

1 [Administrative Code - Rules for Awarding Grants]

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3 **Ordinance amending the Administrative Code by codifying a grant award process to,**
 4 **among other things: 1) require, with certain exceptions, a competitive solicitation; 2)**
 5 **require advertisement of solicitations and set forth evaluation criteria of grant**
 6 **proposals; 3) reserve the City’s right to cancel, reject, and/or readvertise solicitations;**
 7 **4) list required grant terms; 5) set forth requirements for the head of a granting agency**
 8 **in making a sole source grant determination; 6) authorize the purchaser to promulgate**
 9 **rules and regulations for effectively carrying out the requirements of this Ordinance; 7)**
 10 **set forth grant requirements based on a grant’s funding source; and 8) set forth**
 11 **administrative debarment procedures.**

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

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

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19 Section 1. The Administrative Code is hereby amended by adding Chapter 21G,
 20 consisting of Sections 21G.1 through 21G.11, to read as follows:

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22 **CHAPTER 21G: GRANTS**

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24 **SEC. 21G.1. SCOPE OF CHAPTER.**

25 **(a) Chapter 21G governs Grants awarded by Granting Agencies.**

1 (b) Grants awarded under Chapter 21G may not involve the contracting out of, or delegation of
2 the responsibility for, any services (1) for the benefit of the Granting Agency, as opposed to the public,
3 or (2) that are routinely performed by employees of the Granting Agency.

4 (c) "Grant" does not include, and hence Chapter 21G does not apply to, contracts (1) for
5 public works or improvements under Administrative Code Chapter 6; (2) for the purchase, sale, lease,
6 use, or development of real property; (3) for the purchase of Commodities or Services under
7 Administrative Code Chapter 21; or (4) to provide financial assistance such as a loan or loan
8 guarantee, an interest rate subsidy, tax relief, or tax credit. "Grant" also does not include, and hence
9 Chapter 21G also does not apply to, grants or assistance given to individuals under City service or
10 assistance programs.

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12 **SEC. 21G.2. DEFINITIONS.**

13 As used in this Chapter 21G, the following terms shall have the following meanings:

14 "City" means the City and County of San Francisco.

15 "Grant" means an award of funds to a Grantee for, or in furtherance of, a Public Purpose,
16 which is paid from monies deposited in the treasury of the City, and which is not required to be repaid
17 except upon default by the Grantee.

18 "Grant Agreement" means a written agreement between the Granting Agency and Grantee
19 wherein the Granting Agency agrees to provide a Grant to the Grantee in return for work to be
20 performed by the Grantee in furtherance of a Public Purpose.

21 "Grantee" means the party entering into a Grant Agreement with the City. A Grantee may be a
22 for-profit or nonprofit entity, or a governmental entity. All Grantees (other than governmental entities)
23 must be registered to do business in the State of California and the City and County of San Francisco.

24 "Granting Agency" means the City department or office that enters into a Grant Agreement.

25 "Grants Officer" means either the head of the Granting Agency or the head's designee.

1 “Proposal” means a response to a Solicitation describing how the Proposer will use any Grant
2 funds awarded.

3 “Proposer” means an entity that submits a Proposal in response to a Solicitation.

4 “Public Purpose” means a benefit in the interests of one or more communities in the City or for
5 the general good of the people of the City, as determined by the Granting Agency in its judgment.

6 “Purchaser” means the Director of the Office of Contract Administration of the City, or the
7 Purchaser’s designee.

8 “Risk Manager” means the Director of the Risk Management Division of the City.

9 “Solicitation” means an invitation to submit a Proposal to receive a Grant.

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11 **SEC. 21G.3. COMPETITIVE SOLICITATION.**

12 (a) Granting Agencies shall award all Grants through an open and competitive process under
13 Sections 21G.4, 21G.5 and 21G.6, except for Grants (1) to a governmental entity for programs,
14 activities, or services that can be practically performed only by that particular entity, (2) made to a
15 specific entity as required to comply with applicable law or contract, or as a result of the requirements
16 of the funding source, (3) made to a private property owner or for a neighborhood improvement as
17 designated by the Granting Agency, or (4) awarded on a sole source basis pursuant to Section 21G.8.

18 (b) All Grants, including those excepted from competitive solicitation under subsection (a),
19 shall comply with applicable rules and regulations made by the Purchaser.

20 (c) Each Granting Agency shall submit a quarterly report to the Controller, listing each Grant
21 that the Granting Agency awarded during the preceding quarter without following an open and
22 competitive process, and with the exception relied on for making each such Grant without said process.

1 **SEC. 21G.4. ADVERTISING SOLICITATIONS.**

2 (a) Notices of Solicitations shall be published in accordance with Section 2.98 of the
3 Administrative Code.

4 (b) The deadline for Proposers to submit Proposals in response to a Solicitation shall be not
5 less than 21 days following publication of the notice of Solicitation; provided, however, the Grants
6 Officer shall have the discretion, for good cause, to shorten this time period to not less than 10 days
7 following publication.

8 (c) The notice of Solicitation shall contain a general description of the Public Purpose of the
9 proposed Grant, the deadline for submitting Proposals, a link to complete information about the Grant
10 on the applicable City website, contact information for the Granting Agency, and such other
11 information in the notice of Solicitation that the Granting Agency deems appropriate.

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13 **SEC. 21G.5. INVITATIONS FOR COMPETITIVE GRANT PROPOSALS; GRANT**
14 **AGREEMENTS.**

15 (a) **Evaluation Criteria.** Each Solicitation shall include a clear statement of the process for
16 submitting Proposals and for evaluating Proposals, including the evaluation criteria to be used by the
17 Granting Agency for the ranking of Proposals and for awarding one or more Grants under the
18 Solicitation. The Solicitation shall reserve the Granting Agency's right to reject or cancel the
19 Solicitation in whole or in part at any time before a Grant Agreement is entered into.

20 (b) **Content of Proposals.** A Solicitation shall specify the materials and information that must
21 be included in each Proposal. A Granting Agency shall reject Proposals that do not meet the
22 requirements of the Solicitation, except that it may waive nonmaterial defects or omissions in any
23 Proposal, as determined by the Grants Officer.

24 (c) **Negotiation.** The Granting Agency may negotiate a Grant Agreement with one or more
25 selected Proposers consistent with the Solicitation. If, in the judgment of the Grants Officer, an

1 agreement cannot be reached with a selected Proposer, then the Granting Agency may terminate
2 negotiations with that Proposer and begin negotiations with the next highest ranked Proposer. If there
3 will be more than one Grantee, the Granting Agency may negotiate with multiple Proposers
4 simultaneously. All Grantees must be capable of performing the work described in the Grant
5 Agreement, as determined by the Granting Agency.

6 (d) **Grant Agreement.** All Grant funds shall be disbursed according to the terms of a Grant
7 Agreement. The Grant Agreement shall be subject to the Controller’s certification of funds, and shall
8 be subject to the City Attorney’s approval as to form.

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10 **SEC. 21G.6. CANCELLATION, REJECTION, READVERTISING, AND AMENDMENTS.**

11 The Granting Agency may cancel any Solicitation or reject all Proposals, at any time prior to
12 execution of the Grant Agreement, and may in its discretion republish the notice of Solicitation under
13 Section 21G.4. The Granting Agency may amend any Solicitation prior to the date that Proposals
14 become due; provided, that any such amendment shall be republished and provide additional time to
15 all potential Proposers, as determined by the Granting Agency, to respond to the Solicitation as
16 amended.

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

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

22 (b) **Insurance.** All Grant Agreements shall require the Grantee to maintain insurance for the
23 City’s benefit, as determined by the Risk Manager. The Risk Manager shall develop insurance
24 requirements for Grants and shall publish such requirements in the Risk Manager's Manual. The Risk
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1 Manager shall review and, if appropriate, update such insurance requirements annually or, in the Risk
2 Manager’s judgment, more frequently.

3 (c) **Infringement Indemnity.** Each Grant Agreement shall require any Grantee that provides
4 intellectual property to the City to indemnify the City for any violation of copyright, trademark, patent,
5 or other intellectual property rights resulting from the City’s use of that intellectual property.

6 (d) **Assignment.** Each Grant Agreement shall prohibit assignments by the Grantee, except by
7 written instrument approved by the Granting Agency. Before granting any such approval, the Granting
8 Agency shall determine whether the assignee is generally capable of performing the work set forth in
9 the Grant Agreement, and whether the assignee satisfies all other requirements of the Grant
10 Agreement. The Granting Agency shall notify the Controller quarterly of such assignments.

11 (e) **Audit Of Grantee's Records.** Each Grant Agreement shall require the Grantee to maintain
12 records documenting the work performed and the payments received under the Grant Agreement, and
13 allow the City, at reasonable places and times, to audit such records. The Grant Agreement shall
14 require the Grantee to maintain such records for five years from the date of final payment under the
15 Grant, unless the Granting Agency authorizes a shorter period in writing.

16 (f) **Submitting False Claims; Monetary Penalties.**

17 (1) **Covenant of Good Faith and Fair Dealing.** Each Grant Agreement shall include a
18 covenant of good faith and fair dealing requiring Grantees at all times to act in good faith with the City
19 and to submit claims, requests for equitable adjustments, requests for Grant modifications, or requests
20 of any kind seeking increased compensation under a Grant, only upon a good-faith, honest evaluation
21 of the underlying circumstances and a good-faith, honest calculation of the amount sought.

22 (2) **Prohibition of False Claims.** A Grantee shall not submit a False Claim to the City
23 related in any manner to the Grant. Payment or reliance by the City is not required for an act to be
24 considered a False Claim. For purposes of this subsection 21G.7(f):

1 **SEC. 21G.8. SOLE SOURCE GRANTS.**

2 Notwithstanding any other provision of this Chapter 21G, a Granting Agency may award a
3 Grant without conducting an open and competitive process under Sections 21G.4, 21G.5 and 21G.6 if
4 the Grants Officer determines in writing that a competitive process is infeasible or impracticable, or
5 that the identified Public Purpose may reasonably be accomplished only by one particular Grantee.
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7 **SEC. 21G.9. REQUIREMENTS FOR GRANTS.**

8 The Purchaser may promulgate rules and regulations for effectively carrying out this Chapter
9 21G.
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11 **SEC. 21G.10. REQUIREMENTS BASED ON FUNDING SOURCE.**

12 (a) Grants funded in whole or in part by local, State, or federal governmental entity shall
13 satisfy all applicable requirements of this Chapter 21G and of the Municipal Code. In the event of a
14 conflict between the funding agency's requirements and this Chapter 21G or the Municipal Code, the
15 requirements of the funding agency shall prevail.

16 (b) Grants funded in whole or in part by private agencies shall satisfy all applicable
17 requirements of this Chapter 21G and of the Municipal Code.
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19 **SEC. 21G.11. ADMINISTRATIVE DEBARMENT PROCEDURE.**

20 Grantees shall be subject to the provisions and penalties contained in Administrative Code
21 Chapter 28 (Administrative Debarment Procedures).
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23 Section 2. Effective Date. This ordinance shall become effective 30 days after
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
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1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
2 of Supervisors overrides the Mayor's veto of the ordinance.

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

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11 APPROVED AS TO FORM:
12 DENNIS J. HERRERA, City Attorney

13 By: /s/ Rosa M. Sanchez
14 ROSA M. SANCHEZ
Deputy City Attorney

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