

File No. 160225

Committee Item No. 1

Board Item No. 8

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee

Date May 11, 2016

Board of Supervisors Meeting

Date May 17, 2016

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
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| <input checked="" type="checkbox"/> | <input checked="" 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 checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | 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 |
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Completed by: Linda Wong Date May 6, 2016

Completed by: Linda Wong Date May 13, 2016

1 [Administrative Code - Best Value Public Works Procurement]

2
3 Ordinance amending the Administrative Code to allow departments authorized to
4 perform public work to procure public work contracts through a best value process
5 that selects contractors using a combination of price and qualifications, with bid
6 discounts applicable to price; and to require completion of public works contractor
7 performance evaluations, and require the creation and maintenance of a database to
8 collect the contractor performance evaluations.

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 Section 1. The Administrative Code is hereby amended by adding Section 6.74, to
18 read as follows:

19 **SEC. 6.74. BEST VALUE PROCUREMENT.**

20 *Best value procurement is a procurement process for construction services whereby a*
21 *Contractor is selected on the basis of objective criteria to determine the best combination of price and*
22 *qualifications. Department Heads are authorized to contract for Public Work or Improvements using a*
23 *best value process under the following conditions:*

24 *(a) Selection Process and Criteria. Department Heads shall advertise for competitive best*
25 *value Bids in accordance with the procedures and requirements set forth in Section 6.21. Department*

1 Heads shall prequalify Bidders pursuant to Section 6.20(f) or shall include in the best value solicitation
2 specified minimum qualification criteria that all Bidders must meet in order for their Bids to be
3 evaluated. Best value Bids shall include both cost and qualitative information. The best value
4 Advertisement For Bids shall further include: (1) criteria that the City will consider in evaluating Bids;
5 (2) the methodology and rating or weighting system that will be used to evaluate Bids; and (3) the
6 relative importance or weight assigned to the criteria identified in the advertisement. The Department
7 Head shall designate a qualified panel to evaluate the qualifications of the Bidders based solely upon
8 the criteria set forth in the solicitation documents. The selection panel shall assign a qualifications
9 score to each Bid. The selection criteria used to evaluate the Bidder qualifications may include but is
10 not limited to the following:

11 (A) Safety record. The prior history concerning the safe performance of construction
12 contracts.

13 (B) Past performance. The satisfactory performance on prior City contracts.

14 (C) Labor compliance. The ability to comply with, and past performance compliance
15 with, contract and statutory requirements for the payment of wages and qualifications of the workforce.

16 (D) Demonstrated management competence. The experience, competency, capability,
17 and capacity of the specific project's proposed management staffing to timely complete projects
18 similar in size, scope, or complexity to the project under consideration.

19 (E) Financial condition. The financial resources needed to perform the contract. At
20 a minimum, the criteria shall include a Bidder's capacity to obtain all required bonds and insurance.

21 (F) Relevant experience. The experience, competency, capability, and capacity to
22 timely complete projects of similar size, scope, or complexity.

23 Cost information shall be sealed separately in a form prescribed by the Department Head. The
24 evaluation shall be done in a manner that prevents cost or price information from being revealed to the
25 selection panel evaluating the qualifications.

1 **(b) Final Selection and Award.** *The Department Head may recommend award of a*
2 *Contract to the Responsible Bidder whose Responsive Bid provides the best value to the City. To*
3 *determine the Bid with the best value to the City, the Department Head shall divide each total Bid price*
4 *by that Bidder's qualifications score. The lowest resulting quotient, or cost per quality point will*
5 *represent the best value Bid. If award to the successful best value Bidder is not made for any reason,*
6 *the Department Head may recommend the award of a Contract to the Bidder with the next lowest best*
7 *value score, and so on.*

8 **(c) Contract Terms.** *Except as provided above in subsections (a) and (b), Contracts*
9 *awarded under this Section 6.74 shall conform to the requirements of this Chapter 6 and*
10 *Administrative Code Chapters 12B, 12C, and 14B. Departments shall apply applicable Administrative*
11 *Code Chapter 14B Discounts as provided in Section 14B.7.*

12
13
14 Section 2. The Administrative Code is hereby amended by revising Section 14B.7, to
15 read as follows:

16 **SEC. 14B.7. PRIME CONTRACTS.**

17 * * * *

18 **(N) Best Value Public Works Contract Discounts.**

19 *For Contracts authorized under Administrative Code Section 6.74, Contract Awarding*
20 *Authorities shall apply the applicable Discount to the price or cost portion of the Bid only. No*
21 *Discount shall apply to the qualifications ~~or non-cost~~ portion of the solicitation.*

22
23
24 Section 3. The Administrative Code is hereby amended by adding Section 6.26, to
25 read as follows:

1 **SEC. 6.26. CONTRACTOR PERFORMANCE EVALUATION AND DATABASE**

2 (a) Each Department Head or Director authorized to enter into Contracts for Public Works
3 or Improvements under Article IV of this Chapter 6 shall document, evaluate, and report the
4 performance of all Contractors awarded construction Contracts under this Chapter 6.

5 (b) The awarding departments shall work with the Office of the Controller to create and
6 maintain a database to collect the Contractor performance evaluations.

7 (c) This Section 6.26 shall become operative on ~~March 31, 2017~~ September 1, 2016 and
8 shall apply to all Contracts first advertised or initiated on or after this date.

9 (d) Within one year of the effective date of this Section 6.26, the Department Heads
10 referenced in subsection (a) shall submit to the Board of Supervisors a report that describes
11 the departments' implementation of this contractor performance evaluation program and
12 database. The report shall include each department's outreach with different stakeholders
13 including the Contract Monitoring Division. Concurrent with the report, the Department Heads
14 shall submit to the Board of Supervisors a proposed resolution to accept the report.

15
16 Section 3. Effective Date. This ordinance shall become effective 30 days after
17 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
18 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
19 of Supervisors overrides the Mayor's veto of the ordinance.

20
21 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
22 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
23 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
24 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
25

1 additions, and Board amendment deletions in accordance with the "Note" that appears under
2 the official title of the ordinance.

3
4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: 
7 Yadira Taylor
8 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Best Value Public Works Procurement]

Ordinance amending the Administrative Code to allow departments authorized to perform public work to procure public work contracts through a best value process that selects contractors using a combination of price and qualifications, with bid discounts applicable to price; and to require completion of public works contractor performance evaluations, and require the creation and maintenance of a database to collect the contractor performance evaluations.

Existing Law

Chapter 6 of the Administrative Code governs the procurement of public work or improvements. Public work not performed by City employees must be contracted out where the contractor is selected on the basis of low-bid. Certain limited exemptions to low-bid apply for emergencies, sole source procurements, Design-Build, and Construction Manager/General Contractor contracts.

Amendments to Current Law

This ordinance would allow City departments authorized to perform public work to select construction contractors on the basis of best value to the City. The ordinance would not replace traditional low-bid contracting, but provides departments with another tool to procure public work contracts. The ordinance would establish procedures and criteria for the selection of the best value contractor, and allows selection based on a combination of price and qualifications. The ordinance would further require that any Local Business Enterprise bid discount available under Chapter 14B of the Administrative Code be applied to the price or cost portion of the bid only.

This ordinance would also require each department authorized to perform public work to document, evaluate, and report the performance of all contractors awarded construction contracts under Chapter 6. The contractor performance evaluation requirement would become operative to all contracts first advertised on or after March 31, 2017.

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: Ben Rosenfield, City Controller, Office of the Controller
Mohammed Nuru, Director, Public Works
John Rahaim, Director, Planning Department
Jaci Fong, Director, Office of Contract Administration

FROM: Erica Major, Assistant Committee Clerk, Government Audit and Oversight
Committee, Board of Supervisors

DATE: March 14, 2016

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Supervisor Wiener on March 8, 2016:

File No. 160225

Ordinance amending the Administrative Code to allow departments authorized to perform public work to procure public work contracts through a best value process that selects contractors using a combination of price and qualifications, with bid discounts applicable to price; and to require completion of public works contractor performance evaluations, and to require the creation and maintenance of a database to collect the contractor performance evaluations.

If you have any additional 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.

Referral from the Office of the Clerk of the Board
Government Audit and Oversight Committee
March 14, 2016
Page 2

C:

Todd Rydstrom, Office of the Controller
Frank Lee, Public Works
Fuad Sweiss, Public Works
Scott Sanchez, Planning Department
Sarah Jones, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department
Joy Navarette, Planning Department
Jeanie Poling, Planning Department
Cameron Langer, Office of Contract Administration
Kofo Domingo, Office of Contract Administration

Wong, Linda (BOS)

From: Fryman, Ann (BOS)
Sent: Tuesday, May 10, 2016 7:17 PM
To: Wong, Linda (BOS)
Subject: FW: Best-value contractor reform
Attachments: Letter of Support for Best Value_Contractor Reform_Steffen Franz.doc

Hi Linda,

Forwarded is a letter of support for Best Value Contractor reform, sent from the chair of the Parks, Recreation, and Open Space Advisory Committee. Please include in the packet for Budget & Finance subcommittee hearing

Annie Fryman | Legislative Aide
Office of Supervisor Scott Wiener
415-554-6968

From: Steffen Franz/IDC [mailto:standout1@earthlink.net]
Sent: Saturday, May 07, 2016 7:22 AM
To: Fryman, Ann (BOS) <ann.fryman@sfgov.org>
Subject: RE: Best-value contractor reform

Hey Annie-

Just wanted to send you my letter of support.

Please review when you can and confirm you received this. Let me know if you want me to send it to the board directly.

Thanks and speak with you soon, have a good weekend-

Steffen

Steffen Franz
2055 Sacramento Street #301
San Francisco, CA, 94109

Budget and Finance Committee
San Francisco Board of Supervisors
City Hall – 1 Carlton B. Goodlett Place
San Francisco, CA 94102

May 5th, 2016

RE: Support of Supervisor Wiener's Best Value Contractor Reform Legislation

Greetings Supervisors-

My name is Steffen Franz and I write today to voice support for Supervisor Scott Wiener's Best Value Contractor Reform Legislation. I am currently the Chair of Park, Recreation and Open Spaces Advisory Committee, as well as President of Friends of Lafayette Park, and I have served on PROSAC for the past 6 years representing District 2.

I have had many interactions with contractors who have worked on various projects in Lafayette Park (including a large renovation project in 2012-2013) and many others in my role on PROSAC. I feel that the City's "low bid" strategy creates a climate of poor work, and delayed completion of many RPD related projects.

My main concern relates around the handoff of projects from various contractors back to the City, RPD and ultimately to the stakeholders, as there seems to be a consistent lack of concern for "punch list" items, and it seems as if contractors are willing to forgo their "retention" and walk away without completing the contracted job.

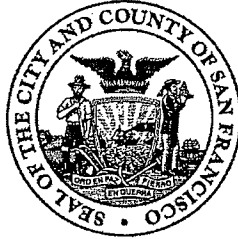
Overall, I feel this legislation will help ensure that the community will benefit from a more transparent and more accountable relationship between the City, RPD and its approved contractors, now and in the future.

Thank You for your time and consideration in this matter-

Steffen Franz
Chair, Park, Recreation and Open Space Advisory Committee
President, Friends of Lafayette Park

BOS- 11, COB, Leg Dep.
Dep. City Atty, GAO
+ B+F
mayors office

President, District 5
BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7630
Fax No. 554-7634
TDD/TTY No. 544-5227

London Breed

PRESIDENTIAL ACTION

Date: 4/27/2016

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. _____ (Primary Sponsor)

Title. _____

Transferring (Board Rule No 3.3)

File No. 160225 Wiener (Primary Sponsor)

Title. Administrative Code - Best Value Public Works Procurement

From: Government Audit & Oversight Committee

To: Budget & Finance Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor _____

Replacing Supervisor _____

For: _____ Meeting
(Date) (Committee)

London Breed, President
Board of Supervisors

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2016 APR 27 AM 11:37

Major, Erica (BOS)

From: Major, Erica (BOS)
Sent: Monday, March 14, 2016 11:37 AM
To: Rosenfield, Ben (CON); Nuru, Mohammed (DPW); Rahaim, John (CPC); Fong, Jaci (ADM)
Cc: Rydstrom, Todd (CON); Lee, Frank (DPW); Sweiss, Fuad (DPW); Sanchez, Scott (CPC);
Rodgers, AnMarie (CPC); Jones, Sarah (CPC); Starr, Aaron (CPC); Navarrete, Joy (CPC);
Poling, Jeanie (CPC); Langner, Cameron (ADM); Domingo, Kofo (ADM)
Subject: REFERRAL FYI (160225) Administrative Code - Best Value Public Works Procurement
Attachments: 160225 FYI.pdf

Greetings:

This matter is being forwarded to your department for informational purposes. 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.

Thank you for your attention.

Best,

Erica Major
Assistant Committee Clerk
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244
San Francisco, CA 94102
Phone: (415) 554-4441 | Fax: (415) 554-5163
Erica.Major@sfgov.org | www.sfbos.org

 Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

Wong, Linda (BOS)

From: Maybaum, Erica (BOS)
Sent: Monday, May 09, 2016 12:52 PM
To: Wiener, Scott
Cc: Fryman, Ann (BOS); Wong, Linda (BOS); BOS Legislation, (BOS)
Subject: Request to cosponsor: File: 160225

Hello Ann- (Do you prefer Annie?) Apologies as I can't recall. Supervisor Yee would like to be added as a co-sponsor to 160225 [Administrative Code - Best Value Public Works Procurement].

Thanks so much!
-Erica

Erica Maybaum
Legislative Aide
Supervisor Norman Yee | District 7
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
P | 415.554.6517 F | 415.554.6546



Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

Supervisors Wiener, Tang, and Breed

Subject:

Administrative Code - Best Value Public Works Procurement

The text is listed below or attached:

Ordinance amending the Administrative Code to allow departments authorized to perform public work to procure public work contracts through a best value process that selects contractors using a combination of price and qualifications, with bid discounts applicable to price; and to require completion of public works contractor performance evaluations, and require the creation and maintenance of a database to collect the contractor performance evaluations.

Signature of Sponsoring Supervisor:

For Clerk's Use Only:

Wong, Linda (BOS)

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Annie Fryman | Legislative Aide
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415-554-6968

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Please review when you can and confirm you received this. Let me know if you want me to send it to the board directly.

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Steffen

Steffen Franz
2055 Sacramento Street #301
San Francisco, CA, 94109

Budget and Finance Committee
San Francisco Board of Supervisors
City Hall – 1 Carlton B. Goodlett Place
San Francisco, CA 94102

May 5th, 2016

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Greetings Supervisors-

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I have had many interactions with contractors who have worked on various projects in Lafayette Park (including a large renovation project in 2012-2013) and many others in my role on PROSAC. I feel that the City's "low bid" strategy creates a climate of poor work, and delayed completion of many RPD related projects.

My main concern relates around the handoff of projects from various contractors back to the City, RPD and ultimately to the stakeholders, as there seems to be a consistent lack of concern for "punch list" items, and it seems as if contractors are willing to forgo their "retention" and walk away without completing the contracted job.

Overall, I feel this legislation will help ensure that the community will benefit from a more transparent and more accountable relationship between the City, RPD and its approved contractors, now and in the future.

Thank You for your time and consideration in this matter-

Steffen Franz
Chair, Park, Recreation and Open Space Advisory Committee
President, Friends of Lafayette Park



Good Morning Ladies and Gentlemen;

My name is Lina Tan, I am the president and one of the owners of Pilot Construction Management Inc.

My company does heavy industrial construction. Also my company is a San Francisco based company that is MBE, LBE, and SBE certified by the Contract Monitoring Division.

I am a member of the Asian American Contractors Association (AACA), and I also member of the Board of Directors of AACA.

I am here to explain to you Honorable Members of the Board my opposition to the new proposed City Administrative Code Ordinance, which is trying to create an "Exclusive and Elite Contractors Club" of so called approved best Value Procurement members.

Creating this "Exclusive and Elite Contractors Club" will destroy all small and LBE companies that have been faithfully serving the City and County of San Francisco and our Citizens for the following reasons:

1- When a contractor receives his or her license from the California Contractors State License Board (CSLB), the license indicates that the contractor has demonstrated minimum of 4 years of experience and the required knowledge in that particular trade. When the contractor is capable of providing the required Labor, Material, and Performance Bonds, this indicates that the contractor has demonstrated to the Bank and the Bonding Underwriters that he or she has the financial capability and viability to perform that particular project. As you can see there is no need to create the proposed "Exclusive and Elite Contractors Club" to determine if the contractor can perform the work!

2- The pre-qualification procedure is based on very subjective quantitative criteria. For instance one criteria is Safety and safety Records of the contractor. Frankly this matter is monitored and enforced by CAL-OSHA and Worker's Compensation Insurance agencies. These

PILOT CONSTRUCTION MANAGEMENT INC.

850 So VAN NESS AVE #31, SAN FRANCISCO, CA 94110,

TEL: 415-310-8235, FAX: 415-337-8095 EMAIL: PILOTCMINC@GMAIL.COM,

WWW.PILOT-CONSTRUCTION.COM LICENSE #935825

agencies monitor and impose fines for safety violations. Unreasonable safety violations will lead to hefty fines License revocation. As you can see there is no need to create the proposed "Exclusive and Elite Contractors Club" to determine if the contractor is safe to work!

3- The proposed "Exclusive and Elite Contractors Club" Ordinance does not allow for protest by the excluded contractors, and therefore this new Ordinance is divisive, unfair and unjust, and is against what the City and County of San Francisco stands for.

4- The Evaluating Committee and the evaluation of qualifications process will delay the award and certification procedures of the contracts that will hinder the efficiency of the City organizations.

5- This new Ordinance does not allow for bidding participation by new contractors, and therefore this new Ordinance is divisive, unfair and unjust, and is against what the City and County of San Francisco stands for.

6- The proposed Ordinance will be highly ineffective and redundant for contracts that are under \$20,000,000. These contracts are short term in duration and do not need to be hampered and slowed down by unnecessary and dubious requirements. May be this ordinance become necessary for contracts exceeding \$50,000,000.

Again, thank you honorable members of the Board for allowing me to express my views.

Thank you

Lina Tan, President
Pilot Construction Management, Inc.
850 South van Ness Avenue #31
San Francisco, California 94110