

File No. 230705

Committee Item No. 5

Board Item No. 9

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date Oct 2, 2023

Board of Supervisors Meeting

Date Oct 24, 2023

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| X <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Memorandum of Understanding (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 |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 700 |
| <input type="checkbox"/> | <input type="checkbox"/> | Information/Vacancies (Boards/Commissions) |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

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Completed by: Victor Young Date Sept 28, 2023

Completed by: _____ Date _____

1 [Administrative Code - Suspension or Debarment of Contractors Based on Violation of Labor
2 Laws]

3 **Ordinance amending the Administrative Code to clarify that a contractor may be**
4 **suspended or debarred due to violations of certain state or local labor laws governing**
5 **the payment of wages and unfair labor practices.**

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

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

14 Section 1. Chapter 28 of the Administrative Code is hereby amended by revising
15 Section 28.3, to read as follows:

16 **SEC. 28.3. GROUNDS FOR DEBARMENT AND SUSPENSION.**

17 (a) **Debarment.** A Charging Official shall issue an Order of Debarment for any
18 Contractor who the hearing officer, based on evidence presented, finds to have engaged in
19 any willful misconduct with respect to any City bid, request for qualifications, request for
20 proposals, grant request, purchase order and/or contract, or grant award. Such willful
21 misconduct may include, but need not be limited to the following: (1) submission of false
22 information in response to an advertisement or invitation for bids or quotes, a request for
23 qualifications, or a request for proposals; (2) failure to comply with the terms of a contract or
24 with provisions of the Municipal Code; (3) a pattern and practice of disregarding or repudiating
25 terms or conditions of City contracts or grants, including without limitation repeated unexcused
delays and poor performance; (4) failure to abide by any rules and/or regulations adopted
pursuant to the Municipal Code; (5) submission of false claims as defined in this

1 Administrative Code, Chapter 6, Article V, or Chapter 21, Section 21.35, or other applicable
2 federal, state, or municipal false claims laws; (6) a verdict, judgment, settlement, stipulation,
3 or plea agreement establishing the Contractor's violation of any civil or criminal law or
4 regulation against any government entity relevant to the Contractor's ability or capacity
5 honestly to perform under or comply with the terms and conditions of a City contract or grant;
6 (7) an order, decision, verdict, judgment, settlement, stipulation, or plea agreement establishing the
7 Contractor's intentional or willful violation of any civil or criminal law or regulation governing wages
8 or unfair labor practices, including, but not limited to, violations under California Labor Code sections
9 98.1, 1771.1 and 1775, San Francisco Administrative Code Chapters 12P, 12R.4, 12W and 14, and 29
10 U.S.C. § 158(a); (8) collusion in obtaining award of any City contract or grant, or payment or
11 approval thereunder; and/or (8~~9~~) the offer or provision of any gift or money to a public official,
12 if that public official is prohibited from accepting the gift or money by any law or regulation.

13 (b) **Suspension.** Any Charging Official may issue an Order of Suspension to a
14 Contractor on the basis that the Contractor has been arrested or indicted, or become the
15 subject of a criminal, civil or administrative complaint issued by a government entity, where
16 the arrest or indictment, criminal, civil, or administrative complaint alleges that the Contractor
17 has violated a civil or criminal law or regulation against any government entity relevant to the
18 Contractor's ability or capacity honestly to perform under or comply with the terms and
19 conditions of a City contract or grant including, but not limited to, the grounds for Debarment
20 set forth in Section 28.3(a).

21
22 Section 2. Effective Date. This ordinance shall become effective 30 days after
23 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
24 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
25 of Supervisors overrides the Mayor's veto of the ordinance.

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Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the “Note” that appears under the official title of the ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ Kate G. Kimberlin
KATE G. KIMBERLIN
Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Suspension or Debarment of Contractors Based on Violation of Labor Laws]

Ordinance amending the Administrative Code to clarify that a contractor may be suspended or debarred due to violations of certain state or local labor laws governing the payment of wages and unfair labor practices.

Existing Law

Chapter 28 of the Administrative Code currently provides eight potential bases to seek suspension or debarment of a contractor.

Amendments to Current Law

The amendment to Chapter 28 would specify an additional basis to seek suspension or debarment of a contractor: an order, decision, verdict, judgment, settlement, stipulation, or plea agreement establishing the contractor's intentional or willful violation of any civil or criminal law or regulation governing wages or unfair labor practices.

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BOARD of SUPERVISORS



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MEMORANDUM

TO: Sailaja Kurella, Director and Purchaser, Office of Contract Administration
Stephanie Tang, Director, Contract Monitoring Division

FROM: Victor Young, Assistant Clerk *Victor Young*

DATE: June 21, 2023

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation:

File No. 230705

Ordinance amending the Administrative Code to clarify that a contractor may be suspended or debarred due to violations of certain state or local labor laws governing the payment of wages and unfair labor practices.

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.

cc: Tareneh Moayed, Office Contract Administration
Rachel Cukierman, Office Contract Administration
Rochelle Fretty, Contract Monitoring Division