

File No. 191237

Committee Item No. 5

Board Item No. 4

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date January 27, 2020

Board of Supervisors Meeting

Date February 11, 2020

Cmte Board

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OTHER

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Completed by: Victor Young

Date January 23, 2020

Completed by: *[Signature]*

Date 1/28/20

1 [Administrative Code - Public Health Group Purchasing Organizations]

2
3 Ordinance amending the Administrative Code to authorize the Department of Public
4 Health to become a member of any Healthcare Group Purchasing Organization (GPO)
5 and to enter into contracts with Healthcare GPO suppliers and distributors to purchase
6 commodities and services without requiring competitive bidding and without approval
7 of the City Purchaser.

8 NOTE: Unchanged Code text and uncodified text are in plain Arial font.
9 Additions to Codes are in *single-underline italics Times New Roman font*.
10 Deletions to Codes are in ~~italics Times New Roman font~~.
11 Board amendment additions are in double-underlined Arial font.
12 Board amendment deletions are in ~~Arial font~~.
13 Asterisks (* * * *) indicate the omission of unchanged Code
14 subsections or parts of tables.

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

16 Section 1. Chapter 21A of the Administrative Code is hereby amended by revising
17 Sections 21A.1 and 21A.2, to read as follows:

18 **SEC. 21A.1. SCOPE OF CHAPTER.**

19 (a) Agreements for Commodities and Services for the Department of Public Health
20 ("DPH") may be entered into and procured under the requirements of this Chapter 21A where
21 expressly stated in this Chapter.

22 (b) Unless expressly stated otherwise in Chapter 21A, all of the requirements of Chapter
23 21, as well as any other applicable Charter or Code requirement, including but not limited to the
24 contract and lease limitations imposed by Section 9.118 of the Charter, shall apply to Commodities
25 and Services contracts procured by DPH under the authority of this Chapter 21A.

1 (c) As used in this Chapter 21A, all words shall have the same meanings as in
2 Chapter 21.

3 (d) For purposes of this Chapter 21A, a Healthcare Group Purchasing Organization, or
4 "Healthcare GPO," is an entity that leverages the purchasing power of healthcare institutions to
5 obtain discounts on goods and services from suppliers.

7 SEC. 21A.2. MEMBERSHIP IN GROUP PURCHASING ORGANIZATIONS.

8 (a) Findings.

9 (1) In 1997, the City authorized the Department of Public Health ("DPH") to join
10 the ~~University HealthSystem Consortium ("UHC") and University HealthSystem Consortium Services~~
11 ~~Corporation ("UHCSC"), and utilize all programs and services offered by UHC and UHCSC including~~
12 ~~Novation, a Group Purchasing Organization ("GPO"), two Healthcare GPOs to obtain discounts on~~
13 ~~goods and materials. (Enacted as Admin. Code Section 15.104, renumbered as Admin. Code Section~~
14 ~~21.43 in 2014.)~~

15 (2) Healthcare GPOs obtain cost savings by pooling their members' purchasing
16 power, ~~conducting a competitive bidding process for a vast array of goods and services for health care~~
17 organizations, and negotiating lower prices from their participating vendors. Healthcare GPOs
18 also provide their members with cost savings by conducting a competitive bidding process for some –
19 though not all – of the goods and services offered by their suppliers.

20 (3) Membership in Healthcare GPOs allows DPH to employ a streamlined process for
21 procureing goods and services ~~such as medical supplies and information technology on a timely and~~
22 cost effective basis, thereby reducing administrative burdens, facilitating improved quality of care,
23 and saving DPH millions of dollars each fiscal year.

24 ~~(4) On March 14, 2013, the Controller issued a City services audit report evaluating the~~
25 ~~ways in which DPH could improve its contracting practices to achieve greater cost savings. One of the~~

1 ~~Controller's recommendations was to centralize purchasing information and functions to maximize~~
2 ~~DPH's purchasing options. This report is on file with the Clerk of the Board of Supervisors in File No.~~
3 ~~150567.~~

4 ~~— (5) Currently, DPH is authorized only to be a member of UHC, which prevents DPH from~~
5 ~~using other GPOs and comparing costs to determine whether DPH is getting the best prices.~~

6 ~~— (6) Since this Section 21A.2 (then numbered Section 21.43) was enacted, information~~
7 ~~technology has become an integral part of nearly every piece of medical equipment, and is essential to~~
8 ~~safe and effective patient care. Clarifying that DPH can procure information technology products and~~
9 ~~services through a number of GPOs will ensure that DPH will have access to competitive pricing for a~~
10 ~~wide array of goods and services.~~

11 (b) The Director of Health ("Director") is hereby authorized to enter into and execute
12 written membership agreements with one or more Healthcare GPOs, apply and pay any applicable
13 fees for membership of DPH in ~~the UHC, the UHCSC, and their successors, and other entities that~~
14 ~~offer any Healthcare GPOs in which it becomes a member.~~

15 (c) Upon obtaining membership in a Healthcare GPO, DPH is authorized to utilize all
16 programs and services offered to members of the Healthcare GPO by the UHC, the UHCSC, and
17 their successors, and other entities that offer GPOs, including but not limited to ~~the~~ purchasing
18 programs that allow DPH to purchase Commodities and/or Professional Services from a vendor or
19 distributor that is under contract with a Healthcare GPO in which DPH is a member ("GPO
20 Supplier"). and the clinical and financial databases. The Director is authorized to enter into and
21 execute written membership agreements on behalf of the City and County of San Francisco ("City")
22 with the UHC, the UHCSC, and their successors, and other entities that offer GPOs.

23 (d) The Director, or person designated in writing by the Director, is also authorized to
24 enter into and execute written agreements, including but not limited to pricing commitments,
25 operating lease agreements, and finance agreements, with GPO Suppliers and/or their financing

1 ~~entities, for the acquisition, lease, or financing of~~ equipment, ~~on behalf of the City with suppliers~~
2 ~~of~~ Commodities, information technology products and related services, equipment
3 maintenance, ~~and~~ ~~g~~ General and ~~p~~ Professional ~~s~~ Services, ~~and finance entities affiliated with those~~
4 ~~suppliers, selected by the UHC, the UHCSC, and their successors, or other entities that offer GPOs,~~
5 ~~through their competitive bidding processes. Subject to applicable provisions of the City Charter, such~~
6 ~~agreements shall be governed by the GPO's standard terms and conditions. DPH may consult with the~~
7 ~~Office of Public Finance on agreements to which a supplier's finance entity is a party.~~

8 (e) Notwithstanding Section 21.1 of the Administrative Code or any other provision of the
9 Municipal Code, DPH may enter into contracts under the authority of subsections (c) and (d) without
10 adhering to the requirements of Section 21.1 or any other competitive procurement requirements.

11 (ef) The Director shall evaluate all Healthcare GPO memberships every five ~~(5)~~ years
12 beginning in ~~2020~~2025, and provide the Health Commission with a report of such evaluation by
13 January 31, ~~2020~~2025, and by January 31 of every fifth year thereafter to determine which
14 Healthcare GPO membership(s) offer DPH the best value.

15
16 Section 2. Chapter 21 of the Administrative Code is amended by revising Section
17 21.04, to read as follows:

18
19 **SEC. 21.04. DIRECT PURCHASING AUTHORITY OF DEPARTMENTS.**

20 (a) Department heads shall be authorized to purchase Commodities or Services
21 directly and without the approval of purchasing, as provided in the Charter or Municipal Code
22 of San Francisco, or in the following circumstances:

23 (1) When such purchase is recommended by a department head and is approved
24 by the Purchaser. The Purchaser's approval of direct department purchases may be for
25 individual contracts or for classes of contracts anticipated to be required by the department.

1 (2) Departments may directly enter into contracts with other public entities for the
2 purpose of fulfilling their governmental functions, which may include the provision or exchange
3 of Commodities or Services incidental to the purpose of the contract.

4 (3) Departments may directly enter into contracts for the investment of trust
5 moneys and agreements relating to the management of trust assets.

6 (4) Purchases of works of art or artifacts for museums or to display in public
7 areas, specialized art restoration, insuring, transport, storage, curation, and conservation
8 services.

9 (5) The Risk Manager is authorized to purchase insurance and expert services in
10 forms, amounts, and by procedures as approved by the Board of Supervisors in the annual
11 Risk Management Budget.

12 (6) The General Manager of the Public Utilities Commission may directly purchase
13 water, power, or natural gas, the conveyance or transmission of same, or ancillary services
14 such as spinning reserve, voltage control, or load scheduling, as required for assuring reliable
15 services in accordance with good utility practice, to or on behalf of the San Francisco Public
16 Utilities Commission.

17 (7) Officers and employees of the City may contract directly for the provision of
18 services related to travel required for official City business, subject to compliance with rules
19 and regulations established by the approving department and the Controller for
20 reimbursement of such expenses.

21 (8) When the purchase is made by the Director of Health under the authority of Chapter
22 21A of this Code.

23 (b) Nothing in this Section 21.04 is intended to affect the authorities granted to
24 departments elsewhere in this Code or in the Charter.

1 Section 3. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.

5
6 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
7 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
8 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
9 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
10 additions, and Board amendment deletions in accordance with the "Note" that appears under
11 the official title of the ordinance.

12
13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By:


16 ANNE PEARSON
17 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Public Health Group Purchasing Organizations]

Ordinance amending the Administrative Code to authorize the Department of Public Health to become a member of any Healthcare Group Purchasing Organization (GPO) and to enter into contracts with Healthcare GPO suppliers and distributors to purchase commodities and services without requiring competitive bidding and without approval of the City Purchaser.

Existing Law

Currently, Article 21A of the Administrative Code authorizes the Department of Public Health ("DPH") to join Group Purchasing Organizations ("GPOs") to obtain discounts on goods and materials. GPOs are entities that leverage the purchasing power of institutions to obtain discounts on goods and services from suppliers. Under the authority of Article 21A, DPH may participate in GPO purchasing programs and enter into contracts with GPO suppliers that are selected by the GPO through a competitive bidding process. Article 21A currently provides that contracts entered into under the authority of Article 21A shall be governed by the GPO's standard terms and conditions.

Amendments to Current Law

The proposed ordinance would authorize DPH to become a member of one or more Healthcare GPO. Healthcare GPOs leverage the purchasing power of healthcare institutions. The proposed ordinance would authorize DPH to use all programs and services offered to members of a Healthcare GPO in which it is a member, and would allow DPH to enter into pricing commitments, operating lease agreements, and finance agreements, with GPO suppliers and/or their financing entities, for the acquisition, lease, or financing for equipment, on behalf of the City with suppliers of commodities, information technology products and related services, equipment maintenance, and services.

The proposed ordinance would authorize DPH to enter into contracts with a Healthcare GPO or its suppliers without engaging in a competitive procurement and without approval by the City Purchaser. It would also authorize DPH to purchase all goods and supplies offered by a supplier that is under contract with a Healthcare GPO regardless of whether those items were competitively procured by the Healthcare GPO.

The proposed ordinance clarifies that all contracts executed under the authority of Article 21A are subject to all of the requirements of the Charter and Article 21 (except for the requirement to adhere to competitive procurement requirements), and would eliminate the requirement that GPO contracts be governed by the GPO's standard terms and conditions.

Background Information

Healthcare GPOs obtain cost savings by pooling their members' purchasing power and negotiating lower prices from their participating vendors. Healthcare GPOs also provide their members with cost savings by conducting a competitive bidding process for some – though not all – of the goods and services offered by their suppliers. Membership in Healthcare GPOs allows DPH to employ a streamlined process for procuring goods and services, thereby reducing administrative burdens, facilitating improved quality of care, and saving DPH millions of dollars each fiscal year.

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City and County of San Francisco
London Breed, Mayor

San Francisco Department of Public Health

Grant Colfax MD
Director of Public Health
BOARD OF SUPERVISORS
SAN FRANCISCO

2019 DEC -9 AM 9:40

BY JP

December 9, 2019

Angela Calvillo, Clerk of the Board
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Dear Ms. Calvillo:

Attached please find an original single-sided and two single-sided, black and white copies of the proposed ordinance for the Board of Supervisors approval.

This proposed ordinance would amend Article 21A of the Administrative Code to authorize the Department of Public Health to become a member of one or more healthcare Group Purchasing Organizations (GPOs) and to use all of the programs and services offered to the GPO members, as well as entering into contracts with a GPO or its suppliers without a competitive procurement or approval of the City Purchaser.

The following is a list of accompanying documents:

- Proposed Ordinance
- Legislative Digest

We are submitting this for introduction at the full Board of Supervisors meeting of December 17, 2019. We understand that this proposed legislation would fall under the 30-day rule.

For questions regarding this proposed ordinance, please contact me or Robert Longhitano, Manager, Office of Contracts Management and Compliance, Department of Public Health Business Office, (415) 554-2659, Robert.Longhitano@SFDPH.org.

Thank you for your time and consideration.

Sincerely,

Jacquie Hale, Manager
Department of Public Health Business Office
Office of Contracts Management & Compliance
Jacquie.Hale@SFDPH.org, (415) 255-3508



San Francisco Department of Public Health

Greg Wagner
Chief Financial Officer

City and County of San Francisco
London N. Breed
Mayor

MEMORANDUM

January 24, 2019

TO: Chair Hillary Ronen, and Members of the Rules Committee

FROM: Greg Wagner, Chief Financial Officer, San Francisco Department of Public Health *GN*

RE: Supplementary Information for Members of the Rules Committee regarding Item 5. 191237
Public Health Group Purchasing Organizations (GPO) for January 27, 2020

The purpose of this memorandum is to provide additional information for your consideration of the Department's proposed ordinance to amend Chapter 21A of the Administrative Code by revising Sections 21A.1 (Scope of Chapter) and Section 21A.2 (Membership in Group Purchasing Organizations).

Description of a Group Purchasing Organization (GPO) and Relationship to DPH

Since 1997, following the approval by the Board of Supervisors, the Administrative Code has authorized DPH to become a member of a single GPO and to use its purchasing programs. The current GPO is Vizient. Membership in Vizient enables DPH to employ a streamlined process for procuring goods and services, (relying upon the competitive bidding conducted by Vizient), reducing administrative burdens, facilitating improved quality of care, and saving DPH and the City millions of dollars annually. These savings are realized because a GPO is an entity that leverages the purchasing power of many member healthcare institutions (e.g. DPH) by pooling its members' purchasing power to obtain discounts on goods and services from suppliers with which the GPO contracts. A GPO conducts competitive bidding processes and negotiates/solicits lower prices from their participating vendors/suppliers to obtain optimal prices. Moreover, GPO suppliers pay a fee to the GPO based on the dollar value of procurement through the GPO, and the GPO provides a "Fee Share" to its members such as DPH. Over the past 5 years DPH has saved approximately \$5.0 million through this Fee Share.

Through the GPO, DPH enters into agreements with various suppliers and wholesale distributors (who are Vizient vendors) to obtain most of its required supplies, e.g. pharmaceutical or medical/surgical supplies/drugs/biologics. Through a Vizient distributor, the Department may place a single order, e.g. McKesson Corp., for a variety of necessary drugs, and the distributor will obtain the items via any number of manufacturers. The distributor will then deliver the supplies to DPH in a streamlined and timely manner. The distributor applies price discounts to DPH purchases based on the purchase volume.

Ordinance Revisions

From time to time, DPH proposes updates to the language in the ordinance to reflect changes in the industry. The last update to the ordinance was in 2015. The proposed amendment is both to clarify

language in the original ordinance, as well as to align the scope with healthcare industry standards to maximize the Department's flexibility to achieve cost savings. Changes Include:

- Currently, under Administrative Code 21 A.2., DPH is authorized to join a GPO to obtain discounts on goods and materials, but the GPO is specifically identified and named: "University Healthcare Consortium" (UHC). UHC was purchased by Vizient and therefore the current GPO is Vizient and not the named GPO in the ordinance. As such, this reference would be cleaned up in the proposed amendment to become a generic reference, "Healthcare GPO".
- The proposed ordinance narrows DPH's membership from a *GPO* to a *Healthcare GPO*. The original intent of the legislation was for healthcare related purchases, so this reflects a clarification of the original language and not a change in DPH practice.
- Currently, under Administrative Code 21 A.2., DPH is only authorized to be a member of the GPO named in the ordinance. The proposed amendment would allow DPH to enter into a membership agreement with one or more healthcare GPOs. Many healthcare institutions, particularly larger institutions with diverse and often emergent needs, make the business decision to join multiple healthcare GPOs. The proposed ordinance will enable DPH to join a second healthcare GPO in the event that pricing and/or product/service availability makes this beneficial. DPH does not have immediate plans to join another GPO, but this change would allow the option if better terms or pricing become available.
- Finally, the proposed amendment will revise the current language of the Administrative Code to clarify that DPH is authorized to utilize all programs and services offered to members of a Healthcare GPO, including the purchase of commodities and professional services from a vendor or distributor that is under contract with the Healthcare GPO in which DPH is a member. Currently, the language of Administrative Code 21 A2 is ambiguous regarding DPH's ability to procure specific items that were awarded by the Healthcare GPO. The revised language clarifies DPH's authorization to access all commodities and services available through a distributor, as long as it is under contract with the same Healthcare GPO as DPH.

By way of example, DPH uses McKesson as a pharmaceutical distributor. McKesson has three avenues to obtain drugs to access both the lowest prices and the necessary product, including: (1) Vizient's negotiated "Covered" pharmaceutical items (where Vizient and the supplier have negotiated the price of each individual drug), (2) 340b Drug Pricing Program pricing, which is a federally mandated program that requires drug manufacturers to provide outpatient drugs to eligible healthcare entities at significantly reduced prices (DPH is an active 340b participant), and (3) Wholesale Acquisition Costs. Under the proposed ordinance, DPH would be authorized to purchase the pharmaceuticals obtained via any of these three distributor options, using this example. While this is consistent with DPH's current practice, the Department wishes to explicitly clarify its authority to purchase in this manner under the ordinance. This will ensure that DPH retains access.

The above summarizes the essential revisions to the current language of the Administrative Code. If you have any questions, please feel free to contact me. Additionally, I will be available at the Rules Committee meeting on January 27, 2020.

Young, Victor (BOS)

From: Ruggels, Michelle (DPH)
Sent: Friday, January 24, 2020 7:14 PM
To: Ronen, Hillary; Stefani, Catherine (BOS); Mar, Gordon (BOS)
Cc: Beinart, Amy (BOS); Wong, Alan (BOS); Young, Victor (BOS); Herzstein, Daniel (BOS); Bennett, Samuel (BOS); Mullan, Andrew (BOS); Patil, Sneha (DPH); Wagner, Greg (DPH); Hale, Jacquie (DPH)
Subject: Info. re Public Health Group Purchasing Organization Item 5 for 1/27/20 Rules Committee
Attachments: DPH Memo re Item 5 191237 GPO Information.pdf

Dear Chair Ronen, and Members of the Rules Committee:

To add clarity to Item 5. 191237- Public Health Group Purchasing Organizations (GPO) on the January 27, 2020 Rules Committee calendar, please see the attached memorandum from Greg Wagner, Chief Financial Officer of DPH. The purpose of this memo is to provide more context to the proposed amendment to Chapter 21A of the Administrative Code. Mr. Wagner will be at the Rules Committee to respond to any questions.

Also, please see below for responses to questions submitted by Supervisor Mar's Office.

Thanks, Michelle
Director of DPH Business Office
415 255-3404

Response to Questions Submitted to DPH by Alan Wong on behalf of Supervisor Mar

1. Why does the proposed ordinance authorize DPH to enter into contracts with a Healthcare GPO or its suppliers without engaging in a competitive procurement and without approval by the City Purchaser? What are the pros/cons?
Actually, the current Administrative Code authorizes this already. The language in the amendment is to make explicit/clarify the current language. One positive aspect of joining a GPO is that a GPO is able to realize significant (millions of dollars) of savings by leveraging the purchasing power of many member healthcare institutions (e.g. DPH) by pooling its members' purchasing power to obtain discounts on goods and services from suppliers with which the GPO contracts. The GPO conducts the bidding process. As an aside, Alaric Degrafinried, Director of OCA advised the Department on January 24, 2020 that he has reviewed the proposed legislation and has no problem with it moving forward.
2. Why does the admin code eliminate the requirement that GPO contracts be governed by the GPO's standard terms and conditions? What are the pros/cons?
This is a beneficial change because it ensures that a GPO supplier that DPH enters into a contract with will adhere to all Federal, State and local requirements, including the terms and conditions that the City applies to its vendors. The terms and conditions negotiated between the supplier and the GPO may not contain everything that the City requires for its contractual agreements.
3. Is the City (DPH) currently not a part of any GPOs?

The Department of Public Health is currently a member of one GPO, Vizient. DPH has been a GPO member since 1997, when the Board of Supervisors first approved legislation permitting this to occur.

BOARD of SUPERVISORS



City Hall
1 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: Alaric Degrafinreid, Assistant Director, Office of Contract Administration
Romulus Asenloo, Acting Director, Contract Monitoring Division

FROM: Victor Young, Assistant Clerk *Victor Young*
Rules Committee

DATE: January 7, 2020

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation on December 17, 2019:

File No. 191237

Ordinance amending the Administrative Code to authorize the Department of Public Health to become a member of any Healthcare Group Purchasing Organization (GPO) and to enter into contracts with Healthcare GPO suppliers and distributors to purchase commodities and services without requiring competitive bidding and without approval of the City Purchaser.

If you have comments or reports 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 or by email at: victor.young@sfgov.org.

c: Florence Kyaun, Office of Contract Administration
Rochelle Fretty, Contract Monitoring Division

