



OFFICE OF THE CITY ADMINISTRATOR



London N. Breed, Mayor
Ken Bukowski, Acting City Administrator

MEMORANDUM

TO: Chapter 6 Department Heads
Chapter 6 Contracting Officers
City Attorney's Office's General Counsel to Chapter 6 Departments
City Attorney's Office Construction Attorneys for Chapter 6 Departments

FROM: Ken Bukowski, Acting City Administrator *KAB*

SUBJECT: Reissue - Regulations Implementing Administrative Code Chapter 6 Amendment to the term "Responsible" to include Substantiation of a Record of Safe Performance on Construction Projects

DATE: Monday, February 1, 2021

On July 7, 2020, the Board of Supervisors passed Ordinance No. 113-20 (file No. 200443) ("Ordinance"), which amended the definition of the term "Responsible" in Chapter 6 of the Administrative Code ("Chapter 6") to include substantiation of a record of safe performance on construction projects. It further amended the Administrative Code to require Chapter 6 departments to award construction contracts for all project delivery methods only to Responsible construction contractors. The Mayor signed the Ordinance on July 17, 2020, and it became effective 30 days later on August 17, 2020.

Please carefully review the attached copy of the Ordinance to become familiar with its amendments to Chapter 6 and the resulting procedures Chapter 6 departments must utilize in procurement of construction contracts.

The amended definition of the term Responsible (Responsibility) at Section 6.1 provides that a bidder or proposer for a construction contract must "substantiate its record of safe performance on construction projects, including but not limited to consideration of federal or state Occupational Safety and Health Administration ("OSHA") violations and work place fatalities, including OSHA citations under appeal, in accordance with regulations issued by the City Administrator, in order for the City to find the entity to be Responsible and eligible for contract award.

The San Francisco Public Utilities Commission ("SFPUC"), in collaboration with representatives of other Chapter 6 departments, the Office of Risk Management, industry experts, and associations representing construction companies, has developed, adopted and implemented the following robust safety evaluation procedures, copies of which you will find attached:

- (1) Safety Prequalification Form;
- (2) Appendix A to the Safety Prequalification Form (Instructions); and
- (3) Safety Document Submittal Evaluation Criteria form.

This Memorandum issues regulations under which Chapter 6 departments must evaluate bidders, general contractors, and prime contractors to determine whether the entity has substantiated a record of safe performance on construction projects in order for departments to determine if the entity is Responsible, which is required for the entity to be eligible for contract award.

REGULATIONS

1. Beginning immediately, all Chapter 6 departments must implement construction contractor safety evaluation procedures in substantial conformance with the attached copies of the procedures developed, adopted and implemented by the SFPUC. Departments shall utilize independent third-party safety expert consultants to evaluate any contractor step three submissions. The expert will provide the Chapter 6 department head with scoring recommendations and rationale for step three, with the department head or his/her designee making final determinations on scoring the applicant's step three safety submission.
2. Departments may require bidders or proposers to complete the safety evaluation procedures at any point in the procurement process prior to contract award.
3. Chapter 6 departments shall not award construction contracts with a safety responsibility requirement to any contractor that has not demonstrated its Responsibility by achieving a passing score in accordance with the standards set forth in the attached construction contractor safety procedures.
4. For as-needed construction contracts and job order contracts, the responsibility determination will be done at the master contract level.

Should you have any questions on the Ordinance or these Regulations, please do not hesitate to contact my office at City.Administrator@sfgov.org or (415) 554-4128.