

LEGISLATIVE DIGEST

[Administrative Code - Content and Data Subscriptions]

Ordinance amending the Administrative Code to allow City departments to purchase content and data subscriptions without complying with solicitation requirements that would otherwise apply, and without adhering to provisions in the Municipal Code that impose obligations on contracting parties as a condition to agreement with the City; and to list conditions required for amendment or modification of such agreements.

Existing Law

Agreements for the purchase of Content and Data Subscriptions are subject to Chapter 21 and general City contract contracting terms imposed, including specialized obligations imposed by virtue of contracting with the City that are not generally found in commercial agreements. Contract law dictates that material contract terms are fixed upon agreement, and require a formal amendment to modify those terms.

Amendments to Current Law

Agreements for the purchase of Content and Data Subscriptions would be largely exempt from the procurement requirements and laws imposing restrictions upon contractors found in the City's Municipal Codes. This exemption would not extend to obligations imposed by the Campaign and Governmental Conduct Code, or transactions that would potentially involve violations of Chapters 12G and 12M of Administrative Code. The principle that formal amendment would be required to change material terms of a contract would be codified, ensuring that in the event a contractor includes terms claiming advanced approval of material changes, such terms would be invalid.

Background Information

Departments have raised concerns that Content and Data Subscriptions are becoming more challenging to procure. Contractors may be unwilling to agree to, or even consider, the City's proposed terms. The City may be hamstrung without access to this information. This legislation, drafted in conjunction with the Gov Ops project, is intended to remove many of the required terms that may impede a successful contract negotiation and acceptance. The City's regular internal procedures relating to contracting such as budgeting, delegation of contracting authority, approval, are still in effect.

Contractors are increasingly including terms that purport to accept in advance material modifications. To strengthen the City's position, the City's longstanding requirement for formal modification to materially change a contract is codified.