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# CHAPTER 21G:

## GRANTS

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### SEC. 21G.1. SCOPE OF CHAPTER.

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

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

(c) Chapter 21G applies to all Grants first advertised, solicited, or initiated if no advertisement or solicitation is required, on or after the operative date of the ordinance in Board File No. 201089 establishing Chapter 21G.

(Added by Ord. [110-21](#), File No. 201089, App. 8/4/2021, Eff. 9/4/2021, Oper. 1/1/2022)

■ (Former Sec. 21G.1 added by Ord. 15-03, File No. 021791, App. 2/7/2003; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

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### SEC. 21G.2. DEFINITIONS.

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

“City” means the City and County of San Francisco.

“Grant” means an award of funds to a Grantee for, or in furtherance of, a Public Purpose, which is paid from monies deposited in the treasury of the City, and which is not required to be repaid except upon default by the Grantee. “Grant” does not include contracts (1) for public works or improvements under Administrative Code Chapter 6; (2) for the City purchase, sale, lease, use, or development of real property; (3) for the City purchase of Commodities or Services under Administrative Code Chapter 21; or (4) to provide financial assistance such as a loan or loan guarantee, an interest rate subsidy, tax relief, or tax credit. “Grant” also does not include grants or assistance to individuals under City service or assistance programs, rebates or incentives. Departments administering rebate or incentive programs must comply with Section 21G.12.

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

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

“Granting Agency” means the City department or office that enters into a Grant Agreement.

“Grants Officer” means either the head of the Granting Agency or the head’s designee.

“Proposal” means a response to a Solicitation following guidelines outlined in the Solicitation.

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

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

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

“Risk Manager” means the Director of the Risk Management Program of the General Services Agency.

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

(Added by Ord. [110-21](#), File No. 201089, App. 8/4/2021, Eff. 9/4/2021, Oper. 1/1/2022)

■ (Former Sec. 21G.2 added by Ord. 15-03, File No. 021791, App. 2/7/2003; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

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

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

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

(c) Each Granting Agency shall submit an annual report by June 1 of each year, commencing on June 1, 2023, to the Board of Supervisors, listing each Grant that the Granting Agency awarded during the preceding calendar year without following an open and competitive process, and with the exception relied on for making each such Grant without said process.

(Added by Ord. [110-21](#), File No. 201089, App. 8/4/2021, Eff. 9/4/2021, Oper. 1/1/2022)

■ (Former Sec. 21G.3 added by Ord. 15-03, File No. 021791, App. 2/7/2003; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

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

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

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

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

(Added by Ord. [110-21](#), File No. 201089, App. 8/4/2021, Eff. 9/4/2021, Oper. 1/1/2022)

■ (Former Sec. 21G.4 added by Ord. 15-03, File No. 021791, App. 2/7/2003; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

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

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

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

(c) **Negotiation.** The Granting Agency may negotiate a Grant Agreement with one or more selected Proposers consistent with the Solicitation. If, in the judgment of the Grants Officer, an agreement cannot be reached with a selected Proposer, then the Granting Agency may terminate negotiations with that Proposer and begin negotiations with the next highest ranked Proposer. If there will be more than one Grantee, the Granting Agency may negotiate with multiple Proposers simultaneously. All Grantees must be capable of performing the work described in the Grant Agreement, as determined by the Granting Agency.

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

(Added by Ord. [110-21](#), File No. 201089, App. 8/4/2021, Eff. 9/4/2021, Oper. 1/1/2022)

■ (Former Sec. 21G.5 added by Ord. 15-03, File No. 021791, App. 2/7/2003; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

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

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

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## SEC. 21G.7. GRANT TERMS.

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

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

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

(d) **Assignment.** Each Grant Agreement shall prohibit assignments by the Grantee, except by written instrument approved by the Granting Agency. Before granting any such approval, the Granting Agency shall determine whether the assignee is capable of performing the work set forth in the Grant Agreement, and whether the assignee satisfies all other requirements of the Grant Agreement. The Granting Agency shall notify the Controller quarterly by January 1, April 1, July 1, and October 1 of each year, commencing on April 1, 2022, of such assignments.

(e) **Audit Of Grantee's Records.** Each Grant Agreement shall require the Grantee to maintain records documenting the work performed and the payments received under the Grant Agreement, and allow the City, at reasonable places and times, to audit such records. The Grant Agreement shall require the Grantee to maintain such records for five years from the date of final payment under the Grant, unless the Granting Agency authorizes a shorter period in writing. But the Grant Agreement shall also require that the Grantee shall maintain records for such period as required by federal or state funding agencies, if longer than the period required in accordance with the preceding sentence.

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

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

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

(A) Submitting a "False Claim" means to:

(i) Knowingly present or cause to be presented to an officer or employee of the City a claim or request for payment or approval that is false or fraudulent;

(ii) Knowingly make, use, or cause to be made or used a false record or statement to get a claim paid or approved by the City;

(iii) Conspire to defraud the City by getting a claim allowed or paid by the City that is false or fraudulent;

(iv) Knowingly make, use, or cause to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City;

(v) Knowingly receive the benefit of a false claim made to the City, or receiving the benefit without knowledge of the falsity of the claim but subsequently discovering its falsity and failing to disclose the false claim to the City within a reasonable time after discovering it.

(B) A "claim" means any request or demand for money, property, or services made to any employee, officer, or agent of the City in connection with a Grant.

(C) "Known" or "knowingly" means (1) having actual knowledge of information, (2) acting in deliberate ignorance of the truth or falsity of information, or (3) acting in reckless disregard of the truth or falsity of information. "Known" or "knowingly" does not require proof of specific intent.

(3) **Damages for False Claims.** Any Grantee who makes a False Claim shall be liable to the City for three times the higher of (A) the amount of damages that the City sustains due to the False Claim, or (B) the amount of the False Claim. Any such Grantee shall also be liable to the City for all costs, including attorneys' fees, of a civil action brought to recover any penalties or damages, and may be liable to the City for a civil penalty of up to \$10,000 for each False Claim.

(4) Liability under this Section 21G.7(f) shall be joint and several for any False Claim made by two or more persons.

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

(a) Notwithstanding any other provision of this Chapter 21G, a Granting Agency may award a Grant without conducting an open and competitive process under Sections 21G.4, 21G.5, and 21G.6, in accordance with the Purchaser's rules and regulations. For Granting Agencies under the jurisdiction of a commission or a board, the Granting Agency shall not award a Grant without conducting an open and competitive process unless the commission or board approves the Granting Agency's recommendation that the Grant be awarded as a sole source. Before awarding such a Grant, the Granting Agency shall recommend to the commission or board concerned the approval and award of a Grant pursuant to this subsection (a) and such commission or board may then adopt a resolution approving the justification of the sole source and awarding the Grant.

(b) If the form of the Grant is recurring to the same recipient, a determination made pursuant to subsection (a) must be supported by either a formal or informal documented competitive process within the last five years demonstrating the lack of potential Grantees.

(c) Grants for the four City-owned community cultural centers may be awarded as sole source Grants under this Section 21G.8 without complying with subsections (a) or (b).

(Added by Ord. [110-21](#), File No. 201089, App. 8/4/2021, Eff. 9/4/2021, Oper. 1/1/2022)

■ (Former Sec. 21G.8 added by Ord. 15-03, File No. 021791, App. 2/7/2003; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

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## **SEC. 21G.9. RULES AND REGULATIONS.**

The Purchaser shall promulgate rules and regulations for effectively carrying out this Chapter 21G no later than December 31, 2021. These rules and regulations shall, among other things, permit sole source Grants when a competitive process is infeasible or impracticable, or when Public Purpose may reasonably be accomplished by one particular Grantee. The Purchaser may update these rules and regulations from time to time, as needed.

(Added by Ord. [110-21](#), File No. 201089, App. 8/4/2021, Eff. 9/4/2021, Oper. 9/4/2021)

■ (Former Sec. 21G.9 added by Ord. 15-03, File No. 021791, App. 2/7/2003; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

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## **SEC. 21G.10. REQUIREMENTS BASED ON FUNDING SOURCE.**

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

(b) Grants funded in whole or in part by private agencies shall satisfy all applicable requirements of this Chapter 21G and of the private agency.

(Added by Ord. [110-21](#), File No. 201089, App. 8/4/2021, Eff. 9/4/2021, Oper. 1/1/2022)

■ (Former Sec. 21G.10 added by Ord. 15-03, File No. 021791, App. 2/7/2003; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

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## **SEC. 21G.11. ADMINISTRATIVE DEBARMENT PROCEDURE.**

Grantees shall be subject to the provisions and penalties contained in Administrative Code Chapter 28 (Administrative Debarment Procedures). Any order of debarment or suspension issued under Chapter 28 shall be a public record. The Controller shall maintain and publish on the City's Internet website a current list of Grantees subject to orders of debarment or suspension and the expiration dates for the respective debarment or suspension terms. The Controller shall submit a semi-annual report by January 1 and July 1 of each year, commencing on July 1, 2022, to the Board of Supervisors that includes (a) the Grantees then subject to an order of debarment or suspension and the expiration dates for the respective debarment terms; (b) the status of any pending debarment or suspension matters; and (c) any order of debarment or suspension received by the Controller since the date of the last report.

(Added by Ord. [110-21](#), File No. 201089, App. 8/4/2021, Eff. 9/4/2021, Oper. 1/1/2022)

■ (Former Sec. 21G.11 added by Ord. 15-03, File No. 021791, App. 2/7/2003; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

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## **SEC. 21G.12. REBATE AND INCENTIVE PROGRAMS.**

Departments administering rebate and/or incentive programs shall widely advertise the availability of rebates and/or incentives. Notices of available rebates and/or incentives shall be published in accordance with Section 2.98 of the Administrative Code. The Controller shall periodically audit rebate programs as provided in Appendix F of the Charter.

(Added by Ord. [110-21](#), File No. 201089, App. 8/4/2021, Eff. 9/4/2021, Oper. 1/1/2022)