



# OFFICE OF THE CONTROLLER

## CITY AND COUNTY OF SAN FRANCISCO

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Controller

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### Policy [February 22, 2020]:

Expedited Contract Modification Policy for Agreements ending on or before June 30, 2021

#### I. Background

City departments and their suppliers continue to play a critical role in the response to the COVID-19 public health emergency. Due to continued disruptions arising from department and supplier response to the emergency, new solicitations and traditional contracting processes may interfere with the continuity of essential services while the response is ongoing.

On May 11, 2020, the Mayor signed a Thirteenth Supplement to Mayoral Proclamation Declaring the Existence of a Local Emergency dated February 25, 2020 ("Order") authorizing the Controller's Office to adopt a policy allowing departments to modify agreements in place on the date of the Order, including but not limited to services contracts, grant agreements, construction contracts, and leases, and including agreements that are not related to the response to the emergency ("Existing Contract Modifications") without complying with competitive solicitation and procurement procedures in the Administrative Code. On February 19<sup>th</sup>, 2021, the Mayor signed the 35<sup>th</sup> Supplement to Mayoral Proclamation Declaring the Existence of a Local Emergency which provides for an extension of these rules by the Controller's Office.

Per the updated Order, the Controller's policy shall not allow any Existing Contract Modifications that (a) extend an agreement by **more than one year**, (b) extend the term of an agreement past June 30, 2022, or (c) increase the cost to the City, except that modifications to a general services, professional services, commodity, lease, or grant agreement may increase the not-to-exceed amount to the extent permitted by the policy and as necessary given the extension duration noted above. Existing Contract Modifications authorized by the policy shall not be subject to approval by the Civil Service Commission. The Order does not waive or modify the approval requirements of Charter Section 9.118.

#### II. Policy

The Controller's Office establishes the following policy to expedite contract modifications pursuant to the Mayor's Order ("Policy"). Per this Policy, no new solicitation is necessary and the Controller's Office has established an expedited approval process to extend applicable agreements.

This Policy applies to agreements expiring on or before June 30, 2021, including but not limited to services contracts, grant agreements, construction contracts, and leases, and including agreements that are not related to the response to the emergency.

Qualifying agreements may be extended until June 30, 2022, or for a shorter duration at the discretion of the department. All extensions granted via this Policy shall expire on or before June 30, 2022. This Policy allows qualifying agreements to be extended until June 30, 2021 by following the procedures listed below and without additional approvals. Qualifying agreements that departments intend to extend past June 30, 2021 (through a required termination date of June 30, 2022) will require additional

approval by the Controller's Office, City Attorney's Office, and Purchaser. The specific review and approval process will be determined and announced in the coming months.

Extensions shall include a budget based on the Fiscal Year 2019-2020 or 2020-2021 (FY20-FY21) budget amount, prorated for the duration of the extension. Departments should review contract budgets to ensure all costs are appropriate to be included in the prorated increase prior to finalizing the budget for the extension. If an agreement included budget increases to accommodate COVID-19 response, departments may adopt this increased annual budget as the basis of the prorated extension, pending a review and approval of the applicability of costs. An increase to the agreement's not-to-exceed (NTE) amount is allowable through this Policy.

Departments and their commissions (as appropriate) are delegated all signature and approval authority with limited exceptions. This Policy does not supersede the rules of the Board of Supervisors, and as such, any extension that requires approval by the Board of Supervisors must still be processed accordingly. Additionally, Departments shall file disclosures under Campaign and Governmental Conduct Code section 1.126 where required. Lease amendments that fall under Real Estate Division purview will continue to require Real Estate Division approval.

Departments are not required to expedite contract amendments using this Policy. Departments may choose to follow standard procurement policies and procedures as necessary based on internal business decisions. In particular, if a department determines it must amend an existing agreement for longer than one year, for more than the allowable prorated amount of the prior year budget, or with amended terms or scope of services, standard procurement processes must be followed.

### **III. Procedures**

The Controller's Office has established the following procedures to be followed by any department expediting contract modifications per the Policy.

- 1) Departments must review prior year and proposed budget and terms and ensure the prorated budget is appropriate and the terms and scope of service remain the same for the extension period.
- 2) The Controller's Office, in conjunction with the City Attorney, has established a streamlined amendment template to append to existing agreements documenting the amendment number, new expiration date, new NTE value, and that the amendment was entered into via this Policy authority. Expedited amendment templates must be signed by Department Heads or their designee, and by the supplier, certifying that the original contract terms shall apply to the amendment, and only the duration and budget have been amended per the Policy.
- 3) Signatures may be obtained via DocuSign. Departments may use DocuSign within PeopleSoft to obtain signatures on the amendment, or may circulate an amendment for wet-signature via internal contract management systems and upload fully-signed amendments into PeopleSoft to be processed.
- 4) For Chapter 21 contracts, departments will maintain the standard ServiceNow submission and checklist process. OCA will guide departments on completion of the checklist given limited approval requirements. OCA shall approve Chapter 21 amendments in PeopleSoft.

- 5) Expedited amendments should be tracked in PeopleSoft using a new change code and purchase order (PO). Departments should not change order the existing PO and no new PO encumbrance is required for extensions where only the duration is changed, and not the budget. Departments should not create new Purchase Orders for FY21-22 until after July 4, 2021. As a reminder, the PeopleSoft System will not be available for entry of new Purchase Orders from July 1 to July 3, 2021.
- 6) Departments must maintain a report of all agreements amended via the expedited process. As these agreements have bypassed certain standard approvals, by August 15, 2021, departments must submit this report to all departments with an approval role in procurement, including OCA, the City Attorney, Civil Service Commission, Office of Labor Standards Enforcement, Contract Monitoring Division, and the Controller's Office.

## Updates and Attachments

This Policy may be amended as the situation progresses. View the full text of the Mayor's Executive Order: [https://sfmayor.org/sites/default/files/Emergency\\_Declaration\\_13th\\_051120.pdf](https://sfmayor.org/sites/default/files/Emergency_Declaration_13th_051120.pdf)

Nonprofit suppliers should contact assigned program managers at funding departments with questions about this Policy or other issues or concerns related to contracts and grants.

As necessary, City departments should send questions via a contracts or budget lead to Jeffrey Pomrenke at [Jeffrey.Pomrenke@sfgov.org](mailto:Jeffrey.Pomrenke@sfgov.org). Questions may be compiled for a consolidated City response, and the Policy may be updated and republished accordingly.