

File No. 121200

Committee Item No. _____

Board Item No. 3

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight Date January 24, 2013

Board of Supervisors Meeting Date February 12, 2013

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
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OTHER (Use back side if additional space is needed)

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Completed by: Rana Calonsag Date January 28, 2013

Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document can be found in the file.

78

127

1 [Administrative Code – Contractor Prompt Payment for Public Works Construction and
2 Professional Services Contracts]

3 **Ordinance amending the Administrative Code by adding sections 6.22(Q) and 6.42(F) to**
4 **require all public works contractors to pay subcontractors within seven days of receipt**
5 **of payment from the City.**

6
7 NOTE: Additions are single-underline italics Times New Roman;
8 deletions are ~~strike-through italics Times New Roman~~.
9 Board amendment additions are double-underlined;
10 Board amendment deletions are ~~strikethrough normal~~.

11 Be it ordained by the People of the City and County of San Francisco:

12 Section 1. The San Francisco Administrative Code is hereby amended by adding
13 Section 6.22(Q), to read as follows:

14 (Q) Contractor Prompt Payment. All construction contracts under this Chapter shall
15 require the contractor to pay its subcontractors within seven calendar days after receipt of each
16 progress payment from the City, unless otherwise agreed to in writing in advance by both contractor
17 and subcontractor. In the event that there is a good faith dispute over all or any portion of the amount
18 due on a progress payment from a contractor to a subcontractor, the contractor may withhold the
19 disputed amount but shall pay the undisputed amount.

20 Any contractor who violates this subsection shall pay to the subcontractor a penalty of 2% of
21 the amount due per month for every month or portion thereof that payment is not made. This
22 subsection is enforceable in a court of competent jurisdiction, and is not intended to create a
23 private right of action against the City and County of San Francisco.

24 Section 2. The San Francisco Administrative Code is hereby amended by adding
25 Section 6.42(F), to read as follows:


1 (F) Contractor Prompt Payment. All professional services contracts under this Chapter
2 shall require the contractor to pay its subcontractors within seven calendar days after receipt of each
3 progress payment from the City, unless otherwise agreed to in writing in advance by both contractor
4 and subcontractor. In the event that there is a good faith dispute over all or any portion of the amount
5 due on a progress payment from a contractor to a subcontractor, the contractor may withhold the
6 disputed amount but shall pay the undisputed amount.

7 Any contractor who violates this subsection shall pay to the subcontractor a penalty of 2% of
8 the amount due per month for every month or portion thereof that payment is not made. This
9 subsection is enforceable in a court of competent jurisdiction, and is not intended to create a
10 private right of action against the City and County of San Francisco.

11 Section 3. Effective Date. This ordinance shall become effective 30 days from the
12 date of passage.

13 Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to
14 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
15 punctuation, charts, diagrams, or any other constituent part of the Administrative Code that
16 are explicitly shown in this legislation as additions, deletions, Board amendment additions,
17 and Board amendment deletions in accordance with the "Note" that appears under the official
18 title of the legislation.

19
20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By: 
23 Yadira Taylor
24 Deputy City Attorney

FILE NO.

LEGISLATIVE DIGEST

[Administrative Code - Contractor Prompt Payment for Public Works Construction and Professional Services Contracts]

Ordinance amending the San Francisco Administrative Code by adding sections 6.22(Q) and 6.42(F) to require all public works contractors to pay subcontractors within seven days of receipt of payment from the City.

Existing Law

Section 6.22 of the San Francisco Administrative Code specifies the minimum terms and conditions that all public works construction contracts awarded by the City shall contain. These minimum terms and conditions include among others provisions regarding insurance, indemnification, prevailing wage, and retention of progress payments.

Section 6.42 of the San Francisco Administrative code similarly specifies the minimum terms and conditions for all public works professional services contracts.

Amendments to Current Law

This Ordinance would require that all public works construction and professional services contracts include a provision that requires prime contractors to pay its subcontractors within seven calendar days after receipt of payment from the City. This Ordinance would also provide for a penalty of 2% of the amount due per month for every month that payment is not made. The penalty would be payable to the subcontractor from the prime contractor and enforceable in a court of competent jurisdiction.

File No. 121200
rec'd via e-mail
1/23/13
PC



SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS



CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

January 18, 2013

Ms. Angela Calvillo, Clerk of the Board
Board of Supervisors
City Hall room 244
1 Carlton B. Goodlett Place
San Francisco, CA 94102-4694

File No. 121200 [Administrative Code - Contractor Prompt Payment for Public Works Construction and Professional Services Contracts]

Small Business Commission Recommendation: **Approval**

Dear Ms. Calvillo:

On January 14, 2013 the Small Business Commission (SBC) voted 7-0 to recommend approval of BOS File No. 121200.

The Commission found that this ordinance is consistent with recently passed state legislation and that it is complimentary to Executive Directive 12-01, "Contractor Partnering and Prompt Payment Policies." Therefore, the Commission urges the Board of Supervisors to approve this ordinance.

Sincerely,

Regina Dick-Endrizzi
Director, Office of Small Business

Cc: Jason Elliott, Mayor's Office
Supervisor Chu

Calonsag, Rana

From: Schulman, Chris
Sent: Wednesday, January 23, 2013 4:11 PM
To: Calonsag, Rana
Cc: Tang, Katy; Bruss, Andrea; Chung Hagen, Sheila; Elliott, Jason
Subject: SBC Response: BOS File No. 121200 [Admin Code- Contractor Prompt Payment for Public Works Construction and Professional Services Contracts]
Attachments: 121200_SBC_legislative response.pdf

Rana,

Attached is the SBC response to File No. 121200 [Admin Code- Contractor Prompt Payment for Public Works Construction and Professional Services Contracts]

The Commission recommends approval.

Thank you for adding this response to the legislative file. I have included the staff of Supervisors serving on the committee in this email. There is no request to distribute to committee members.

Regards,

Chris

Chris Schulman | Senior Policy Analyst/Commission Secretary | Office of Small Business
chris.schulman@sfgov.org | D: [415.554.6408](tel:415.554.6408) | O: [415.554.6134](tel:415.554.6134) | F: [415.558.7844](tel:415.558.7844)
City Hall, Suite 110 | San Francisco, CA 94102

Calonsag, Rana

From: Chu, Carmen
Sent: Thursday, January 24, 2013 1:24 PM
To: Calonsag, Rana
Cc: Calvillo, Angela; Campos, David; Cohen, Malia; Tang, Katy
Subject: Prompt Payment Legislation - File 121200

Hi Rana,

Per the request of Supervisor Campos and Supervisor Cohen, please add them both as co-sponsors to file 121200 Administrative Code – Contractor Prompt Payment for Public Works Construction and Professional Services Contracts.

Thank you,
Carmen Chu

[Administrative Code - Contractor Prompt Payment for Public Works Construction and Professional Services Contracts]

Ordinance amending the San Francisco Administrative Code, by adding Sections 6.22(Q) and 6.42(F), to require all public works contractors to pay subcontractors within seven days of receipt of payment from the City.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are *strike-through italics Times New Roman*. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The San Francisco Administrative Code is hereby amended by adding Section 6.22(Q), to read as follows:

(Q) Contractor Prompt Payment. All construction contracts under this Chapter shall require the contractor to pay its subcontractors within seven calendar days after receipt of each progress payment from the City, unless otherwise agreed to in writing in advance by both contractor and subcontractor. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from a contractor to a subcontractor, the contractor may withhold the disputed amount but shall pay the undisputed amount.

Any contractor who violates this subsection shall pay to the subcontractor a penalty of 2% of the amount due per month for every month or portion thereof that payment is not made. This subsection is not intended to create a private right of action against the City and County of San Francisco.

Section 2. The San Francisco Administrative Code is hereby amended by adding Section 6.42(F), to read as follows:

*Amended in Committee
1/24/13*

1 (F) Contractor Prompt Payment. All professional services contracts under this Chapter
2 shall require the contractor to pay its subcontractors within seven calendar days after receipt of each
3 progress payment from the City, unless otherwise agreed to in writing in advance by both contractor
4 and subcontractor. In the event that there is a good faith dispute over all or any portion of the amount
5 due on a progress payment from a contractor to a subcontractor, the contractor may withhold the
6 disputed amount but shall pay the undisputed amount.

7 Any contractor who violates this subsection shall pay to the subcontractor a penalty of 2% of
8 the amount due per month for every month or portion thereof that payment is not made. This
9 subsection is not intended to create a private right of action against the City and County of San
10 Francisco.

11 Section 3. Effective Date. This ordinance shall become effective 30 days from the
12 date of passage.

13 Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to
14 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
15 punctuation, charts, diagrams, or any other constituent part of the Administrative Code that
16 are explicitly shown in this legislation as additions, deletions, Board amendment additions,
17 and Board amendment deletions in accordance with the "Note" that appears under the official
18 title of the legislation.

19
20 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

21
22 By:



Yadira Taylor
Deputy City Attorney

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Mohammed Nuru, Director, Department of Public Works

FROM: Rana Calonsag, Clerk, Government Audit and Oversight Committee
Board of Supervisors

DATE: December 14, 2012

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Supervisor Chu, on December 11, 2012, which is being forwarded to your department for informational purposes.

File No. 121200

Ordinance amending the San Francisco Administrative Code, by adding Sections 6.22(Q) and 6.42(F), to require all public works contractors to pay subcontractors within seven days of receipt of payment from the City.

If you have any reports or comments to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee:
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee:
- 4. Request for letter beginning "Supervisor inquires"
- 5. City Attorney request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No.
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.

Sponsor(s):

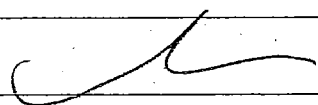
Supervisor Carmen Chu, *Chiu*

Subject:

Administrative Code - Contractor Prompt Payment for Public Works Construction and Professional Services Contracts

The text is listed below or attached:

please see attached

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

12/200 ✓