CITY OF HOUSTON

EXECUTIVE ORDER

SUBJECT	E. O. No.
City Contractors' Pay or Play Program (Amended December 9, 2009)	**1- 7**
	Effective Date **UPON APPROVAL**

1.0 BACKGROUND

1.01. Contractors who do not provide health benefits for their workforce impose a burden on agencies that provide health care to uninsured persons in Houston and Harris County and to individuals and businesses whose health insurance premiums increase because of the shifting of costs onto those payers.

1.02. The provision of health benefits is instrumental in attracting and retaining a good workforce and is a characteristic of a responsible contractor.

1.03. The City of Houston intends to enhance fairness in the competition for contracts between bidders that choose to offer a health benefit to their workforce and those that do not.

2.0 PURPOSE

The purpose of this Executive Order is to require certain contractors to provide to certain employees a minimal level of health benefits or to contribute a designated amount to be used to offset the costs of providing health care to uninsured people in the Houston/Harris County area. To that purpose, this Executive Order establishes the Pay or Play Program and the procedures for the administration thereof. This Executive Order also authorizes studies to evaluate the effectiveness and impact of the Program on contracting firms and the City of Houston.

This Executive Order will augment and enhance the goals and purposes of Chapter 15 of the City of Houston Code of Ordinances by supplementing the measures authorized and/or required therein with the Pay or Play Program to enhance fairness in competition for City contracts. This Executive Order is supplemental to state and federal laws and City ordinances and procedures. No provision of this Executive Order shall be construed to excuse compliance with any law or any procedure authorized by law.

3.0 SCOPE

3.01 Covered contracts. This Program applies to contracts for services in which the total value of the contract, including contingencies, amendments, supplemental terms and/or change orders equals or exceeds $100,000. The Program does not apply to (1) any contract in which the primary purpose is the procurement of property, goods, supplies, and/or equipment; (2) an intergovernmental contract; or (3) a contract awarded via an intergovernmental agreement or purchasing cooperative.

3.02 Covered subcontracts. This Program applies to subcontracts for services in which the total value of the subcontract, including contingencies, amendments, supplemental terms and/or change orders equals or exceeds $200,000. The Program does not apply to (1) any subcontract in which the primary purpose of the agreement is the procurement of property, goods, supplies, and/or equipment; (2) an intergovernmental contract; or (3) a contract awarded via an intergovernmental agreement or purchasing cooperative. The contractor is responsible to the City for compliance for covered employees of covered subcontractors.

3.03 This Executive Order applies to any contract for which solicitations for bids or requests for proposals are advertised on or after July 1, 2007 or which is executed on or after the effective date of this Executive Order.

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3.04 Covered employees. This program applies to employees of a covered contractor or subcontractor, including contract labor, who are over age 18, work at least 30 hours per week and work any amount of time under a covered city contract or subcontract.

3.05 City departments. This Executive Order applies to all departments within the City of Houston.

4.0 PROCEDURES

4.01 Prior to the commencement of a covered contract, the contractor will declare its intent to comply with the Program and will submit a plan for compliance in the form and manner prescribed by the Office of Affirmative Action and Contract Compliance, which shall serve as the Administrator of the Program.

4.02 Contractors will report to City regarding the identity of covered subcontracts and covered employees working under subcontracts in the form and manner prescribed by the Administrator.

4.03 Pay. If the contractor elects to comply by paying, the contractor will pay to the City $1 for each regular hour of work performed by covered employees, including covered employees of covered subcontractors. The Administrator will prescribe the time and form of payment. All payments to the City under this section shall be deposited in the Contractor Responsibility Fund, which shall not be used for any other purpose except to defray the costs of providing health care services to uninsured persons in the Houston Area

4.04 Play. If the contractor elects to comply by playing, the contractor will provide documentary proof in a form acceptable to the Administrator that it provides health benefits to each covered employee, and that covered employees of covered subcontractors are provided health benefits. The health benefits must meet or exceed the following standards: (1) the employer contributes no less than $150 per covered employee per month toward the total premium cost; and (2) the covered employee contributes, if any amount, no greater than 50% of the total monthly premium cost and no more than $150 per month toward the premium. A contractor is deemed to have complied with this provision with respect to a covered employee who is not provided health benefits if the employee refuses the benefits and the employee's contribution to the premium is no more than $40 per month.

4.05 Pay and Play. A contractor may pay on behalf of some covered employees and play on behalf of other covered employees, including subcontractors' covered employees.

4.06 Contractors will submit information regarding compliance with the Program in a form and manner prescribed by the Administrator.

4.07 In cooperation with the Administrator, all City departments shall implement procedures to facilitate the administration of the Program. This shall include, but not be limited to, the development of standards for management of data necessary to monitor the compliance by contractors and the establishment of accounting procedures to ensure accurate accounting for and disbursement of any monies collected from contractors.

4.08 In cooperation with the Administrator, the Legal Department shall develop language for inclusion in contracts that includes the obligation of covered contractors to meet the
Program requirements and specifies the right of City personnel, including Controller's office personnel, to examine the books and records of all contractors and subcontractors that relate to compliance with the Program.

4.09 All City employees, regardless of their assigned duties, shall support and assist in the success of the Program set forth in this Executive Order.

4.10 The Office of Affirmative Action, in consultation with the Legal Department, shall develop procedures to enforce compliance and remedy noncompliance by contractors.