




City of Seattle Department of Executive Administration

Fred Podesta, Director, Department of Executive Administration
Gregory J. Nickels, Mayor

Date: April 20, 2009

From: Fred Podesta, Director 
Department of Executive Administration

To: Department Directors and Finance Managers

Subject: Guidelines for Contracting for Consultants and Services

Over the past several months, a number of questions have been directed to the Department of Executive Administration (DEA) in regard to the appropriate use of contractors and consultants. Staff in DEA have collaborated with their colleagues in Personnel, Law, and several other departments to explore the issues and document the guidelines in this memorandum to help departments enter into appropriate contracts.

City policy prohibits certain uses of contractors and consultants. In summary, the three fundamental standards include:

1. No department should contract for work that has been traditionally performed by City civil service employees unless authorized under a bargaining unit agreement.
2. The nature of independent contractors' assignments and work practices should be managed in such a manner as to be clearly distinguishable from that of regular City employees.
3. No department should enter into a contract that is not in compliance with a collective bargaining agreement.

These policies have been developed over past years with an eye toward compliance with federal, state and local law. The policies apply broadly, to many types of contracts; this memorandum uses the term contractor, which should be understood to also mean consultant or other cases where the City is procuring services. Failure to follow these policies puts the City at risk of litigation and violations of IRS regulations.

Recognizing that the second standard listed above, relating to the independence of a contractor, is subject to interpretation, departments should review the work of their contractors relative to the criteria listed below and manage contracts in such a manner as to conform with the criteria.

1. The department provides normal contract management over the contractor; however the department does not direct work with the same supervisory control that they do City employees.
2. The department does not directly supervise the contractor (i.e. does not conduct City employee performance evaluations, discipline, or maintain a City employee file for the contractor).

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3. The contractor is not listed as an employee on a City organizational chart or directory.
4. The contractor does not supervise or evaluate City employees.
5. There is a written contract that specifies the scope of work, the specific project, and duration; the contract describes roles and responsibilities in a manner that clarifies how the work is different in terms of scope, expertise or duties than that of City employees.
6. The company (or sole proprietor) has an investment in equipment and fixed ongoing costs that are not reimbursed by the City.
7. The company (or sole proprietor) makes services available to the market, can work for other entities, and usually advertises.
8. If the contractor bills by the hour, it is preferable that the contractor also works for other clients.
9. If the contractor has previously worked as a City employee, the contractor has been separated from the City for at least one year.
10. The contractor generally works off-site or at an independent business location; if not, the contractor is providing highly specialized expertise or performing very specific project work and the cost for use of City work space and equipment should be recognized in the contract.
11. The length of service of a contractor who works on-site (for reasons cited above) is less than three years.

Departments are expected to ensure that the contracts they execute and manage do not expose the City to risk. Compliance with policy in departmental contracting is vital and DEA will likewise use the guidelines to screen requests for City contracts.

For additional guidance, please refer to the City's Consultant Standard Operating Procedures and the City's Purchasing Guidelines. Jean Boler in the Law Department and Nancy Locke, the City's Purchasing Services Director, are also excellent resources for advice. As to the issue of compliance with bargaining agreements, please consult with your assigned City labor negotiator or David Bracilano, Director of Labor Relations in the Personnel Department. Thank you for your assistance.

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