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Mayor

# San Francisco Department of Public Health

DPH Office of  
Contracts Management and Compliance  
of the DPH Business Office

## Sole Source Contracts

The following provides information on San Francisco Department of Public Health policies and procedures related to the administration of sole source or “no-bid” contracts under Chapter 21 of the San Francisco Administrative Ordinance.

Please note that this information is intended to provide operational guidance to DPH staff responsible for contract management and administration and not to restrict the City or the Department’s responsibility and legal implementation of applicable laws, rules or regulations, which may supersede this information.

For more information, please contact the DPH Office of Contract Management and Compliance in the Business Office.

<b>Categories or Types of Sole Source (“No-bid”) Contracts</b>	
S.F. Administrative Code, Chapter 21.5	<ul style="list-style-type: none"> <li>• Sometimes referred to as a “regular” sole source</li> <li>• “Commodities or services available only from a sole source.”</li> <li>• Must be approved by the City’s Office of Contract Administration</li> <li>• If a waiver of the Equal Benefits or Local Business Enterprise Ordinances is needed from the Contract Monitoring Division (CMD), CMD waiver must be obtained before requesting approval of sole source waiver from OCA.</li> </ul>
S.F. Administrative Code, Chapter 21.30	<ul style="list-style-type: none"> <li>• Proprietary software</li> <li>• “Vendor has proprietary rights to software or maintenance of equipment by a particular vendor is required to preserve a warranty”</li> <li>• Applies to software licensing and maintenance (not equipment)</li> </ul>
S.F. Administrative Code, Chapter 21.42	<ul style="list-style-type: none"> <li>• Sometimes referred to as a “regular” sole source</li> <li>• Must be approved by the Health Commission, upon recommendation of DPH after survey of “the availability of providers for the health and behavioral health services and support services required by the Department of Public Health where such services are:               <ol style="list-style-type: none"> <li>1) unique to the Department of Public Health,</li> <li>2) consistent with the its mission and goals, and</li> <li>3) require specialized knowledge, training, personnel, facilities or other resources that are known to be provided by a limited number of non-profit contractors.”</li> </ol> </li> <li>• Limited to non-profit organizations (includes UCSF)</li> </ul>

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## How authority to enter into sole source contracts is implemented

How does DPH determine the type of authority (Ch. 21.5, Ch. 21.30, or Ch. 21.42) that applies?

If a contract is requested with a vendor/provider without a competitive solicitation (RFP or RFQ), Contracts Office staff evaluate whether or not the contract with the vendor can be approved:

### Ch. 21.5 – Commodities or Services Available Only from a Sole Source – Approved by OCA

- If the contract is a for-profit organization, or is a non-profit organization but is not on the list approved by the Health Commission under Ch. 21.42:
  - Contracts Office staff work with Program Staff to ensure that there is appropriate justification for the sole source contract.
  - If there is justification, prior to submitting the actual contract for approval, a request for approval of the selection of the contractor as the sole source of the services is submitted to OCA for approval.
  - If there is no justification, Contracts Office staff advise Program Staff that the contract cannot be approved with the requested vendor as the sole source of the services.

### Ch. 21.30 – Software Licenses, Support, Escrow, Finance, and Equipment Maintenance Agreements– Approved By OCA

- If the contractor “has proprietary rights to software or where maintenance of equipment by a particular vendor is required to preserve a warranty,” as described in Ch. 21.30:
  - Prior to submitting the contract for approval, Contracts Office staff prepare and submit to OCA a request for approval of the selection of the contractor as the sole source of the services.

### Ch. 21.42 – Professional Services Contracts for Health and Behavioral Health Services And Support – Approved by Health Commission

- If the contractor is a non-profit organization:
  - Contracts Office staff confirm that the contractor is on the current list of contractors approved by the Health Commission.
  - If the contractor is on the list, the Contracts Office submits the contract to OCA for approval, with the list.
  - OCA requires no further justification.

## How authority to enter into sole source contracts is implemented (cont.)

What is the standard length of sole source requests?

- The length of the requested duration of the sole source is determined by:
  - The reason the sole source is needed;
  - The length of time the services are anticipated to be needed;
  - The maximum length of contract term or duration related to the contract, such as Health Commission or Civil Service Commission approval.
- If a sole source needed until competitive solicitation is conducted:
  - If a sole source is needed until an RFP is conducted, the length of the sole source approval is requested for the length of time anticipated to be needed to draft, publish, and conduct an RFP and to negotiate, develop and obtain approval of the contract awarded under the RFP.
  - This period may be 18 months to three years, depending on the part of the funding cycle in which the request is made, the anticipated services start date, and any difficulties with negotiating and developing the contract.
- If a sole source is needed due to the unique services or role of the organization for a for-profit organization or is a non-profit organization not on the list approved by the Health Commission under Ch. 21.42:
  - The request is made under Ch. 21.5 (a “regular” sole source, subject to approval by OCA).
  - DPH prioritizes the need for an RFP and requests sole source approval for the amount of time anticipated to be needed to start a new contract under an RFP.
- If a sole source is needed due to the continuing unique services or role of the organization for a non-profit organization on the list approved by the Health Commission under Ch. 21.42:
  - The Department also prioritizes conducting an RFP for the services, with the acknowledgement that some services are unlikely to be provided by another organizations due to the nature of the services and the organization.
  - The length of time for a sole source for such unique services may exceed the minimum time needed to conduct the RFP process, as it will be a lower priority due to the unique nature of the services provided.
  - The most common example of this is supportive housing services, which are often tied to the organization which has built or bought the building in which the services are to be provided and also provides the supportive housing services, and/or the building operations, e.g. front desk support.

	<ul style="list-style-type: none"> <li>○ Another example not related to housing services is the services provided by the organization San Francisco Mental Health and Education Funds, which through its by-laws is the fiscal agent for the San Francisco Mental Health Board, and is acknowledged to provide a unique service unavailable from another source.</li> </ul>
<p>S.F. Administrative Code, Chapter 21.42: <i>How are Organizations Placed on Approval List?</i></p>	<ul style="list-style-type: none"> <li>● The list is composed of non-profit organizations which have current contracts with DPH or have provided the services designated in each service category in the past five years.</li> <li>● DPH Contracts Office reviews the list annually to determine if a vendor should be removed from the list.</li> </ul>
<p>S.F. Administrative Code, Chapter 21.42: <i>Criteria for removing an Organization from Approval List</i></p>	<ul style="list-style-type: none"> <li>● An organization is removed from the list when: <ul style="list-style-type: none"> <li>○ DPH management determines that it is no longer the sole source of the specified services as provided for under the ordinance;</li> <li>○ DPH learns that the agency is debarred from doing business with the City or with DPH;</li> <li>○ DPH is advised that the organization is no longer in business, or when the organization has been on the list for five or more years without a DPH contract;</li> <li>○ DPH determines that other factors make it inappropriate for the vendor to remain on the list.</li> </ul> </li> </ul>
<p>S.F. Administrative Code, Chapter 21.42: <i>Examples of common reasons to use the Ch. 21.42 List</i></p>	<ul style="list-style-type: none"> <li>● The Board of Supervisors' annual budget process and related changes to DPH's budget request require a timely implementation process that may not allow for a full solicitation process initially;</li> <li>● Services tied to a facility owned or operated by the provider (such as supportive housing or residential behavioral health services);</li> <li>● Receipt or restrictions on grant monies or funding (such as agencies included in collaborative grant applications or agencies with specific legal or administrative authorization to provide services [such as Federally Qualified Health Center status]); or</li> <li>● Initiatives related to specific public health issues, target populations, collaborations, or crisis situations (such as responses to community violence, disease outbreaks, expertise gained from the experience of mental illness and the service system, or grassroots/community relationships essential to the provision of services).</li> </ul>