

[Prohibiting contractors from disclosing to any person or entity private information about individuals obtained from the City and County in the performance of a contract unless the contract authorizes the disclosure, the contractor first obtains written approval from the contracting department, or the disclosure is authorized or required by law.]

Ordinance amending the San Francisco Administrative Code by adding a new Chapter 12M to prohibit contractors from disclosing to any person or entity private information about individuals obtained from the City and County in the performance of the contract unless the contract authorizes the disclosure, the contractor first obtains the written approval of the contracting department, or the disclosure is authorized or required by law.

Note: This Chapter is entirely new.
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 a new Chapter 12M to read as follows:

Chapter 12M – Nondisclosure of Private Information

Sec. 12M.1. DEFINITIONS. For the purposes of this Chapter, the following definitions shall apply to the terms use herein.

(a) “Contract” shall mean an agreement for goods or services, including without limitation agreements for public works or improvements, or grant agreements (1) to be purchased or provided, at the expense of the City and County or to be paid out of moneys deposited in the treasury or out of trust moneys under the control of or collected by the City and County or (2) which grants the Contractor the right to receive revenues from sources other than the City based on its services under the agreement.

1 (b) “Contractor” shall mean any person or persons, associations, cooperatives, firm,
2 partnership, corporation, trustee, trustee in bankruptcy, receiver, or combination thereof, who submits
3 a Bid or Proposal or enters into a Contract with the City and County.

4 (c) “Contracting Department” shall mean the department that recommends or requests that
5 a Contract be executed by the Office of Contract Administration, the Department of Public Works, or
6 other department or public official authorized to execute the Contract on the department's behalf.

7 (d) “Private Information” shall mean any information that (1) could be used to identify an
8 individual, including without limitation name, address, social security number, medical information,
9 financial information, date and location of birth, and names of relative; or (2) the law forbids any
10 person from disclosing.

11 (e) “Subcontractor” shall mean any person or persons, association, cooperative, firm,
12 partnership, corporation, trustee, trustee in bankruptcy, receiver, or combination thereof, including
13 without limitation any subcontractor, subconsultant or supplier at any tier, that has an arrangement or
14 agreement, directly or indirectly, with a Contractor to perform any of Contractor's obligations under
15 the Contract.

16 Sec. 12M.2. NONDISCLOSURE OF PRIVATE INFORMATION. No Contractor or
17 Subcontractor who receives Private Information from the City and County in the performance of a
18 Contract may disclose that information to a Subcontractor or any other person or entity, unless the
19 Contract authorizes the disclosure, the Contractor has first received written approval from the
20 Contracting Department to disclose the information, or the disclosure is expressly authorized or
21 required by law or judicial order. The disclosure and the use of the information shall be in accordance
22 with any conditions or restrictions stated in the Contract or the Contracting Department's approval
23 and shall not be used except as necessary in the performance of the obligations under the Contract.
24 The department head or the department head's designee shall sign any approvals of the Contracting
25 Department. This Section 12M.2 shall be effective ninety days after the effective date of this Chapter.

1 Sec. 12M.3. ENFORCEMENT. Any failure of a Contractor to comply with the requirements of
2 Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition
3 to any other remedies available to it under equity or law, the City may terminate the Contract, bring a
4 false claim action against the Contractor pursuant to Chapter 6 or Chapter 21 of the Administrative
5 Code, or debar the Contractor.

6 Sec 12M.4. CONTRACT REQUIREMENTS. All Contracts and amendments to Contracts
7 entered into after ninety days after the effective date of this Chapter shall incorporate by reference the
8 provisions of Sections 12M.2 and 12M.3 of this Chapter.

9 Sec. 12M.5. EXCEPTIONS. This Chapter shall not apply in the following circumstances:

10 (a) When a Contract involves the expenditure of funds received by the City and County to
11 the extent the application of the Chapter would violate or be inconsistent with the terms or conditions
12 of the applicable grant agreement, subvention or agreement or the instructions of an authorized
13 representative of any such agency with respect to any such grant agreement, subvention or agreement.

14 (b) When a Contract is for the purchase, sale, transfer or lease of any interest in real
15 property or a license or permit for the use of real property.

16 Sec. 12M.6. PREEMPTION. Nothing in this Chapter shall be interpreted or applied so as to
17 create any power or duty in conflict with any federal or state law.

18 Sec. 12M.7. SEVERABILITY

19 If any part or provision of this Chapter, or the application of this Chapter to any person or
20 circumstance, is held invalid, the remainder of this Chapter, including the application of such part or
21 provisions to other persons or circumstances, shall not be affected by such holding and shall continue
22 in full force and effect. To this end, the provisions of this Chapter are severable.

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1 APPROVED AS TO FORM:
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3 By: _____
4 Robert A. Bryan
5 Deputy City Attorney

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