

**CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF LABOR STANDARDS ENFORCEMENT**

**REGULATIONS IMPLEMENTING
THE SAN FRANCISCO
HEALTH CARE ACCOUNTABILITY ORDINANCE
(HCAO)**

Office of Labor Standards Enforcement
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4685
(415) 554-6292
www.sf.gov/olse-hcao

*For specific inquiries regarding the HCAO, please call (415) 554-6292 or email
HCAO@sfgov.org.*

Last Revised on 7/1/2009

All legal citations herein have been updated to reflect the adoption of the San Francisco Labor and Employment Code, operative as of January 4, 2024.

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION.....	3
SCOPE OF OLSE AUTHORITY	3
DEFINITIONS	4
REGULATION 1: GENERAL APPLICABILITY OF HCAO TO ALL AGREEMENTS WITH THE CITY	7
REGULATION 2: HCAO REQUIREMENTS	8
REGULATION 3: COVERED EMPLOYEES.....	12
REGULATION 4: RESPONSIBILITIES OF CONTRACTING DEPARTMENTS	15
REGULATION 5: EXEMPTIONS.....	19
REGULATION 6: WAIVERS.....	25
REGULATION 7: SUBCONTRACTS AND SUBLEASES.....	28
REGULATION 8: RECORDKEEPING, REPORTING, PROHIBITIONS, AND OTHER CONTRACTUAL OBLIGATIONS	29
REGULATION 9: OLSE MONITORING, INVESTIGATION AND ENFORCEMENT; DETERMINATION OF VIOLATIONS; APPEAL PROCESS	32
REGULATION 10: ADDITIONAL RIGHTS AND REMEDIES AVAILABLE TO THE CITY FOR VIOLATIONS OF THE HCAO.....	36
REGULATION 11: ADMINISTRATIVE APPEALS.....	38
REGULATION 12: ADMINISTRATION AND ENFORCEMENT BY OLSE, DPH, AND HEALTH COMMISSION.....	40
APPENDIX A: HCAO MINIMUM STANDARDS FOR HEALTH PLAN BENEFITS	i
APPENDIX B: HCAO PAYMENT OPTION FORM.....	iii
APPENDIX C: HCAO NOTICE TO EMPLOYEES (required posting).....	iv

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

APPENDIX D: HCAO KNOW YOUR RIGHTS & VOLUNTARY WAIVER FORM..... v

APPENDIX E: HCAO CONTRACTOR COMPLIANCE DECLARATION FORM..... vii

APPENDIX F: HCAO SUBCONTRACTOR INFORMATION FORM viii

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

INTRODUCTION

The Office of Labor Standards Enforcement (“OLSE”) promulgates these Regulations pursuant to Section 2A.23 and Article 121 of the Labor and Employment Code (L.E.C.) (formerly codified as Administrative Code Section 12Q). Pursuant to Article 121, each Contracting Department shall cooperate to the fullest extent with the OLSE in the administration of the Health Care Accountability Ordinance (“HCAO”), commonly referred to as the "Living Health Ordinance."

In May 2001, the Board of Supervisors unanimously adopted the Health Care Accountability Ordinance, finding that the quality of service provided to the public by contractors and subcontractors would be enhanced if the employees providing the services had access to sound medical care. Initial HCAO Regulations were released on May 10, 2002. On March 1, 2006, the Finance Committee of the Board of Supervisors held a hearing and took public comment on amendments to the HCAO. Later that month, the full Board of Supervisors approved the amendments. From August through October of 2008, the OLSE issued draft Regulations, received public comment on the draft, and prepared final regulations.

In developing these Regulations, the OLSE has been guided by its understanding of the importance of fulfilling the goals of the HCAO, providing clear direction to employers and employees, and giving weight to considerations of equity and practicality.

Fulfilling the goals of the Ordinance. In developing these Regulations, the OLSE has tried to be faithful to the basic goals of the HCAO. These goals are well established. The original HCAO included a statement of legislative findings, set forth in Section 2. The HCAO should be liberally construed to effect its purpose as set forth in those findings.

Providing clear direction to employers and employees. In mandating the OLSE to promulgate regulations on the HCAO, the Board of Supervisors intended that the OLSE provide clear direction to employers and employees. (See L.E.C. Art. §§ 121.1 & 121.5.) Accordingly, these Regulations seek to fulfill that mandate.

Giving weight to considerations of equity and practicality. While these principles have guided the OLSE's judgment in developing these Regulations, it must be acknowledged that general principles do not always automatically yield a single, specific result with respect to a particular Regulation. Multiple and sometimes conflicting considerations come into play in the development of a Regulation. Having been authorized by the HCAO to promulgate these Regulations, the OLSE ultimately must exercise its judgment in developing Regulations that are reasonable in light of all relevant factors, taking into account both input from the public and its own expertise as a labor standards enforcement office.

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

SCOPE OF OLSE AUTHORITY

Pursuant to the HCAO, the OLSE administers, monitors, and enforces the HCAO. The OLSE may prescribe the content of forms to be used under the HCAO and may revise such forms from time to time without amending these regulations. (Updated versions shall be made available on the OLSE website at www.sf.gov/olse-hcao.) The OLSE may also agree to act as a mediator to resolve compliance problems between employers and employees.

DEFINITIONS

“Agency” means the Office of Labor Standards Enforcement.

“OLSE Director” means the Director of the Office of Labor Standards Enforcement or his/her designee.

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

“City Property” means real property that is owned by the City or of which the City has exclusive use, if such property is located within the City or is under the jurisdiction of the San Francisco Airport Commission.

“Complaint” means a report of an alleged violation of the HCAO.

“Complainant” means a Covered Employee who files a Complaint under the HCAO.

“Contract” means an agreement between a Contracting Department and any person or entity that provides for public works or public improvements to be purchased, or for services to be performed, at the expense of the City, except as specifically set forth in the HCAO or these implementing Regulations. The term “Contract” also means an agreement between a Tenant or Subtenant and any person or entity to perform services on property covered by a Lease. The term

“Contract” includes “Contract Amendment.”

“Contract Amendment” means a modification to an agreement which extends the term, increases the total amount of payments due from the City (except where such increase is due solely to cost of living adjustments), or modifies the scope of services to be performed by the Contractor; provided that the resulting agreement falls within the definition of “Contract.”

“Contracting Department” means the City department, office, board, commission, or other City agency that enters into the applicable Contract or Lease on behalf of the City.

“Contracting Parties” means Contractors, Subcontractors, Tenants, and Subtenants who are subject to the requirements of the HCAO.

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

“Contractor” means the person or entity that enters into a Contract with the City. “Contractor” includes “Tenant,” except as specifically set forth in the HCAO or these implementing Regulations. The term “Contractor” also means any person or entity that enters into a Contract with a Tenant or Subtenant to perform services on property covered by a Lease.

“Covered Employee” means any person who is employed by a Contracting Party and who falls within the definition of a “Covered Employee,” as set forth in Regulation 3.1, including part-time and temporary Employees.

“Effective Date” means the applicable Effective Date specified in Section 121.10 of the HCAO.

“Employee” means any person who is employed by a Contracting Party, including part-time and temporary Employees.

“Health Director” means the Director of the Department of Public Health.

“Lease” means a written agreement (including, without limitation, any lease, concession, or license) in which the City gives to another party the exclusive use of City Property for a term exceeding twenty-nine (29) consecutive days in any calendar year, whether by single or cumulative instruments, except as specifically set forth in the HCAO or these implementing Regulations. If cumulative instruments cause the term of the agreement to exceed twenty-nine (29) consecutive days, the agreement in question shall be subject to the HCAO only on and after the effective date of the instrument which causes the term to exceed twenty-nine (29) consecutive days. For the purposes of this definition, “exclusive use” means the right to use or occupy real property to the exclusion of others, subject to the rights reserved by the party granting such exclusive use. “Lease” includes “Lease Amendment.”

“Lease Amendment” means a modification to a Lease that extends the term or materially changes any other provision of the Lease, but does not include a one-time extension of the term of a Lease for up to 6 months, or relocation of the leased premises at the request of the City for its benefit or convenience (as determined by the OLSE Director).

“Nonprofit Corporation” means a nonprofit corporation, duly organized, validly existing, and in good standing under the laws of the jurisdiction of its incorporation and (if a foreign corporation) in good standing under the laws of the State of California, which corporation has established and maintains valid nonprofit status under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and all rules and regulations promulgated under such Section.

“OLSE” is an abbreviation for Office of Labor Standards Enforcement.

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

“Subcontract” means an agreement between a Contractor and a person or entity pursuant to which the person or entity agrees to perform all or a portion of the services covered by a Contract, except as specifically set forth in the HCAO or these implementing Regulations.

“Subcontractor” means a person or entity that enters into Subcontract.

“Sublease” means any agreement with any person or entity for the exclusive right to occupy or use all or any portion of City Property covered by a Lease, except as specifically set forth in the HCAO or these implementing Regulations. For the purposes of this definition, “exclusive use” means the right to use or occupy real property to the exclusion of others, subject to the rights reserved by the party granting such exclusive use.

“Subtenant” means a person or entity that enters into a Sublease.

“Tenant” means the person or entity that enters into a Lease with the City.

“Week” means a consecutive seven-day period. If the Contracting Party’s regular pay period is other than a seven-day period, the number of hours worked by an Employee during a seven-day Week for purposes of the HCAO shall be calculated by adjusting the number of hours actually worked during the Contracting Party’s regular pay period to determine the average over a seven day Week. However, such period of averaging shall not exceed a duration of one month.

**REGULATION 1: GENERAL APPLICABILITY OF HCAO TO ALL AGREEMENTS
WITH THE CITY**

1.1 General Applicability

An agreement is covered by the HCAO if it meets the definition of “Contract” found in § 121.2.4 of the HCAO, or of a “Lease” as set forth in § 121.2.13 of the HCAO. Unless specifically exempted, the agreements that are covered by the HCAO include the following:

- (A) Contracts.** The HCAO applies to Contracts between the City and County of San Francisco and third parties, under which the Contractor performs services, or constructs public improvements for the City.
- (B) Leases.** The HCAO applies to Leases of City property for a term of 29 consecutive days or more in any calendar year, whether established by single or cumulative agreements.
- (C) Tenant Contracts.** The HCAO applies to Contracts between a Tenant and third parties to perform services on the property covered by the Lease.
- (D) Subcontracts and Subleases.** The HCAO generally applies to Subcontracts and Subleases. The applicability rules are set forth in more detail in Regulation 7.
- (E) Amendments.** The HCAO will often apply to a Contract or a Lease once it has been amended. The specific rules for Amendments are set forth in Regulation 4.4.

See Regulation 5 for Exemptions to the HCAO.

1.2 Presumption of Coverage

An agreement is presumed to be covered by the HCAO. The Contracting Department shall incorporate the language set forth into all agreements unless the OLSE has made a determination that the HCAO does not apply, in accordance with the HCAO and these implementing Regulations.

1.3 Contract with No Covered Employees

If a Contracting Party is not subject to the HCAO because none of its Employees works the requisite hours to be considered a Covered Employee, the Contracting Party need not provide the HCAO benefits to any Employees. However, the Contracting Party must include the HCAO provisions in any Subcontracts.

REGULATION 2: HEALTH CARE ACCOUNTABILITY ORDINANCE
REQUIREMENTS

2.1 Contracting Party Compliance

Each Contracting Party that enters into a Contract, Subcontract, Lease, or Sublease shall abide by one of the Health Care Accountability options.

2.2 Contracting Party Required to Post Notice

Contracting Parties must post written notice about its HCAO obligations in a conspicuous place at any workplace or job site where any Employee works and where work under a Contract is performed. The posting must be in English, Spanish, Chinese, and any other language spoken by at least five percent of the Employees at the workplace or job site. (Appendix C)

2.3 Contracting Party Responsible for Subcontractor

Contracting Parties shall be responsible for ensuring that their Subcontractors and Subtenants comply with the HCAO and shall include relevant HCAO language in any Subcontracts and Subleases. The City may take enforcement action against the Contracting Party for the noncompliance of the Subcontractor and/or Subtenant, as authorized under the HCAO. See also Regulation 7: Subcontractors and Subleases.

2.4 HCAO Requirements for Covered Employees who Reside or Provide Services in San Francisco

With respect to each Covered Employee who either resides in San Francisco (regardless of where the Covered Employee provides services) or provides services covered by the HCAO in San Francisco, or at the San Francisco Airport or at the San Bruno Jail, each Contracting Party shall choose one of the following, at the Contracting Party's option:¹

(A) Offer a Health Plan Meeting Minimum Standards

Contracting Parties must offer Covered Employees health plan benefits that meet the “Minimum Standards” prepared by the Health Director and approved by the Health

¹ Section 121.3(a)(3) of the HCAO anticipated that Contracting Parties would have a third option to choose in order to satisfy their HCAO obligations. The HCAO requires the Health Director to develop a health benefits program that meets certain criteria, including economic viability. The HCAO provides that Contracting Parties may choose to participate in this program when it becomes available. However, the Health Director has explored in depth the development of this option but was not able to create a new program expressly for HCAO participants that would be economically viable. Therefore, Contracting Parties must choose one of the two options set forth in the HCAO and these implementing regulations, offering at least one health plan that meets the “Minimum Standards” or paying the required fee.

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

Commission. (See Appendix A.) Pursuant to Section 121.3(a)(1) of the HCAO and Regulation 121.2(A), these Minimum Standards may be adjusted by the Health Commission and the Board of Supervisors as necessary, and Contracting Parties are obligated to keep informed of the current standards by reviewing the postings at www.sf.gov/olse-hcao.

A Contracting Party makes an “offer” of a Health Plan within the meaning of the HCAO only if the Contracting Party complies with the requirements of Regulation 3.2 with respect to obtaining the “HCAO Know Your Rights & Voluntary Waiver Form.” (See Appendix D.)

Contracting Parties must offer a health plan meeting the Minimum Standards that provides coverage which becomes effective no later than the first of the month that begins after 30 days from the Covered Employee’s first day of work on a covered Contract, Subcontract, Lease or Sublease.

A Contracting Party offering a Health Plan that does not become effective until after the first of the month that begins after thirty (30) days from the Covered Employee’s first day of work is not in compliance with the HCAO unless it pays the fee described in subsection (B) below for the period beginning with the Covered Employee’s first day of work through the date the Health Plan becomes effective;

or

(B) Make Payments to the City

For each week in which the Covered Employee works the applicable minimum number of hours set forth in §121.2.9(a), the Contracting Party must pay to the Department of Public Health \$3.00 per hour² for each hour the Covered Employee is employed by the Contracting Party on a Contract or Subcontract or on property covered by a Lease, but not to exceed \$120.00 in any week. Pursuant to Section 121.3(a)(2) of the HCAO and Regulation 121.2(B), beginning with fiscal year 2009-2010, and each following year, the Health Director shall propose adjustments to the hourly rate and weekly maximum fee provided in this Section, based on changes since the prior year in the Bureau of Labor Statistics Consumer Price Index for Medical Care in the San Francisco Bay Area or average Health Maintenance Organization (HMO) premiums in California. The Health Director shall submit the proposed adjustments to the Controller by March 1. The Controller shall make appropriate adjustments to the hourly rate and weekly maximum fee without further action by the Board of Supervisors. The adjusted hourly rate and

² Effective July 1, 2009, per 2009 amendments to the HCAO. (The previous rate was \$2.80 per hour, not to exceed \$112.00 per week.)

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

weekly maximum fee shall take effect on July 1. Contracting Parties are obligated to keep informed of the current rates by reviewing the postings at www.sf.gov/olse-hcao.³

Each payment shall cover all the hours worked in the previous month and be sent, with the HCAO Payment Option Form (Appendix B), to the Accounting Department of the Department of Public Health by the 15th of the following month to the address indicated on the payment form.

2.5 HCAO Requirements for Covered Employees who reside Outside of and do not Provide Services in San Francisco

With respect to each Covered Employee who neither resides in San Francisco nor provides services in San Francisco, at the San Francisco Airport or at the San Bruno Jail, each Contracting Party shall choose one of the following, at the Contracting Party's option:

(A) Offer a Health Plan Meeting Minimum Standards

Contracting Parties must offer Covered Employees health plan benefits that meet the "Minimum Standards" prepared by the Health Director and approved by the Health Commission. Pursuant to Section 121.3(a)(1) of the HCAO and Regulation 121.2(A), these Minimum Standards may be adjusted by the Health Commission and the Board of Supervisors as necessary, and Contracting Parties are obligated to keep informed of the current standards by reviewing the postings at www.sf.gov/olse-hcao.

A Contracting Party makes an "offer" of a Health Plan within the meaning of the HCAO only if the Contracting Party complies with the requirements of Regulation 3.2 with respect to obtaining the "HCAO Know Your Rights & Voluntary Waiver Form."

Contracting Parties must offer a health plan meeting the Minimum Standards that provides coverage which becomes effective no later than the first of the month that begins after 30 days from the Covered Employee's first day of work on a covered Contract, Subcontract, Lease or Sublease.

A Contracting Party offering a Health Plan that does not become effective until after the first of the month that begins after thirty (30) days from the Covered Employee's first day of work is not in compliance with the HCAO unless it pays the fee described in subsection (B) below, for the period beginning with the Covered Employee's first day of work through the date the Health Plan becomes effective;

³ Prior to the 2009 amendments to the HCAO, this section read, in part, "this payment rate may be adjusted by the Board of Supervisors as necessary"

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

or

(B) Make Payments to the Covered Employee

For each week a Covered Employee works the applicable minimum number of hours per §121.2.9(a), the Contracting Party shall pay to the Covered Employee an additional \$3.00⁴ per hour for each hour the Covered Employee is employed by the Contracting Party on the Contract or Subcontract or on property covered by a Lease, but not to exceed \$120.00 in any week, to enable the Employee to obtain health insurance coverage. Pursuant to Section 121.3(a)(2) of the HCAO and Regulation 121.2(B), beginning with fiscal year 2009-2010, and each following year, the Health Director shall propose adjustments to the hourly rate and weekly maximum fee provided in this Section, based on changes since the prior year in the Bureau of Labor Statistics Consumer Price Index for Medical Care in the San Francisco Bay Area or average Health Maintenance Organization (HMO) premiums in California. The Health Director shall submit the proposed adjustments to the Controller by March 1. The Controller shall make appropriate adjustments to the hourly rate and weekly maximum fee without further action by the Board of Supervisors. The adjusted hourly rate and weekly maximum fee shall take effect on July 1. Contracting Parties are obligated to keep informed of the current rates by reviewing the postings at www.sf.gov/olse-hcao.⁵

Payment must be made no later than the first of the month that begins after 30 days from the Covered Employee's first day of work on a covered Contract, Subcontract, Lease or Sublease.

2.6 For any period in which the Contracting Party was required to offer a health plan meeting the Minimum Standards or to pay the fee but failed to do so, the Contracting Party shall be subject to the enforcement actions and remedies set for in Regulations 9 and 10.

⁴ Effective July 1, 2009, per 2009 amendments to the HCAO. (The previous rate was \$2.80 per hour, not to exceed \$112.00 per week.)

⁵ Prior to the 2009 amendments to the HCAO, this section read, in part, "this payment rate may be adjusted by the Board of Supervisors as necessary"

REGULATION 3: COVERED EMPLOYEES

3.1 Definition of Covered Employee

- (A) A Covered Employee includes⁶:
- (1) An Employee who works on a City Contract or Subcontract for 20 hours or more per week:
 - (a) Within the geographic boundaries of the City; or
 - (b) On real property owned and controlled by the City, but outside the geographic boundaries of the City; or
 - (c) Elsewhere in the United States; and
 - (2) An Employee of a Tenant or Subtenant who works 20 hours or more per week on property that is covered by a Lease or Sublease; and
 - (3) An Employee of a Contracting Party or Subcontractor that has a Contract or Subcontract to perform services on property covered by a Lease or Sublease if the Employee works 20 hours or more per week on the property.
- (B) Employees whose work hours fluctuate from week to week are Covered Employees if the average number of hours worked per week during the applicable month is 20 hours or more.
- (C) An Employee may be a Covered Employee regardless of whether s/he is seasonal, permanent or temporary, full-time or part-time, exempt or non-exempt, salaried or hourly, or contracted or commissioned.

3.2 HCAO Know Your Rights & Voluntary Waiver Form

- (A) Notice to the Covered Employee of his/her rights under the HCAO must be provided in the form prescribed by the OLSE within the first pay period in which an Employee becomes a Covered Employee. (See Appendix D.)

⁶ Effective May 31, 2009, per 2009 amendments to the HCAO. (The previous threshold for a Covered Employee was 15 hours or more per week)

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

(B) A Covered Employee may reject the Contracting Party’s offer of health plan benefits; however, a rejection is valid only if the Contracting Party retains the OLSE’s “HCAO Know Your Rights & HCAO Employee Voluntary Waiver Form,” signed by the Covered Employee. (Appendix D.) As indicated on the form, the Covered Employee must verify that s/he is receiving medical coverage.

(C) Failure to obtain and keep records of a valid HCAO Employee Voluntary Waiver Form shall create a legal presumption that the Contracting Party has not offered a health plan meeting the Minimum Standards.

(D) The HCAO Employee Voluntary Waiver Form shall be valid for one year. Forms may be distributed during open enrollment.

(E) Employees reserve the right to revoke their voluntary waiver at any time; however, the revocation must be submitted in writing.

3.3 Contract with an Individual or a Sole Proprietor

If a Contracting Party is an individual or a sole proprietor, the Contracting Party is not obligated to provide the benefits to himself or herself. However, the Contracting Party must include the relevant HCAO language in any applicable Subcontracts.

3.4 Exempt Employees

Notwithstanding Regulation 3.1 above, the following Employees shall not be considered Covered Employees:

(A) Students

- (1)** Any Employee under the age of eighteen (18) who is a student, provided that the Employee does not replace, displace or lower the wage or benefits of any existing position or Employee; or
- (2)** An Employee hired for a time-limited period, during which s/he is receiving academic credit or completing mandatory hours for professional licensure or certification, and who does not replace, displace or lower the wage or benefits of an existing position or Employee.

(B) Trainees

Any Employee employed as a trainee in a bona fide training program consistent with Federal law, which training program enables the Employee to advance into a permanent

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

position, provided that the Employee does not replace, displace or lower the wage or benefits of any existing position or Employee.

The exemption shall apply to workers who are in training programs at a Nonprofit Corporation if the training is:

- (1) subsidized by public funds from the federal, state, and/or local level, which funds are designated for training, workforce development, job readiness or similar purposes; and
- (2) limited in duration as appropriate to the occupation for which the individual is being trained, taking into account the content of the training, and the prior work experience of the trainee.

A training program qualifies for this exclusion whether or not the program is training the Employee to advance into a permanent position for the Nonprofit Corporation, or for another employer.

(C) Employees of Contracting Parties Subject to Prevailing Wage Requirements

Any Employee to whom the Contracting Party is required to pay no less than the “prevailing rate of wage” in accordance with § A7.204 of Appendix A to the City’s Charter or §§ 6.22(E), L.E.C. Article 102, or any other provision of the San Francisco Administrative Code or L.E.C.

(D) Disabled Workers

Any disabled Employee who:

- (1) is covered by a current sub-minimum wage certificate issued to the Contracting Party by the U.S. Department of Labor; or
- (2) would be covered by such a certificate but for the fact that the Contracting Party is paying a wage equal to or higher than the federal minimum wage.

(E) Temporary Replacement Employees of Nonprofit Corporations

Any Employee of a Nonprofit Corporation who is a temporary Employee, hired on an hourly or per diem basis to replace a regular Employee during a temporary absence from the workplace.

REGULATION 4: RESPONSIBILITIES OF CONTRACTING DEPARTMENTS

4.1 HCAO Contractor Compliance Declaration Form

The HCAO Contractor Compliance Declaration Form was developed to establish a procedure for obtaining assurance that firms interested in doing business with the City will comply with the HCAO, if applicable, and ensure that any subcontractors subject to the HCAO will also comply. (See Appendices E & F.)

The Purchasing Division of the Office of Contract Administration (OCA) requires that firms complete a Vendor Profile Package, which includes the HCAO Declaration Form, in order to be listed in the vendor database. More information regarding OCA requirements may be obtained from its website: www.sf.gov/oca.

If a firm has signed the HCAO Declaration, the Purchasing Division of the OCA and the Contracting Department may assume that the firm is aware of and familiar with its obligations under the HCAO.

4.2 Procedure for Requests for Proposals (RFP)

Vendor selection is often made by the Contracting Department, the City department receiving the contracted service, using a Request for Proposal process.

A Request for Proposal (“RFP”) is presumed to be covered by the HCAO and must incorporate the standard HCAO language contained in the Model RFP (Form P-590) unless the OLSE has provided written confirmation to the Contracting Department that the RFP is exempt from the requirements of the HCAO, or that the requirements have been waived.

The Contracting Department shall submit the HCAO Exemption and Waiver Request to the OLSE to request the OLSE’s approval to omit the language regarding the HCAO requirements from the RFP.

Whenever feasible, the Contracting Department shall take all steps necessary to submit the HCAO Exemption and Waiver Request before the RFP issues, rather than after the Contracting Party has been selected and the Contract is ready to be executed.

4.3 Contracting Department’s Obligations Regarding Contract Language

The Contracting Department shall incorporate the HCAO contract language into all agreements subject to the HCAO. In addition, every Contract, Contract Amendment, Lease and Lease

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

Amendment entered after January 1, 2006, shall contain provisions in which the Contracting Party agrees:

- (A) To be liable to the City for liquidated damages as provided in § 121.5.1;
- (B) To be subject to the procedures governing enforcement of a breach of the terms of the Contract, Contract Amendment, Lease, or Lease Amendment, as set forth in § 121.5.2;
- (C) That the commitment of the Contracting Parties to comply with the requirements of the HCAO is a material element of the City's consideration for the agreement and that the failure of a Contracting Party to comply will cause significant and substantial harm to the City and the public, which is extremely difficult to determine or quantify, and that the liquidated damages provided in § 121.5.1 are reasonable amounts to pay for the harm caused by the Contracting Party's non-compliance;
- (D) That for failure to comply with the requirements of the HCAO, the OLSE may require the Contracting Party to pay to the City liquidated damages of up to one hundred dollars (\$100) for each one week pay period for each Covered Employee for whom the Contracting Party has either not offered health plan benefits meeting the Minimum Standards or made payments as required by § 121.3. The OLSE shall adjust this amount proportionately for Contracting Parties that use a pay period other than one week;
- (E) That for any failure to provide reports, to provide access to pertinent records, or to cooperate with any audit, inspection or investigation conducted by the OLSE, the OLSE may require the Contracting Party to pay the City liquidated damages of up to one thousand dollars (\$1000.00); and
- (F) That while liquidated damages in the maximum amounts set forth above are a reasonable estimate of the harm caused by the Contracting Party's non-compliance with contractual provisions required by the HCAO, the OLSE may determine that less than the full amount is warranted depending on the circumstances of each case. The OLSE shall give due consideration to the following factors in determining the amount of liquidated damages: the size of the Contracting Party's business; the Contracting Party's good faith; the gravity of the violation; the history of previous violations; the failure to comply with record keeping, reporting and anti-retaliation requirements; and the extent to which the imposition of liquidated damages would undermine the purpose of the HCAO by imposing unreasonable financial burdens on the Contracting Party, thereby restricting its ability to fulfill its obligation under the HCAO.

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

4.4 Amendments to Contracts and/or Leases

(A) Contract Amendment

Where a modification to an agreement extends the term, increases the total amount of payments due from the City (except where such increase is due solely to cost of living adjustments), or modifies the scope of services to be performed by the Contractor and the resulting agreement falls within the definition of "Contract," the Contracting Department shall incorporate into the amended agreement the standard HCAO contract language.

Notwithstanding the above, this requirement does not apply to a onetime extension of the term of a Contract for up to six months, a construction change order, modification, or an amendment to a Contract executed by the City for its benefit (as determined by the OLSE Director).

(B) Lease Amendment

Where a modification to a property agreement extends the term or materially changes any other provision of the agreement, the Contracting Department shall incorporate into the amended agreement the standard HCAO contract language.

Notwithstanding the foregoing, this requirement does not apply to a one-time extension of the term of a Lease for up to six months or a relocation of the leased premises at the request of the City for its benefit or convenience (as determined by the OLSE Director).

4.5 Contracting Department's Recordkeeping Responsibilities

Contracting Departments shall maintain the following records for at least four years after the expiration of an agreement that is subject to the HCAO:

- Contracting Party's written documentation of the number of Employees, in original form, if provided for purposes of qualifying for the exemption for small employers outlined in Regulation 5.2(A); and
- Contracting Party's Exemption and Waiver Request, with the OLSE determination documented on such original form; and, applicable,
- Contracting Party's signed HCAO Declaration Form, in original form.

4.6 Contracts with Nonprofit Corporations

When preparing proposed budgets and requests for supplemental appropriations for contractual services, Contracting Departments that regularly enter into agreements for the provision of services by Nonprofit Corporations shall transmit with their proposal a written confirmation that

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

the Department has considered in its calculation the projected costs of compliance with the HCAO.

Contracting Parties are required to comply with the HCAO notwithstanding a Contracting Department's failure to comply with this directive.

4.7 Model Agreements and HCAO Forms

The following Model Agreements and HCAO Forms have been approved for use by the OLSE. Contracting Departments are responsible for ensuring the use of these forms, which City departments have access to through the City's Intranet.

Model Agreements

- Form P-500: Professional Service Contract
- Form P-542: Software Development Agreement
- Form P-550: Contract Amendment
- Form P-590: Request for Proposal
- Form P-250: Purchase Order

HCAO Forms

- Form P-50: HCAO Declaration Form
- Form P-365: HCAO Exemption and Waiver Request

The Office of Contract Administration may revise these forms from time to time without amending these regulations.

REGULATION 5: EXEMPTIONS

5.1 Exemption Procedures

If a Contracting Department determines that an agreement may be exempt from the HCAO requirements, it shall submit a request for exemption to the OLSE using the HCAO Exemption and Waiver Request (Form P-365). The Contracting Department shall submit any required documentation it has received from the Contracting Party with the Exemption and Waiver Request.

If the OLSE agrees that an agreement is exempt, the OLSE Director or his/her designee shall approve and process the Request. Such approval shall apply only to the specific agreement to which the Request is directed and shall not affect any other agreements.

If the OLSE denies the Request, the OLSE shall notify the Contracting Department. Thereafter, the Contracting Department shall process the agreement as a Contract subject to the HCAO, or seek another Contracting Party.

Where the determinations made by the Contracting Department and the OLSE differ, the OLSE's determination shall prevail.

A prospective Contracting Party may request that the Contracting Department consider whether an exemption may be appropriate, and the Contracting Department shall use the procedure outlined above to obtain approval for the Request.

5.2 Contract Exemptions

(A) Agreements with Contracting Parties That Do Not Meet the Employee Threshold

If, at the time an agreement is executed, the employer has 20 or fewer employees (or, in the case of a Nonprofit Corporation, 50 or fewer employees), including any employees the employer plans to hire to implement the agreement, the employer shall not be obligated to provide the Health Care Accountability Components in § 121.3 to its Covered Employees.

In determining the number of employees an employer has, all Employees of all parent and subsidiaries that own or control the employer, plus any subsidiaries owned or controlled by the employer shall be included. In determining whether an employer has 21 or more Employees, the employees of any subcontractor(s) shall not be counted. Likewise, in determining whether the subcontractor has 21 or more Employees, the employees of the prime contractor shall not be counted. (See § 121.3(e).)

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

If the employee threshold is not met, the employer shall not be obligated to provide the Health Care Accountability outlined in § 121.3 to its Covered Employees, but shall nonetheless be required to include the Health Care Accountability Components in any applicable Subcontracts.

- (1) The employer must provide written documentation of the number of employees it employs and the number of employees it plans to hire to implement the agreement in order to qualify for this exemption. A letter on the employer's letterhead, signed by an officer who is authorized to legally bind the entity, shall be sufficient.

(B) Agreements for Less Than One Year

Agreements for a duration of less than one (1) year shall be exempt from the requirements of the HCAO. Contracting Departments, Tenants, and Subtenants are prohibited from entering into multiple contracts of shorter duration with the proposed Contractor in order to evade the requirements of the HCAO.

(C) Agreements for the Purchase or Lease of Goods

Agreements for the purchase or lease of goods, or for guarantees, warranties, shipping, delivery, or installation or maintenance of such goods shall not be subject to the HCAO.

- (1) Where an agreement clearly differentiates the Contract's "service" and "products/goods" components in the budget, the agreement shall not be deemed a "Contract" if the preponderance, i.e., more than 50 percent of the total cost, is for goods.
- (2) Where an agreement does not differentiate between the "service" and "products/goods" components, the Contracting Department shall make a determination whether the agreement is primarily for goods or services. The Department shall consider the general nature of the agreement and apportion the total cost among "products/goods" and "services." If the services portion of the agreement accounts for more than 50% of the total cost, the agreement is a services Contract subject to the requirements of the HCAO.

The HCAO shall apply to the service component only if the dollar amount of such component meets the HCAO's \$25,000 threshold (\$50,000 for Nonprofit Corporations).

The Department's determination shall be subject to review by the OLSE.

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

(D) Agreements Entered Into Pursuant to Settlement of Legal Proceedings

Agreements entered into pursuant to settlement of legal proceedings shall be exempt from the requirements of the HCAO.

(E) Agreements for Specialized Litigation Advice

Agreements for urgent or specialized advice, consultation, or litigation services for the City Attorney's Office shall be exempt from the requirements of the HCAO.

The City Attorney shall determine whether an agreement is for such services, and whether it would be in the best interests of the City to exempt such an agreement from the requirements of the HCAO.

(F) Agreements That Do Not Meet the Aggregate Monetary Threshold

Agreements for which the amount is \$25,000 or less shall be exempt from the HCAO. For Nonprofit Corporations, this threshold amount is \$50,000.

However, if a Contracting Party has multiple agreements with the City in a given fiscal year (which agreements would be considered "Contracts" under the HCAO except that the individual dollar amounts are below the thresholds set forth in the preceding sentence) and the cumulative amount of such agreements is \$75,000 or more, the requirements of the HCAO shall apply to each such agreement from the date on which the triggering Contract is executed.

(G) Agreements involving Trust Assets

Agreements for the investment, management, or use of trust assets shall be exempt from the requirements of the HCAO where compliance would violate the fiduciary duties of the trustee.

(H) Agreements Entered into Prior to the Effective Date of the HCAO

Agreements entered into prior to July 1, 2001 shall be exempt from the requirements of the HCAO, unless and until a Contract Amendment is executed.

(I) Agreements Executed after the Effective Date of the HCAO

Agreements executed after July 1, 2001 pursuant to, and within the scope of, bid packages or requests for proposals advertised and made available to the public prior to July 1, 2001, unless the bid packages or requests for proposals are materially amended on

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

or after July 1, 2001, shall be exempt from the requirements of the HCAO, unless and until a Contract Amendment is executed.

(J) Agreements involving Special Fund Expenditures

Agreements involving the expenditure by the City of special funds or other non-General Fund revenues shall be exempt from the requirements of the HCAO to the extent that the application of the HCAO would require the City to use General Fund monies to supplement the special funds or other non-General Fund revenues to maintain the current level of services.

(K) Agreements involving Grant Funds Awarded to the City

Agreements that require the expenditure of grant funds awarded to the City by another entity, whether public or private, shall be exempt from the requirements of the HCAO. If an agreement is funded both by grant funds and non-grant funds, the entire agreement shall be exempt, provided, however, that if use of the grant funds is severable from the non-grant funds, the Contract shall be exempt only with respect to the use of the grant funds.

(L) Agreements involving Grants to Nonprofit Corporations

Agreements pursuant to which the City awards a grant to a Nonprofit Corporation shall be exempt from the requirements of the HCAO.

If the agreement meets all of the following criteria, it is a grant exempt from the HCAO under this exception:

- (1) The grantee is a Nonprofit Corporation which serves the public interest;
- (2) The grantee is selected through a grant application and award process;
- (3) The agreement does not involve the acquisition of goods or services for the direct benefit or use of the City; and
- (4) The agreement does not involve the contracting out of, or delegation of the responsibility for, any services that have at any time been performed by City employees.

If a Contracting Department believes that an agreement does not meet all of these criteria but nonetheless constitutes a grant, it may request a determination by the OLSE. The request shall include information supporting the Department's position that the agreement is a grant.

(M) Agreements with Public Entities

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

Agreements with public entities shall not be subject to the HCAO, unless the public entity is the San Francisco Redevelopment Agency, the San Francisco Local Agency Formation Commission, the San Francisco Transportation Authority, the San Francisco Parking Authority, or the San Francisco Health Authority.

(N) Agreements for Employee Benefits to be Provided to City Employees

Agreements for employee benefits to be provided to City employees shall be exempt from the requirements of the HCAO where the Director of Human Resources finds that no person or entity is willing to comply with the HCAO and is capable of providing the required employee benefits.

(O) Agreements for the Investment, Management, or Use of City Monies

Agreements for the investment, management, or use of City monies shall be exempt from the requirements of the HCAO where the Treasurer finds that requiring compliance with the HCAO will violate the Treasurer's fiduciary duties. Agreements for the investment of retirement, health, or other funds held in trust pursuant to Charter, statute, ordinance, or MOU shall also be exempt where the official or officials responsible for investing or managing such funds find that requiring compliance with the HCAO will violate their fiduciary duties.

(P) Agreements in which the City is Acting as Creditor or Grantor

Loan and grant agreements made in connection with loans or grants under which the City, as creditor or grantor, is providing funds to be used by a debtor or grantee to

- (1) acquire an interest in real property on which residential improvements for low- or moderate-income households will be constructed; or
- (2) construct improvements owned or leased by the debtor or grantee, on condition that residents of the improvements qualify as low- or moderate income households; or
- (3) rehabilitate improvements owned or leased by the debtor or grantee

shall be exempt from the requirements of the HCAO.

(Q) Agreements Entered into by a Tenant or Subtenant

Agreements between a Tenant or Subtenant and a Contractor to perform services on property covered by a Lease shall be exempt from the requirements of the HCAO if the

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

Contractor does not provide such services on a regular and on-going basis. For purposes of this exemption, if Employees of the Contractor and any Subcontractor cumulatively work on the Lease property less than 130 days within a 12-month period, the agreement shall not be considered regular and on-going.

5.3 Lease Exemptions

- (A)** Agreements granting a franchise or easement;
- (B)** Agreements with a public entity, unless the public entity is the San Francisco Redevelopment Agency, the San Francisco Local Agency Formation Commission, the San Francisco Transportation Authority, the San Francisco Parking Authority or the San Francisco Health Authority;
- (C)** Agreements entered into pursuant to the settlement of legal proceedings;
- (D)** Revocable at-will use or encroachment permits for the use of or encroachment on City property, regardless of the ultimate duration of such permits;
- (E)** Street excavation, street construction, or street use permits or other regulatory permits;
- (F)** Agreements for the use of a City right-of-way, including circumstances where a contracting utility has the power of eminent domain;
- (G)** Agreements governing the use of City property under the jurisdiction of the Recreation and Park Department primarily for recreational activities.

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

REGULATION 6: WAIVERS

Pursuant to §121.6(a), the OLSE Director or his/her designee shall waive the requirements of the HCAO when the Contracting Department has provided justification meeting the requirements set forth in the HCAO and these implementing Regulations.

6.1 Waiver Procedures

If a Contracting Department determines that an agreement may qualify for a waiver from the HCAO requirements, it shall submit to the OLSE the Exemption and Waiver Request (Form P365) and certify in writing that the agreement meets the requirements for the particular waiver. The Contracting Department shall submit a written explanation as to why the requirements of the HCAO should be waived by the OLSE and provide any supporting documentation it has received from the Contracting Party.

If the OLSE agrees with the Waiver Request, the OLSE Director or his/her designee shall approve and process the Request. Such approval shall apply only to the specific agreement to which the Request is directed and shall not affect any other agreements.

If the OLSE denies the Request, the OLSE shall notify the Contracting Department. Thereafter, the Contracting Department shall process the agreement as a Contract subject to the HCAO, or seek another Contracting Party.

Where the determinations made by the Contracting Department and the OLSE differ, the OLSE's determination shall prevail.

A prospective Contracting Party may request that the Contracting Department consider whether a waiver may be appropriate, and the Contracting Department shall use the procedure outlined above to obtain approval for the Request.

6.2 Applicability of Waiver

The HCAO sets forth the following instances in which an agreement may qualify for a waiver from the application of the HCAO's provisions:

(A) Sole Source

If the needed service, project or property arrangement under the Contract or Lease is available only from a sole source, and the prospective Contracting Party is not disqualified from doing business with the City or other government agency, the OLSE shall waive the requirements of the HCAO. The Contracting Department shall perform

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

all investigation necessary to establish these facts and shall submit its findings in writing to the OLSE.

(B) Emergency Waiver

Labor and Employment Code (L.E.C.) Chapters 6 and Article 102 (formerly codified as Administrative Code Section 21C) set forth procedures and rules for the execution of agreements to respond to an emergency that endangers the public health or safety. If an agreement meets the requirements set forth in either article and there is no Contracting Party capable of responding to the emergency that is also willing to comply with the HCAO, the OLSE shall waive the requirements of the HCAO.

(C) Essential Service Waiver

If there are no qualified responsive bidders or prospective Contracting Parties that comply with the requirements of the HCAO, and the agreement is for a service, lease or project that is essential to the City or the public, the OLSE shall waive the requirements of the HCAO.

(D) Public Interest

If the public interest warrants the granting of the waiver because application of the HCAO would constitute an adverse impact on services or cause an unreasonable adverse financial impact on the City, the OLSE shall waive the requirements of the HCAO.

(E) Bulk Purchasing Waiver

If the services to be purchased under a contract are available under a bulk purchasing arrangement with a federal, state, or local governmental entity, if the purchase under such an arrangement will substantially reduce the City's cost of purchasing services, and if the purchase is in the best interest of the City or the public, the OLSE shall waive the requirements of the HCAO.

(F) Special Waiver by the Public Utilities Commission

The General Manager of the Public Utilities Commission may waive the requirements of the HCAO where a Contracting Party or Subcontractor is providing to or on behalf of the San Francisco Public Utilities Commission services relating to:

- (1)** The provision, conveyance or transmission of wholesale or bulk water, electricity or natural gas; or

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

(2) Ancillary requirements such as spinning reserve, voltage control, or loading scheduling, as required for ensuring reliable services in accordance with good utility practice; provided, however:

(a) The purchase of such services may not practically be accomplished through the City's standard competitive bidding procedures; and

(b) The Contracting Party or Subcontractor is not providing direct, retail services to end users within the geographic boundaries of the City.

(G) Waiver Through Collective Bargaining

All or any portions of the applicable requirements of the HCAO may be waived pursuant to a bona fide collective bargaining agreement, provided that such waiver is explicitly set forth in such collective bargaining agreement in clear and unambiguous terms.

6.3 Waivers Effective for the Duration of the Contract or Lease

Each waiver shall be effective for only the duration of the Contract or Lease. If the Contract or Lease is amended, the Contracting Party shall include the HCAO requirements unless the OLSE issues a waiver. Subsequent waivers may be requested, and a new determination shall be made without any regard to any previous determination(s).

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

REGULATION 7: SUBCONTRACTS and SUBLEASES

7.1 Unless exempt, Subcontracts and Subleases executed by Contracting Parties are subject to the requirements of the HCAO. See also Regulation 2.3: Contracting Party Responsible for Subcontractor.

7.2 Subcontract or Sublease with an Individual or a Sole Proprietor

A Subcontractor or Subtenant that is an individual who performs services directly and does not hire any Employees shall have no obligations to comply with the HCAO.

7.3 Notice to City

The Contracting Party must notify the Contracting Department within 30 days of entering into an agreement with any Subcontractors to perform services covered by the HCAO and certify to the Contracting Department that it has notified the Subcontractors of their obligations under the HCAO, using the Subcontractor Information Form (Appendix F).

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**
**REGULATION 8: RECORDKEEPING, REPORTING, PROHIBITIONS, AND OTHER
CONTRACTUAL OBLIGATIONS**

8.1 Obligations of Contracting Parties

Each Contracting Party that enters into a Contract, Subcontract, Lease, or Sublease shall agree to comply with the requirements of the HCAO and its implementing regulations

A Contracting Party must also represent and warrant that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

8.2 Recordkeeping

Contractors, Subcontractors, Tenants, and Subtenants shall maintain records documenting personnel information and providing evidence of compliance with the HCAO. Contracting Parties shall make these records available for inspection by the City. Pursuant to California Labor Code § 1198.5, Contracting Parties shall also permit current or former employees to inspect or copy records pertaining to that individual Covered Employee.

(A) Contracting Parties shall maintain, and shall require Subcontractors or Subtenants covered by the HCAO to maintain, Employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each Employee has worked on a City Contract or Subcontract.

(1) Employee and/or payroll records must also contain the following information:

- (a)** Name;
- (b)** Address;
- (c)** Date of hire;
- (d)** Date of termination;
- (e)** Job classification;
- (f)** Rate of pay;
- (g)** Hours worked on a Contract or property subject to a Lease, for each pay period in which an Employee qualified as a “Covered Employee”; and either
- (h)** Records of payments made to the City or Covered Employee, or
- (i)** Health insurance remittal forms with Employee names; and
- (j)** Materials from the health insurer documenting scope of coverage and Employee costs; and
- (k)** Copies of HCAO Know Your Rights & Voluntary Waiver Forms and any related correspondence.

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

- (2) Where a Covered Employee has signed a waiver declining health coverage offered by the Contracting Party, the Contracting Party shall maintain in Employee records the supporting documentation specified in Regulation 3.2(B).
- (3) Contracting Parties, Subcontractors, Tenants and Subtenants must maintain the records referred to in this Regulation for four years after the City's final payment on the Contract.

(B) If the Contracting Party fails to maintain records that accurately reflect the number of hours any Employee has worked on a Contract or property subject to a Lease, it shall be presumed that such Employee is a Covered Employee as defined in § 121.2.9(a).

8.3 Reporting

When requested by the OLSE, Contracting Parties shall submit periodic reports documenting their compliance with the HCAO. The OLSE shall prescribe the content of the reports.

8.4 Cooperation with OLSE Investigation and Enforcement

Contracting Parties shall cooperate with the OLSE when it requests a meeting, site visit, or documentation as part of its audit or investigation. Cooperation includes, but is not limited to:

- (A) Providing full access to job sites and Employees, so that the OLSE may monitor and determine compliance with the HCAO,
- (B) Providing copies of pertinent timesheets and payroll records relating to the number of Employees employed and terms of medical coverage provided, after receiving written request from the OLSE and being provided with at least ten (10) business days to respond, and
- (C) Providing copies of Employee policy manuals, and any other documents that would assist the OLSE in determining compliance with the HCAO.

8.5 Prohibition Against Splitting Employees' Time or Taking Other Actions to Avoid Employee Coverage

A Contracting Party may not divide an Employee's time between working on a City Contract and working on other duties, or take any other action with the intent of reducing the number of

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

Covered Employees working on the Contract and evading the intent of the HCAO. Such action shall constitute a violation of the HCAO.

8.6 Prohibition Against Retaliation and Discrimination

(A) A Contracting Party shall not discharge, reduce in compensation, or otherwise discriminate against any Employee for notifying the City regarding the Contracting Party's noncompliance or anticipated noncompliance with the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(B) Any adverse action taken by a Contracting Party against an Employee within ninety (90) days of the Employee's assertion of HCAO rights shall raise a rebuttable presumption that the act was taken in retaliation for exercising or one or more of the rights set forth in the HCAO. Such actions include, but are not limited to: filing a Complaint with the OLSE or a court alleging a violation of any provision of the HCAO, informing any person about a Contracting Party's alleged violation of the HCAO; cooperating with the OLSE or other persons in the investigation or prosecution of any alleged violation of the HCAO; opposing any policy, practice, or act that is unlawful under the HCAO; or informing any person of his or her rights under the HCAO.

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**
**REGULATION 9: OLSE MONITORING, INVESTIGATION AND ENFORCEMENT;
DETERMINATION OF VIOLATIONS; APPEAL PROCESS**

9.1 OLSE Investigation & Enforcement Authority

(A) The OLSE has the authority to monitor compliance, to conduct investigations, and to seek penalties for violations of the HCAO. The OLSE shall have the right to engage in random inspections of employment sites; to have access to workers and other witnesses; and to conduct audits of a Contracting Party's records as reasonably deemed necessary to determine compliance with the HCAO, including, but not limited to, Employee time sheets, payroll records, paychecks, and other documents described in these Regulations.

(B) The OLSE may order Contracting Parties who fail to comply with the HCAO to take appropriate corrective action to address violations of the HCAO. The OLSE shall not be limited to ordering the actions described below, but may order any other actions it deems necessary to correct the violation(s) committed. Where the OLSE has reason to believe that a violation has occurred, it may order any appropriate temporary or interim relief to mitigate the violation or maintain the status quo, pending completion of a full investigation or hearing. As further outlined in Regulation 10.1, the OLSE may take other appropriate enforcement actions to secure compliance, including initiating a civil action.

(C) The OLSE shall keep confidential, to the maximum extent permitted by applicable laws, the names and other identifying information of Complainants and witnesses involved in an investigation.

- (1) The OLSE shall make reasonable efforts to maintain the confidentiality of payroll information obtained in the course of handling Complaints, and shall disclose information only as necessary for enforcement purposes, or for purposes of complying with the Sunshine Act or other applicable public record laws.

9.2 OLSE Monitoring of Contracting Parties

The OLSE may consult with the Department of Public Health and/or any other City agency in conducting audits. Such audits shall be conducted through an examination of records at a mutually agreed upon time and location within ten (10) days of written notice by the OLSE.

The OLSE may require Contracting Parties to submit periodic reports regarding Covered Employees, including names, job classifications, and contact information.

9.3 OLSE Investigation of Administrative Complaints

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

- (A) Administrative Complaint Procedure.** Any person may file a Complaint alleging one or more violations of the HCAO. The OLSE shall have sole authority over the administration of the following Complaint procedure.
- (1)** Before beginning to investigate the Complaint, the OLSE shall determine if the allegations of the Complaint are sufficient and, based on that assessment, shall determine either to dismiss it or to proceed with an investigation;
 - (2)** If the OLSE determines at any time that the allegations contained in the Complaint are without merit, the OLSE shall dismiss the Complaint and notify the Complainant;
 - (3)** If the OLSE finds that any allegations in the Complaint have merit, the OLSE shall investigate the matter.

9.4 Notice of Possible HCAO Violation(s)

- (A)** Upon determining that a Contracting Party may have violated the terms of a Contract, Contract Amendment, Lease or Lease Amendment required under the HCAO, the OLSE shall send written notice to the Contracting Party and the Contracting Department:
- (1)** advising the Contracting Party of the possible violation;
 - (2)** advising the Contracting Party of its right to respond to the initial determination by submitting pertinent documents and other information; and
 - (3)** notifying the Contracting Party that the OLSE is authorized to direct the Controller to withhold payment otherwise due to the Contracting Party.
- (B)** The notice shall also include a summary of the evidence presented and propose actions, remedies, and/or other restitution due to the Covered Employee(s).
- (C)** The OLSE shall allow the Contracting Party at least ten (10) working days to respond and/or correct the violation. The OLSE may, at its discretion, allow the Contracting Party additional time beyond the ten (10) working days to make the corrections if the Contracting Party demonstrates that a good faith effort to comply has been made.

9.5 Notice of Determination of Violation

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

Upon the conclusion of the investigation, the OLSE shall issue a Notice of Determination informing the Contracting Party of the results of the investigation. If the OLSE has determined that the Contracting Party has violated the HCAO, the Notice shall include what corrective action the Contracting Party is required to take to remedy the violation. The Contracting Party shall have fifteen (15) days after the date of the Notice of Determination to appeal the OLSE's decision. See Regulation 11.

9.6 Contracting Party's Failure to Comply or to Take Corrective Action

If a Contracting Party fails to produce requested documentation, fails to allow access to the work site or to its Employees, or otherwise unreasonably fails to cooperate with the OLSE, the OLSE may consider the Contracting Party to be out of compliance with the HCAO.

If a Contracting Party fails to take the required corrective action outlined in the Notice of Determination of Violation, the OLSE, the Controller's Office, the City Attorney, and the Contracting Department may pursue all available remedies including the withholding of Contract payments; termination of the Contract for cause; debarment from future City agreements, leases, and/or licenses for three (3) years; bringing a civil action against the Contracting Party; and any other remedy that may be available to the City, pursuant to §121.5(f) of the HCAO.

9.7 Withholding of Contract Payment

(A) After the OLSE sends a Notice of Determination finding that a Contracting Party has violated the requirements of this Article, the OLSE may direct the Contracting Department and the Controller to deduct from the payments otherwise due to the Contracting Party the amounts that the OLSE has determined the Contracting Party must pay to the City under §§ 121.3(a)(2) (hourly rate requirement) & 121.5.1 (liquidated damages). In issuing any warrant for any such payment, the Controller shall deduct the amounts specified by the OLSE.

(B) The Controller shall withhold these funds until release is authorized under the following circumstances:

- (1)** When the time for filing an administrative appeal has lapsed and the Contracting Party has either not filed an appeal or has filed and withdrawn it, the Controller shall release the funds consistent with the Agency's determination of the amount due to the City's General Fund as liquidated damages or for the use of the Department of Public Health under § 121.3(a)(2).
- (2)** When the Contracting Party files an administrative appeal, the hearing officer determines that the Contracting Party does not owe all or any

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

portion of the amount withheld, and the determination is no longer subject to judicial review, the Controller shall release to the Contracting Party the amount that the hearing officer determined is not owed to the City.

- (3) When the Contracting Party consents to the use of the funds to pay the City the amount that the Agency or hearing officer found due, the Controller shall release the funds consistent with that consent.
- (4) When the Contracting Party files an administrative appeal, the hearing officer upholds the Agency's determination, and the determination is no longer subject to judicial review, the Controller shall release the funds consistent with the Agency's determination of the amount due to the City's General Fund as liquidated damages or for the use of the Department of Public Health under § 121.3(a)(2).
- (5) When the Agency authorizes the release of withheld payments upon its determination that the continued withholding poses a substantial risk of endangering public health or safety, interfering with a service or project that is essential to the City, or having an unreasonable adverse financial impact on the City, the Controller shall release the funds to the Contracting Party consistent with that authorization.

9.8 Settlements and Compromises

The OLSE may compromise and settle unlitigated claims against Contracting Parties for violations of the HCAO.

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**
**REGULATION 10: ADDITIONAL RIGHTS AND REMEDIES AVAILABLE TO THE
CITY FOR VIOLATIONS OF THE HCAO**

10.1 In addition to any other rights or remedies available to the City under the terms of any agreement with a Contracting Party or under applicable law, the City shall have the following rights:

(A) The right, at the discretion of the OLSE, to charge the Contracting Party for any amounts that the Contracting Party should have paid to the City for hours worked by Covered Employees pursuant to §§ 121.3(a)(2) and (b), or to Covered Employees pursuant to § 121.3(c)(2), together with simple annual interest of 10% on such amount from the date payment was due;

(B) The right, at the discretion of the OLSE, to require the Contracting Party to reimburse Covered Employees for any amounts that they paid for health insurance premiums, out-of-pocket medical expenses, and/or other related costs incurred by the Covered Employee for any period of time when the Contracting Party provided health plan benefits that did not comply with the Minimum Standards, with interest sufficient to compensate the Covered Employee, from the date payment was made by the Covered Employee.

(C) The right, at the discretion of the OLSE, to assess the following liquidated damages for violations of any Contracts entered into or amended on or after January 1, 2006:

VIOLATION	LIQUIDATED DAMAGES
Failure to provide health plan benefits meeting the Minimum Standards or make payments, pursuant to § 121.3:	Pursuant to § 121.5.1(4), up to one hundred dollars (\$100) for each one-week pay period* for each Employee for whom the Contracting Party has failed to either offer health plan benefits meeting the Minimum Standards or make payments.
Failure to provide reports, failure to provide access to pertinent records, or any failure to cooperate with any audit, inspection or investigation conducted by the OLSE, pursuant to §§ 121.5.1 & 121.5.2:	Pursuant to § 121.5.1(5), up to \$1,000 for each violation.

* The OLSE shall adjust this amount proportionately for Contracting Parties that use a pay period other than one week.

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

While liquidated damages in the maximum amounts set forth above are a reasonable estimate of the harm caused by the Contracting Party's non-compliance with contractual provisions required by the HCAO, the OLSE may determine that less than the full amount is warranted depending on the circumstances of each case. The OLSE shall give due consideration to the following factors in determining the amount of liquidated damages: the size of the Contracting Party's business; the Contracting Party's good faith; the gravity of the violation; the history of previous violations; the failure to comply with record keeping, reporting and anti-retaliation requirements; and the extent to which the imposition of liquidated damages would undermine the purpose of the HCAO by imposing unreasonable financial burdens on the Contracting Party, thereby restricting its ability to fulfill its obligation under the HCAO.

- (C) The right, at the discretion of the OLSE, to set off all or any portion of the amount that a Contracting Party is required to pay to the City against any Contract payment(s) due from the City;
- (D) The right, at the discretion of the Contracting Department, to terminate the Contract or Lease in whole or in part;
- (E) The right, at the discretion of either the Contracting Department or the OLSE, to bar a Contracting Party from entering into future Contracts or Leases with the City for three (3) years;
- (F) The right to bring a civil action against a Contracting Party to pursue remedies provided by the HCAO and any other applicable laws. The prevailing party shall be entitled to all cost and expenses, including reasonable attorney's fees.

Each of the rights described above may be exercised individually or in combination with any other rights or remedies available to the OLSE and/or the City.

10.2 Contracting Party/Tenant Liability for Subcontractors/Subtenants

Pursuant to Regulation 2.2, each Contracting Party and Tenant shall be responsible for its Subcontractors and Subtenants with respect to compliance with the HCAO. Thus, if a Subcontractor or Subtenant fails to comply, the City may pursue the remedies against the Contracting Party or Tenant, based on the Subcontractor's or Subtenant's failure to comply, provided that the Contracting Department has first provided the Contracting Party with notice and an opportunity to cure the violation.

REGULATION 11: ADMINISTRATIVE APPEALS

11.1 Administrative Appeals

(A) The Contracting Party may appeal the OLSE’s final determination of a violation of the HCAO within fifteen (15) days of the date of the Notice of Determination. The appeal must:

- (1) be in writing and specify the basis for contesting the determination,
- (2) be filed with the Controller's Office, and
- (3) be filed with a copy to the OLSE.

The failure of any person to file an appeal with the Controller’s Office shall constitute concession to the assessment, and the OLSE’s determination shall be deemed a final and binding administrative decision upon expiration of the 15-day period.

- (B) Within fifteen (15) days after the Controller receives an appeal, the Controller shall appoint a hearing officer and shall notify the OLSE and the Contracting Party;
- (C) The hearing officer shall promptly set a date, time, and place for the hearing;
- (D) The hearing shall commence within forty-five (45) days of the notification of the appointment of the hearing officer and conclude within seventy-five (75) days of such notification unless all parties agree to an extended period.

11.2 Burden of Proof

The OLSE shall have the burden of providing evidence and of proving that the Contracting Party has violated the HCAO.

11.3 Hearing Officer’s Decision

(A) Within thirty (30) days of the conclusion of the hearing, the hearing officer shall issue a decision affirming, modifying, or vacating the OLSE’s determination. If the hearing officer vacates the OLSE’s determination in its entirety, the decision shall also vacate any assessment of liquidated damages. If the hearing officer affirms the OLSE’s determination, the hearing officer shall issue a decision upholding the OLSE’s determination, including the amount of liquidated damages assessed by the OLSE.

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

- (1)** With respect to liquidated damages, the hearing officer's jurisdiction to modify the OLSE's assessment is limited and the following procedures apply. If the hearing officer modifies the OLSE's determination, the hearing officer shall transmit this decision to the OLSE, which shall within five (5) business days modify the assessment of liquidated damages consistent with the hearing officer's decision based on the criteria set forth in § 121.5.1.(6) and transmit the modified assessment to the hearing officer. Upon receiving the modified assessment from the OLSE, a hearing officer shall within three (3) business days issue a final decision, which shall include the amount of liquidated damages assessment as modified by the OLSE.
- (B)** The hearing officer's decision shall consist of findings and the determination, which shall be final. The Contracting Party may seek review of the hearing officer's decision only by filing in the San Francisco Superior Court a petition for a writ of mandate under California Code of Civil Procedure § 1094.5.
- (C)** The failure of the Controller or the hearing officer to comply with the time periods specified above shall not cause the Controller or the hearing officer to lose jurisdiction over an appeal from the OLSE's determination.
- (D)** Upon the hearing officer's decision affirming or modifying the OLSE's determination, the Contracting Party shall take the corrective action including the payment of liquidated damages, if any, within fourteen (14) days of receiving the hearing officer's decision. When a Contracting Party fails to take corrective action within the time required by this provision, the City may immediately pursue all available remedies against the Contracting Party.

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

**REGULATION 12: ADMINISTRATION AND ENFORCEMENT BY OLSE, DPH, AND
HEALTH COMMISSION**

12.1 Responsibilities of the OLSE and the Department of Public Health

The OLSE and the Department of Public Health shall provide an annual joint report to the Board of Supervisors on compliance with the HCAO. Such report shall include cumulative information regarding the number of exemptions and waivers granted.

12.2 Responsibilities of the Health Commission

Pursuant to § 121.5 of the HCAO, the Health Commission is vested with the following responsibilities:

(A) The Health Commission shall review the Minimum Standards at least once every two years to ensure that the standards stay current with State and Federal regulations and existing health benefits practices. (Appendix A.) Upon receipt of the revised Minimum Standards from the Health Commission, the OLSE shall update outreach and enforcement materials accordingly.

(B) Beginning with fiscal year 2009-2010, and each following year, the Health Director shall propose adjustments to the hourly rate and weekly maximum fee provided in this Section, based on changes since the prior year in the Bureau of Labor Statistics Consumer Price Index for Medical Care in the San Francisco Bay Area or average Health Maintenance Organization (HMO) premiums in California. The Health Director shall submit the proposed adjustments to the Controller by March 1. The Controller shall make appropriate adjustments to the hourly rate and weekly maximum fee without further action by the Board of Supervisors. The adjusted hourly rate and weekly maximum fee shall take effect on July 1. Contracting Parties are obligated to keep informed of the current rates by reviewing the postings at www.sf.gov/olse-hcao.⁷

⁷ Prior to the 2009 amendments to the HCAO, this section read "The Health Commission may increase the hourly rate set forth in §§ 121.3(a)(2) & (c)(2) in accordance with either the Bureau of Labor Statistics Consumer Price Index for Medical Care in the San Francisco Bay Area or the increase in average Health Maintenance Organization (HMO) premiums in California, depending on which the Health Commission determines better reflects the costs of providing health care in the Bay Area.

(1) The Health Commission shall take this action no more than once a year, and any adjustments to the hourly rate or weekly maximum must be approved by the Board of Supervisors by resolution. Upon approval by the Board, the OLSE shall update outreach and enforcement materials accordingly."

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

City and County of San Francisco

Department of Public Health



Mitchell H. Katz, MD
Director of Health

HEALTH CARE ACCOUNTABILITY ORDINANCE

2008 MINIMUM STANDARDS - FOR HEALTH PLAN BENEFITS: EFFECTIVE NOV. 1, 2008

Employers that choose to comply with the HCAO by offering a health plan must offer at least one health plan that meets the Minimum Standards, as described below.

The plan must be a Health Maintenance Organization (HMO).

Employers may not require employees to pay a premium contribution for employee-only coverage.

The HMO may not include a deductible of any amount for non-pharmacy services, but may include a deductible for prescription drugs, subject to the deductible cap specified below.

The HMO's annual Out-of-Pocket (OOP) maximum may be no higher than \$3,500 when combined with any applicable prescription drug deductible. For example, it is acceptable to have a plan with a \$3,000 OOP maximum and a \$500 drug deductible. A plan with a \$3,500 OOP maximum and a \$500 drug deductible is not acceptable.

Co-payments for office visits (including PCP, perinatal and maternity, preventive care, and family planning) shall not exceed \$30 per visit.

Each plan must be comprehensive and provide coverage for the following services:

- Office visits (PCP, preventive services, perinatal/maternity & family planning)
- Physician Services
- Hospital inpatient
- Prescription drugs
- Outpatient services and procedures
- Diagnostic services (x-ray, labs, etc.)
- Perinatal and maternity care
- Emergency room and ambulance
- Mental health services, outpatient and inpatient
- Alcohol and substance abuse care, outpatient and inpatient detox
- Rehabilitative therapies, outpatient and inpatient
- Home health services
- Durable medical equipment
- Hospice care
- Skilled nursing services

Employers not offering a health plan that meets the Minimum Standards as described above must pay to the San Francisco Department of Public Health \$3.00 per hour (for a maximum of \$120.00 per week).

OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)

HEALTH CARE ACCOUNTABILITY ORDINANCE

2008 MINIMUM STANDARDS - FOR HEALTH PLAN BENEFITS: EFFECTIVE NOV. 1, 2008

Minimum Standards Requirement	2004 Standards	2008 Standards (<i>Revisions</i>)
Type of Plan Required	HMO	HMO
<i>Employee Premium Contribution</i>	Not allowed. Employer pays full premium.	Not allowed. Employer pays full premium.
<i>Annual Out-of-Pocket (OOP) Maximum</i>	\$2,500	\$3,500 maximum, including any prescription drug deductible.
<i>Prescription Drug Deductible</i>	Not allowed.	Allowed. Maximum amount not specified, but must not exceed \$3,500 when added to the OOP maximum.
<i>Regular Deductible</i>	Not allowed.	Not allowed.
<i>Copayments for Office Visits</i>	\$15 (Closed Panel HMO) \$20 (All other HMO models)	\$30 maximum for all HMO plans.
<i>Services:</i> <ul style="list-style-type: none"> • <i>Office visits</i> • <i>Physician services</i> • <i>Hospital inpatient</i> • <i>Prescription drugs</i> • <i>Outpatient services and procedures</i> • <i>Diagnostic services (x-ray, labs, etc.)</i> • <i>Perinatal and maternity care</i> • <i>Emergency room and ambulance</i> • <i>Mental health services, outpatient and inpatient</i> • <i>Alcohol and substance abuse care, outpatient and inpatient detox</i> • <i>Rehabilitative therapies, outpatient and inpatient</i> • <i>Home health services</i> • <i>Durable medical equipment</i> • <i>Hospice care</i> • <i>Skilled nursing services</i> 	Plan must include these services, but copayment amount is not specified.	Plan must include these services, but copayment amount is not specified.
<i>Employer Fee (paid in lieu of providing health coverage that meets the Minimum Standards)</i>	\$3.00/hour, \$120 maximum per week	\$3.00/hour; \$120.00 maximum per week.

Payment to the City of San Francisco Option

Report and Payment for the Month, Year of:

PAGE iii

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

CITY AND COUNTY OF SAN FRANCISCO



**GAVIN NEWSOM
MAYOR**

NOTICE TO EMPLOYEES
Health Care Accountability Ordinance

This employer is a contractor with the City and County of San Francisco. This contract agreement is subject to the Health Care Accountability Ordinance (HCAO). The HCAO requires your employer to provide health plan benefits to covered employees, make payments to the City for use by the Department of Public Health (DPH), or, under limited circumstances, make payments directly to employees. **If you work at least 20 hours per week on a City contract, you are a covered employee and your employer must choose one of the following options:**

1. PROVIDE YOU WITH A HEALTH PLAN THAT MEETS THE MINIMUM STANDARDS OUTLINED BY THE DIRECTOR OF PUBLIC HEALTH

- Your employer cannot require you to contribute any amount towards the premiums for health plan coverage for yourself.
- Coverage must begin no later than the first of the month that begins after 30 days from the start of employment on a covered contract.

OR

2. PAY \$3.00 PER HOUR WORKED TO THE CITY & COUNTY OF SAN FRANCISCO

- If you live within the City and County of San Francisco or work on a City contract within the City, the San Francisco Airport, or the San Bruno Jail, and your employer does not provide a health plan that meets the Minimum Standards, your employer must pay \$3.00 hour for every hour you work (up to 40 hours a week) to the City and County of San Francisco.

OR

3. PAY AN ADDITIONAL \$3.00 PER HOUR WORKED TO THE EMPLOYEE

- If you live outside the City and County of San Francisco and work on a City contract located outside of the City, and not at the San Francisco Airport or at the San Bruno Jail and your employer does not provide a health plan that meets the Minimum Standards, your employer must pay you an additional \$3.00/hour for every hour you work (up to 40 hours a week) to enable you to obtain health insurance coverage.

**IF YOU BELIEVE YOUR RIGHTS ARE BEING VIOLATED CONTACT THE OFFICE OF
LABOR STANDARDS ENFORCEMENT AT (415) 554-6292.**

**Office of Labor Standards Enforcement (OLSE)
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
www.sf.gov/olse-hcao**

HEALTH CARE ACCOUNTABILITY ORDINANCE (HCAO)

Know Your Rights (*front*)

This notice is intended to inform you of your rights under the Health Care Accountability Ordinance (HCAO), Chapter 12Q of the San Francisco Administrative Code. The HCAO requires your employer to provide health plan benefits to you. Your employer can do this by enrolling you in a health plan that meets the Minimum Standards, by making payments to the City, or, under limited circumstances, by making payments directly to you. The Office of Labor Standards Enforcement (OLSE) is charged with enforcing this Ordinance. You will be asked to sign this document after you have reviewed the following information. Do not sign this document unless you fully understand your rights under this law.

THE HCAO COMPONENTS

- I. If you live in San Francisco (regardless of where you work) or if you work in San Francisco, at the San Francisco Airport, or at the San Bruno Jail, your employer must:
 - A. Offer you health coverage meeting the Minimum Standards that is effective on the first day of the month following 30 calendar days after your first day of work*; **OR**
 - B. For each month in which you averaged at least 20 hours of work per week, pay the City \$3.00 per hour for each hour you work, up to 40 hours or \$120 per week.
- II. If you do not live in San Francisco and do not work in San Francisco, at the San Francisco Airport, or at the San Bruno Jail, your employer must:
 - A. Offer you health coverage meeting the Minimum Standards that is effective on the first day of the month following 30 calendar days after your first day of work*; **OR**
 - B. For each month in which you averaged at least 20 hours of work per week, pay you \$3.00 per hour for each hour you work, up to 40 hours or \$120 per week, so that you can obtain health insurance coverage on your own.

**Note that your employer must offer at least one plan that does not require you to contribute any amount towards the cost of premiums for health plan coverage for yourself.*

EXEMPTIONS FROM COVERAGE

Certain categories of employees, including but not limited to students, trainees, and employees of employers subject to Prevailing Wage requirements, are exempt under the HCAO. For more information, go to www.sf.gov/olse-hcao or call (415) 554-6292.

VOLUNTARY WAIVER OF COVERAGE

Employees may refuse health coverage offered by an employer if the employee signs the Voluntary Waiver Form (provided on the reverse of this form). Employees may revoke this voluntary waiver at any time.

RETALIATION PROHIBITED

Your employer may not retaliate against you or any other employee for trying to learn more about the HCAO or exercising your rights under the law. If you believe that you have been discriminated or retaliated against for inquiring about or exercising your rights under the HCAO, contact the OLSE at (415) 554-6292 to file an HCAO complaint.

Do not sign this document unless you fully understand your rights under this law. If you have any questions about your employer’s responsibilities or your rights under this Ordinance, contact the OLSE at (415) 554-6292 or visit www.sf.gov/olse-hcao for more information about this law.

Name of Employee Date

Signature of Employee

Para asistencia en Español, llame al 554-6292
需要中文幫助，請電 554-6292

NOTE: For a complete copy of the Health Care Accountability Ordinance or the Minimum Standards, visit www.sf.gov/olse-hcao.

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)
HCAO EMPLOYEE VOLUNTARY WAIVER FORM (back)**

THIS SECTION MUST BE FILLED OUT BY THE EMPLOYER WHO IS REQUESTING A WAIVER.

Employee Name: _____	Name of Employer Requesting Waiver: _____
Employee Address: _____	Employer Address: _____
Employee Phone: _____	Employer Contact Person: _____
	Employer Telephone Number: _____

Under the San Francisco Health Care Accountability Ordinance (HCAO), your employer is required to offer you a health plan that meets the Minimum Standards or pay \$3.00 per hour to the City, or under limited circumstances, make payments directly to you.

You have been asked to complete this Voluntary Waiver Form because your employer is requesting a waiver from the legal requirement described above. Your employer may obtain a waiver from this legal requirement if you currently have health plan benefits.

Even if you have health plan benefits, your employer is required to provide health plan benefits to you or pay a fee unless you sign this form. If you want your employer to provide you with health plan benefits, do not sign this form. It is illegal for your employer to force or to pressure you to sign this form.

You have the right to cancel or revoke this voluntary waiver at any time. Your revocation must be submitted in writing. If you revoke this waiver, your employer will be required to provide health plan benefits to you or pay a fee.

THIS SECTION MUST BE FILLED OUT BY THE EMPLOYEE, IF S/HE VOLUNTARILY CHOOSES TO DO SO.

I hereby certify that I have health plan benefits as indicated below:

If you have health plan coverage from another employer for whom you work and wish to provide a waiver to the employer listed above, please provide the information below:

Name of Employer Providing Health Care Services: _____	Name of Health Insurance Provider: _____
Employer Address: _____	
Employer Contact Person: _____	
Employer Telephone Number: _____	

If you have health plan coverage from the employer of your parent, spouse, or domestic partner and wish to provide a waiver to the employer listed above, please provide the information below:

Name of Person Whose Coverage Extends to You: _____	Name of Health Insurance Provider: _____
His/Her Relationship to You: _____	
Name of His/Her Employer _____	
Employer Address: _____	
Employer Contact Person: _____	
Employer Telephone Number: _____	

If you have health plan coverage through some other means, please explain below: _____

I hereby waive the right to health plan benefits offered to me by the employer listed above.

_____ Employee’s Signature	_____ Today’s Date
-------------------------------	-----------------------

**If you have any questions about your employer’s obligations under the
Health Care Accountability Ordinance, please call 554-6292 or visit our website.
Para asistencia en Español, llame al 554-6292.
需需需需要要要要中中中中文文文文幫幫幫幫助助助助，，，，請請請請電電電電**

554-6292.

COMPLETE THE FOLLOWING SECTION ONLY IF YOU WISH TO REVOKE A WAIVER PREVIOUSLY GRANTED TO YOUR EMPLOYER. *If you wish to waive your right to health plan benefits made to you by your employer, do NOT complete the portion below.*

REVOCATION OF HCAO VOLUNTARY WAIVER FORM

I no longer wish to waive the right to health plan benefits offered to me by the employer listed above, pursuant to the San Francisco Health Care Accountability Ordinance.

_____ Employee’s Signature	_____ Today’s Date
-------------------------------	-----------------------

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)
Health Care Accountability Ordinance (HCAO) Declaration**

What the Ordinance Requires. The Health Care Accountability Ordinance (HCAO), which became effective July 1, 2001, requires Contractors that provide services to the City or enter into certain leases with the City, and certain Subcontractors, Subtenants and parties providing services to Tenants and Subtenants on City property, to provide health plan benefits meeting the Minimum Standards to Covered Employees, or make payments to the City for use by the Department of Public Health (DPH), or, under limited circumstances, make payments directly to Employees.

The HCAO applies only to Contractors with at least \$25,000 (\$50,000 for non-profit organizations) in cumulative annual business with a City department(s) and have more than 20 Employees (50 Employees for non-profit organizations) including Employees of all parent and subsidiaries that own or control the Contractor, plus any subsidiaries owned or controlled by the Contractor.

The City may require Contractors to submit reports on the number of Employees affected by the HCAO.

Effect on City Contracting. For contracts and amendments signed on or after July 1, 2001, the HCAO requires the following:

- Each contract must include terms ensuring that the Contractor will agree to abide by the HCAO and either to provide its employees with health plan benefits meeting the Minimum Standards set forth by the Director of Health or to make the payments required by the HCAO;
- All City Contractors must agree to comply with the requirements of the HCAO unless the Contracting Department has obtained an approved exemption or waiver under the HCAO from the Office of Labor Standards (OLSE).
- Contractors must require any Subcontractors subject to the HCAO to comply with the HCAO:

The Purpose of This Declaration. By submitting this declaration, you are providing assurances to the City that, beginning with the first City contract or amendment you receive after July 1, 2001 and until further notice, you will either provide the health plan benefits meeting the Minimum Standards to your covered employees or make the payments required by the HCAO, and will ensure that your Subcontractors also abide by these requirements. **If you cannot provide this assurance, do *not* return this form.**

To obtain more information regarding the HCAO, Visit our website, which includes links to the complete text of the HCAO, at www.sf.gov/olse-hcao; send an e-mail to HCAO@sfgov.org; or call (415) 554-6292.

Where to Send this Form. Return this form to the City Department that sent it to you.

Declaration

In order to be a certified vendor with the City and County of San Francisco, the company named below will either provide, if applicable, health benefits specified in the HCAO to our covered employees or make the payments required by the HCAO, and will ensure that our subcontractors that are subject to the HCAO also comply with these requirements, until further notice. The company named below will provide such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Signature

Date

Print Name

City Vendor Number (if known)

Company Name

(____)_____
Phone

Federal Employer ID #

**OLSE Regulations Implementing the
San Francisco Health Care Accountability Ordinance (HCAO)**

HCAO Subcontractor Information Form	
<p>A Contracting Party must submit this form to the Contracting Department within 30 days of entering into an agreement with any Subcontractor to perform services under a Contract and certify to the Contracting Department that it has notified the Subcontractors of their obligations under the HCAO.</p> <p>Subcontracts and Subleases executed by Contracting Parties are subject to the requirements of the HCAO, unless exempt. Contracting Parties and Tenants are responsible for ensuring that their Subcontractors and Subtenants comply with the HCAO and shall include relevant HCAO language in any Subcontracts and Subleases.</p>	
Contract/Lease Title:	
Contract/Lease Number:	
Name of the Primary Contractor/Tenant:	
Address of the Primary Contractor/Tenant:	
Phone Number of the Primary Contractor/Tenant:	
Number of Employees of the Primary Contractor/Tenant:	
Dollar amount of the Primary Contractor/Tenant:	
Describe the work of the Primary Contractor/Tenant:	
Name of the Subcontractor/Subtenant:	
Address of the Subcontractor/Subtenant:	
Phone Number of the Subcontractor/Subtenant:	
Number of Employees of the Subcontractor/Subtenant:	
Dollar amount of the Subcontractor/Subtenant:	
Describe the work of the Subcontractor/Subtenant:	
<p>Does the Subcontractor have any other Contractors working for them that will be performing work under the City contract? If yes, please list all subcontractors, including name, address, phone number, number of employees and the amount each subcontractor will be paid:</p> 	
<p>I declare under penalty of perjury that the above statement is true and correct to the best of my knowledge.</p>	
Print Name (Prime Contractor)	
Signature	Date
Print Name (Subcontractor)	
Signature	Date