

# **CITY OF LOS ANGELES**



## **RULES AND REGULATIONS**

### **IMPLEMENTING**

## **THE FIRST SOURCE HIRING ORDINANCE**

**EFFECTIVE JUNE 27, 2016**

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## **RULES AND REGULATIONS IMPLEMENTING THE FIRST SOURCE HIRING ORDINANCE**

### **PURPOSE**

The Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance, (“OCC”) promulgates these Rules and Regulations as the Designated Administrative Agency (“DAA”) pursuant to Section 10.44 of the Los Angeles Administrative Code (“LAAC”). These Rules and Regulations are intended to articulate guidelines for implementing the provisions of the First Source Hiring Ordinance (FSHO), LAAC Section 10.44 et seq. They are also intended to create a flexible implementation plan and to provide guidance to entities seeking to comply with the law. Each Awarding Authority shall cooperate to the fullest extent with the OCC in the administration of the FSHO. The OCC may amend or revise these Rules and Regulations consistent with applicable law.

### **DEFINITIONS**

For purposes of these Rules and Regulations, the definitions set forth in the FSHO are incorporated herein and repeated below.

1. **Anticipated Employment Opportunity** means any anticipated vacancy created in a Contractor or Subcontractor’s workforce.
2. **Anticipated Vacancy** means a position that may be created as a result of the impending contract and includes duties that are called for within the contract’s specifications. Anticipated vacancies also include positions that may be created as a result of a transfer or promotion due to the impending contract.
3. **Awarding Authority** means any subordinate or component entity or person of the City, such as a department or Board of Commissioners that has the authority to award or enter into any Contract (as defined below). This shall not include any department that has control of its own funds.
4. **EWDD** means the Economic and Workforce Development Department.
5. **City** means the City of Los Angeles, a municipal corporation, and all City Awarding Authorities.
6. **Contract** means a contract, which is in excess of \$25,000 with a term greater than three months, awarded to a Contractor by the City or by a Loan or Grant Recipient primarily to furnish services to or for the City or the Loan or Grant Recipient. This shall not include construction contracts for a public work subject to the requirements of Division 2, Part 7, of the California Labor Code.
7. **Confidential Position** is identified as a position due to the nature of job responsibilities which give the employee potential access to information subject to use by the employer in negotiating and/or access to information that raises a conflict of interest with other bargaining unit employees. These positions are not subject to

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the FSHO, pursuant to LAAC Section 10.44.2(d) and Regulation #4, but contractors are encouraged to use the FSHO Program voluntarily to fill any vacancies.

8. **Contractor** means any Person that enters into a Contract with the City or a Loan or Grant Recipient. Pursuant to LAAC Section 10.44.2(c), this definition shall also include the definition of a Subcontractor.
9. **Designated Administrative Agency** or “**DAA**” mean the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance, who shall bear administrative responsibilities under this article.
10. **Economic Development or Job Growth** means activities that expand the production, distribution or consumption of goods or services, increase the employment or skills level of the city workforce, effect the efficient use of material or nonmaterial resources, or have practicable and industrial significance.
11. **Intentional Violation** means egregious and/or recurring disregard for compliance with the First Source Hiring Ordinance.
12. **Loan or Grant Recipient** means any person who receives from the City a qualifying grant or loan for economic development or job growth expressly articulated and identified by the City.
13. **Managerial Position** and **Supervisory Position** as used in LAAC Section 10.44.2(d) of the FSHO means a person who has the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other subordinate employees, or the responsibility to direct them, adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. These positions are not subject to the FSHO, pursuant to section LAAC Section 10.44.2(d) and Regulation #4, but contractors are encouraged to use the FSHO Program voluntarily to fill any vacancies.
14. **New Job Opportunity** means any vacancy created in a Contractor or Subcontractor’s workforce.
15. **Person** means any individual, proprietorship, partnership, joint venture, corporation, Limited Liability Company, trust, association, or other entity that may employ individuals or enter to into contracts.
16. **Professional Licenses** are those required under governmental authority to perform a profession. Job Opportunities that require a professional license are not subject to the FSHO, pursuant to LAAC Section 10.44.2(e) and Regulation #4, but contractors are encouraged to use the FSHO Program voluntarily to fill any vacancies.

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17. **Referral Resources** means any resource used to locate new employees considered for employment under this Article. Referral Resources shall include Trade Unions, Community Based Organizations, City Work Source Centers and any other resources approved by EWDD.
18. **Subcontractor** means, for purposes of LAAC Section 10.44.1 “Definitions”, any person that enters into a subcontract, regardless of the subcontract’s term and amount, with a Contractor or Subcontractor to assist in performing the services to the City or the Loan or Grant Recipient.
19. **Tier** means the level of relationship to the Prime Contractor of a Subcontractor who enters into a contract under a prime or another subcontractor to perform a portion of the work on a project.
20. **Vacancy** means a position that is created as a result of the contract and includes duties that are called for within the contract’s specifications. Vacancies also include positions that are created as a result of a transfer or promotion.

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**REGULATION #1: APPLICABILITY**

**I. INITIAL DETERMINATION OF COVERAGE**

Any Contract (with the exception of subcontracts), which is in excess of \$25,000 with a term greater than three months, awarded to a Contractor by the City or by a Loan or Grant Recipient primarily to furnish services to or for the City or the Loan or Grant Recipient is subject to the First Source Hiring Ordinance (FSHO). This shall not include construction contracts for a public work of improvement.

- a. The awarding authority shall apply the following guidelines in making the initial determination of coverage.
  - i. An agreement, request for proposal (RFP), request for qualifications (RFQ), or request for bid (RFB) is presumed to be covered by the FSHO. Leases, licenses, and purchase agreements that have a service component shall be included in this article. The awarding authority shall incorporate the standard FSHO contract language into the agreement, RFP, RFQ, or RFB unless the agreement, RFP, RFQ, or RFB is exempt or not covered by the FSHO as provided for in Regulation #4: Exemptions.
  - ii. Meeting FSHO Threshold. An awarding authority shall use the following guidelines in addition to the provisions specified in the FSHO to determine whether an agreement, RFP, RFQ, or RFB for services meets the time and monetary thresholds of the FSHO:
    - 1. Time: Three Months in Duration: In determining whether an agreement is 3 months or longer in duration, the awarding authority shall calculate the term of the agreement using the starting date of the original agreement and the ending date that appears in the most recent amendment, modification, renewal or extension. An agreement previously exempt from the FSHO because it did not meet the time threshold of the FSHO may become subject to the FSHO because an amendment, modification, renewal, or extension increases the term of the agreement. In that case, the awarding authority shall incorporate the standard FSHO contract language.
    - 2. Money: Over \$25,000: In determining whether an agreement exceeds \$25,000, the awarding authority shall calculate the total amount of the agreement by adding together the amount provided for in the original agreement and all amendments, modifications, renewals, or extensions. An agreement previously exempt because it did not meet the monetary threshold of the FSHO may become subject because an amendment, modification, renewal, or extension increases the total amount of the agreement. In that case, the awarding

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authority shall incorporate the standard FSHO contract language.

II. DETERMINING COVERAGE TO AS-NEEDED CONTRACTS

- a. Awarding Authorities are also responsible for determining when an agreement with a maximum amount or services to be performed as-needed is subject to the FSHO, provided that the contract already meets the time threshold:
  - i. Pre-Award Requirements. If the value of an agreement specifies a maximum amount, the awarding authority shall use the maximum amount stated in the agreement to determine whether the agreement meets the monetary threshold of more than \$25,000. In this case, the selected contractor will need to comply with the pre-award requirements of the FSHO.
  - ii. Post-Award Requirements. The employer will not be required to comply with the requirements of the post-award activities of the FSHO until the value of the services total over \$25,000.
- b. If an agreement calls for an employer to perform in-kind services as repayment to the City, the amount used to determine the monetary threshold shall be the value of the consideration that the employer receives in return for the in-kind services provided to or for the City.
- c. As-Needed Contracts with Multiple Task-Orders and Multiple Contractors
  - i. Pre-Award Activities. If the value of an agreement specifies a maximum amount, the awarding authority shall use the maximum amount stated in the agreement to determine whether the agreement meets the monetary and time threshold of more than \$25,000 and three months. In this case, *all selected contractors* under this As-Needed contract will need to comply with the pre-award requirements of the FSHO.
  - ii. Post-Award Activities. The employer will not be required to comply with the requirements of the post-award activities of the FSHO until the total value of the task orders for each individual contractor total over \$25,000.

Example: A Contract has three separate task-orders allotted among three contractors with the following total amounts:

Contractor A: \$10,000

Contractor B: \$26,000

Contractor C: \$15,000

Total Contract Amount (sum of all task orders) = \$61,000

Although the sum of all task orders on the contract exceeds \$25,000, only Contractor B will be subject to the post-award requirements of the FSHO. It is only when another task order added to Contractor A or

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Contractor C's separate total exceeds \$25,000 that they will also be subject to the post-award activities.

**III. DETERMINING COVERAGE TO CITY LOAN OR GRANT RECIPIENTS**

- a. The Awarding Authority shall determine whether a City Loan or Grant Recipient is subject to this Article. Those that are subject to the FSHO must fit the following criteria. The Loan or Grant must be:
  - i. For economic development or job growth, AND
  - ii. An aggregate amount that exceeds \$25,000, AND
  - iii. Either:
    - 1. The loan is provided at an interest rate below the applicable federal rate as used in 26 U.S.C. Sections 1274(d), 7872(f) at the time the Contract is executed; OR
    - 2. The loan is at or above the applicable federal rate but the loan provides a mechanism for forgiving the interest.
- b. In the event that the applicable federal rate falls below the rate at which a City Loan is provided during the term of the Contract, the Awarding Authority may request the DAA to waive the post-award requirements of this article (see Regulation #4 - Exemptions).

**IV. EXEMPTIONS AND NON-APPLICABILITY**

- a. In accordance with the terms and conditions expressed in the First Source Hiring Ordinance, an Awarding Authority may request an exemption of the pre- and/or post-award requirements of the FSHO if:
  - i. Contracts where the provisions of this Article conflict with federal or state law.
  - ii. Contracts with another governmental entity.
  - iii. Contracts where the provisions of this Article would conflict with federal or state grant funded contracts, or conflict with the terms of the grant or subvention.
  - iv. Contracts awarded under urgent or emergency circumstances.
  - v. Contracts entered into pursuant to Charter Section 371(e)(7).
  - vi. Contracts where the services are available only from a single source.
  - vii. Contracts that involve the investment of trust monies, bond proceeds or agreements relating to the management of these funds, indentures, security enhancement agreements (including, but not limited to, liquidity agreements, letters of credit and bond issuance) for City tax-exempt and taxable financings, deposits of City's surplus funds in financial institutions, the investment of City monies in securities permitted under the California State Government Code or the City's investment policy, investment agreements, repurchase agreements, City monies invested in U.S. government securities or pre-existing investment agreements.



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- viii. Contracts involving City monies if the Treasurer or the City Administrative Officer finds that failure to enter into the Contract will violate his or her fiduciary duties and cause the City to incur a financial loss or forego a financial benefit.
- ix. City Loans or Grants funded from the proceeds of a bond issuance, tax credits or tax increment financing.

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**REGULATION #2: PRE-AWARD REQUIREMENTS**

**I. FIRST SOURCE HIRING ORDINANCE COMPLIANCE AFFIDAVIT**

- a. Unless exempt (See Regulation #4), before Contract execution, each Selected Prime Contractor subject to the FSHO must upload a First Source Hiring Ordinance Compliance Affidavit to LABAVN at [www.labavn.org](http://www.labavn.org). The Awarding Authority shall not execute any subject Contract until the DAA verifies the Contractor has complied with this requirement.
- b. The First Source Hiring Ordinance Compliance Affidavit shall be valid for three (3) year from the date it is uploaded to LABAVN and shall cover the duration of all contracts for which a bid is submitted during that period.

**II. ANTICIPATED EMPLOYMENT OPPORTUNITIES (FSHO-1 FORM)**

- a. Each Selected Prime Contractor and Subcontractor that anticipates any job opportunities as a result of a subject City contract must report those job opportunities by submitting the FSHO-1 Form to the Awarding Authority prior to contract execution.
- b. The Prime Contractor is responsible for disseminating the requirements of the FSHO to its subcontracts, collecting any FSHO 1 Forms from subcontractors, and submitting those forms to the Awarding Authority prior to contract execution. The FSHO-1 Form shall include:
  - i. The number of anticipated employment opportunities they will need to fill in order to perform the services under and throughout the term of the contract.
  - ii. The basic Job Classification and Qualifications necessary for each anticipated employment opportunity. This may include, and are not limited to: expectations, required standard of appearance, any special requirements (e.g. language skills, driver's license, etc.). Job qualifications shall be limited to skills directly related to performance of job duties.
  - iii. The total number of employees who will be working directly on the City contract.
- c. All anticipated employment opportunities meeting the definition of "employee" under the Service Contract Worker Retention Ordinance (SCWRO) are made subject to the provisions thereof.
- d. The Contractor or Subcontractors shall forward the FSHO 1 Forms to the EWDD, who will refer individuals for interview.

**III. NEW SUBCONTRACTORS AFTER EXECUTION OF CITY CONTRACT**

- a. Notification - Once new subcontractors are known, the Prime Contractor is responsible for submitting the subcontractors' FSHO-1 Forms to the Awarding Authority before the execution of that subcontract.

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**REGULATION #3: POST-AWARD REQUIREMENTS**

**I. FIRST SOURCE HIRING PROGRAM OVERVIEW**

- a. Notification. During the course of the contract, the Contractor and Subcontractor are responsible for reporting to the EWDD, any New Job Opportunities as a result of a City contract. The Contractor shall report the New Job Opportunities on the FSHO-3A Form at least seven days before releasing the employment opportunity announcement to the public.
- b. List of Job Candidates Within a Seven-day Period. When the Contractor and Subcontractor notifies EWDD of a New Job Opportunity, a list of Job Candidates will be sent by EWDD to the Contractor within a seven business day period. This list of Job Candidates is compiled from several lists that may be received from the various Referral Resources in response to the Job Opportunity.
- c. Interviews. The Contractor and Subcontractors may conduct Pre-Interview Screenings and shall conduct Interviews to narrow down the list of Job Candidates received from EDWW.
- d. Filling Employment Opportunities. The Contractor and Subcontractors shall inform the DAA of the names of the Referral Resources used, the names of the individuals they referred, the names of the referred individuals who the Contractor or Subcontractor interviewed, and the reasons why referred individuals were not hired prior to filling employment opportunity.

**II. NEW JOB OPPORTUNITY**

The following sections describe the preceding First Source Hiring Program Overview in detail.

- a. Notification.
  - i. During the term of the contract, the Contractor and Subcontractor must notify EWDD (utilizing the FSHO-3A Form) of any New Job Opportunities available as a result of a Contract. This notification must occur at least seven business days prior to making an announcement of a specific employment opportunity outside of the First Source Hiring Program.
  - ii. The FSHO-3A Form shall include:
    - 1. The number of vacancies per Job Classification offered as a result of the City contract, and
    - 2. The Job Classification and Qualifications necessary for each New Job Opportunity. This may include, and are not limited to expectations, salary, work schedule, duration of employment, required standard of appearance, and any special requirements (e.g. language skills, driver's license, etc.). Job qualifications shall be limited to skills directly related to performance of job duties.
- b. EWDD's receipt of Job Notification from Contractor.

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- i. Upon receipt of a Contractors' Job Notification, EWDD will immediately forward this form to selected and approved Referral Resources.
  - ii. EWDD shall determine which Referral Resources will receive such Job Notifications.
- c. Contractor's and Subcontractor's request for Referral Resources.
  - i. When sending New Job Opportunities to EWDD, Contractors and Subcontractors may state their preference for receiving a List of Job Candidates from a particular Referral Resource. This statement shall include the following information about the requested Referral Resource:
    - 1. Name,
    - 2. Address,
    - 3. Phone Number, and
    - 4. Reason for preference.
  - ii. Once such a request is received by EWDD, EWDD shall review the request and take it into consideration when selecting which Referral Resources shall receive the Contractor's Job Notification.
- d. Referral Resources receipt of Job Notification from EWDD.
  - i. Upon receipt of a Job Notification from EWDD, Referral Resources must submit a List of Job Candidates to EWDD and then EWDD to the requesting Contractor and/or Subcontractor within seven business days of the date of the original Job Notification sent by the Contractor and/or Subcontractor as described in the following section.

**III. LIST OF JOB CANDIDATES**

- a. Compiling List of Job Candidates.
  - i. Referral Resources must submit a List of Job Candidates to EWDD and then EWDD to the requesting Contractor within seven business days of the date of the original Job Notification to EWDD. Referral Resources shall refer Job Candidates with Job Qualifications that closely match those requested by the Contractor and/or Subcontractor.
  - ii. The minimum number of Candidates to be sent by the Referral Resources to EWDD must be at least two more candidates than the number of vacancies per Job Classification requested by the Contractor and Subcontractor This list shall include, and is not limited to, for each Candidate:
    - 1. Name,
    - 2. Phone number,
    - 3. Email of the employee (if available), and
    - 4. Qualifications
- b. Receiving Job Candidate Lists from EWDD.
  - i. If the Contractor receives a list of Job Candidates from EWDD within seven business days of the original Job Notification, the Contractor and Subcontractor may conduct pre-interview screenings to narrow their selection for filling the vacancy.

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- ii. Contractors and Subcontractors are not prohibited from considering more candidates than required by Regulation in order to select the best candidate for the Job Opportunity.
- iii. If after the seven day period a list of Job Candidates is not sent to the Contractor and Subcontractor by EWDD, the Contractor and Subcontractor must notify the DAA that it has not received a List of Job Candidates from EWDD and that the Contractor and Subcontractor will use other means necessary, outside the First Source Program, to fill the specific vacancy.
- c. Expiration of List of Job Candidates. The Contractor and/or Subcontractor has up to sixty (60) calendar days from the date EWDD provided a List of Job Candidates to contact those listed by the Referral Resource(s). After the 60 calendar days, the List will expire. At this time, the list may not be used for filling any other vacancies that the Contractor wishes to fill within the Company. If there are any other new requests for different job classifications, the Contractor must first send a New Job Opportunity form to EWDD.

**IV. INTERVIEWS**

- a. Pre-Interview Screening.
  - i. In an effort to improve the hiring ratio and reduce recruitment time, Contractors and Subcontractors may conduct Pre-Interview Screening methods for Job Candidates.
  - ii. This may include, but are not limited to verbal, written, online, or phone pre-screening interviews.
  - iii. Methods chosen to Pre-Screen Candidates should:
    - 1. Reduce the number of interviews,
    - 2. Eliminate unsuitable candidates, and
    - 3. Simplify the next stage in the hiring process.
- b. If after conducting Pre-Interview screenings and/or Interviews the Contractor has still not hired a candidate, the Contractor and Subcontractor may use other means necessary, outside the First Source Hiring Program, to fill the specific vacancy.
- c. The Contractor shall notify the DAA of how the vacancy will be filled as described in the following section.

**V. PRIOR TO FILLING POSITIONS**

- a. Filling Employment Opportunities.
  - i. Prior to filling any employment opportunity, the Contractor shall inform the DAA of:
    - 1. The names of the Referral Resources used,
    - 2. The names of the individuals that EWDD referred,
    - 3. The names of the referred individuals who the Contractor and Subcontractor interviewed, and
    - 4. The reasons why referred individuals were not hired.

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- b. Transfer and Promotion.
  - i. Contractors are not precluded from filling New Job Opportunities as a result of the City Contract through Transfer and Promotion of existing staff. If New Job Opportunities are filled by way of Transfer or Promotion, the Contractor must first notify EWDD by submitting the FSHO-3B Form to EWDD.
  - ii. Should vacancies arise as a result of a Transfer and/or Promotion of existing staff, the Contractor and Subcontractor must first use the City's First Source Hiring Program to fill those vacancies. The Contractor and Subcontractor must also submit the FSHO-3B Form to EWDD.

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**REGULATION #4: EXEMPTIONS**

- I. POSITIONS EXEMPT FROM COVERAGE UNDER LAAC SECTION 10.44.2.D&E AND VERIFICATION
  - a. If a Contractor finds that a particular vacancy meets the definition of a managerial, supervisory, or confidential position, or requires a professional license, the Contractor shall maintain in its files documentation showing evidence of its non-coverage to the FSHO. This shall include a job description and identification of that person holding that position.
  - b. Pursuant to LAAC Section 10.44.7(a) the DAA may, at any time during the course of the contract, request documentation from the Contractor verifying the Contractor's non-coverage under LAAC Section 10.44.2.d and e from the FSHO.
  - c. Upon the DAA's request, the Contractor must provide the documentation to the DAA within two business days.
  - d. If the Contractor is deemed not to be in compliance with the FSHO, the DAA may recommend to the Awarding Authority to withhold payment for the next payment period or terminate the contract.
  - e. If a professional license is not required of an employee to perform the work, the Job Opportunity will remain covered by the FSHO.
  
- II. APPLICATION FOR EXEMPTION TO ANY EMERGENCY POSITIONS PURSUANT TO LAAC SECTION 10.44.7(F)
  - a. If a Contractor needs to fill a specific position immediately, the Contractor must submit to the DAA an exemption application (FSHO-E Form) for an Emergency Position for approval no later than three business days prior to the projected Job Start date.
  - b. This application for Emergency Positions exemption shall include, and is not limited to:
    - i. An explanation of why this position is an emergency.
    - ii. An explanation of why going through the First Source Hiring Program will place an undue hardship to the Contractor, thereby jeopardizing the Contractor's ability to provide quality services to the City.
    - iii. The number of vacancies and Job Classifications requested to be filled on an emergency basis offered as a result of the City contract.
    - iv. Qualifications necessary for each Emergency Position. This may include, and are not limited to expectations, salary, work schedule, duration of employment, required standard of appearance, and any special requirements (e.g. language skills, driver's license, etc.). Job qualifications shall be limited to skills directly related to performance of job duties.
    - v. The mode by which the Contractor plans to fill the vacancy outside the First Source Hiring Program.

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- c. Approvals.
  - i. If an emergency exemption is approved by the DAA, the Contractor may continue to fill the position in the manner as noted in the original emergency exemption application submitted by the Contractor.
  - ii. From the date of the DAA's approval, the Contractor must continue to report the status of any other job opportunities to EWDD.
  - iii. If the Contractor fails to report to EWDD of any other job opportunities, the Contractor will be deemed to be in violation of the Ordinance.
- d. Disapprovals.
  - i. If an exemption is not approved by the DAA, the Contractor must continue with the provisions of the Ordinance (See Regulation #3).
  - ii. The Contractor must not advertise the job opportunity prior to the seven-day requirement (See Regulation #3-III-b).
  - iii. If a subject Contractor fails to use the First Source Hiring Program, the Contractor will be deemed to be in violation of the Ordinance (See Regulation #5).
  - iv. All determinations made by the DAA are deemed to be final.

**III. CONTRACT EXEMPTIONS PURSUANT TO LAAC SECTION 10.44.9**

- a. Prior to Contract Execution.
  - i. Upon request of the Awarding Authority, the DAA shall determine whether a Contract is exempt from this Article prior to the execution of the contract because any of the following is applicable:
    - 1. Contracts where the provisions of this article conflict with federal or state law.
    - 2. Contracts with another governmental entity.
    - 3. Contracts where the provisions of this article would conflict with federal or state grant funded contracts, or conflict with the terms of the grant or subvention.
    - 4. Contracts awarded under urgent or emergency circumstances. The Contract is necessary to respond to an emergency that endangers the public health or safety, and no entity which complies with the requirements of the First Source Hiring Ordinance capable of responding to the emergency is immediately available.
    - 5. Contracts entered into pursuant to Charter Section 371(e)(7). – Contracts for equipment repairs or parts obtained from the manufacturer of the equipment or its exclusive agent.
    - 6. Contracts where the services are available only from a single source. The Contract is for needed goods, services, construction of a public work or improvement, or interest in or right to use real property that is available only from a single prospective



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- Contractor, and that prospective Contractor is otherwise qualified and acceptable to the City; or
7. Contracts that involve the investment of trust monies, bond proceeds or agreements relating to the management of these funds, indentures, security enhancement agreements (including, but not limited to, liquidity agreements, letters of credit and bond insurance) for City tax-exempt and taxable financings, deposits of City's surplus funds in financial institutions, the investment of City monies in competitively bid investment agreements, the investment of City monies in securities permitted under the California State Government Code or the City's investment policy, investment agreements, repurchase agreements, City monies invested in U.S. government securities or pre-existing investment agreements.
  8. Contracts involving City monies if the Treasurer or the City Administrative Officer finds that failure to enter into the Contract will violate his or her fiduciary duties and cause the City to incur a financial loss or forego a financial benefit.
  9. City Loans or Grants funded from the proceeds of a bond issuance, tax credits or tax increment financing.
- b. After Contract Execution.
- i. Upon request of the Awarding Authority, the DAA shall determine whether a Contract is exempt from this article during the term of the contract because the following is applicable for City Loan or Grant Recipients:
    1. The applicable federal rate falls below the rate at which a City Loan is provided during the term of the Contract.
- c. If an exemption is approved by the DAA, the Awarding Authority need not include the provisions of the FSHO within the RFP and Contract documents.
- d. If an exemption is not approved by the DAA, the Awarding Authority must continue with the provisions of the Ordinance (See Regulation #1).

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**REGULATION #5: ENFORCEMENT**

The Office of Contract Compliance (OCC) is responsible for the administration and enforcement of the FSHO. The OCC may investigate and inspect employment records to ensure that the Contractor is acting in compliance with the First Source Hiring Ordinance requirements of such City Contracts.

**I. CONTRACTOR MONITORING**

- a. Pursuant to LAAC Section 10.44.7(e) the DAA may, at any time during the course of the contract, request documentation from the Contractor verifying whether the Contractor has used the First Source Hiring Program for all New Job Opportunities incurred during the life of the Contract.
- b. Upon the DAA's request, the Contractor must provide the documentation to the DAA verifying its compliance within ten (10) business days. This documentation shall include:
  - i. A copy of payrolls indicating the name and number of employees that were working at the start of the City Contract.
  - ii. The most current copy of payrolls indicating the name and number of employees that are currently working for the City Contract.
  - iii. Copies of New Job Opportunity Request forms (FSHO-3) submitted by the contractor to EWDD.
- c. Once the DAA has received information about the current workforce on the City contract, the DAA shall compare these numbers to the information provided by the Contractor at the start of the contract.
- d. If the DAA finds discrepancies between the numbers of Job Opportunities reported versus the current workforce numbers reported, the DAA shall contact the Contractor to verify its records.
- e. If a contractor is unable to verify through its records that it has used the First Source Hiring Program, the contractor will be deemed to be in violation of the Ordinance.
- f. If the Contractor is deemed not to be in compliance with the FSHO, the DAA may recommend to the Awarding Authority to withhold payment for the next payment period or terminate the contract.

**II. VIOLATIONS**

- a. If the DAA determines that a Contractor has violated or is not in compliance with the FSHO, the DAA will notify the Contractor of the determination and the DAA may recommend that the Awarding Authority take any of the following actions:
  - i. Document the determination in the Awarding Authority's Contractor Evaluation required under Los Angeles Administrative Code Section 10.39 et seq.;

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- ii. Require that the Contractor document the determination in each of the Contractor's subsequent Contractor Responsibility Questionnaires submitted under Los Angeles Administrative Code Section 10.40 et seq.;
  - iii. Terminate the Contract; and
  - iv. Recommend to the Awarding Authority to withhold payments due to the Contractor.
- b. The Awarding Authority may pursue any rights and remedies available by law.

**III. INTENTIONAL VIOLATIONS**

- a. If the DAA determines that a Contractor intentionally violated the ordinance or used hiring practices for the purpose of avoiding this article, the determination must be documented in the Awarding Authority's Contractor Evaluation, required under Los Angeles Administrative Code Section 10.39 et seq., and must be documented in each of the Contractor's subsequent Contractor Responsibility Questionnaires submitted under Los Angeles Administrative Code Section 10.40 et seq.
- b. This measure does not limit the City's authority to act under this article.