

Chapter 900: Personal Service and Lease Contracts

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Chapter 900: Personal Service and Lease Contracts

901 Introduction

A. Purpose

This chapter is designed to assist managers in planning and drafting contracts that are of significant value to the requesting department. The decisions to use outside personal services instead of existing City personnel can have significant and long-term effects on a requesting department's performance and budget. For these reasons, the department should take special steps in planning for these types of contracts. This chapter provides procedural information useful in that planning.

B. City's Policy for Using Employees instead of Contract Services

Consistent with the City Charter's general rules and requirements, and with the goals of the Civil Service system, if services are needed, it is a Charter requirement to have Civil Service employees perform the services instead of contracting with an outside vendor, unless an exception to this requirement can be justified. Procedurally, the contract must qualify as either a "Prop. J" contract (see Section 903 below) or as a temporary services contract (see Section 904).

C. Application of These Guidelines to the Procurement Process

The procedures described in this chapter are intended as guidelines, not requirements, for City departments. Because the requesting departments generally manage the Request-for-Proposal process, they are in the best position to determine how this Chapter's procedures should be modified, if appropriate, to apply to particular transactions. Requesting departments have the administrative discretion to adapt these procedures as needed so that the RFP process is conducted in the best interests of the City.

902 Professional vs. Manual Services

A. Distinguishing Between the Two Types of Services

There are two common types of personal services that vendors provide to the City: manual services and professional services. Manual services are those services which accomplish basic tasks. Examples of manual services are security guard and janitorial services. Professional services accomplish tasks which are technical in nature and require special expertise. Examples of professional services are: computer consulting, medical services, engineering, etc.

B. Contractor Selection Process, Technical Specifications and Type of Transaction

1. General

There is a significant difference between preparing a competitive bid document for professional services and one for manual

services (or materials, supplies or equipment). The challenge stems from the qualitative nature of professional services and the complexity of describing a service level that is often difficult to measure with precision. By contrast, manual services can be described and quantified more easily. For example, a service level for janitorial services can be adequately described in the specifications: empty wastebaskets daily; wash floors weekly (describing how well). And monitoring performance is similarly straightforward, by directly comparing the performance level with the specifications.

By contrast, for computer consulting, the service required could be as general as: design a system to automate a department's records. Some parts of a professional services contract can be specified precisely: e.g., the contractor must have an appropriate professional license. But often, no definite standard is available to describe the service level.

For competitive bidding to be used for services, the user must define the minimum acceptable service level needed. Bidders will prepare their bids based upon that specified standard. The City selects the lowest responsive, responsible bidder.

Whether an RFP or competitive bid is used, the specifications must be as complete as possible. This is critical to the vendor's ability to know what the City needs and to the City's ability to monitor the vendor's performance of the contract.

2. Professional Services and the Request-for-Proposal (RFP) Process

When the City needs professional services, the transaction is usually appropriate for a Request-for-Proposal (RFP). An RFP is used when the City can specifically describe the end-product needed, and the "relative superiority" of one proposal over another is the differentiating factor (in contrast to the "low bid" in the competitive bid process). In other words, the RFP process chooses the comparatively best proposer, while the competitive bid process selects the lowest responsive bidder.

The department is responsible for developing the technical specifications, including them in the RFP package, and transmitting the RFP package to potential contractors. During the proposal evaluation phase, the department is responsible for determining the highest-rated proposal submitted based upon the criteria set forth in the RFP.

The department also informs the vendor of the contract's terms and conditions. The terms and conditions appear in the Model Personal Services Contract (Exhibit 900-1), and the document provides the appropriate basic legal framework for a professional services contract.

By using that contract and observing this Chapter's procedures (especially Section 906, "A Guide to Developing the Consultant Services Contract"), departments can help ensure that contracts are drafted and contractors selected in accordance with the City's contracting and legal standards.

As part of the RFP process, the department prepares the contract document, the successful proposer and the department sign it, and the department submits the proposed contract to Purchasing. Purchasing reviews the contract for completeness and for compliance with City policies on terms and conditions. Departments are encouraged to submit the contract to the City Attorney for review as to form before it is submitted to Purchasing. Otherwise, Purchasing sends the contract to the City Attorney.

3. Manual Services

When the City determines that it is appropriate to award a contract on the basis of lowest price, Purchasing uses competitive bidding for manual services contracts. As noted in ¶1 above, the City must be able to describe quantitatively the service level required.

C. Responsibility for Technical and Commercial Specifications

For contracts where the service level is established by the department receiving the service, that department is responsible for developing the technical specifications for the contract and submitting them to Purchasing. For janitorial services, the department determines what tasks must be performed and how often. Purchasing reviews the specifications and, in concert with the requesting department, may edit them to ensure maximum competition and a complete bid document. Purchasing then develops the terms and conditions and solicits competitive bids for the service.

For contracts where all departments using the service will receive the same level of service, such as the contract for washing City vehicles, Purchasing develops both the technical specifications and the terms and conditions, and solicits competitive bids.

903 "Proposition J" Contracts

A. What Is a "Proposition J" Contract?

In general, if the City can obtain necessary services at a lower cost by contracting with a vendor than by using City employees, then such services may be approved for "contracting out" and the resulting transaction is termed a "Prop. J" contract.

B. Planning Considerations

The steps outlined below are the basic requirements to establish services with an outside vendor under the "Prop. J" exception. This process may take up to six months.

C. How Does the City Enter into a "Prop. J" Contract?

Under the Charter and the Administrative Code, generally all contracts for services must be approved by the requesting department, approved as to form by the City Attorney, and then formally executed by the Purchasing Department as the City's official contracting officer. Contracts above \$50,000 must be cosigned by the Chief Administrative Officer.

An outline of the procedural steps to obtain approval for a Prop. J contract is:

1. The requesting department determines that it has requirements for services to be performed by an outside vendor, and writes detailed specifications of the services required.
2. The departments contacts potential vendors to obtain estimates of the market price for services covered by the specifications.
3. The department calculates the cost of the services if they were performed by City employees in the appropriate Civil Service classifications. If this estimate is higher than the estimated cost of contracting out, then the process continues.
4. The department submits the documents described in steps 1, 2 and 3 above, together with a "Charter 8.300-1 (Prop. J) Questionnaire" to the Controller. A sample questionnaire appears as Exhibit 900-2.
5. If the Controller determines the cost of the service to be lower than that provided by City workers and the Board of Supervisors passes a resolution of approval, the next step depends on whether the service is manual or professional (see Section 902). If manual, the department submits the necessary paperwork to Purchasing, and Purchasing may request bids. If professional, the department proceeds with a Request for Proposal (RFP) solicitation. For information on the RFP process, see 906, "A Guide to Developing the Consultant Services Contract."
6. When the RFP process is completed, the department sends Purchasing copies of: the Controller's determination; the Board resolution; the final contract, approved by the department and signed by the vendor.
7. If, as a result of the contracting process, one vendor is being replaced by another, it is the requesting department's responsibility to arrange a transfer date with the old and new vendors.

904 Temporary Contracts for Personal Services (Non-Prop. J)

A. General

If the City has a need for services, but the department believes that the services cannot be provided by City employees, then an

outside contract can be justified. (Departments may seek a Prop. J contract, as described above, if City employees are available but the outside costs are lower.)

If a department needs contractual services, but the justification is not because of lower costs, then the department must request approval from the Civil Service Commission. The role of the Commission is to determine if the requested service can be provided by City employees.

B. Justification for Non-Prop. J Contractual Services

The use of non-Prop. J personal services contracts is justified when the requested service cannot be provided by City employees. Proposals are analyzed by the Civil Service Commission to determine if there are existing classes that could be expected to perform the work. If there are no such classes and the establishment of a new class is not practical, then contractual services may be appropriate. If there are appropriate existing classes, then other circumstances may be considered. Examples of such circumstances include:

- temporary contracts for immediately needed services;
- emergency situations involving health or safety hazards;
- cases where the funding agency designated the individual or agency to receive the contractual monies; or,
- when it is prudent to employ an outside contractor for such matters as independent appraisals.

Provided there are compelling reasons such as those indicated above, personal services contracts may be appropriate.

C. Procedure

1. Select Preferred Contractor

For professional services, see Section 906, "A Guide to Developing the Consultant Services Contract," for information on soliciting bids or proposals from potential contractors and selecting the preferred contractor.

Contracts for manual services are usually bid by Purchasing.

2. Submit Application to Civil Service Commission

To request the approval of the Civil Service Commission, the department should submit the proposed contract and justification of the need for the contract to the Commission. The Commission will consider the contract at a public hearing. If the Commission approves the request to contract out, the department should send a copy of the approval to Purchasing.

3. Submit Contract Order to Purchasing

To help the process move quickly, departments are encouraged to submit the contract's paperwork to Purchasing at the same time the application is submitted to the Civil Service Commission. On the Contract Order, the following notation should appear: "Temporary Services Contract--Civil Service Comm. action pending."

As with Prop. J and other contracts, contracts requiring Civil Service approval must be approved by the requesting department, approved as to form by the City Attorney, and executed by Purchasing as the City's official contracting officer. Contracts above \$50,000 must be cosigned by the Chief Administrative Officer.

905 Consultant and Other Professional Service Contracts

A. Role of the Consultant

Because consulting services form a significant part of the City's need for professional services, the balance of the Chapter discusses the contracting process using as an example a contract with a consultant.

In general, a consultant serves City departments as an objective and authoritative adviser who renders professional opinions, judgments and recommendations. A consultant is an independent professional who does not have the authority to decide, command, or control a department's affairs.

B. Reasons for Using Outside Consultants for Personal Services

City departments which actively pursue innovative methods for solving problems occasionally discover that internal City resources are not available or adequate to produce the desired results. In such cases, the services of outside consultants may be required to achieve specific agency objectives. There are, however, monetary and legal issues which must be considered before outside consulting services can be justified. A department might consider using a consultant because of a need such as:

1. Specialized skills, knowledge and resources. A requesting department might use a professional consultant to focus greater specialized knowledge and technical skill on a department's problem than can be provided by internal staff. A qualified consultant understands the body of knowledge, skills and techniques in a given area of specialization.
2. Broad experience. While each requesting department's situation is unique in some respect, few problems are completely without precedent to the professional consultant. An experienced consultant has learned to anticipate problems and draw upon techniques developed in similar situations for solving the

problems. Often a consultant can offer the requesting department previously tested solutions to chronic operational and technical problems.

3. Objectivity. One of the most valuable attributes of an outside consultant is objectivity. The consultant can offer an independent and impartial perspective which can result in fresh and constructive insights into the situation.
4. Credibility. In some instances requesting departments must present findings and recommendations a to policy-making body. An independent, qualified source can offer credibility to evaluations of requesting department problems. Policy makers often are more willing to consider an outside recommendation if it is offered by a consultant with recognized professional expertise and stature in the field.
5. Timeliness. A consultant can devote a concentrated effort to an identified problem without the distractions of daily operating responsibilities. This is particularly important when a deadline for a project has been established and staff schedules and other work assignments conflict with the project's completion date.
6. Innovation. A consultant can play an important role as an agent for change. Often problems are not solved internally because of vested interests, internal loyalties, tradition, preconception or resistance to change. An effective consultant can offer innovative suggestions and inform decision makers of the benefits of creative approaches to longstanding problems.

C. Problems with Using Outside Consultants

One major problem is that departments do not always obtain usable results from outside consultants. Many City departments have received excellent work products and effective results from consultants. Other departments, however, have received very disappointing products that have generated undesirable effects. The complaints most often heard about outside consultants are that they:

1. Lacked sufficient technical knowledge to address the problem competently.
2. Attempted to utilize pre-packaged solutions to problems without recognition of the unique aspects of the particular problem.
3. Offered nothing new, simply internal staff opinions and previously tested failures.
4. Employed inexperienced people who approached the problem from a textbook perspective.
5. Made unrealistic suggestions.

6. Ventured into areas outside the defined scope of the project.
7. Failed to use the people who were proposed to work on the project.

Therefore, a requesting department should examine the consultant's background and references thoroughly before recommending that a particular consultant be given a professional services contract.

D. Need for Effective Controls

Although consulting services can be of benefit to requesting departments, the risk associated with this type of activity merits tight managerial control to ensure desired results. All of the problems mentioned above can be avoided if a department follows widely accepted principles of contracting for consulting services. These principles are summarized below:

1. Fully define the project in writing before contacting an outside consultant.
2. Select the best qualified consultant for the defined need.
3. Formally document the terms and conditions of the agreement.
4. Actively participate with the consultant during all phases of the project.
5. Establish timelines and milestones that the consultant must meet and provide for liquidated damages in the contract if the consultant does not meet the timelines.
6. Follow-up to ensure that all objectives have been achieved.
7. Provide the consultant with one liaison in the requesting department. This liaison should have the power to direct and instruct the consultant so that conflicting instructions are not given. This liaison should also have responsibility for the timely completion of the project.

The procedures discussed in the following section implement these principles. These proven and required practices can provide requesting departments with the necessary controls to avoid the problems discussed above and ensure successful use of outside consultants.

E. The Consultant Services Contract Process

The five-phase contracting process described below is a guide for the use of outside Consultant/Professional Service Contracts.

Phase I: Fully Define and Justify the Project Before Contacting a Consultant.

- Phase II: Select the Appropriate Consultant for the Defined Need.
- Phase III: Formally Document the Agreement.
- Phase IV: Participate in the Project.
- Phase V: Follow-up to Ensure that all Project Objectives Have Been Achieved.

*

Section 906, "A Guide to Developing the Consultant Services Contract," begins on the next page.

Phase I: Fully define and justify the project before contacting a consultant

Step 1: Clearly identify and document the problem to be addressed.

A Department considering use of an outside consultant should develop a clear, written definition of the Department's particular needs as a first step. The definition of need includes the problem's history, the perceived cause and effect and other pertinent factors. An early documented definition of the Department's need is important for four reasons. It:

1. Contributes to management's assessment of Department need versus anticipated project results.
2. Ensures a common understanding within the Department of the problem or task.
3. Develops the direction which the consultant will follow.
4. Establishes a basis to evaluate prospective consultants' proposals.

Step 2: Identify and document the expected results against the need.

The Department should assess, in broad terms, its need versus the estimated costs of obtaining the desired results. This assessment enables a Department to determine, at an early point, whether the projected costs of the service are worth the projected benefits. The identified results and costs should be documented.

The analysis is important because it highlights that any benefit has an associated cost, not only in consulting fees but also from possible changes in a Department's systems, procedures, and techniques which may require staff training, new equipment and special management attention.

Step 3: Identify the specific services desired from the consultant.

The Department defines what is expected from a consultant in order to achieve the identified benefits. Certain questions should be considered:

1. What is the level of technical expertise required?
2. What is the required start date?
3. What is the required end date?
4. How should the consultant approach the problem or task?
5. What products should the consultant deliver?

Step 4: Determine the availability of public resources and consider the legal requirements.

After the required services are defined, the Department determines the availability of qualified public resources before considering a private consultant. This analysis should be documented.

Technical expertise is available from a variety of public agencies. The following are some public sources which may be available to assist the Department:

1. Employees from within the Department or other City departments.
2. Previously conducted projects for other state, local, city and federal agencies.
3. Federal and local agencies with similar functional responsibilities and requirements.

There are also certain legal requirements which must be given careful consideration before outside consulting services are solicited. For example, the Department must determine which of the following apply:

1. Civil Service approval by resolution of all outside consultants (see Section 904).
2. Prop. J considerations (see Section 903).
3. Conflict of interest by Department employees.
4. Collective bargaining agreements.
5. Contracted services do not constitute or appear to constitute an employee-employer relationship between the contractor and the City.

The Department works with its representative in the City Attorney's Office regarding legal considerations.

Step 5: Estimate the cost of using a consultant.

If public resources are unavailable and legal requirements do not preclude contracting, the Department estimates the cost of engaging a private consultant. The cost of private consulting services is dependent upon a combination of factors, including:

1. Scope and depth of the task.
2. Type of information required.
3. Urgency for delivery.
4. Level of expertise required.

5. Availability of qualified consultants.
6. Reputation and relative professional stature of the consultant.
7. Risks associated with the project.
8. Experience level of the consultant.
9. Project travel and related costs.
10. Time involved to complete the task.

In addition to consideration of the tangible costs associated with contracting for services, the Department considers any intangible costs involved in contracting, such as lessened output by existing staff as a result of a consultant's presence. As in Step 2, this consideration enables the Department to attempt to determine, at an early point, whether the projected costs of the service are worth the projected benefits (i.e., is the project worth it?). The identified results and costs should be documented.

Phase II: Selecting a Contractor

The requesting department is primarily responsible for conducting the contractor selection process.

There are thousands of professional consultants available to provide varying degrees of expertise in dozens of service areas. The following procedures provide for careful consideration of consultants.

A formal, documented competitive process among several potential contractors is the preferred method for City purchase of professional services. If competitive solicitation is not feasible, the reasons for sole source procurement should be documented and retained in the contract file.

The MBE/WBE/LBE Ordinance directly affects soliciting and selecting contractors for personal services. Departments should consult the Ordinance's implementing Regulations for guidelines and requirements.

Step 6: Prepare a Request for Proposal (RFP).

A. Contents of the RFP

The "Request For Proposal" (RFP) communicates to prospective consultants the following information:

1. The Department's description of its specific problem.
2. The expected results from the project.
3. Draft Sample Contract, which covers the following issues. See Exhibit 900-1 for information on standard contractual provisions which should be in all professional service contracts.

- a. The extent and nature of anticipated contract services.
 - b. The tasks to be undertaken.
 - c. The degree of support the department will provide the consultant, in terms of facilities, equipment and information.
 - d. What kind of progress reports the consultant must produce, and how often.
 - e. The project's critical path and milestones.
 - f. Method and schedule of contract payment.
4. The contract cost anticipated by the Department and the expected benefits.
 5. The steps the City and prospective contractors will follow in the RFP process.
 6. A clear description of the evaluation criteria and a pre-determined point system for scoring the RFP and oral interviews.

Departments are encouraged to contact Purchasing to inquire whether Purchasing has any sample RFP's which have been used to solicit similar services.

B. Contents of the Proposal

A standardized format for responses should be specified in the formal RFP to facilitate the Department's evaluation. Responses are required to include at a minimum:

1. The consultant's understanding of the situation.
2. The consultant's suggested method for accomplishing the project.
3. A project management work plan with timelines.
4. A project organization chart.
5. A description of the consulting firm's qualifications pertaining to the project, including the credentials of the consultants to be assigned.
6. Recent references.
7. The consultant's time and cost, specified by task.

Step 7: Prepare a proposal evaluation document.

A proposal evaluation document assists the Department in evaluating contractors' responses. It is prepared concurrently with the RFP and its major evaluation criteria are included in the RFP (see Step 6). To assist in formulating an evaluation process that is as fair, equitable and impartial as possible, the evaluation document should always be completed before the RFP is issued. The document should describe evaluation criteria and weighting factors, including:

1. Minority and Women Business Enterprises. The Regulations contains specific instructions on evaluating proposals.
2. Understanding of the problem.
3. Technical responsiveness.
4. Project organization.
5. Work plan.
6. Staff capabilities.
7. Staff experience.
8. Company capabilities.
9. Company experience.
10. Time and Cost.
11. Department responsibilities.
12. Other pertinent items.

Step 8: Identify potential contractors.

The Department should identify several potential contractors. The RFP is submitted to all qualified consultants who have indicated a willingness to compete for this type of service. The Department contacts the Human Rights Commission to review if there are any certified minority- or women-owned enterprises to do the type of required consulting service. Results of this search should be documented by the Department and kept on file.

A directory of certified minority- and women-owned enterprises is available from the Human Rights Commission. Lists of non-certified vendors may be obtained from within the Department, other City departments, or professional societies and associations. If non-certified vendors are solicited, they should be advised to apply to HRC for certification immediately. All solicitations should be communicated to Purchasing for inclusion in the "Bid and Contract Opportunities" publication, which notifies MBE/WBE's of upcoming City transactions.

The project should be advertised for a reasonable period to provide sufficient time for potential contractors to prepare responses and to enhance the Department's outreach efforts.

Step 9: Conduct a pre-proposal conference.

Good communication is essential if potential contractors are to understand Departmental requirements and prepare a responsive proposal. Opportunities for communication must be equally available to all potential respondents. The Department should consider establishing a formal schedule of conferences, interviews, on-site visits or other controlled communication forums. The most important communication forum is the pre-proposal conference. This conference offers a setting where all respondents may seek clarification and additional information without gaining a competitive advantage in preparing their proposals. Formal notes or conference minutes should be prepared by the Department and distributed to all participants. The Department is to designate one individual as the contact person for potential contractors. It should be emphasized during the pre-proposal conference that all questions about the proposal must be directed to this individual.

Step 10: Analyze the responsiveness of proposals.

The most important question confronting those responsible for evaluating a proposal is: "Was the proposal responsive to the agency's need?" The evaluation system developed in Step 7 should reflect the overriding importance of "responsiveness."

Appropriate experience, especially when confirmed by references, is important. References offered by respondents must be checked. The Department should inquire about past performance regarding the following:

1. Timely completion of work.
2. Quality of work.
3. Working relationship with contracting agencies.
4. Quantity of work.
5. Management of contract.
6. Previous work samples.

Step 11: Conduct interviews with reasonable number of respondents.

Ideally, all respondents should make oral presentations. In certain circumstances, however, this may not be feasible or practical, in which case, based on the Department's initial ranking of the proposals' overall quality, including responsiveness, the Department should invite as many of the high-ranked respondents as practical to oral interviews. The interviews give the City an opportunity to:

1. Clarify the proposal.
2. Query the respondent on past experience, including how the experience relates to the City's need.
3. Review any new issues raised in a proposal.

All selection panel members should be present during each interview and during all the panel's deliberations. During deliberations, documentation should be made of the panel's discussion of the respondents' strengths and weaknesses.

Step 12: Select apparent successful contractor and notify those not selected.

This step is the culmination of the processes discussed above. One respondent should emerge with a higher evaluation if the Department has:

1. Identified and clearly defined the problem.
2. Prepared an appropriate Request for Proposal.
3. Established weighted criteria for evaluating proposals.
4. Checked references.

Step 13: Document the reasons for the final selection.

All Departmental actions which bear on the selection of the apparent successful contractor must be properly documented because this information is public record. The following events and actions should be documented in the contract file:

1. Pre-proposal conference.
2. Questions raised and answers provided.
3. Evaluation of proposals.
4. Oral interviews.
5. Communications with contractors' references.
6. Selection panel deliberations.

Phase III: Formally Document the Agreement

A formal written Agreement which accurately documents all terms and conditions must be prepared. The department drafts the Agreement. The Charter requires contracts to be approved as to form by the City Attorney. The department may send the Agreement to the City Attorney for approval before sending it to Purchasing, or else Purchasing can transmit the Agreement after it is received from the department.

The Department's primary consideration during contract negotiation and finalization is fulfilling administrative and technical requirements. Beyond meeting these requirements, the Agreement must contain general Terms and Conditions which protect the City's interests.

Step 14: Document all the terms and conditions of the agreement.

The Agreement should be based on the model Personal Services Contract (Exhibit 900-1), then reviewed for form and signed by the contractor, the department, the City Attorney and Purchasing. The Chief Administrative Officer's signature is required if the contract is for more than \$50,000.

The Agreement should be as specific as possible. Principles of good contract management require that the following elements be included along with the standard terms and conditions in a complete contract:

1. Statement of Work

This documents the Department's and the consultant's understanding of the scope of the project. It should include:

- a. Outline of authorized work.
- b. Project objectives.
- c. Project organization.
- d. Organization of the project team.
- e. Schedule and milestones.
- f. Deliverables.
- g. Action steps and review points.
- h. Department participation.

2. Period of Performance

This is the start and completion dates. Time periods for the submission of reports, completion of phases, and other pertinent contract deliverables should be included.

3. Compensation

The fee schedule includes:

- a. A maximum contract cost, sometimes referred to as the Not-To-Exceed (NTE) amount.
- b. Rate for the services, usually an hourly rate.
- c. Detailed list of other charges.
- d. Payment procedures.

Billings should include a detailed breakdown of charges and be supported with statements of the work completed. All payments should be made after the delivery of service unless otherwise noted in the contract.

4. Management

The Agreement should identify, by name or position, the persons who are responsible for representing the Department and the consultant during contract performance. These individuals will be jointly accountable for project performance and results.

5. Reporting

All reporting requirements (i.e., progress, interim, final or special) should be included in the contract. Formal written reports may be required monthly, but probably no less often than quarterly. Oral presentations could be scheduled more often, perhaps weekly or monthly. The consultant should submit a comprehensive final report of project findings and recommendations (or other appropriate work product). All products and reports resulting from the contract will be the sole property of the City.

6. Insurance

The Department should consult with the Risk Manager to determine what kinds and amounts of insurance are appropriate for the contract. This should occur prior to issuing the RFP so that all interested parties will know the insurance requirement.

Phase IV: Participate in the Project

Contracting with an outside consultant does not reduce the Department's management responsibility for the results of the project. A consulting project is a joint undertaking. The joint nature requires a clear delineation and definition of the Department's and consultant's roles and responsibilities.

Step 15: Assign a department coordinator to work directly with the consultant.

A Departmental liaison should be designated to work directly with the consultant. This designation will:

1. Establish a single contact point for communications between the Department and the consultant.
2. Identify a Department's officer to be responsible for the success of the engagement.
3. Minimize any inconvenience and disruption of normal operations.
4. Allow the Department to monitor progress.

An effective liaison is necessary to ensure that maximum benefit is realized from the project.

Step 16: Establish a status reporting mechanism.

As noted in item 5, "Reporting," in Step 14 on drafting the Agreement, status reports are critical. Department management can best exercise control of a project through a series of formal progress reports or meetings. The reports or meetings should be required at least once a month, but generally not more frequently than once a week. These formal activities supplement the day-to-day contact with the consultant, and provide an opportunity to:

1. Determine if the project is addressing the Department's needs.
2. Determine whether the project is on schedule.
3. Communicate, discuss and assess interim findings.
4. Discuss difficulties or problems being encountered.

Step 17: Periodically review progress against objectives and document appropriate adjustments.

As a project progresses, practical difficulties may block accomplishment of the original goals and objectives. Attention is required to prevent the consultant and/or the Department from losing sight of the defined and agreed upon purpose, scope and magnitude of the project. Modifications of goals, objectives, costs, work plans, and schedules are to be based upon joint agreement between the Department and the consultant, and ratified by a Contract Amendment signed by all parties who signed the original Agreement. In addition to the Amendment, a Contract Modification form (600-6) must be completed. This process will minimize the risk of confusion, misunderstanding, and loss of momentum which can occur in the absence of a written record of changes. A modification is appropriate when there is a change in:

1. Scope of work required under the contract.
2. Amount of money being obligated under the contract.
3. Contract dates, such as an extension of the contract expiration date.

Phase V: Follow Up to Ensure that All Project Objectives Have Been Completed

An outside consultant cannot solve a Department's problem. The consultant's job is to recommend improvements or provide opinions or judgments. Once recommendations have been accepted, the Department is responsible for correcting identified problems. Follow-through by Departmental management is critical to the success of a project.

Step 18: Require final formal presentation for management.

A final formal presentation is made by the consultant to Departmental management. The findings, conclusions and recommendations should be presented and adequately explained to all Departmental

personnel responsible for review, acceptance and implementation. Disagreement with any of the consultant's principles, methods, techniques, or approaches should be discussed openly and resolved as quickly as possible. The failure to resolve disagreements will delay implementation of suggested improvements and payment to the consultant.

Step 19: Require a final report from the consultant.

The consultant's final report should address the following as appropriate to the type of consulting service provided:

1. Statement of the problem investigated or the assistance required by the Department.
2. Description of the methodology employed.
3. Alternative solutions or approaches available to the Department.
4. Selected solution or approach and the reasons for selection.
5. Benefits or results to be realized.
6. Recommendations for further improvements.
7. Other matters which should receive management or attention.

The final document should be thoroughly reviewed with the consultant to ensure that all conclusions, supporting logic, and related information are understood by the Department.

Step 20: Prepare a written evaluation of the consultant's performance.

As part of the department's responsibilities for contract administration, the Department's liaison prepares a consultant evaluation. At a minimum the evaluation should cover the following:

1. Achievement of engagement goals and objectives.
2. Timely completion of work.
3. Quality of work measured against engagement objectives.
4. Quantity of work.
5. Professional manner and conduct.
6. Working relationship with Departmental staff.
7. Management of the Consultant.

The department has discretion to decide whether to provide the consultant with a copy of the report.

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907 Renting Equipment

A. Rentals vs. Leases

Renting is not the same as leasing. A rental is an agreement giving the City use of something for an indefinite period of time, usually on a month-to-month basis. Rented equipment tends not to be complex, and so does not require a complicated contract. Typical rentals include: chairs or office furniture for a convention that lasts for a few days; or heavy-duty equipment to perform a single task that does not require the long-term utilization of the equipment.

Leases involve more complex agreements and cover a fixed period of time, usually one fiscal year.

B. Length of Time for Rentals

Purchasing's policy is to limit the equipment rentals to not more than three months. If equipment is needed for a longer period, a lease should be entered into. However, under unusual circumstances, a longer rental period can be approved. For example, renting may be a temporary means to continue the use of equipment while a complex and detailed lease agreement is being developed.

C. Ordering Documents

The documents used in establishing a rental are:

1. The Requisition for Purchase Order if the total rent is paid by a single payment; or,
2. The Term Purchase Agreement if the total rent is paid by multiple payments.

The processing requirements for these ordering documents are described in Chapters 400 and 500.

D. Rental Agreements

If the supplier requires the requesting department to complete a rental agreement, the requesting department is to ensure that all the required terms and conditions of the City Charter are contained in the agreement. These terms and conditions are delineated in the Standard Contractual Provisions (see Exhibit 600-3).

908 Leasing Equipment

A. Types of Leases

There are two basic types of leases used by City departments:

1. Lease/Purchase or Installment Purchase

A lease/purchase, also known as an installment purchase, commits the City to lease the equipment for a fixed period of time, usually several years, at the end of which the City will either own the equipment or have a "buy out" option at a nominal price. The City usually builds up equity in the equipment each month, which can mean that the buy-out price declines with each passing month.

2. Straight Lease

In a straight lease, the City contracts for the use of equipment for a fixed period of time and at the end of the lease period the City has no equity in it. If the requesting department wishes to continue to use the item, the City must either purchase the item at fair market value, begin a new lease at prevailing rates, or rent the equipment at fair market value.

B. General Guidelines on Ordering Documents

1. When to Use a Contract Order

If a straight lease is complex, the department should use a Contract Order form and a specially-prepared Agreement. Elements of complexity include:

- Expense. Purchasing uses \$5,000 as a rule of thumb.
- Type of equipment. Medical equipment, hazardous equipment, computers, etc.
- Insurance; liability.

If a straight lease lacks these or other factors militating toward the use of a contract, then a Term Purchase Agreement may be appropriate.

For a lease/purchase, the Contract Order should be used.

2. When to Use a Term Purchase Agreement (TPA)

If a straight lease is not complicated and below \$5,000, a TPA may be the appropriate ordering document.

C. Lease Requirements

The vendor usually has its own pre-printed standard lease form, and such contracts often have provisions which the City has determined to be unacceptable. If a department receives a standard lease from a vendor, the department should review it and proceed as described in the following paragraphs.

1. Prohibited Terms and Conditions

If any of the following appears, the department informs the vendor that the City will not sign a lease containing them:

- Late charges.
- Requiring the City to maintain insurance coverage.
- Allowing vendor to recovery attorney's fees in the event of litigation.
- Holding the vendor harmless for damage or injury.
- Requiring the City to make a security deposit.
- Holding the City liable for consequential damages.

2. Required Terms and Conditions

The department should inform the vendor that the subjects covered in the "Standard Contractual Provisions" document (600-3) must be in the final agreement with the City.

D. Processing Requirements

1. The Term Purchase Agreement (TPA) Lease

For leases which are established using the TPA, the following events must occur:

- a. The requesting department obtains a copy of the lease from the Lessor, and appropriate additions and deletions as described above are made. The Lessor indicates approval of the changes by initialing next to each change.
- b. The department forwards to Purchasing:
 - (1) four copies of the lease with the initialed changes and with the original signatures of the Lessor and the head of the requesting department; or,
 - (2) four copies of the lease accompanied by the City's Standard Contract Provisions form (600-3) and the Signature Page form (600-4), each containing original signatures of the Lessor and the head of the requesting department; and,
 - (3) the Term Purchase Agreement.
- c. Purchasing reviews the terms and conditions of the lease and, if approved, follows the procedures for processing a Term Purchase Agreement (see Chapter 500) while also obtaining approval of the City Attorney.

2. The Contract Order Lease

For leases which are established using the Contract Order, the Terms and Conditions are subject to bid (see 405.1(A)) and/or

negotiation and, generally, a detailed contract must be written. Purchasing and the City Attorney will aid the requesting department in finalizing the contract.

When the contract is finalized, the department forwards the Contract Order and four copies of the contract--with the original signatures of the Lessor and the head of the Department--to the City Attorney. Then Purchasing, the Chief Administrative Officer (if the contract is for more than \$50,000) and the Controller approve the contract with each forwarding it to the next.

E. Additional Lease Considerations

1. Computer Equipment

For the lease of computers and related equipment, the requesting department must obtain an approval letter from the Electronic Information Processing Steering Committee (EIPSC). A copy of the approval letter should be attached to the TPA or Contract Order.

2. Extensive Installation

If the lease or lease/purchase requires extensive installation efforts, the Lessor is to provide the City with insurance.

Charter 8.300-1 (Proposition J) Questionnaire

Department _____ For time Period _____

Contract Services _____

- 1) Who performed services prior to contracting out?
- 2) Number of City employees laid off as a result of contracting out?
- 3) If the employees were not laid off as a result of contracting out, what happened to them?
- 4) What percent of a City employee's time is spent on services to be contracted out?
- 5) How long have the services been contracted out?
- 6) What was the first fiscal year for Proposition J Certification?
- 7) How will contract services meet the goals of your MBE/WBE Action Plan?
- 8) Does the proposed contract require that the contractor provide health insurance for its employees? Even if it is not required, does the proposed contractor provide health insurance to its employees?

Department Representative

Telephone: _____

