



**CIVIL SERVICE COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

**LONDON N. BREED
MAYOR**

Sent Via Electronic Mail

August 10, 2023

NOTICE OF CIVIL SERVICE COMMISSION MEETING

SUBJECT: DISCUSSION ON POTENTIAL UPDATES TO THE CIVIL SERVICE COMMISSION'S PERSONAL SERVICE CONTRACT APPROVAL PROCESS TO BE MORE PRODUCTIVE AND EFFICIENT.

The above matter will be considered by the Civil Service Commission at a hybrid meeting (in-person and virtual) in Room 400, City Hall, 1 Dr. Goodlett Place, San Francisco, California 94102 and through Cisco WebEx to be held on **August 21, 2023, at 2:00 p.m.**

This item will appear under the Executive Officers Report. 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: 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, available for public inspection and copying at the Civil Service Commission office. Reports from City and County personnel supporting 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 available for public view 72 hours prior to the Civil Service Commission meeting on the Civil Service Commission's website at <https://sf.gov/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 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: soff@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 <https://sfethics.org/>.



**CIVIL SERVICE COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

**LONDON N. BREED
MAYOR**

Date: August 21, 2023

To: Civil Service Commission

From: Sandra Eng
Executive Officer

Kate Kimberlin
Deputy City Attorney

Subject: **Discussion on Potential Updates to the Civil Service Commission’s Personal Service Contract Approval Process to be More Productive and Efficient**

Background

At the Special Meeting of June 5, 2023, the Civil Service Commission (Commission) received input from departments, employee organizations, and the public regarding potential updates to the Civil Service Commission Policy and Procedures (last updated on November 5, 2014).

Based on the feedback the Commission has received to-date and in consultation with the Commission’s Deputy City Attorney, we are recommending a redrafting of the Policy both to more clearly state existing procedures and to modernize some processes.

Changes for Commission Consideration

Clarify the Role of the Commission in Approving Personal Service Contracts (“PSCs”).

The current Policy includes some references to the Commission’s authority to review and approve PSCs, but does not clearly explain the Commission’s role. We propose updating the Policy to include a succinct explanation of the Commission’s Charter and other legal mandates. This update will not impact the Commission’s processes, but will provide a framework for departments and the public that will help clarify the Commission’s role in contracting.

Types of Personal Services that May Be Contracted Out. The current Policy refers to some types of personal service contracts that do not require Commission approval – such as those approved by the Board of Supervisors under Proposition J (Charter Section 10.104-15), for health and human welfare services, and for investment services for the Retirement System. However, as discussed further under subsection (3) below, there are other types of personal service contracts that the current Policy does not address but that similarly do not come before the Commission. Departments have asked for a clearer explanation of what types of contracts should or should not come to the Commission for approval. An updated policy would include a description of three categories of service contracts:

(1) Services that can be completed by an existing class. This is the type of PSC that the Commission routinely reviews. An updated policy would specify examples of those factors the Commission may consider in determining whether to approve contracting out of these PSCs, including:

- a) Whether the services have previously been performed by City employees;
- b) Whether the department needs services immediately to address unanticipated or transitional situations or to address urgent situations that do not rise to the level of an “emergency”;
- c) Whether the services involve short-term projects requiring diverse skills, expertise, and/or knowledge;
- d) Whether the services are required on an as-needed, intermittent, or periodic basis; or
- e) Whether the contract addresses circumstances where there is a potential conflict of interest that would prevent City employees from performing the work.

(2) Services that cannot be performed by an existing class. This category includes services that cannot be performed by City employees, but where the City could create a class of employees to do the work. The Commission’s role here is to determine whether it is feasible to establish a new class or to allow contracting out on a long-term or continuous basis. An updated policy would include factors the Commission considers when making this determination, including:

- a) Whether the services are short-term, non-repetitive, or so specialized and unique that they could not be appropriately or efficiently performed by City personnel;
- b) Whether the services require resources the City lacks, such as facilities or equipment that must be run by a specially trained operator; or
- c) Whether future funding is so uncertain that creating a new class to complete the necessary work is not advisable.

(3) Contracts that do not require Commission approval. An updated policy would include a list of those contracts that do not require Commission approval because it is either not possible or not practical or efficient for City employees to perform the work, including:

- a) Public works contracts under San Francisco Administrative Code Chapter 6 that are not for professional services;
- b) Grants under Administrative Code Chapter 21G;
- c) Contracts between the City and other government entities;
- d) Proposition J contracts, which are approved by the Board of Supervisors;
- e) Contracts subject to legal mandates, such as intellectual property laws, that require the use of non-City personnel, including proprietary SaaS (software as a service) licenses and other proprietary software or hardware where the City has no legal access to its code;

- f) Contracts for repair, maintenance, or similar services related to the purchase of software and equipment that must be performed by the manufacturer such as, for example, where such services cannot be completed by City employees without voiding the warranty;
- g) Contracts where state or Federal funding requirements specify use of non-City personnel;
- h) Contracts for health and human welfare services where a City board or commission, the City Administrator, Controller, or an elected official has determined that contracting is the most effective way to provide services;
- i) Contracts where the Retirement Board has determined that contracting is the most effective way to deliver investment management and actuarial services;
- j) Contracts for services incidental to the purchase of goods, such as shipping or installation and as defined as an amount not to exceed a percentage of the total contract price or specific dollar value (as determined by the Commission);
- k) Contracts for specialized legal services approved by the City Attorney; and
- l) Transactions under Proposition Q (i.e., currently for less than \$10,000).

Providing concrete examples of the various categories of PSCs will promote consistency across departments and may result in more efficient contracting processes for these services.

DHR's Role in Approval of PSCs. The current policy delegates to the Department of Human Resources ("DHR") certain responsibilities to review and approve PSCs. An amended policy would more clearly set forth DHR's role and could delegate additional responsibilities to DHR, including:

- Increasing the value of PSCs that DHR has authority to approve from \$100,000 to \$200,000;
- Authorizing DHR to move to an objection-based approach for all PSCs beyond the Proposition Q value (\$10,000), such as those below \$25,000;
- Removing the additional 7-day public posting requirement and having it run concurrently with the timing of DHR's notice to unions; and
- Removing from the policy information concerning the process of entering PSCs into the PSC database to allow DHR to more easily update those procedures separate from the policy.

Approval of PSC Applications. The current Policy provides for three types of approval: (1) annual, (2) continuing, and (3) regular. However, the City no longer uses the "annual" approval option and it will not be included in the new PSC database. An updated policy could remove the antiquated "annual" approval and add a new type of "automatic" approval that would remove the need for the Commission to place some PSCs on its agenda. This would model the state's PSC system, which provides for a hearing and approval only when the state receives an objection to a particular PSC. The Commission could choose to treat all PSCs as approved absent an objection or, alternately, set a threshold for objection-based approvals based on a dollar value the Commission deems reasonable (e.g., \$500,000).

Duration of Approval. Several departments have asked that the Commission extend the time that the department must execute its first contract under an approved PSC from one year to 18-months or even two years. This is a matter of discretion for the Commission and could be included in an updated policy.

Modifications to Approved PSCs. The Commission may alter its process for consideration of modifications where the requested modifications are *de minimus* or where no one has objected. The Commission may also consider delegating to its Executive Director and Deputy Director the authority to grant brief or retroactive extensions of previously approved PSCs.

Emergency Procedures. The current policy contains very little regarding emergency approvals. Based on the Commission's experience during the COVID-19 pandemic, an updated policy could memorialize the procedures that were in use at that time and that allowed the City to continue contracting during a declared emergency.

Protests and Appeals. The current Policy uses various deadlines (five vs. seven days) for protests and appeals. An updated policy could include a consistent set of deadlines. The Commission could also modify the policy to remove the need for department staff to attend Commission meeting when no objection has been received on their PSC, unless otherwise requested by the Commission.

Reporting Requirements. Departments have asked the Commission to consider removing the standing reporting requirements for continuous approvals in the current Policy given the available public information on City contracts. Alternately, departments have asked the Commission to modify the Policy to specify what information it would like to receive in its periodic reports so that departments can develop a standard form.

Recommendation: Open for discussion