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Mayor

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Director and Purchaser

MEMORANDUM

Date: May 3, 2019
To: All Departments
From: Alaric Degrafinried
Subject: Changes from the P-600 (2-17) to the April 2019 P-600 (4-19)

Earlier this week the Office of Contract Administration (OCA) announced several updated, new, or discontinued contract templates for the City & County of San Francisco ("City"). The P-600 was one of the templates that was included in those updates. As you probably know, the P-600 template has not been updated since February 2017. This memo details the modifications made in the latest update to the P-600 Contract Template for Chapter 21 Professional Services.

The updated P-600 Contract Template for the City is now available on the City's Intranet at: <http://mission.sfgov.org/doccenter/>. Over the over the next several months, OCA will conduct a series of meetings to highlight/discuss these changes. In the meantime, should you have any questions please consult with your regular Purchasing contact or call OCA's main office number for further assistance (415-554-6743).

I. General Changes

- Throughout the document, minor grammatical fixes have been made.
- The green (general) and red (legal) instructions have been edited. Notable changes are guidance relating to Data and Security (Article 13), instructions on Prevailing Wages (Term 3.3.7), and cost control advice when exercising options (Article 2).
- Where possible, numbering within clauses is more consistent.
- The footer is modified to require a Contract ID rather than a date, which is already found in the initial paragraph.

II. Modified Terms

- Term 2.1 – This section has been modified to give certainty to the contract period.
- Term 3.3.5 – "LBE Payment and Utilization Tracking System" has been updated to reflect changes with the City's financial system.
- Term 4.5 – "Assignment" has been replaced to expand upon instances where a contractor desires to transfer its interests in the agreement. No transfer between contracting entities may occur without the City's express written permission.
- Term 5.1 – "Insurance" and subsections have been modified by the Risk Manager for clarity and to update requirements to match current insurance standards.
- Terms 8.4.1 and 8.4.2 – have been modified slightly to reflect that in the event of termination, the data and security obligations of Article 13 will survive the agreement.
- Term 8.2.1(b) (part of "Termination for Default") has been modified to address situations in which contractors repeatedly breach their obligations, but are able to cure within the ten-day period. Now, the City may terminate the contract after a contractor's continued breach if in the same manner.
- Terms 10.7 and 10.8 "Minimum Compensation Ordinance" and "Health Care Accountability Ordinance" have both been expanded at the request of the Office of Labor Standards

Enforcement to give a broader overview of the MCO and HCAO requirements, and include URLs to provide easier access to information for contractors.

- Term 10.11 – “Limitation on Contributions” has been updated to reflect recently enacted changes relating to threshold applicability, duration of restrictions, and scope of who is covered by the ordinance in Campaign and Governmental Conduct Code Section 1.126. Departments with elected officials approving contracts or those with personnel running for office should take special notice of the changes.
- Term 11.13 – “Order of Precedence” has been consolidated from two alternative choices to a single clause that encompasses the concept more broadly.

III. New Terms

- A definition of “Confidential Information” has been added. This ties to changes made in the Article 13 Data and Security to safeguard potentially sensitive information provided to contractors.
- Term 7.3 – “Withholding” has been added to expressly permit the City to withhold payments due to Contractor under the agreement if Contractor is delinquent in a payment required to be paid to the City under the San Francisco Business and Tax Regulations Code. Titles have been added to Sections 7.1 and 7.2 of Article 7 as well.
- Term 10.4 – “Considerations of Salary History” has been added to incorporate the requirements of Administrative Code Chapter 12K. This is also known as the Pay Parity Act. This section places requirements on contractor with regard to their hiring practices in performance of the services under the contract.
- Term 10.17 – “Distribution of Beverages and Water” has augmented and partially replaced the current “Sugar Sweetened Beverage” text. Environment Code Chapter 24 governs distribution of Packaged Water, and shares applicability attributes with the Administrative Code Chapter 101 provisions. They have been consolidated under a single section.
- Term 11.3 – “Incorporation of Recitals” has been added to ensure that any promises made in the “Whereas Clauses” are not inadvertently deemed not part of the Agreement.
- Term 11.14 – “Notification of Legal Requests” has been added to increase the City (and City Attorney)’s ability to safeguard City Data from third parties.
- Term 13.4 “Management of Confidential Information” has been added to increase a contractor’s obligations in the event they are handling sensitive information. The term requires that the City have access to its information; that information will only be used in appropriate ways; and that after termination or expiration of the contract, the contractor will not retain any confidential information.

IV. Removed Terms

- Term 5.3 (and 5.3.1/5.3.2) – “Indemnification for Design Professionals.” The alternate indemnity provision for design professionals has been removed. This indemnity provision is less protective than the standard indemnity provision, and only applies where a licensed design professional will provide design services, which typically qualifies as Chapter 6 professional services. The option to include this alternative provision has caused confusion in drafting. If a contractor requests changes to the standard indemnity language because design services will be provided, OCA or the City department should consult with their assigned Deputy City Attorney.