-998-8892 (Cell)
hao.xie@sfgov.org
sfgov.org/dt
One South Van Ness, 2nd Floor, Office 2202, San Francisco, CA 94103

From: Brown, Michael (CSC)
Sent: Tuesday, July 26, 2016 3:12 PM
To: Gines, Jolie (TIS) <jolie.gines@sfgov.org>; Xie, Hao (TIS) <hao.xie@sfgov.org>
Cc: Lewis, Brent (HRD) <brent.lewis@sfgov.org>
Subject: RE: Policy question regarding software customer service support -- Admin Code 21.30 policy direction regarding streamlined procurement

Jolie,

Thank you!

Michael L. Brown
Executive Officer
Civil Service Commission
Direct: 415/252-3250
Reception: 415/252-3247
FAX: 415/252-3260

From: Gines, Jolie (TIS)
Sent: Tuesday, July 26, 2016 2:31 PM
To: Xie, Hao (TIS); Brown, Michael (CSC)
Cc: Lewis, Brent (HRD)
Subject: RE: Policy question regarding software customer service support -- Admin Code 21.30 policy direction regarding streamlined procurement

46518		Aug 27	VMware		Ready for	2015-	2018-	Approved -	jolie gines
- 14/15	edit	2015 -	Professional	suzanne.choi	Review by	Sep	Oct	check CSC	
		10:37	Services		DHR	01	31	outcome	

Hi Mr. Brown,

Thank you so much for taking my call to discuss the agreement for Salesforce through Carahsoft.

- The City has not executed an agreement with Carahsoft in the past because Carahsoft was not a City approved vendor. They just became compliant in June, see attached CMD approval.
- Carahsoft is a distributor to the re-seller. This is best exemplified by the Enterprise Agreement executed by DT on behalf of the City for VMWare products and services.
- VMWare is the manufacturer to the products and Carahsoft the distributor, however, the respondent to the RFP was Eaton & Associates.
- In this case, see the PSC approval above, 46518-14/15, the Civil Service Approval was sought, because the City departments required professional services to include, but not limited to on-site training, configuration and implementation.
- The Carahsoft agreement for Salesforce, however does not have any professional services requirements as identified above; ie, training, configuration, implementation, etc....
- While the Carahsoft agreement has been identified as a "Software as a Service-SAAS" module, the services in question are primarily technical support that is limited to telephonic customer service care.
- Neither Salesforce nor Carahsoft completes professional services. They have turned over these responsibilities to third party vendors to complete these services.
- Therefore, City departments, have in the past and will continue, to seek these professional services for Salesforce configuration, training, implementation etc., through the Marketplace vendors where L21 would be notified of these engagements.
- However, DT is willing to concede, should the City Attorney require CSC approval, for an expedited approval for \$100k in the event any service identified above may be completed.

I hope this is helpful.

Please do let me know if you require additional information and if you have any further questions.

Thank You,

Jolie

Jolie Gines
Principal Administrative Analyst
Department of Technology
City and County of San Francisco

Desk: 415 581 3974 | Cell: 415 583 5603 | jolie.gines@sfgov.org | sfgov.org/dt/City Enterprise Agreements

One South Van Ness Avenue, 2nd Floor | Cube number 2300 | San Francisco CA 94103

From: Xie, Hao (TIS)
Sent: Tuesday, July 26, 2016 1:27 PM
To: Gines, Jolie (TIS) <jolie.gines@sfgov.org>
Subject: FW: Policy question regarding software customer service support -- Admin Code 21.30 policy direction regarding streamlined procurement

Hi Jolie,

I just talked with Michael Brown and he said he might have a few questions for you regarding the Carahsoft Salesforce contract, because you may have some background knowledge about this. Just want to give you a heads up.

Thank you!
Hao

From: Xie, Hao (TIS)
Sent: Tuesday, July 26, 2016 12:05 PM
To: Brown, Michael (CSC) <michael.brown@sfgov.org>
Cc: Levenson, Leo (TIS) <leo.levenson@sfgov.org>
Subject: RE: Policy question regarding software customer service support -- Admin Code 21.30 policy direction regarding streamlined procurement

Hi Michael,

Just to provide some clarification on this to facilitate our discussion. There is no professional service included in the agreement. Salesforce does not do its own implementations or other professional services. Those are still performed by 3rd party vendors. That is how the city has procured professional services previously through the Tech Marketplace or RFPs.

Customer Service is only phone support to support troubleshooting. It would be the same as if your power went out and you had to call PG&E for faster support. The City does not pay for the

Customer Service because it is part of the subscriptions to the software products.

It will be greatly appreciated if we can discuss today.

Many thanks and have a great day!

Hao

From: Xie, Hao (TIS)

Sent: Tuesday, July 26, 2016 8:50 AM

To: Brown, Michael (CSC) <michael.brown@sfgov.org>

Cc: Levenson, Leo (TIS) <leo.levenson@sfgov.org>

Subject: RE: Policy question regarding software customer service support -- Admin Code 21.30 policy direction regarding streamlined procurement

Hi Michael,

Thank you for your guidance. Leo is out of office this week. Can we have a meeting today or tomorrow to discuss about this? I am happy to come to your office.

Thanks and have a great day!

Hao

Hao Xie

Strategic Sourcing Manager

Department of Technology

City and County of San Francisco

415-581-4066 (office)

925-998-8892 (Cell)

hao.xie@sfgov.org

sfgov.org/dt

One South Van Ness, 2nd Floor, Office 2202, San Francisco, CA 94103

From: Brown, Michael (CSC)

Sent: Friday, July 22, 2016 4:37 PM

To: Levenson, Leo (TIS) <leo.levenson@sfgov.org>

Cc: Xie, Hao (TIS) <hao.xie@sfgov.org>

Subject: RE: Policy question regarding software customer service support -- Admin Code 21.30 policy direction regarding streamlined procurement

Leo,

I spoke with Brent Lewis yesterday and provided him a copy of your draft. We were to speak today and unfortunately, he has not followed up with me and I know he is in a meeting from 2 – 5 this afternoon.

We briefly spoke yesterday and this is what I gathered:

There should be an existing contract for the services being provided under Carahsoft. Depending on the language in that personal service contract it may allow you the flexibility to have an agreement with Salesforce for services provided through Carahsoft. You would make any payment through Carahsoft. There may be no need for a PSC approval from CSC.

However, if the initial contract involving Carahsoft was not flexible or in some way restrictive in what services would be provided, you would need to amend the initial contract that involves Carahsoft. I don't think it would require a separate contract with Salesforce.

Brent Lewis at DHR was going to try to find your contract in the database that involved Carahsoft. You may want to check with your contract compliance officer for additional information on what the current contract can allow.

Requests for PSCs of \$100,000 or less do not require Commission approval. They can be referred to as "expedited PSC's and are reviewed and approved by DHR. However, the use of PSC's for multiple vendors for the same scope of services in the same department that cumulatively exceed \$100,000 require DHR and Commission approval.

Is there anyone I can follow-up with next week in your absence? I would like to do a conference call with Brent Lewis and your contact person next week.

Attached FYI is the Policy and Procedures on Personal Services Contracts.

Michael L. Brown
Executive Officer
Civil Service Commission
Direct: 415/252-3250
Reception: 415/252-3247
FAX: 415/252-3260

From: Levenson, Leo (TIS)
Sent: Thursday, July 21, 2016 11:50 AM
To: Brown, Michael (CSC)
Cc: Xie, Hao (TIS)
Subject: RE: Policy question regarding software customer service support -- Admin Code 21.30 policy

direction regarding streamlined procurement

Hello Michael—here is a little more information. Section 21.30 of the Administrative Code makes special sole source category and exceptions from purchasing requirements for Software, including the software support provided by that vendor. This exempts contracting requirements of Administrative and Environment Code—so I’m not sure it specifically addresses Civil Service System authorities—but it shows the Board intent that purchase of proprietary software and associated support deserves streamlined procedures.

-Leo

SEC. 21.30. SOFTWARE LICENSES, SUPPORT, ESCROW, FINANCE, AND EQUIPMENT MAINTENANCE AGREEMENTS.

(a) The Board of Supervisors hereby approves the execution of perpetual, nonexclusive software licensing agreements which warrant performance of the software according to specifications and which are for an amount of less than ten million dollars, including any associated escrow agreement for source code or finance agreement, without further Board approval.

(b) Software licensing procurements are not subject to the contracting requirements of the Administrative or Environment Code, but shall be subject to the requirements established by Section [21.03\(j\)](#) and [Chapter 67](#). For the purpose of this section, software licensing procurements shall be deemed to include both the licensed software product, any escrow agreement for source code, finance agreements, and support services for such product where support for that product is available only from the licensor.

(c) Agreements for the development of software shall include acceptance testing of the software and/or performance criteria, and shall condition payments on successful completion of the acceptance test or satisfaction of the performance criteria specified in the contract.

(d) Where a vendor has proprietary rights to software or where maintenance of equipment by a particular vendor is required to preserve a warranty, software support and equipment maintenance agreements entered into with that vendor shall be treated as a sole source for the purposes of any contract requirements included in the Municipal Code.

(e) A Contracting Officer is authorized to make payment for software license fees and software support, equipment maintenance and associated escrow and finance fees in advance of receiving services under a contract.

Leo Levenson

Deputy Director, Finance & Administration, CFO/CAO

City and County of San Francisco Department of Technology

[415-760-0579](tel:415-760-0579), Leo.Levenson@sfgov.org, sfgov.org/dt

One South Van Ness, 2nd Floor, Office [2209](#), San Francisco, CA 94103

From: Levenson, Leo (TIS)

Sent: Wednesday, July 20, 2016 4:56 PM

To: Brown, Michael (CSC) <michael.brown@sfgov.org>

Cc: Gamino, Miguel (TIS) <miguel.gamino@sfgov.org>; Xie, Hao (TIS) <hao.xie@sfgov.org>; Kathleen Clark (TIS) (kathleen.clark@sfgov.org) <kathleen.clark@sfgov.org>

Subject: RE: Policy question regarding software customer service support

Thanks for getting back to us, Michael—

We're still negotiating the EA—but I've attached a working draft of terms and conditions that is still being negotiated. I think the issue relates to Exhibit 2, "**SaaS Application & Hosting Services Description**"

This is not an amendment to any pre-existing enterprise agreement. Up until now, Departments have bought Salesforce subscriptions through the Technology Marketplace, with no special negotiation over terms and conditions.

It is only because we are now going directly to Salesforce to get subscriptions in bulk at a better price that the opportunity to negotiate on terms and conditions has come up—and this question about whether the behind-the-scenes routine support for their proprietary software should be considered "professional services" for the purposes of Civil Service review.

The services are all the kind of things a software-as-a-service company like Salesforce has to do to keep their software product working properly for everyone—not just San Francisco.

There are no services on-site on our premises or dedicated specifically to San Francisco.

Thank you for looking at this.

-Leo

Leo Levenson
Deputy Director, Finance & Administration, CFO/CAO
City and County of San Francisco Department of Technology
[415-760-0579](tel:415-760-0579), Leo.Levenson@sfgov.org, sfgov.org/dt
One South Van Ness, 2nd Floor, Office [2209](#), San Francisco, CA 94103

From: Brown, Michael (CSC)

Sent: Wednesday, July 20, 2016 4:36 PM

To: Levenson, Leo (TIS) <leo.levenson@sfgov.org>

Cc: Gamino, Miguel (TIS) <miguel.gamino@sfgov.org>; Xie, Hao (TIS) <hao.xie@sfgov.org>

Subject: RE: Policy question regarding software customer service support

Leo,

I am assuming from your email, the Enterprise Software Agreement with Salesforce includes a customer service agreement for support services. Was the Enterprise Agreement with Salesforce done under an existing Personal Services Contract? Has the initial contract changed to now include the customer service agreement or modified in anyway?

If there is a modification in the initial contract approved, it would need to be reconsidered by the Commission as a modification. If the support services was a part of the initial contract that the Enterprise Software Agreement is under, then there is no further action with the Commission needed.

Hopefully this is helpful.

Michael L. Brown
Executive Officer
Civil Service Commission
Direct: 415/252-3250
Reception: 415/252-3247
FAX: 415/252-3260

From: Levenson, Leo (TIS)
Sent: Wednesday, July 20, 2016 4:13 PM
To: Brown, Michael (CSC)
Cc: Gamino, Miguel (TIS); Xie, Hao (TIS)
Subject: Policy question regarding software customer service support

Hello Michael,

I'm not sure if we've met. I've been around the City for quite a while, and am now Miguel Gamino's Deputy Director for Finance and Administration at the Department of Technology.

I would appreciate your thoughts and advice regarding an interpretation we received from the City Attorney's Office that I think may involve a misunderstanding.

DT has been working on an Enterprise Software Agreement with Salesforce covering their Salesforce software products. We are not purchasing any professional services in this contract.

The Enterprise Agreement terms and conditions reference the fact that they provide customer service if a Department has problems with the software.

We are not purchasing any dedicated customer service for San Francisco. This is just for their routine customer service if someone has a problem using the software product and calls for help.

Our City Attorney has advised us that we need to run this contract by the Civil Service Commission because of the customer service component.

Can you clarify this for us?

I would have thought that routine customer service to support a product would not meet the threshold to be considered “professional services” requiring Civil Service Commission review.

Otherwise, it would appear that every commodity purchase that includes a customer service number to call for problems would have to go through the Civil Service Commission.

We would hate to take up Civil Service Commission time and delay the contracting process unnecessarily.

Thank you for your assistance on this.

-Leo

Leo Levenson
Deputy Director, Finance & Administration, CFO/CAO
City and County of San Francisco Department of Technology
[415-760-0579](tel:415-760-0579), Leo.Levenson@sfgov.org, sfgov.org/dt
[One South Van Ness, 2nd Floor, Office 2209, San Francisco, CA 94103](#)

PERSONAL SERVICES CONTRACT SUMMARY ("PSC FORM 1")

Department: GENERAL SERVICES AGENCY - CITY ADMIN -- ADM

Dept. Code: ADM

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

Type of Approval: Expedited Regular Annual Continuing (Omit Posting)

Type of Service: "Proprietary Cloud Software, Software Support and Equipment Installation and Maintenance"

Funding Source: Various

PSC Amount: \$10,000,000

PSC Est. Start Date: 07/01/2021

PSC Est. End Date continued

1. Description of Work

A. Scope of Work/Services to be Contracted Out:

The Office of Contract Administration (OCA), on behalf of all City departments, hereby requests that the Civil Service Commission (CSC) grant Continuing Approval for three narrowly defined categories pertaining to proprietary software and equipment. These three categories are: (1) Proprietary Cloud Based Software, (2) Proprietary Software Support and (3) Proprietary Equipment Installation and maintenance. Each of these three categories is narrowly defined in the attached memorandum titled "Definitions for Continuing Approval of Prop Software and Equipment".

If a contract qualifies for one of these three categories, the department may elect to use this Continuing Approval in lieu of obtaining its own approval. In so doing, the department shall be required to report its election when submitting its contract for OCA review. Upon reporting its election when submitting its contract, all applicable unions shall be immediately notified of said election by email. Additionally, OCA shall produce a report such elections on a quarterly basis to CSC or, upon request, on a more frequent basis. Specifically, OCA will report the Department Name, Contract ID, Supplier ID, Contract Amount, Service Type and Contract End Date.

PLEASE SEE CONTINUATION OF THIS RESPONSE ON MEMORANDM ATTACHED

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

Historically, CSC did not require departments to seek CSC review for Proprietary Cloud Based Software, Proprietary Software Maintenance and Proprietary Equipment Installation and Maintenance. In recent years, CSC has revised its position. This shift has meant that every City contract for proprietary software and equipment must now be reviewed by CSC. The purpose of this request, therefore, is to carve out these three very limited category of services, recognizing that even if presented to CSC on an individual contract by contract basis, CSC would find that Civil Service employees may not legally perform them without either (A) violating the software manufacturer's copyrights, trademarks, trade secrets, and patents or (B) voiding the equipment manufacturer's warranties. Should this request be denied, therefore, City staff will expend unnecessary time and resources on achieving what can be done on a Continuing Approval basis, coupled with regular reporting.

C. Has this service been provided in the past? If so, how? If the service was provided under a previous PSC, attach copy of the most recently approved PSC.

N/A

D. Will the contract(s) be renewed?

N/A

E. If this is a request for a new PSC in excess of five years, or if your request is to extend (modify) an existing PSC by another five years, please explain why.

not applicable

2. Reason(s) for the Request

A. Indicate all that apply (be specific and attach any relevant supporting documents):

Other (be specific and attach any relevant supporting documents):

REASON FOR CHECKING OTHER:

Civil Service employees may not legally perform these narrowly defined services without either (A) violating the software manufacturer’s copyrights, trademarks, trade secrets, and patents or (B) voiding the equipment manufacturer’s warranties. Should this request be denied, therefore, City staff will expend unnecessary time and resources on achieving what can be done on a Continuing Approval basis, coupled with regular reporting

3. Description of Required Skills/Expertise

A. Specify required skills and/or expertise: In order for Civil Service employees to be permitted to perform these narrowly defined services, software manufacturers would have to grant City employees access to the manufacturer’s copyrights, trademarks, trade secrets, and/or patents and equipment manufacturers would have to agree to not void the equipment manufacturer’s warranties should the maintenance and installation be performed by City employees.

B. Which, if any, civil service class(es) normally perform(s) this work? none

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

4. If applicable, what efforts has the department made to obtain these services through available resources within the City?

These services are not available from resources within the City.

5. Why Civil Service Employees Cannot Perform the Services to be Contracted Out

A. Explain why civil service classes are not applicable.

Civil Service employees may not legally perform these narrowly defined services without either (A) violating the software manufacturer’s copyrights, trademarks, trade secrets, and patents or (B) voiding the equipment manufacturer’s warranties.

B. If there is no civil service class that could perform the work, would it be practical and/or feasible to adopt a new civil service class to perform this work? Explain. No. Civil Service employees may not legally perform these narrowly defined services without either (A) violating the software manufacturer’s copyrights, trademarks, trade secrets, and patents or (B) voiding the equipment manufacturer’s warranties.

6. Additional Information

A. Will the contractor directly supervise City and County employee? If so, please include an explanation.
No.

B. Will the contractor train City and County employees and/or is there a transfer of knowledge component that will be included in the contact? If so, please explain what that will entail; if not, explain why not.
No. No. Civil Service employees may not legally perform these narrowly defined services without either (A) violating the software manufacturer’s copyrights, trademarks, trade secrets, and patents or (B) voiding the equipment manufacturer’s warranties.

C. Are there legal mandates requiring the use of contractual services?
No.

D. Are there federal or state grant requirements regarding the use of contractual services? If so, please explain and include an excerpt or copy of any such applicable requirement.

No.

E. Has a board or commission determined that contracting is the most effective way to provide this service? If so, please explain and include a copy of the board or commission action.

No.

F. Will the proposed work be completed by a contractor that has a current PSC contract with your department? If so, please explain.

Yes. We do not know if departments electing to use this Continuing Approval have existing contracts for these services.

7. **Union Notification:** On 06/26/2021, the Department notified the following employee organizations of this PSC/RFP request:
all unions were notified

I CERTIFY ON BEHALF OF THE DEPARTMENT THAT THE INFORMATION CONTAINED IN AND ATTACHED TO THIS FORM IS COMPLETE AND ACCURATE:

Name: Joan Lubamersky Phone: 4155544859 Email: joan.lubamersky@sfgov.org

Address: One Carlton B. Goodlett Place Rm 362 San Francisco, CA 94102

FOR DEPARTMENT OF HUMAN RESOURCES USE

PSC# 11945 - 20/21

DHR Analysis/Recommendation:

action date: 09/20/2021

Commission Approval Required

Approved by Civil Service Commission with conditions

09/20/2021 DHR Approved for 09/20/2021