

BOARD of SUPERVISORS



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MEMORANDUM

TO: Sailaja Kurella, Director and Purchaser, Office of Contract Administration
Matthew Hansen, Risk Manager, Risk Management Division

FROM: Brent Jalipa, Assistant Clerk, Budget and Appropriations Committee

DATE: June 6, 2023

SUBJECT: PROPOSED ORDINANCE INTRODUCED

The Board of Supervisors' Budget and Appropriations Committee has received the following proposed Ordinance, introduced by Mayor London Breed:

File No. 230647

Ordinance amending the Administrative and Environment Codes to reduce administrative costs by requiring the Risk Manager to review and update insurance requirements only as necessary to protect the interests of the City, instead of annually; and eliminating the requirement that the Office of Contracts Administration regularly report on the implementation of City laws relating to select employment practices and the use of tropical hardwood by City contractors.

If you have any 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.

c: Taraneh Moayed, Office of Contract Administration
Rachel Cukierman, Office of Contract Administration

1 [Administrative and Environment Codes - Reducing Reporting Burdens]

2

3 **Ordinance amending the Administrative and Environment Codes to reduce**
4 **administrative costs by requiring the Risk Manager to review and update insurance**
5 **requirements only as necessary to protect the interests of the City, instead of annually;**
6 **and eliminating the requirement that the Office of Contracts Administration regularly**
7 **report on the implementation of City laws relating to select employment practices and**
8 **the use of tropical hardwood by City contractors.**

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

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

17

18 Section 1. Article II of Chapter 6 of the Administrative Code is hereby amended by
19 revising Sections 6.22 and 6.42, to read as follows:

20

21 **SEC. 6.22. PUBLIC WORK CONSTRUCTION CONTRACT TERMS AND WORKING**
22 **CONDITIONS.**

23 All construction Contracts awarded under this Chapter 6 by the City shall contain the
24 following minimum terms and conditions:

25 * * * *

(b) Insurance. All construction Contracts awarded under this Chapter 6 must conform
to the insurance requirements established by the Risk Manager. The Risk Manager shall

1 develop uniform insurance requirements for City Contracts subject to this Chapter 6 ~~and shall~~
2 ~~publish such requirements in the Risk Manager's Manual~~. The Risk Manager shall review and
3 update such insurance requirements as necessary to protect the City's interests ~~on an annual basis~~.

4 * * * *

5
6 **SEC. 6.42. PROFESSIONAL SERVICES CONTRACT TERMS.**

7 All Contracts for temporary design, consultant, and Construction Management services
8 are professional services Contracts, which shall contain the following minimum terms and
9 conditions:

10 * * * *

11 (b) Insurance. Notwithstanding any other provisions of this Chapter 6, all
12 professional service Contracts must conform to the insurance requirements established by the
13 Risk Manager. The Risk Manager shall develop uniform insurance requirements for City
14 Contracts subject to this Chapter 6 ~~and shall publish such requirements in the Risk Manager's~~
15 ~~Manual~~. The Risk Manager shall review and update such insurance requirements as necessary
16 to protect the City's interests ~~on an annual basis~~.

17
18 Section 2. Chapter 12T of the Administrative Code is hereby amended by revising
19 Section 12T.8, to read as follows:

20
21 **SEC. 12T.8. NONAPPLICABILITY, EXCEPTIONS, AND WAIVERS.**

22 (a) The Director of OCA shall waive the requirements of this Chapter under the
23 following circumstances:

24 * * * *

1 (i) OCA shall maintain a record of all instances in which the requirements of this
2 Chapter have not been applicable to a Contract or Property Contract because of an exception
3 or a waiver as recognized under this Section 12T.8. This information shall be compiled on an
4 annual ~~calendar~~ fiscal year basis and reported to the Board of Supervisors ~~by January 31 of each~~
5 ~~year upon written request by any member of the Board of Supervisors to the Purchaser.~~

6
7 Section 3. Chapter 12U of the Administrative Code is hereby amended by revising
8 Section 12U.9.5, to read as follows:

9
10 **SEC. 12U.9.5. AWARD OF CONTRACT ABSENT A SWEATFREE-COMPLIANT BID**
11 **OR PROPOSAL.**

12 (a) It is the City's goal to achieve full compliance with this Chapter. But, in the
13 absence of bids or proposals that are fully compliant with the provisions of this Chapter, the
14 City should have authority to award Contracts to the bidder or proposer that is most compliant
15 with this Chapter. If, in response to a solicitation for bids or a request for proposals, the City
16 receives no bids or proposals that are fully compliant with the provisions of this Chapter, the
17 Director is authorized to enter into a Contract with a noncompliant bidder or proposer,
18 according to the following principles.

19 (b) Notwithstanding the determination of low bid or highest ranked proposal, the
20 Director shall have authority to determine which bidder or proposer most substantially
21 complies with this Chapter, and shall award the Contract to that bidder or proposer.

22 * * * *

23 (g) ~~The Director shall submit quarterly reports to the Board of Supervisors regarding the~~
24 ~~implementation of this Section and contracts issued to otherwise noncompliant bidders or proposers~~
25 ~~under this Section.~~

1 —~~(h)~~ Neither subsection (b) nor any other provision in this Section shall override the
2 Director's authority to reject all bids or proposals or take other action within his or her legal
3 authority.

4
5 Section 4. Article IX of Chapter 16 of the Administrative Code is hereby amended by
6 revising Section 16.127, to read as follows:

7
8 **SEC. 16.127. ANNUAL BONDING REQUIREMENTS REVIEW.**

9 ~~By March 31st of every year, T~~he City's Office of Risk Management, in consultation
10 with the Controller and the City Attorney, shall report to the Board of Supervisors ~~whether~~when
11 any changes to these bonding requirements are necessary or appropriate.

12
13 Section 5. Chapter 21 of the Administrative Code is hereby amended by revising
14 Section 21.20, to read as follows:

15
16 **SEC. 21.20. CONTRACT TERMS – INSURANCE.**

17 All City contracts subject to this Chapter must conform to the insurance requirements
18 established by the Risk Manager. The Risk Manager shall develop uniform insurance
19 requirements for City contracts subject to this Chapter ~~21 and shall publish such requirements in~~
20 ~~the Risk Manager's Manual.~~ The Risk Manager shall review and update ~~said~~such insurance
21 requirements as necessary to protect the City's interests annually.

22
23 Section 6. Chapter 21G of the Administrative Code is hereby amended by revising
24 Section 21G.7, to read as follows:

1 **SEC. 21G.7. GRANT TERMS.**

2 (a) The Grant Agreement shall specify performance requirements and deliverables for
3 the Grantee, the manner and timing of payments by the Granting Agency, eligible and
4 prohibited reimbursements, and the Granting Agency’s remedies for default by the Grantee.

5 (b) Insurance. All Grant Agreements shall require the Grantee to maintain insurance
6 for the City’s benefit, as determined by the Risk Manager. The Risk Manager shall develop
7 insurance requirements for Grants ~~and shall publish such requirements in the Risk Manager’s~~
8 ~~Manual.~~ The Risk Manager shall review and, ~~if appropriate,~~ update such insurance
9 requirements as necessary to protect the City’s interests ~~annually or, in the Risk Manager’s judgment,~~
10 ~~more frequently.~~

11
12 Section 7. Chapter 8 of the Environment Code is hereby amended by deleting Section
13 808, to read as follows:

14
15 **CHAPTER 8:**
16 **TROPICAL HARDWOOD AND VIRGIN REDWOOD BAN**

17 * * * *

18 ~~**SEC. 808. IMPLEMENTATION REPORTS.**~~

19 ~~—The Purchaser shall provide written reports on the implementation of this ordinance to the~~
20 ~~Board of Supervisors (1) at the first Board of Supervisors meeting held six months after this Article has~~
21 ~~taken effect; and (2) semiannually thereafter. Each department, board and commission of the City and~~
22 ~~County shall cooperate with, and provide in writing to, the Purchaser, whichever is appropriate, all~~
23 ~~information necessary for the Purchaser to prepare such reports.~~

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

7

8 Section 9. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor's veto of the ordinance.

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14 APPROVED AS TO FORM:
15 DAVID CHIU, City Attorney

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16 By: /s/ Gus Guibert
17 Gustin R. Guibert
Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative and Environment Codes - Reducing Reporting Burdens]

Ordinance amending the Administrative and Environment Codes to reduce administrative costs by requiring the Risk Manager to review and update insurance requirements only as necessary to protect the interests of the City, instead of annually; and eliminating the requirement that the Office of Contracts Administration regularly report on the implementation of City laws relating to select employment practices and the use of tropical hardwood by City contractors.

Existing Law

Written reports are required to be sent to the Board of Supervisors relating to the Sweatfree Contracting Program and the Tropical Hardwood and Virgin Redwood Ban. The Risk Manager is required to review update insurance standards for City contracts annually. The Risk Manager is required to publish a manual intended to be a guide for contract administrators to standardize bond and insurance requirements in City contracts. The Risk Manager is to report to the Board of Supervisors regarding bonding requirements annually.

Amendments to Current Law

The reporting requirements have been eliminated. The Risk Manager shall now update insurance manuals when they deem necessary to protect the City's interests, not on a prescribed timeline. The Risk Manager is no longer required to publish a manual.

Background Information

Review of current practices has indicated that the affected code sections require standards that are outdated. The reporting has been superseded by technological advances that automatically capture and store the information. The Risk Manager's guidance and frequency of updates are made in other forms than currently required by statute.