

1 [Administrative Code Chapter 6 – Technical Amendments]
2 AMENDING CHAPTER 6 OF THE ADMINISTRATIVE CODE TO EFFECT TECHNICAL
3 CORRECTIONS / CLARIFICATIONS TO SUBSECTION 6.1(F), SECTION 6.7 AND
4 SECTION 6.80; TO ADD REQUIREMENTS TO SECTION 6.21 FOR QUOTATIONS FOR
5 PUBLIC WORKS LESS THAN OR EQUAL TO THE THRESHOLD AMOUNT; TO DEFINE
6 AND INCREASE THE MINIMUM COMPETITIVE AMOUNT FOR PROFESSIONAL SERVICE
7 CONTRACTS IN SECTION 6.40 FROM \$10,000 TO \$25,000; AND TO ADD A
8 SUBSEQUENT CONTRACT LIMITATION TO SECTION 6.62 FOR JOB ORDER
9 CONTRACTS.

10 Note: Additions are underlined; deletions are in ((double parentheses)).

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

12 Section 1. Chapter 6 of the San Francisco Administrative Code is hereby amended by
13 amending Subsection 6.1(F), Section 6.7, Section 6.21, Section 6.40, Section 6.62 and
14 Section 6.80 to read as follows:

15 **SEC. 6.1. DEFINITIONS.**

16 **(F) Contract.** For the purposes of this Chapter, a contract is an agreement in writing
17 between the City and County of San Francisco and any party to perform professional design
18 services, consultant services, construction management services or construction services
19 relative to a public work or improvement. No contract shall be deemed awarded, effective or
20 binding on the City and County of San Francisco until such time as the requirements for
21 award are met, as provided in this Chapter.

22 **SEC. 6.7. VOID CONTRACT.**

23 Any public works or related professional services contract or subcontract that is not
24 awarded in accordance with the requirements ((under this Chapter)) or which does not comply
25 with the provisions of this Chapter shall be null and void; and no recovery shall be had

1 thereon. Any officer, board or commission who shall sign, execute or approve ((an)) such a
2 contract shall be deemed guilty of misfeasance in office. (Added by Ord. 286-99, File No.
3 991645, App. 11/5/99)

4 **6.21. ((BID)) REQUIREMENTS FOR BIDS AND QUOTES.**

5 **A. Bids.**— All Advertisements For Bids for construction contracts in excess of the
6 Threshold Amount shall conform to and at a minimum require the following:

7 **((A)) 1. Published Advertisement.** The department head authorized to execute
8 the contract for the public work or improvement to be performed shall advertise for competitive
9 bids in at least one local newspaper or periodical of general circulation. Such advertisement
10 shall be published not fewer than ten (10) days prior to bid opening. The department may, in
11 its discretion, include in the published advertisement the amount of the engineer's estimate for
12 the work to be performed.

13 **((B)) 2. Award and Certification Required.** All published advertisements and
14 Advertisements For Bid shall contain the following language [wording in brackets should be
15 chosen as appropriate to the department]:

16 In accordance with San Francisco Administrative Code Chapter 6,
17 no bid is accepted and no contract in excess of [the Threshold
18 Amount] is awarded by the City and County of San Francisco until
19 such time as [(1) for departments with boards or commissions, (a)
20 the department head recommends the contract for award and (b)
21 the board or commission then adopts a resolution awarding the
22 contract]; or [(2) for departments under the Mayor, (a) the Mayor or
23 the Mayor's designee approves the contract for award and (b) the
24 department head then issues an order of award]. Pursuant to
25

1 Charter section 3.105, all contract awards are subject to
2 certification by the Controller as to the availability of funds.

3 Failure of a department to include such language in a published advertisement
4 or Advertisement For Bids does not give rise to a contract right by a bidder or contractor
5 outside of the requirements of the Charter or Administrative Code of the City and County of
6 San Francisco.

7 **((C)) 3. Form of Bid.** All bids shall be sealed and directed to the department
8 head advertising for bids, in the format prescribed by the department head with the authority
9 to execute the contract.

10 **((D)) 4. Bid Bond.** All bids in excess of \$25,000 shall be accompanied by a
11 corporate surety bond, or an irrevocable letter of credit on a bank or trust company doing
12 business and having an office in the State of California, having a combined capital and
13 surplus of at least \$50,000,000, and subject to supervision or examination by Federal or State
14 authority, or a certified check on a bank or trust company doing business and having an office
15 in the State of California, having a combined capital and surplus of at least \$50,000,000, and
16 subject to supervision or examination by Federal or State authority, payable on sight to the
17 City and County of San Francisco, the amount of which corporate surety bond, irrevocable
18 letter of credit or certified check shall be fixed by the department head or officer as stated in
19 the Advertisement For Bids, which amount shall not be less than 10 percent of the amount bid
20 for the cost of the proposed work of improvement, and no bid shall be considered unless
21 accompanied by a corporate surety bond or irrevocable letter of credit or certified check. Any
22 irrevocable letter submitted pursuant to this Chapter shall be on a form provided by the City
23 and County. If the amount of security required is fixed by the department head or officer in an
24 amount in excess of \$15,000, the form of security required shall be that of a corporate surety
25 bond or irrevocable letter of credit. The requirement for a corporate surety bond, irrevocable

1 letter of credit or certified check described in this subsection shall be referred to collectively as
2 the "bid security requirements."

3 Notwithstanding the above, the bid security requirements for a particular
4 contract may be modified by the department head in accordance with Administrative Code
5 section 12D.A.9.(A)(4).

6 **((E))_5. Fees.** The department head or officer calling for bids may specify in the
7 Advertisement For Bids for any project a nonrefundable fee to be paid by each prospective
8 bidder for each set of bidding documents (including plans and specifications), such fee to
9 defray the cost of reproducing each set of bidding documents as determined by the
10 department head or officer, and all such fees shall be deposited as an abatement of the
11 expenditure of the appropriation against which the cost of reproducing said bidding
12 documents was charged.

13 **((F))_6. License.** The department head shall specify in all Advertisements For
14 Bids and plans for public work projects the classification of the contractor's license which a
15 contractor shall possess at the time bids are submitted.

16 **((G))_7. Qualifications.** The department head responsible for the public work
17 shall require from all bidders information concerning their experience and financial
18 qualifications, and shall take such information into consideration in the award of any contract.
19 At a minimum, the department head shall require (1) information concerning the contractor's
20 experience, financial qualifications and ability to perform the terms and conditions of the
21 contract and (2) information as to whether the contractor possesses, or can obtain in time to
22 perform the contract, the necessary equipment. In the event that a bidder fails to provide
23 such information within fourteen calendar days of bid opening, or as otherwise required in the
24 Advertisement For Bids, the department head could find that the bidder is refusing to enter
25 into the contract, resulting in a forfeiture of the bidder's bid bond.

1 **((H)) 8. Business Tax Registration Certificate.** All Advertisements For Bids

2 shall require that bidders submit proof of a current Business Tax Registration Certificate.

3 Failure of a bidder to provide such proof within fourteen calendar days of bid opening, or as

4 otherwise required in the Advertisement For Bids, could, at the discretion of the department

5 head, constitute a refusal to enter into the contract and result in a forfeiture of the bid bond.

6 **((I)) 9. Apprenticeship Program or Fund.** All Advertisements For Bids shall

7 require that bidders submit a declaration affirming the bidder's commitment on behalf of itself

8 and its subcontractors, as a material term of the contract, to fully comply with the

9 requirements of the State Apprenticeship Program as set forth in the California Labor Code,

10 Division 3, Chapter 4 (commencing at section 3070) and section 1777.5. Such declaration

11 shall provide either (1) that the contractor and its subcontractors hold current approval

12 certificates issued by the joint apprenticeship committee administering the apprenticeship

13 standards of the craft or trade to be performed under the contract approving the contractor

14 and its subcontractors for the employment and training of apprentices or (2) that the

15 contractor and its subcontractors shall apply to the joint apprenticeship committee

16 administering the apprenticeship standards of the craft or trade in the area of the site of the

17 public work, prior to performing any of the work under the contract, for a certificate approving

18 the contractor or subcontractor for the employment and training of apprentices. The

19 declaration shall also include a provision that the contractor and its subcontractors shall

20 contribute to a fund or funds to administer and conduct the apprenticeship program in any

21 craft or trade in the area of the site of the public work, to which fund or funds other contractors

22 in the area of the site of the public work are contributing in the same amount and on the same

23 basis and in the same manner as the other contractors do, but where the trust fund

24 administrators are unable to accept the funds, contractors not signatory to the trust agreement

25 shall pay a like amount to the California Apprenticeship Council.

1 Failure to provide such declaration within fourteen calendar days of bid opening,
2 or as otherwise required by the Advertisement For Bids, could, at the discretion of the
3 department head, constitute a refusal to enter into the contract and result in a forfeiture of the
4 bid bond.

5 **((J)) 10. Designation of Subcontractors; Subcontracting and Subletting.** All
6 bidders shall designate their subcontractors in accordance with and shall be subject to the
7 California Subcontracting and Subletting Act, at Government Code §4000, *et seq.*, as
8 amended from time-to-time. In addition to the penalties provided by Government Code
9 §4000, *et seq.*, violation of this subsection may be grounds for a determination of
10 nonresponsibility under Article V of this Chapter.

11 **B. Quotes.** All requests for quotes for construction contracts less than the
12 Threshold Amount shall be posted with three-days' notice. Such requests shall at a minimum
13 require a contractor's license, qualifications, a Business Tax Registration Certificate,
14 participation in an apprenticeship program and compliance with subcontractor listing laws, all
15 in accordance with the above-listed provisions of this Section 6.21.

16 **((K))C. Right to Reject Any or All Bids or Quotes.** The department head shall
17 have the right to reject any or all bids or quotes for any reason or no reason. All
18 Advertisements For Bids shall reserve this right, but failure to make such reservation shall not
19 abrogate the right to reject. For public work contracts in excess of the Threshold Amount, the
20 department head shall obtain the approval of the Mayor or the Mayor's Designee or the board
21 or commission, as appropriate, in the rejection of bids.

22 **((L))D. Bid Protests.** Only a bidder may submit a bid protest. The department
23 head concerned shall prescribe in the Advertisement For Bids procedures for submitting bid
24 protests. Such procedures shall set the time by which bid protests must be received, but may
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1 not require that bid protests be submitted fewer than five (5) business days after the date bids
2 are due.

3 **6.40. COMPETITIVE PROCUREMENT OF PROFESSIONAL SERVICES FOR PUBLIC**
4 **WORK PROJECTS.**

5 Notwithstanding any other provision of this Administrative Code, when a department is
6 seeking outside temporary professional design, consultant or construction management
7 services for a public work project, where the fee for such services shall exceed ((\$10,000)) the
8 minimum competitive amount, as defined below, the department shall procure such services
9 through a competitive process based on qualifications.

10 **A. Minimum competitive amount.** The minimum competitive amount for
11 temporary outside professional service contracts shall be \$25,000. On January 1, 2005, and
12 every five years thereafter, the Controller shall recalculate the minimum competitive amount to
13 reflect any proportional increase in the Urban Regional Consumer Price Index from January 1,
14 2000, rounded to the nearest \$1,000.

15 **((A))B. Selection Process.** For professional services contracts in excess of
16 ((\$10,000)) the minimum competitive amount, the department head for the department
17 empowered to contract for the public work shall designate one or more panels to review
18 proposals and interview and rate respondents with respect to a request for proposals or
19 qualifications for a professional services contract. A panel shall consist of not fewer than two
20 persons. The department head may establish a multi-tier selection process whereby, for
21 example, a technical panel recommends a shortlist of qualified respondents and a second
22 panel ranks the shortlist.

23 The department head shall ensure that all panel members are impartial and that
24 all respondents are treated fairly. The panel members rating the respondents shall do so
25 according to their independent assessment of the respondent's qualifications for the public

1 work project; questions relating to a respondent's expertise, qualifications and experience
2 shall remain within the sole purview of the panel members.

3 Any rating sheet completed by any panel member may be considered a matter
4 of public record, but the names of the individual panel members shall not. Any name
5 appearing on a rating sheet produced in accordance with the Public Records Act or the San
6 Francisco Sunshine Ordinance shall be redacted.

7 **((B))C. Negotiation.** Following the process outlined in subsection 6.40(A), and
8 should the department concerned desire to enter into a contract, the department head shall
9 invite the highest-ranked qualified respondent to negotiate a professional services agreement.
10 In the event that the department head determines, in the department head's sole discretion,
11 that negotiations are unfruitful, the department head shall terminate negotiations in writing and
12 may then invite the next-ranked respondent to negotiate a contract. In such event, the
13 department head shall as soon as practicable make a report to the Mayor, board or
14 commission as appropriate to the department.

15 **6.62. JOB ORDER CONTRACTS.**

16 The job order contracting system ("JOC") provides for an indefinite quantity contract
17 with a predefined set of bid items that are assigned on a periodic or task order basis for the
18 performance of public work maintenance, repair and minor construction projects. The
19 department heads authorized to execute contracts for public work projects are authorized to
20 utilize JOC according to the procedures set forth below.

21 **A.** Each JOC contract is to be advertised for competitive bids in accordance with
22 the procedures set forth in this Chapter and awarded to the responsible bidder who submits
23 the lowest responsive bid.

24 **B.** The Advertisement For Bids shall include unit prices and detailed technical
25 specifications for each construction task contemplated to be performed under the JOC

1 contract. Each task item shall include direct costs for material, equipment and labor.

2 Construction tasks shall be grouped by trade.

3 **C.** The Advertisement For Bids for a JOC contract shall contain the City's estimate
4 regarding the percentage of work under the JOC contract that will be performed by each
5 trade. The Human Rights Commission shall set goals for MBE/WBE subcontractor
6 participation in accordance with Administrative Code Chapter 12D.A. Calculation of whether a
7 contractor's bid has met the goals will be based on the City's estimate of the amount of work
8 that will be performed by each trade.

9 **D.** Contractor's bid shall identify by trade group which tasks will be performed by
10 contractor and which tasks will be performed under subcontract. Contractor shall identify in its
11 bid all subcontractors to be utilized, including the subcontractors' name, business tax
12 registration certificate number, license number and the location of the place of business of
13 each subcontractor. Contractor agrees that it is qualified for and will perform with its own
14 forces work of all trades for which a subcontractor is not listed in the bid. This paragraph
15 supercedes the listing requirements of section 6.21(J). Substitutions of JOC subcontractors
16 shall be in accordance with California Public Contract Code section 4107. Penalties set forth
17 in Administrative Code sections 6.22 and 6.80 shall apply to JOC contracts for violation of this
18 section.

19 **E.** Contractors submitting bids on the JOC contract shall state in their bids an
20 adjustment on a percentage basis either increasing or decreasing the unit prices for all
21 construction tasks set forth in the bid documents. There may be a single adjustment factor
22 that applies to all tasks. For example, an adjustment factor of 25% below the unit prices
23 stated in the bid documents would be bid as .75. All of the contractor's profit, overhead and
24 indirect costs shall be included in the adjusted unit prices.

1 F. The Advertisement For Bids and the contract specifications shall contain a
2 maximum dollar amount of the JOC contract, which maximum amount shall not exceed three
3 million dollars. The cumulative modifications to a JOC contract shall result in a contract sum
4 not to exceed one hundred fifty percent of the original contract amount.

5 G. JOC contracts shall provide for an expiration term of not more than three years,
6 including all modifications.

7 H. Projects will be assigned under the JOC contract on a work order basis at the
8 sole discretion of the department head concerned.

9 I. A contractor who enters into a JOC contract with a particular City department is
10 not eligible during the term of such JOC contract to submit a bid on a subsequent JOC
11 contract advertised by the same contracting department; however, a contractor may submit a
12 bid on a subsequent JOC contract advertised by the same contracting department if the
13 contractor's existing JOC contract will expire in 120 days or fewer or if the contractor has
14 performed work valued by the City in an amount equal to or exceeding 90% of the maximum
15 dollar amount of the existing JOC contract.

16 **SEC. 6.80. VIOLATIONS AND FALSE CLAIMS; DEBARMENT AND MONETARY**
17 **PENALTIES.**


18 Any contractor, subcontractor, supplier, consultant or subconsultants who fails to
19 comply with the terms of its contract with the City and County, or contractor, subcontractor,
20 supplier, consultant or subconsultant who violates any provision of Administrative Code
21 Chapter 6 or who fails to abide by any rules and/or regulations adopted pursuant to
22 Administrative Code Chapter 6 or who submits false claims, may be declared an irresponsible
23 bidder or an unqualified consultant and debarred according to the procedures set forth below.
24 Additionally, any contractor, subcontractor, supplier, consultant or subconsultant who submits
25

1 a false claim to the City and County may also be subject to monetary penalties, investigation
2 and prosecution as described below. (Added by Ord. 286-99, File No. 991645, App. 11/5/99)

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4
5 APPROVED AS TO FORM:

6 LOUISE H. RENNE, City Attorney

7
8 By:


9 SHERYL L. BREGMAN
Deputy City Attorney



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 001919

Date Passed:

Ordinance amending Chapter 6 of the Administrative Code to effect technical corrections/clarifications to subsection 6.1(F), Section 6.7 and Section 6.80; to add requirements to Section 6.21 for quotations for public works less than or equal to the threshold amount; to define and increase the minimum competitive amount for professional service contracts in Section 6.40 from \$10,000 to \$25,000; and to add a subsequent contract limitation to Section 6.62 for job order contracts.

December 11, 2000 Board of Supervisors — PASSED, ON FIRST READING

Ayes: 11 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee

December 18, 2000 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Ammiano, Becerril, Bierman, Brown, Kaufman, Leno, Newsom, Yaki, Yee

Absent: 2 - Katz, Teng

File No. 001919

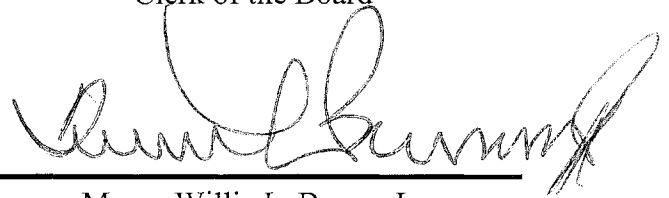
I hereby certify that the foregoing Ordinance was FINALLY PASSED on December 18, 2000 by the Board of Supervisors of the City and County of San Francisco.



Gloria L. Young
Clerk of the Board

DEC 28 2000

Date Approved



Mayor Willie L. Brown Jr.