

Attachment A



**Edwin M. Lee,
Mayor**

**Greg Wagner,
Chief Financial Officer**

MEMORANDUM

January 7, 2015

TO: President Ed Chow and Honorable Members of the Health Commission

THROUGH: Barbara Garcia, Director, Department of Public Health

FROM: Greg Wagner, Chief Financial Officer

RE: **Proposed Changes to Contract Review Criteria**

At the Health Commission Planning session last spring, the Commission asked staff to consider changes to the contracts review and approval process. In response to that request, staff developed a proposal to modify the policies and procedures for contract review. The proposal was discussed and modified at three separate meetings of the Health Commission Finance and Planning Committee in October, December and January. At the January 6 meeting, the committee made final revisions and asked the attached proposal be calendared at the January 20 meeting of the full Health Commission meeting. If approved by the full Commission, the changes would go into effect beginning with the February, 2015 contracts report.

Proposed Health Commission Contracts Review Process

- (1) Current Review Process: A contract requires Health Commission approval if
- a. the total amount of the contract (for the entire term) is over \$50,000; or
 - b. there is a modification of greater than 10 percent from the amount last approved by the Commission; or
 - c. the vendor or services are new to the Department.

(2) Proposed Contract Review

Contracts meeting the following criteria will be included on the monthly Health Commission contract report including an explanation of all changes, with an expectation that each contract would be presented, and/or discussed:

- a) Contracts with an annual amount over \$500,000, not including contingency
 - b) Modifications that cause the annual amount to be \$500,000 or more, not including contingency
 - c) Contracts that require approval by the Board of Supervisors
 - d) Contract renewals with an active Corrective Action Plan, regardless of funding threshold
 - e) Any contract with an initial term over 5.5 years, not including City options for extensions beyond the initial term
 - f) Contracts for a *new* service that have an annual amount of over \$100,000. These contracts will be presented via a Health Commission summary memo, consistent with the current format for new contracts. Contracts for an existing service that have been awarded to a new vendor will be subject to the threshold in (a) above.
 - g) Staff will notify the Commission of any contract over \$100,000 that is awarded to a new vendor due to performance issues or financial inability to deliver services by the prior vendor. This notification will take place before the new contract is awarded.
- (3) There will be a Committee hearing scheduled to revisit and re-evaluate the process after six months of application, and give the Commission the opportunity to make changes.

(4) Other Contractual Reports that will Continue to Be Brought to Health Commission

In order to ensure that the Commission has sufficient information to exercise oversight and provide policy guidance, in conjunction with the amended contract review procedure we will schedule the following hearings:

- a) An overview of department-wide contract spending by program and function (annual).
- b) A report on outcome and performance metrics in contracts (annual).
- c) A report on contract monitoring findings, including Corrective Action Plans (all new Corrective Action Plans will be brought to Commission when established; annual overview report).

- d) A report on the uses of sole source contracts by category, and Commission review of policies and procedures governing the use of sole source contracts (annual).
- e) Annual report on the usage of contract contingency for those contracts which require submission to the Board of Supervisors (annual).
- f) Bienson Hearings that occur outside the normal annual budget approval process, as these are heard before the Board of Supervisors): Public hearings required to be held when DPH either decreases or eliminates medical services, including contractual funding. (DPH has historically opted to include behavioral health services in this hearing) (heard as needed).
- g) Mental Health Services Act/Prop 63 Funding: The Board of Supervisors passes a resolution in support of each Three-Year Component Plan. Each year, an annual update is submitted to the state. Following the preparation and submission to the State, a presentation is made to the Community and Public Health Committee of the Health Commission. It isn't contract specific, but instead specific to the entire program and its outcomes (annual).
- h) Grants: Accept and Expend approval if funding received outside of annual budget review process and exceeds \$100,000 (as needed). Report on grants received, how we are measuring outcomes/effectiveness, and how we are determining whether programs should continue or sunset at grant expiration).

Attachment B

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF CONTRACT ADMINISTRATION

Sailaja Kurella, Director and City Purchaser

RULES AND REGULATIONS PERTAINING TO THE SAN FRANCISCO ADMINISTRATIVE CODE, CHAPTER 21G

December 2021



Office of Contract Administration/Purchasing
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Grants

Table of Contents

SCOPE..... 2

REGULATION 21G.8 SOLE SOURCE GRANTS..... 3

Rules and Regulations Pertaining to the
San Francisco Administrative Code, Chapter 21G

Grants

The Purchaser, also known as the Director of the Office of Contract Administration (“OCA”), promulgates rules and regulations pursuant to Chapter 21G of the San Francisco Administrative Code. Each Granting Agency shall comply with the requirements of Chapter 21G in the awarding of Grants.

SCOPE

Chapter 21G governs the award of Grants. Chapter 21G does not apply to contracts for public works or improvements under Chapter 6 of the Administrative Code, the purchase of Commodities or Services under Chapter 21 of the Administrative Code, or contracts for the purchase, sale, or lease of any interest in real property under Chapter 23 of the Administrative Code.

Although Chapter 21G sets forth detailed procedures for procurement, there is a section in Chapter 21G that requires further guidelines by the Purchaser. This document, therefore, sets forth the rules and regulations for such section: **21G.8: Sole Source Grants**.

Grants

REGULATION 21G.8: SOLE SOURCE GRANTS

Administrative Code Section 21G.8 provides that a Granting Agency may award a Grant without conducting an open and competitive process under Sections 21G.4, 21G.5, and 21G.6, in accordance with the Purchaser's rules and regulations.

Solicitation Waiver Required

Per Administrative Code Section 21G.9, sole source Grants shall be permitted when:

- A competitive process is infeasible or impracticable
- A Public Purpose may reasonably be accomplished by one particular Grantee

To award sole source Grants under these two circumstances, departments shall obtain a waiver of the competitive solicitation requirements specified in Administrative Code Sections 21G.4, 21G.5, and 21G.6.

Solicitation Waiver Not Required

Departments need not obtain a solicitation waiver prior to award of Grants to any of the four City-owned community cultural centers, in accordance with Administrative Code Section 21G.8(c).

Additionally, departments need not obtain solicitation waivers for Grants awarded under Section 21G.3 where competitive solicitation is exempted, specifically those awarded per:

- Section 21G.3(a)(1) – Grants made to a governmental entity for programs, activities, or services that can be practically performed only by that particular entity;
- Section 21G.3(a)(2) – Grants made to a specific entity as required to comply with applicable law or contract, or as a result of the requirements of the funding source; and
- Section 21G.3(a)(3) – Grants made for improvement to property by a property owner.

Waiver Approval

For Granting Agencies under the jurisdiction of a commission or board, waiver of competitive solicitation requirements shall be recommended by the Grants Officer or their designee to the commission or board, who may approve or deny said waiver following the criteria of these Rules and Regulations.

A Granting Agency with no board or commission shall seek a sole source waiver approval from a committee comprised of representatives of the City Attorney's Office, the Controller's Office, Human Resources Department and the Office of Contract Administration.

Grants

Sufficient Justification and Documentation

Departments seeking waivers of the competitive solicitation requirements under Section 21G.8 must complete the Grant Solicitation Waiver Form (“Solicitation Waiver”) and provide sufficient supporting documentation to justify the sole source grant agreement. The Solicitation Waiver must provide specific and comprehensive information that explains why the waiver of competitive solicitation requirements should be approved.

Departments generally may not claim a solicitation is infeasible or impracticable solely if the department has failed to provide sufficient time to conduct a grant solicitation as required under Administrative Code Chapter 21G. However, urgency of the Public Purpose may be taken into consideration in determining whether a competitive process would be infeasible or impracticable.

In justifying a waiver from the competitive solicitation requirements, the department must provide the following information:

- A brief description of the Public Purpose that is to be fulfilled, the amount to be designated for the sole source Grant, the purpose of the Grant, and if available, an itemized budget for the Grant amount.
- If applicable, an explanation why a competitive process is infeasible or impracticable.
- If applicable, if public exigency or emergency for an award of a sole source Grant is being used as a justification, a description of the public exigency or emergency, need for the sole source Grant and period of performance, and impact on the Public Purpose if the sole source Grant is not approved.
- A description of why this is the only entity that can fulfill this Public Purpose, and what the entity offers that is essential to fulfilling the Public Purpose.
- The steps taken to verify that this is the only entity that can fulfill this Public Purpose, including whether the department has contacted other entities to evaluate their ability to fulfill the Public Purpose, and if so, a description of the entities and an explanation why they cannot meet the department’s needs.
- For a recurring Grant to the same recipient:
 - How long this entity has fulfilled this Public Purpose for the department.
 - Verification the department conducted a formal or informal competitive process within the last five years demonstrating the lack of other potential Grantees, pursuant to Administrative Code Section 21G.8(b).

Rules and Regulations Pertaining to the
San Francisco Administrative Code, Chapter 21G

Grants

Finally, the Granting Officer, or their designee, must be a signatory to the request. Their signature certifies that they have reviewed the specific Solicitation Waiver Request and agree with the Granting Agency's justification that a waiver is in the best interest of the City.

Attachment C



DAVID CHIU
City Attorney

CHRISTINA FLETES-ROMO
Deputy City Attorney

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MEMORANDUM

TO: Members of City Commissions That Oversee Grantmaking Departments

FROM: Christina Fletes-Romo
Sarah Fabian
Mary Kamikihara
Deputy City Attorneys

DATE: April 9, 2024

RE: Guidance to Commissions Reviewing Requests to Approve Sole Source Grants

Under Chapter 21G of the Administrative Code, City departments generally must award grants through an open and competitive process. But a department may award a grant without a competitive process if the commission that oversees the department adopts a resolution approving a sole source justification for the grant. In the two years since the Board of Supervisors adopted Chapter 21, several departments have sought approval for sole source grants from their commissions. When a commission approves a sole source justification, the commission is certifying that: (1) the department provided sufficient justification to forego an open and competitive solicitation process; and (2) the commission is convinced that only one entity can fulfill the grant's public purpose and scope of work. In this memorandum we provide legal guidance to commissioners considering these requests and recommend questions for commissioners to ask and departments to address in the process to help ensure the proposed sole source grant satisfies the City's legal requirements for sole source grants.

Background Regarding Competitive Solicitation Rules

Chapter 21G of the Administrative Code governs grants awarded by City departments. A grant is "an award of funds to a Grantee for, or in furtherance of, a Public Purpose, which is paid from monies deposited in the treasury of the City, and which is not required to be repaid except upon default by the Grantee." Administrative Code § 21G.2. City departments must award grants through an open and competitive process, except if one of the limited exceptions set forth in Administrative Code Section 21G.3 or 21G.8 applies.

The Board of Supervisors adopted Chapter 21G in part because open and competitive solicitation processes benefit the City, its residents, and potential grantees. Although conducting open and competitive solicitations take time and effort, the process helps ensure fairness and efficiency and guard against favoritism, collusion, and corruption. Solicitations equalize the playing field by allowing all potentially qualified entities to submit a bid that in turn must be evaluated in a fair, consistent, and transparent manner. For example, a department may seek to provide a grant to an entity to conduct community outreach. The department may have previous experience working with a non-profit that has done a good job performing similar work and the department is convinced that this non-profit is the only entity that can effectively reach the residents department seeks to target. But the department may not be aware of a new non-profit that may be even more effective at conducting community outreach. Without a competitive

MEMORANDUM

TO: Members of City Commissions That Oversee Grantmaking Departments
DATE: April 9, 2024
PAGE: 2
RE: Guidance to Commissions Reviewing Requests to Approve Sole Source Grants

solicitation process, the department might not learn of this new non-profit, and as a consequence may fail to reach more community members. Open and competitive solicitations allow every potentially qualified proposer an opportunity to submit a bid, thereby ensuring that departments are using public money in the most efficient, effective, transparent, and fair way by allowing the City to review a variety of options and award a grant to the most qualified proposer.

Departments may forego the solicitation process under rare circumstances, including where a commission concludes that there is a justification to award a grant to a “sole source” because it is the only available and qualified entity that can perform the needed work. Admin. Code § 21G.8(a). Sole source determinations are fact-specific, but are typically appropriate if the services required by the grant are truly unique and available only from one source. When a commission approves a sole source justification, the commission is certifying that: (1) the department provided sufficient justification to forego an open and competitive solicitation process; and (2) the commission is convinced that only one entity can fulfill the grant’s public purpose and scope of work.

Recommendations

When considering approving a sole source justification, commissioners should consider asking and departments should address the following questions:

- **What steps did the department take to ensure the proposed grantee is the only entity that can practically accomplish the public purpose?**
 - What type of research did the department do to determine availability of competition? Was that research adequate?
 - How many other entities or experts did the department reach out to?
 - Did the department consider other entities as possible alternatives?
 - Did the department make efforts for a competitive solicitation? If so, what were the results?
 - Are there other steps the department could reasonably take to ensure the proposed grantee is the only one that can achieve the public purpose?
- **Is the grant’s public purpose clear?** Unless the grant has a clear and well-defined public purpose, commissioners are unlikely to be able to fully assess the sole source justification. It is good practice for the grant to clearly state a well-defined public purpose. (For example, a grant that seeks to improve the health of children is likely too vague to allow the commission to assess whether a sole source agreement is appropriate. A grant that seeks to reduce Type 2 diabetes in children by educating parents in four different languages is a more appropriate level of detail for a public purpose.)
- **What is the grant’s scope of work? Are the programs, activities, or services contemplated by the grant so unusual that only one entity can provide them?** Understanding this information, including answers to the questions below, can help commissioners assess whether the department adequately explained why only one entity can do the work contemplated by the grant. (For example, if the department wishes to reduce Type 2 diabetes in Filipino communities and the grant will require hosting a series

MEMORANDUM

TO: Members of City Commissions That Oversee Grantmaking Departments
DATE: April 9, 2024
PAGE: 3
RE: Guidance to Commissions Reviewing Requests to Approve Sole Source Grants

of workshops in Tagalog, then commissioners can better review the department's justification for why only one entity is able to host these types of workshops.)

- What are the required skills/expertise needed to accomplish the programs, activities, or services?
 - Can only one entity practically perform the programs, activities, or services contemplated by the grant?
 - Even if the proposed grantee has experience achieving the grant's public purpose, is that experience so specialized that no other entity can perform the work contemplated by the grant?
- **Can the scope of the grant be slightly modified to allow for a competitive process?** While as mentioned above it is good practice to have a well-defined public purpose, in some instances the grant may be so specific and potentially tailored for a particular entity that it excludes other entities that could perform the service.
 - Is the public purpose unnecessarily narrow?
 - Are there ways the public purpose can be broadened, consistent with the main objective of the grant, to allow for a competitive solicitation for the grant?
- **What would happen if another entity complained?** If another entity were to later complain about not having the opportunity to apply for the grant, does the commission feel confident in its decision that only one entity could perform the programs, activities, or services contemplated by the grant?

Conclusion

Chapter 21G requires open and transparent solicitations unless an exception applies. True sole source awards are rare and a commission's role in this process is to assess whether the department has provided adequate sole source justifications. We encourage commissioners to reach out to the City Attorney's Office in advance if they have legal questions about competitive solicitations, sole source agreements, or the City's requirements for grants.

Attachment D

SAN FRANCISCO PUBLIC LIBRARY COMMISSION

RESOLUTION NO. 2025-01

Resolution approving the San Francisco Public Library Commission’s recommendation to amend a sole source grant for six months on a sole source basis and increase the value of the grant by \$18,000 to D’Arcy Drollinger.

WHEREAS, D’Arcy Drollinger was selected as the Drag Laureate of San Francisco through a competitive process; and

WHEREAS, the term of the Drag Laureate began in May of 2022 for an eighteen month term; and,

WHEREAS, the D’Arcy Drollinger is the first and only person to obtain the title of Drag Laureate from the City and County of San Francisco; and

WHEREAS, the San Francisco Public Library is committed to developing a process to select future Drag Laureates; and,

WHEREAS, Chapter 21G of the San Francisco Administrative Code (“Chapter 21G”) governs the award of grants and provides that granting agencies shall award all grants through an open and competitive process; and

WHEREAS, pursuant to Sections 21G.8 and 21G.9 of Chapter 21G, the Library Commission may approve a waiver of the open and competitive process when a competitive process is infeasible or impracticable, or when public purpose may reasonably be accomplished by one particular grantee; and,

WHEREAS, the Drag Laureate advances the important public purpose of uplifting the storied drag history of San Francisco and provide an ambassador to the City’s drag and broader LGBTQI+ community; and,

WHEREAS, the Drag Laureate has successfully performed all responsibilities in the Grant Plan, with the exception of helping to select the next Drag Laureate towards the completion of their 18-month term; and

WHEREAS, having the Drag Laureate participate in the development of the selection process is critical to the success of future selections; and,

WHEREAS, the perspective provided in shaping the selection process could only be reasonably be accomplished by this particular Grantee; and,

WHEREAS, the staff of the San Francisco Public Library has brought a recommendation to award a sole source grant to the Library Commission; and now therefore,

BE IT RESOLVED, that the Library Commission approves the sole source grant justification and the Library's amendment of the grant to D'Arcy Drollinger.

Approved on:

DATE

By a vote of: (-) AYES: NAYS:

STAFF REPORT: SOLE SOURCE WAIVER REQUEST

Pre-Development Support for Co-Located LGBTQ+ Museum and Archive

Date: March 13, 2024

To: Members of the San Francisco Arts Commission

From: Lex Leifheit, Deputy Director of Programs, San Francisco Arts Commission
Lisa Zayas-Chien, Capital Programs Director, San Francisco Arts Commission

Re: Award of a sole source grant of up to \$240,000 to GLBT Historical Society, the sole local operator of an LGBTQ+ museum and archive in San Francisco, to support due diligence necessary to leverage state and local funds for renovation, acquisition and market analysis of up to two sites for the nation's first co-located LGBTQ+ History Museum and Archive

Background

In 2021, Mayor London N. Breed announced a \$12 million dollar commitment to a permanent location for the nation's first full-scale, LGBTQ+ History Museum and Archive in San Francisco, followed by a \$5.5 million commitment to acquisition funding from State Senator Scott Wiener in 2022. In addition to celebrating and recognizing the history of the LGBTQ community, this museum will also serve as a community gathering space for lectures and events, and as an economic driver for San Francisco, bringing in visitors from around the world.

In consideration of the local and state funding commitments, City staff have worked to identify potential opportunity sites to realize this project. In order to move forward in leveraging these potential opportunities and develop a successful, financially sustainable project, additional due diligence of opportunity sites is required, prior to site acquisition.

Proposal

In keeping with the community-focused vision of this museum, Arts Commission staff propose a sole source award of \$240,000, with the intent to award this grant to the GLBT Historical Society to coordinate neighborhood and site-specific due diligence efforts, encompassing the specific cultural competencies, programmatic, spatial and revenue generation requirements of a permanent, financially sustainable LGBTQ+ history museum and archive.

Sole Source Justification

Administrative Code Section 21G.8 provides that a Granting Agency may award a Grant without conducting an open and competitive process. Per Administrative Code Section 21G.9, sole source Grants shall be permitted when a Public Purpose may reasonably be accomplished by one particular Grantee.

Why is this the only entity that can fulfill this Public Purpose? What is it that the entity offers that is essential to fulfilling the Public Purpose?

- Public Purpose. Awarding this grant will substantially advance the intent to acquire and renovate the nation's first full-scale LGBTQ+ history museum and research center, celebrating and recognizing the history of the LGBTQ community. This museum will also serve as a community gathering space for lectures and events, and as an economic driver for San Francisco, bringing in visitors from around the world.

- Grantee Can Reasonably Accomplish Public Purpose.

The GLBT Historical Society is a registered 501(c)(3) nonprofit organization, the sole local operator of the City's GLBT Historical Society Museum located in the Castro (4127 18th Street), and the owner of a unique and publicly accessible San Francisco LGBTQ archive located in the downtown/Mid-Market area (989 Market Street). The GLBT Historical Society Museum is the first stand-alone museum of LGBTQ history and culture in the United States, offering regular exhibitions, research and programming. The Dr. John P. De Cecco Archives and Special Collections of the GLBT Historical Society are among the largest and most extensive holdings in the world of materials pertaining to LGBTQ people, including over 1,000 collections spanning more than 100 years of queer history and 4,000 linear feet. The collection includes personal papers, organizational records, periodicals, oral histories, photographs, audiovisual recordings, ephemera, artifacts and works of art. Four hundred educators, researchers and artists annually engage with the archives for free.

Through its past feasibility study, the GLBT Historical Society demonstrated the ability to work with multiple subcontractors and community stakeholders to advance the vision of an LGBTQ+ Museum & Research Center, attract and secure funding commitments.

What steps were taken to verify that this is the only entity that can fulfill this Public Purpose? Has the department contacted other entities to evaluate their ability to fulfill the Public Purpose, and if so, describe the entities and explain why they cannot meet the department's needs.

Arts Commission staff spent approximately six hours reviewing:

1) Existing SFAC grantee organizations with a self-identified LGBTQ+ affiliation

SFAC staff reviewed a list of 389 grantees from Fiscal Year 2021 to Fiscal Year 2023 and identified GLBT Historical Society as the sole museum with a mission focused on LGBTQ people.

2) Registered not-for-profit organizations operating an LGBTQ+ museum and archive

Using the Guidestar nonprofit database, Arts Commission staff found no evidence of a registered, active nonprofit LGBTQ+ museum and archive in northern California with employees, other than the GLBT Historical Society. The Society confirmed it is the largest museum of its kind in the 9-county Bay Area.

3) The feasibility study for an LGBTQ+ Museum & Research Center published in 2019

As the commissioners of the feasibility study, conducted with ehdd, Gallagher & Associates, and AECOM, GLBT Historical Society is solely positioned to leverage their previous work in future due diligence for a site, work that includes space planning and programming scenarios to build from.

Since 2019, Arts Commission staff have engaged with city agencies including the Mayor's Office of Housing and Community Development, the Real Estate Division and the Office of Economic and Workforce Development on this project, during which time no other operator has been suggested by community stakeholders in numerous meetings with LGBTQ+ organizational leaders and residents present.

SFAC has worked with MOHCD to scale this sole source award to the portions of pre-development due

diligence where GLBT Historical Society's unique experience, insight and cultural competency is most necessary. A portion of due diligence that requires straightforward real estate and/or engineering assessment is being scoped through an existing technical assistance grant held by MOHCD.

- Verification. Staff can confirm through online research that the GLBT Historical Society museum and archive are a unique publicly available resource, referenced by innumerable arts, cultural and educational institutions as a "National Resource". In addition, in 2022, the Arts Commission conducted a public solicitation for Citywide Lesbian, Gay, Bisexual, Transgender, Queer (LGBTQ) Services for capacity building for a historical museum focused on LGBTQ history for which the GLBT Historical Society was ultimately selected as the grantee.

Because of its unique knowledge of the LGBTQ+ community and history paired with operation of a museum and archive, GLBT Historical Society is uniquely qualified to manage the tasks associated with due diligence of sustainably operating a new museum on this scale, paired with the evaluation of potential sites.

Grant Amount: Up to \$240,000

Grant Duration: 12 months