

Effective June 30, 2022, Section 1 of the Thirteenth Supplement and Sections 1,2 and 3 of the 35th Supplement have been terminated. Revisions to this memo reflect the impact of said termination. Changes are noted in red font.

Revised Guidance on the 13th, 35th, 47th Supplements to the Mayor’s Emergency Declaration & Sections 21.24, 21G.13 and 6.77 of the Administrative Code pertaining to Short-Term Contract Extensions

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 - C. Using SF Admin Code Section 6.60 for Emergency Chapter 6 Agreements
 - D. Using SF Admin Code Chapter 21G for Emergency Grant Agreements

I. Extension of Non-COVID and COVID Chapter 21, 21G and 6 Agreements

To enable continuity of operations in City departments, departments now have the ability to extend existing Chapter 21, 21G and 6 agreements that do not have any options to extend through one of the following authorizations:

- [47th Supplement to the Mayor’s Emergency Declaration](#) (“47th Supplement”); and
- [Sections 21.24, 21G.13 and 6.77 of the Admin Code](#) (“Short Term Extensions and Amendments Contract Ordinance”).

A. Using the 47th Supplement to Extend Contracts through June 30, 2023.

The [47th Supplement](#) authorizes departments to extend through June 30, 2023 non-COVID or COVID Chapter 21 Commodities and Services Agreements, Chapter 21G Grant Agreements, or Chapter 6 Construction Contracts that otherwise lack a valid purchasing authority by which to be further extended.

To qualify, an agreement:

- Must not have expired as of February 11, 2022 (60 days prior to the 47th Supplement Order date);
- Must be expiring on or before August 31, 2022; and
- Cannot be extended beyond June 30, 2023.

The [47th Supplement](#) supersedes the [13th Supplement](#) and [35th Supplement](#) with respect to extensions of COVID and non-COVID contracts. ~~The ability to issue new COVID-related contracts pursuant to the 13th Supplement remains intact as of the date of this memo.~~

47th Supplement Approval and Reporting Process:

- i. **Contract Templates:** Departments shall use standard contract amendment templates. However, the amendment must reference the use of the 47th Supplement in its Whereas Clauses.

Sample Whereas Clause: “Whereas this extension is justified pursuant to the 47th Supplement to the Mayoral COVID-19 Emergency Declaration dated February 25, 2020 which authorizes extensions through June 30, 2023 of any Commodities and Services contract or grant agreement that has not expired as of February 11, 2022 and will be expiring on or before August 31, 2022.”

- ii. **PeopleSoft (PS):** Departments shall upload to PS standard supporting documents and select the “Mayor’s ER Declaration 47th Supplement” checkbox in the “Contract Categories used for Reporting” section of the Supplier Contract module.

Mayor's ER Declaration 47th

- iii. **Approvals and Waivers:** Departments must obtain all standard/applicable approvals prior to execution of the amendment. The Controller’s concurrence memo and approval, which were required for the 13th and 35th Supplements, are no longer required if using the 47th Supplement. For Chapter 21 contracts, departments should use [OCA’s standard checklists](#). *Departments may no longer use the CL-COVID-A checklist to amend COVID contracts.*
- iv. **Retroactive Approvals and Waivers:** To the extent departments have bypassed prior approvals and waivers because the contract was executed or amended pursuant to procedures authorized by the 13th or 35th Supplements, the department must now obtain those approvals and waivers, retroactively, pursuant to each program’s emergency waiver exception.
- Inform the approving agency that the request is for an amendment being executed pursuant to the 47th Supplement.
 - Ensure the approvals and waivers are for an amount and duration equal to the contract amount and duration.
- v. **Non-Applicability of Certain Contracting Provisions to Emergency or Federally Funded Contracts:**
- **Non-Applicability of Chapter 14B to Emergency Contracts:** “Emergency Contracts” are definitionally exempt from Chapter 14B and, as such, waivers are not required with respect to removing LBE bid discounts/rating bonuses and/or subcontracting goals.
 - **Federal Funds:** Where federal funding is involved, local preferences pertaining to the 12X, 14B and First Sourcing/Local Hiring program are automatically deemed not applicable and waivers are not required.

B. Using Sections 21.24, 21G.13 and 6.77 of the Admin Code to Extend Contracts for 12 months.

The [Short Term Extensions and Amendments Contract Ordinance](#), effective June 20, 2022, authorizes departments to extend agreements for a period of up to 12 months any non-COVID or COVID Chapter 21 Commodities and Services Agreement, Chapter 21G Grant Agreement, or Chapter 6 Construction Contract that otherwise lacks a valid purchasing authority by which to be further extended.

To qualify, an agreement:

- Must be expiring on or before July 1, 2023; and
- Cannot be extended beyond 12 months.

Departments may elect to use Sections 21.24, 21G.13 and 6.77 in lieu of the 47th Supplement and vice versa.

21.24, 21G.13 and 6.77 Approval and Reporting Process:

- i. **Contract Template:** Departments shall use standard contract amendment templates. However, the amendment must reference the use of the Short-Term Extensions and Amendments Contract Ordinance in its Whereas Clauses.

*Sample Whereas Clause: “Whereas this extension is justified pursuant to **[Section 21.24 or SEC. 21G.13 or SEC. 6.77]** of the Admin Code (“Short-Term Contract Extensions and Amendments”)*

which authorizes contract extensions of up to 12 months of any contract that expires on or before July 1, 2023.”

- ii. **PeopleSoft (PS):** Departments shall upload to PS standard supporting documents and select the appropriate purchasing authority as illustrated below

Purchasing Authority	<input type="text" value="6.77"/>	<input type="button" value="Q"/>	SHORT-TERM CONTRACT EXTENSIONS (Chapter 6)
Purchasing Authority	<input type="text" value="21.24"/>	<input type="button" value="Q"/>	SHORT-TERM CONTRACT EXTENSIONS (Chapter 21)
Purchasing Authority	<input type="text" value="21G.13"/>	<input type="button" value="Q"/>	SHORT-TERM GRANT EXTENSIONS

- iii. **Approvals and Waivers:** Departments must obtain all standard/applicable approvals prior to execution of the amendment.¹ The Controller’s concurrence memo and approval, which were required for the 13th and 35th Supplements, are no longer required. For Chapter 21 contracts, departments should use [OCA’s standard checklists](#).
- iv. **Retroactive Approvals and Waivers:** To the extent departments have bypassed prior approvals and waivers because the contract was executed or amended pursuant to procedures authorized by the 13th or 35th Supplements, the department must now obtain those approvals and waivers, retroactively, pursuant to each program’s emergency waiver exception.
 - o Inform the approving agency that the request is for an amendment being executed pursuant to the Contract Ordinance.
 - o Ensure the approvals and waivers are for an amount and duration equal to the contract amount and duration.
- v. **Non-Applicability of Certain Contracting Provisions to Emergency or Federally Funded Contracts:**
 - o **Non-Applicability of Chapter 14B to Emergency Contracts:** “Emergency Contracts” are definitionally exempt from Chapter 14B and, as such, waivers are not required with respect to removing LBE bid discounts/rating bonuses and/or subcontracting goals.
 - o **Federal Funds:** Where federal funding is involved, local preferences pertaining to the 12X, 14B and First Sourcing/Local Hiring program are automatically deemed not applicable and waivers are not required.

II. Extension of Prequalified Pools

The [47th Supplement](#) authorizes departments to extend through June 30, 2023 any pre-qualified pools established under Section 21.4 of the Administrative Code so long as the pre-qualified pool list was in place as of April 12, 2022 (the date of the 47th Supplement) and will be expiring on or before August 31, 2022.

III. Issuing New COVID-Response Emergency Contracts and Grants

~~A. Using the 13th Supplement for the Emergency Procurement of COVID-response Commodities and Services~~

~~The 13th Supplement authorizes departments to enter into 1-year COVID-response contracts or grants for Chapter 21, Chapter 21G and Chapter 6 Commodities and Services. As of the date of this memo, new contracts executed pursuant to the 13th Supplement must be limited to one year and CANNOT be extended for any additional time unless a future Ordinance authorizes their extension. To utilize the 13th Supplement for this purpose, please refer to the [CL-COVID-A Checklist \(4-22\)](#) which can be found [here](#).~~

B. Using SF Admin Code Section 21.15 for the Emergency Procurement of Commodities and Services

1. 21.15 Definition of an Emergency

Pursuant to 21.15(a), an emergency exists when:

- (1) One or more of the following extraordinary conditions exist: war, epidemic, weather, fire, flood, earthquake, other catastrophe or the breakdown of any plant equipment, structure, street or public work; **and**
- (2) There is a need to immediately procure Commodities or Services to:
 - Make repairs,
 - Safeguard the life or property or
 - Maintain public health or welfare.

When the above conditions are met, departments can purchase the Commodities or Services in the most expeditious manner. (See 21.15(c)).

Unlike emergency contracts issued pursuant to the 13th Supplement above, emergency contracts (including COVID-response contracts) executed pursuant to 21.15 need not be limited to a duration of one year so long as they comply with the requirements set forth below.

2. 21.15 Solicitation Requirements

Whenever possible, the departments *shall attempt to obtain at least three quotes* (See 21.15(d)), particularly where FEMA reimbursement is sought.

3. 21.15 Approvals and Waivers

Emergency contracts require all standard/applicable approvals and waivers. However, if the emergency does not permit, the approvals may be obtained as soon *after* contract execution as possible. (See 21.15(c)). In addition to the standard approvals, emergency contracts may trigger BOS and Department Commission approval:

- i. **Department Commission:** If the emergency permits, the department head shall first secure the written approval of the department's commission. (See 21.15(c)).
- ii. **Board of Supervisors:** In all cases, the approval of the Board of Supervisors must be obtained for any contract in excess of \$100,000. (See 21.15(c)).

Departments should use [OCA's standard checklists](#) when submitting the contract to OCA for execution.

4. **Reminder: Non-Applicability of Certain Contracting Provisions to Emergency or Federally Funded Contracts.**

- **Chapter 14B:** "Emergency Contracts" are definitionally exempt from Chapter 14B and, as such, waivers are not required with respect to removing LBE bid discounts/rating bonuses and/or subcontracting goals.
- **Federal Funds:** Where federal funding is involved, local preferences pertaining to the 12X, 14B and First Sourcing/Local Hiring program are automatically deemed not applicable and waivers are not required.

C. Using SF Admin Code Section 6.60 for Emergency Chapter 6 Construction Agreements

Section 6.60 of the Administrative Code provides the basis and requirements for entering into emergency public works contracts. Departments should refer to Chapter 6, Section 6.60 and consult with their City Attorney for further guidance.

Reminder: Non-Applicability of Certain Contracting Provisions to Emergency or Federally Funded Contracts

- **Non-Applicability of Chapter 14B to Emergency Contracts:** “Emergency Contracts” are definitionally exempt from Chapter 14B and, as such, waivers are not required with respect to removing LBE bid discounts/rating bonuses and/or subcontracting goals.
- **Federal Funds:** Where federal funding is involved, local preferences pertaining to the 12X, 14B and First Sourcing/Local Hiring program are automatically deemed not applicable and waivers are not required.

D. Using SF Admin Code Chapter 21G for Emergency Grant Agreements

Administrative Code Section 21G.9 allows for grants to be awarded without a competitive solicitation when:

- A competitive process is infeasible or impracticable
- A Public Purpose may reasonably be accomplished by one particular Grantee

A competitive process may be deemed infeasible or impracticable when a grant is required to respond to a public emergency or other exigent circumstances. To award a grant agreement when such a circumstance exists, departments must obtain a waiver of the competitive solicitation requirements specified in Administrative Code Chapter 21G. Departments shall complete the [Grant Solicitation Waiver Form \(P-21G.8\)](#) to request approval of the emergency grant agreement by the department’s commission or board, if applicable, or by the Grant Consensus Committee. Once approved, departments will follow the standard processes by which to have the grant approved and issued.