

A wide-angle photograph of the Golden Gate Bridge in San Francisco, California. The bridge's iconic orange-red towers and suspension cables are visible on the left side, extending towards the right. The background shows the blue waters of the bay and the city skyline under a clear blue sky.

# City and County of San Francisco Office of Labor Standards Enforcement

Welcome to Labor Laws for City Suppliers!

We will begin at 9AM

Come to our Technical Assistance “**Breakout Room**” if you’d like to speak with OLSE staff 8:30AM - 4PM

A wide-angle photograph of the Golden Gate Bridge in San Francisco, California. The bridge's iconic orange-red towers and suspension cables are visible on the left side. The bridge spans across a large body of water, with the city skyline and hills visible in the distance under a clear blue sky.

# **City and County of San Francisco Office of Labor Standards Enforcement**

**Welcome!**  
**Labor Laws for City Suppliers**

**December 6, 2023**

A scenic view of the Golden Gate Bridge in San Francisco, California, with the bridge's red towers and suspension cables visible against a clear blue sky. The bridge spans across the water, with the city of San Francisco visible in the distance under a bright blue sky.

# **City and County of San Francisco Office of Labor Standards Enforcement**

**Welcome**

**Patrick Mulligan, Director**

# **Session 1**

Introduction to Labor Laws

&

Requirements for Suppliers

(Contracting & Citywide Labor Laws)

# Materials & Recording

The slide deck and a recording of this webinar will be posted at our website:

<https://sf.gov/departments/office-labor-standards-enforcement>



# Technical Assistance Breakout Room

- OLSE staff is available until 4PM to meet with you
- Access the Technical Assistance Breakout Room in WebEx

## Chat Box

- Public announcements & helpful information
- Chat/Message with Host



# Questions and Answers

## Questions & Answers Box

- Staff will provide answers to your questions via the Q&A box during the presentation(s)

## Live Question & Answer Session

- OLSE staff will answer select questions LIVE at the end of the presentation(s)

*Some questions may require more information and you may be asked to contact us*



# Session 1 – Introduction to Labor Laws and Requirements for Suppliers

## Host & Presenter

Beverly Popek

## Q&A

Jade San Diego

## Chat Box

Paige Shatola





A scenic view of the Golden Gate Bridge in San Francisco, California, with the bridge's towers and suspension cables visible against a clear blue sky. The bridge spans across the water, with hills and buildings visible in the distance.

# **City and County of San Francisco Office of Labor Standards Enforcement**

## **City-Wide and Contract Labor Laws For-profit and Non-profit Suppliers**

Beverly Popek, Supervising Compliance Officer

# San Francisco International Airport (SFO) Suppliers

This presentation is  
**NOT** for companies  
with contracts at the  
San Francisco  
International Airport  
(SFO)



The goal is to have you understand how to figure out which labor laws are relevant to you!



# Labor Laws for CCSF

## City-Wide



## Contract



# Contract Labor Laws

- Do you have a contract with the City and County of San Francisco?
- Contract – agreement between the City and your company
  - Examples:
    - Contract for construction or services
    - Grant
    - Lease
    - Permit
- The City has a lot of departments. List of City Departments:  
<https://sf.gov/departments>



# What's your Employee Count?

To determine which laws you must comply with, you need to know your **employee count**

*Employee count includes all persons working for the employer, regardless of whether they are located in San Francisco or outside of the city*



# Does it matter where my company is headquartered?

No, it does not matter where your company is headquartered



# Contract Labor Law Background Info

- Why do I need to comply with these contract labor laws?
- CCSF has standard contract templates with the required “contract” labor laws
- You are required to comply with the Contract Law requirements for the employees who perform work on the contract in the USA





# Covered Employer and Covered Employees

- Are you a Covered Employer?
- If you are a Covered Employer, do you have any Covered Employees?



# Contract Labor Laws For-Profit



## All Employers

- Consideration of Salary History \*

## Employers with 5+

- Minimum Compensation Ordinance\*\*
- Fair Chance Ordinance \*

## Employers with 20+

- Health Care Accountability Ordinance\*\*

## Construction and Service Contracts

- Prevailing Wage 21C\*\*
- Prevailing Wage 6\*\*
- Chapter 23\*\*

\* Also required for all companies operating in CCSF

\*\* Trumps City-Wide Laws (i.e. MWO, HCSO)

# City-Wide Labor Laws For-Profit (1/2)



## All Employers

- Minimum Wage\*  
Ordinance
- Paid Sick Leave\*  
Ordinance
- Lactation in the  
Workplace
- Consideration of  
Salary History

## Employers with 5+

- Fair Chance  
Ordinance

## Employers with 20+

- Health Care  
Security Ordinance
- Paid Parental Lave
- Family Friendly  
Workplace  
Ordinance

\* You may not have to comply with these ordinances if you are complying with the MCO or PW

# City-Wide Labor Laws For-Profit (2/2)



Employers with 100+

- Public Health Emergency Leave
- Military Leave Pay Protection Act

# Contract Labor Laws Non-Profit



## All Employers

- Consideration of Salary History \*

## Employers with 5+

- Minimum Compensation Ordinance\*\*
- Fair Chance Ordinance \*

## Employers with 50+

- Health Care Accountability Ordinance\*\*

## Construction and Service Contracts

- Prevailing Wage 21C\*\*
- Prevailing Wage 6\*\*
- Chapter 23\*\*

\* Also required for all companies operating in CCSF

\*\* Trumps City-Wide laws

# City-Wide Labor Laws Non-Profit (1/2)



## All Employers

- Minimum Wage\* Ordinance
- Paid Sick Leave\* Ordinance
- Lactation in the Workplace
- Consideration of Salary History

## Employers with 5+

- Fair Chance Ordinance

## Employers with 20+

- Paid Parental Leave
- Family Friendly Workplace Ordinance

## Employers with 50+

- Health Care Security Ordinance

# City-Wide Labor Laws Non-Profit (2/2)



## Employers with 100+

- Public Health Emergency Leave
- Military Leave Pay Protection Act

# Which laws do I comply with?

## Contract and City-Wide Labor Laws



### Contract

- **Do the Contract Law(s) apply to you?**
  - **Yes** – Then Contract Law(s)
  - **No** – Then, if operating in CCSF, follow City-Wide

### City-Wide

- The Contract Law(s) don't apply to you AND you operate in CCSF



# The Two (2) Big Categories for Contract Labor Laws

## Prevailing Wage

- Chapter 6
- Chapter 21C
- Chapter 23

Minimum  
Compensation  
Ordinance (MCO)  
&  
Health Care  
Accountability  
Ordinance (HCAO)



# Not sure where to start? Check Prevailing Wage First!

Go to OLSE website and see if the type of work you will be performing falls under:

1. Prevailing Wage – Chapter 6 (Construction)
2. Prevailing Wage – Chapter 21C (Non Construction)
3. Prevailing Wage – Chapter 23

If yes...

- Comply with Prevailing Wage for employees performing that/those type(s) of work.
- Who are the Covered Employees? Figure out and make a list



# Work that is NOT covered under Prevailing Wage

If work does not fall under prevailing wage, then the work falls under Minimum Compensation Ordinance (MCO) and Health Care Accountability Ordinance (HCAO)

Next Steps:

- Determine if you are a Covered Employer
- If yes, identify your Covered employees
  - Who are the Covered Employees? Figure out and make a list



# Examples of Work and Contract Labor Laws

- Construction work (i.e. carpentry, masonry) = Prevailing Wage (Chapter 6, 23)
- Janitorial services or Security Guards – Prevailing Wage (Chapter 21C – Miscellaneous)
- Administrators/office staff, counselors, consultants = MCO & HCAO
- Architects, Engineers, Project Managers = MCO & HCAO



# Which laws do I comply with? Prevailing Wage or MCO & HCAO?



## Prevailing Wage

Work Specific

- Chapter 6 (Construction)
- Chapter 21C (Miscellaneous)
  - Yes – Then Contract Law: Prevailing Wage
  - No – Then, MCO & HCAO
- Chapter 23

## MCO & HCAO

Minimum Compensation Ordinance (MCO)

Health Care Accountability Ordinance (HCAO)

# Determine which laws you must comply with (1/3)

1. Review contract to determine labor laws and positions involved. Think and make note of the following on your list:
  - a) What is your scope of work?
  - b) What sort of positions/jobs are performing work on the contract?
  - c) Where will the work be performed? This may be multiple locations
  - d) View OLSE's On-Demand Videos and each law's webpage to help you determine which labor laws are relevant to you



# Determine which laws you must comply with (2/3)

2. Using that list, get information on each law to determine:

- a) Are you a Covered Employer?
- b) If yes, do you have Covered Employees?
- c) If yes, who are they? Identify and make a list



# Determine which laws you must comply with (3/3)

3. Modify and create a final list that will clearly show:
  - a. The labor laws you must comply with
  - b. Per labor law:
    - 1) What positions and people (i.e. name) fall under which laws?
    - 2) Requirements and options for compliance





# Example 1: List of Labor Laws for Professional Services Contract and Employees Performing Professional Services (e.g. programmer, nonprofit worker, office administration)

## Contract Labor Laws

- MCO
- HCAO
- FCO
- Salary History



## City-Wide Labor Laws - Do you operate in CCSF? If yes, then:

- HCSO
- FFWO
- PPLO
- Lactation in the Workplace
- PHELO
- MLPPA



# Example 2: Draft List of Labor Laws for Generic Construction Services Contract

## Contract Labor Laws

- PW – Chapter 6 (Employees performing construction)
- PW – Chapter 21 (employees performing security guard services)
- PW – Chapter 23
- MCO – Administrators, Construction Managers, Schedulers, Engineers
- HCAO - Administrators, Construction Managers, Schedulers, Engineers
- FCO
- Salary History

## City-Wide Labor Laws – Will you operate in CCSF? If yes, then:

- HCSO
- FFWO
- PPLO
- Lactation in the Workplace
- PHELO
- MLPPA





# Lease Agreements – Identify Positions

1. Review your lease agreement to determine which laws are required per your contract
2. Make a list of the requirements
3. Are you a Covered Employer?
4. If you're a Covered Employer, Do you have Covered Employees? If so, who are they? Review all employees who work on the leased property!



# Example: Draft List of Labor Laws for a Port of San Francisco Lease

## Contract Labor Laws

- PW – Chapter 6 (Employees performing construction), Chapter 23
- HCAO - Administrators, Sales representatives, Cooks, Cashiers.
- FCO
- Salary History



## City-Wide Labor Laws – The Port Properties are in CCSF:

- MWO
- PSL
- HCSO
- FFWO
- PPLO
- Lactation in the Workplace
- PHELO
- MLPPA



# Tips and Best Practices

1. Based on your contract, you will be able to figure out the contract labor laws that are relevant to you
2. Do you or will you operate in the City and County of San Francisco? If so, get information on City-Wide Labor Laws



3. Get information on each law to determine:
  - a) Are you a Covered Employer?
  - b) Do you have Covered Employees?
  - c) What are the requirements and options for compliance?
  
4. Resources available to you:
  - a) Video On Demand (VOD) Library (<https://sf.gov/videos-about-san-francisco-labor-laws>)
  - b) OLSE Website <https://sf.gov/departments/office-labor-standards-enforcement>
  - c) Contact OLSE – Go to each law’s webpage to get contact for that unit



# Contact Us

Office of Labor Standard Enforcement  
San Francisco City Hall  
1 Dr. Carlton B. Goodlett Place, Room 430  
San Francisco, CA 94102

Website: <https://sf.gov/departments/office-labor-standards-enforcement>



# Live Question and Answer Session

Send us your questions in the Q&A Box







# Session 2: Prevailing Wage

## We will start at 10:00AM

Come to our Technical Assistance “**Breakout Room**” if you’d like to speak with OLSE staff 8:30AM – 4PM

A wide-angle photograph of the Golden Gate Bridge in San Francisco, California. The bridge's iconic orange-red towers and suspension cables are visible on the left side. The bridge spans across the water, with the city of San Francisco visible in the distance under a clear blue sky.

# **City and County of San Francisco Office of Labor Standards Enforcement**

**Welcome!**  
**Labor Laws for City Suppliers**

**December 6, 2023**

# Session 2

- Prevailing Wage – Chapter 6
- Prevailing Wage – Chapter 23
- Prevailing Wage – Chapter 21

(Contractor Labor Laws)



# Materials & Recording

The slide deck and a recording of this webinar will be posted at our website:

<https://sf.gov/departments/office-labor-standards-enforcement>



# Technical Assistance Breakout Room

- OLSE staff is available until 4PM to meet with you
- Access the Technical Assistance Breakout Room in WebEx

## Chat Box

- Public announcements & helpful information
- Chat/Message with Host



# Questions and Answers

## Questions & Answers Box

- Staff will provide answers to your questions via the Q&A box during the presentation(s)

## Live Question & Answer Session

- OLSE staff will answer select questions LIVE at the end of the presentation(s)

*Some questions may require more information and you may be asked to contact us*



# Session 2 - Prevailing Wage

## Host

Beverly Popek

## Presenter

Breena Gonzales

## Q&A

Jimmy Hewitt

## Chat Box

Paige Shatola





# Prevailing Wage Requirements

Breena Gonzales, Compliance Officer  
Office of Labor Standards Enforcement



# Introduction to Prevailing Wages

San Francisco Ordinance	Purpose	Employers Covered
<b>Chapter 6</b>	Requires public works contractors to pay prevailing wage and fringe benefit rates set by the California Department of Industrial Relations.	Public Works Contractors.
<b>Chapter 23</b>	Requires an entity that buys, leases, or receives a transfer of City property to abide by prevailing wage requirements for construction and maintenance of that property.	Entities that buy, lease, or receive a transfer of City property.



# Introduction to Prevailing Wages cont...

San Francisco Ordinance	Purpose	Employers Covered
<b>Chapter 21C</b>	Requires contractors, tenants, lessees and permit holders to pay prevailing wage and fringe benefit rates on certain non-construction work.	Entities that enter into contracts, leases, permits or management agreements with the City and County of San Francisco.
<b>Citywide PLA</b>	Requires contractors performing trade work on covered projects to: (1) utilize union hiring halls to hire workers and apprentices; and (2) pay fringe benefit contributions to union trust fund programs.	Contractors who perform covered work on public works projects issued by San Francisco Public Works or Recreation & Parks department that meet specified dollar thresholds.



# What is prevailing wage?

Traditional Prevailing wage is the highest total hourly wages and benefits paid on public works projects for a particular craft, classification, or type of construction work



# What is Public Works?

Public works refers to infrastructure projects paid for wholly or partly from public funds

Federally-funded  
(Davis Bacon)



Federal Building  
at  
7<sup>th</sup> & Market

State-funded  
(DIR's Wage  
Determinations)



Bay Bridge  
Rebuild

San Francisco-funded  
(Chapter 6)



Bus Rapid Transit  
(BRT)

Other Government  
Agency-funded



Golden Gate  
Bridge Suicide  
Deterrent Net  
System



# **San Francisco Administrative Code Chapter 6**



# San Francisco Administrative Code Chapter 6

- **Governs public work or improvement contracting policies and procedures in the city**
- **Construction work only**
- **Chapter 6 departments include:**
  1. **Municipal Transportation Agency (MTA)**
  2. **Airport (SFO)**
  3. **Public Utilities Commission (PUC)**
  4. **Recreation and Park**
  5. **San Francisco Public Works (DPW)**
  6. **Port of San Francisco**



# Crafts Covered By Prevailing Wage

1	Boilermaker-Blacksmith		54	Building/Construction Inspector and Field Soils and Material Tester+		52	Parking and Highway Improvement Painter
2	Iron Worker		34	Carpenter +		36	Pile Driver (Carpenter)
2A	Electrical Utility Lineman (a)		53	Cement Mason +		47	Pile Driver (Operating Engineer - Heavy and Highway Work) +
2A-1	Electrical Utility Lineman (c)		43	Dredger (Operating Engineer) +		47A	Pile Driver (Operating Engineer - Building Construction) +
2B-2B2	Telecommunications Technician		35	Drywall Installer/Lather (Carpenter) +		52A	Slurry Seal Worker (Laborer)
2B3	Telephone Installation Worker		38	Elevator Constructor		45	Steel Erector and Fabricator (Operating Engineer - Heavy and Highway Work) +
2D-2F	Tree Trimmer (High Voltage Line Clearance)		49	Laborer +		40B	Steel Erector and Fabricator (Operating Engineer - Building Construction) +
2H	Stator Rewinder		57	Landscape Maintenance Laborer		55	Teamster +
2I	Electrical Utility Lineman (b)		34F	Modular Furniture Installer (Carpenter)		44-44A	Traffic Control/Lane Closure (Laborer) and Parking and Highway Improvement Painter (Laborer)
2J	Metal Roofing		39	Operating Engineer (Heavy and Highway Work) +		59	Tree Maintenance (Laborer)
2K-2L	Driver (On/Off-Hauling To/From Construction Site)		40A	Operating Engineer (Building Construction) +		51	Tunnel Worker (Laborer) +
33	Asbestos Worker, Heat and Frost Insulator (h)		42	Operating Engineer (Landscape Construction) +		58	Tunnel/Underground (Operating Engineer) +
52B	Asbestos Removal Worker (Laborer)						

There are also sub-classifications under each craft

# **San Francisco Administrative Code Chapter 23**





# San Francisco Administrative Code Chapter 23

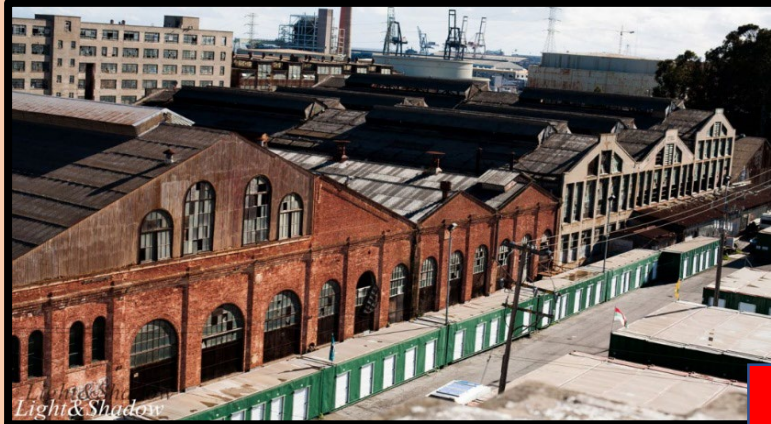
**Mandates prevailing wage and apprenticeship requirements on:**

- **Private developments on City-owned or leased property**
- **Private housing development on property that was sold or transferred by the City**

**Operative Date: April 20, 2016**



# Examples of Private Development on City Owned or Leased Property



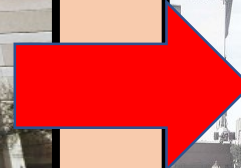
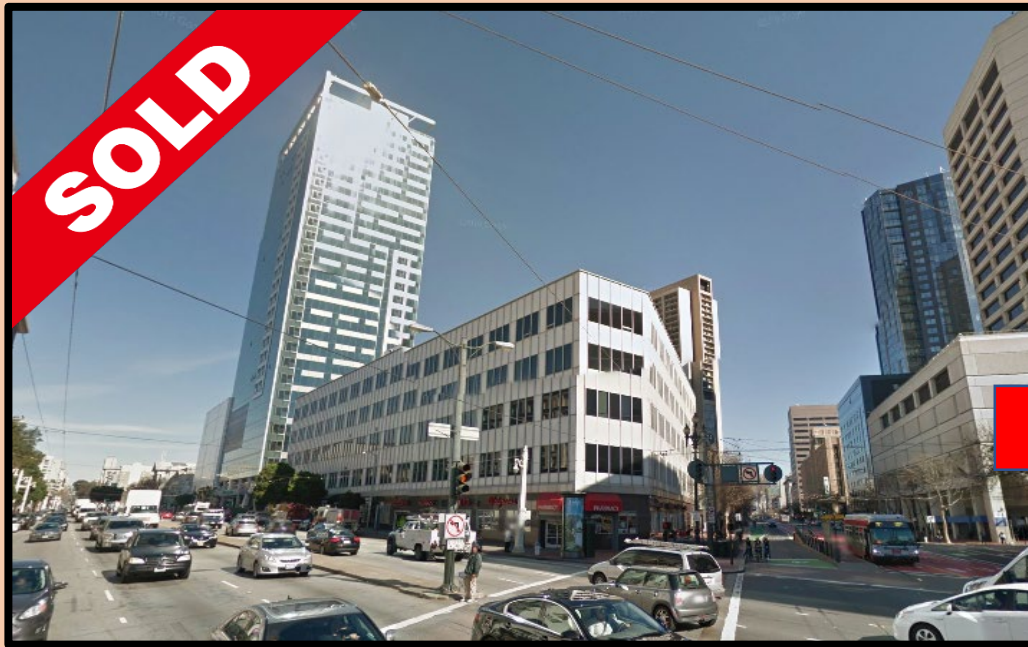
**PIER 70:** Leased by the City for private development and renovation in exchange for a long-term lease as a tenant

# Examples of Private Development on City Owned or eased Property (continued)



**GIANTS SEAWALL LOT 337**: Leased by the City for a new mixed-used development, including 40% affordable homes

# Examples of Private Housing Development on Property Sold by the City



**30 VAN NESS**: Sold by the City for residential development

# Examples of Private Housing Development on Property Sold by the City (continued)



**BALBOA RESERVOIR:** City-owned property sold for housing development

# Best Practice for Construction Related Prevailing Wage compliance:

- Attend Pre-Bid/Pre-Con Meetings (if applicable) and CPR training
- Submit CPRs on a regular basis to LCPTracker (if applicable)
- Maintain and Furnish Payroll Records and Fringe Contribution records as required
- Contact OLSE if you have any questions regarding Prevailing Wages



# **Chapter 21C**

# **Miscellaneous Prevailing Wage**

# **Requirements**



# San Francisco Administrative Code Chapter 21C

- Establishes 10 prevailing wage classifications for work that is
  - Not recognized by the California Department of Industrial Relations (DIR)
  - Not public works
  - Non-construction related
- Applies to San Francisco service **contracts, leases, management agreements, and permits.**
- Applies to work performed at any facilities or properties owned or leased by the City.





# 10 Categories of Work Under 21C

- Motor Bus Services (21C.1) **1999**
- Janitorial Services (21C.2) **1999**
- Work at Parking Lots and Garages (21C.3) **2003**
- Theatrical Services (21C.4) **2004**
- Solid Waste Hauling (21C.5) **2006**
- Moving Services (21C.6) **2004**
- Trade Show/Special Event Work (21C.8) **2014**
- Broadcast Services (21C.9) **2016**
- Loading/Unloading (21C.10) **2016**
- Security Guard Services (21C.11) **2016**



# 21C.2 – Janitorial Services

Date prevailing wage rate was established: 1/16/2004



- Working more than 7.5 hours a day will require overtime pay
- Exemptions:
  - Non-Profit Organizations providing work experience for people with disabilities
  - Services performed under jurisdiction of Airport Commission (SFO exempted)
- <https://sf.gov/information/prevaling-wage-non-construction-workers>

# 21C.2 – Window Cleaners

Date prevailing wage rate was established: 12/13/2007



- **4 Classifications:**
  - Base, Leadman Base, Scaffold/Bos'n Chair & Leadman Scaffold/Bos'n Chair
- **Working more than 7.5 hours a day will require overtime pay**
- **Exemptions:**
  - Non-Profit Organizations providing work experience for people with disabilities
  - Services performed under jurisdiction of Airport Commission (SFO exempted)
- <https://sf.gov/information/prevaling-wage-non-construction-workers>



# 21C.11 – Security Guard Services

Date prevailing wage rate was established: 6/2/2017



- <https://sf.gov/information/prevaling-wage-non-construction-workers>
- Amendment to extend current MCO & HCAO contracts will trigger 21C.11
- No waivers on health and welfare contribution (HCAO waiver provision does not apply to prevailing wage)
- HCSO may apply if employer has 20+ employees
- Pay attention to the footnotes



# Exemptions – Security Guards

- City contracts issued by SF Airport Commission or to be performed at any facility owned, leased, or otherwise under jurisdiction of SF Airport Commission
- City contracts for a cumulative amount of \$10,000 or less per security guard services provider in each fiscal year
- Celebration of a marriage, domestic partnership, or similar civil union



# Exemptions – Security Guards

- Event less than \$10,000 and free access in a public park or public street, or property under the jurisdiction of Port Commission
- Any permit or agreement to engage in film production
- In a circumstance would be preempted by federal or state law
- A total number of employees providing security guard services for the event is less than 15 persons



# Best Practice and Common Compliance Issues

- Review all contracts, leases, permits and management agreements for 21C prevailing wage triggers.
- Review 21C content on OLSE's website
- Pay attention to the footnotes on wage chart
- Maintain and Furnish Payroll Records and Fringe Contribution records as required
- Contact OLSE if you have any questions regarding Prevailing Wages





**Office of Labor Standards Enforcement**

# **Citywide Project Labor Agreement**



# What is the Citywide PLA?

- An agreement between the City and County of San Francisco and the San Francisco Building Trades Council and its affiliated unions
- Signed and took effect on 7/14/2020
- Only applies to Covered Contracts that are issued by:
  1. Public Works
  2. Recreation and Parks



# What is the Citywide PLA? cont...

Contractors performing trade work on **COVERED PROJECTS** are required to:

1. Utilize trade appropriate union hiring halls to hire workers and apprentices
2. Pay fringe benefit contributions on behalf of workers directly to appropriate Union Trust Fund programs



# What is a Covered Project?

Construction projects advertised by Public Works or Rec & Park if the following conditions are met:

1. Project is funded in whole or in part by General Obligation or Revenue bonds and the estimated construction cost *exceeds* the following threshold amounts:
  - ✓ \$1 million after 7/14/2022 – 7/13/2040
2. Project funded by any source other than the above mentioned bonds and the estimated construction cost to be more than \$10 million



# Local Business Enterprise (LBE) Exemption

**Qualifying LBEs are exempt from the terms and conditions of the PLA**

- LBEs must be certified by CMD under Admin. Code Ch. 14B
- LBE exemption applies to LBEs whose cumulative payments are less than \$5 million on Citywide PLA Covered Projects
- LBEs wishing to be exempt from the PLA must sign and submit a “Statement of Exemption”
- LBEs who have been issued \$5 million in cumulative payments on Covered Projects are no longer exempt from the PLA



# Questions?

Prevailing wage Hotline:

415-554-6573

Email: [prevailingwage@sfgov.org](mailto:prevailingwage@sfgov.org)

OLSE Website: <https://sf.gov/departments/office-labor-standards-enforcement>



# Live Question and Answer Session

Send us your questions in the Q&A Box





# Session 3: Minimum Compensation and Health Care Accountability Ordinances

**We will start at 11:00AM**

Come to our Technical Assistance **“Breakout Room”** if you’d like to speak with OLSE staff 8:30AM - 4PM

A scenic view of the Golden Gate Bridge in San Francisco, with the bridge's towers and suspension cables visible on the left. The background shows the city skyline across the water under a clear blue sky.

# **City and County of San Francisco Office of Labor Standards Enforcement**

**Welcome!**  
**Labor Laws for City Suppliers**

**December 6, 2023**



# Session 3

- Minimum Compensation Ordinance
- Health Care Accountability Ordinance

(Contractor Labor Laws)



# Materials & Recording

The slide deck and a recording of this webinar will be posted at our website:

<https://sf.gov/departments/office-labor-standards-enforcement>



# Technical Assistance Breakout Room

- OLSE staff is available until 4PM to meet with you
- Access the Technical Assistance Breakout Room in WebEx

## Chat Box

- Public announcements & helpful information
- Chat/Message with Host



# Questions and Answers

## Questions & Answers Box

- Staff will provide answers to your questions via the Q&A box during the presentation(s)

## Live Question & Answer Session

- OLSE staff will answer select questions LIVE at the end of the presentation(s)

*Some questions may require more information and you may be asked to contact us*



# Session 3 Minimum Compensation & Health Care Accountability Ordinances

## Host

Beverly Popek

## Presenter

Jade San Diego

## Q&A

Beverly Popek

## Chat Box

Paige Shatola

## Slides

Yordanos Dejen





# Minimum Compensation Ordinance (MCO)

# Health Care Accountability Ordinance (HCAO)

Jade San Diego, Compliance Officer

# San Francisco International Airport (SFO)

This presentation applies to companies with contracts at the San Francisco International Airport (SFO)



# MCO & HCAO



These are the labor laws for **non-construction** workers who work on the San Francisco City contracts.

Can be located anywhere in the US.

Examples:

- Clerical/administrative staff at office who support a contract
- Project and Construction Managers
- Case workers and Program Managers
- Architects, Engineers, Planners, Designers, other professional services...







# Minimum Compensation Ordinance (MCO)

Jade San Diego, Compliance Officer

# Minimum Compensation Ordinance (MCO)

## Covered Employer

- For-profit and nonprofit – 5+ workers (permanent, temporary, etc.) anywhere in the world
- Has a contract with the City
- Includes subcontractors and subtenants

## Covered Employee/Worker

- Anyone working for a covered employer on a City contract
- Worker/Employee is anyone –full-time, part-time, contract, casual, etc.
- Working in the United States



# Compensation = Wages + Time Off



MCO is NOT paying the SF Minimum Wage!

## *MCO Wage Requirements effective July 1, 2023:*

- For-profit rate: \$20.22 per hour
- Non-profit rate: \$18.93 per hour
- Annual increases occur every July 1<sup>st</sup>



# PTO and UTO Key Requirements

## Paid Time Off (PTO)

- accrual rate is 0.04615 hours of paid time off (~12 days for 40 hour a week employees)
- PTO is the property of the worker – Needs to be paid out upon termination
- No waiting period
- PTO violations are the most common violations for the MCO

## Unpaid Time Off (UTO)

- accrual rate is 0.03846 (~10 days for full-time 40 hour a week employees)
- not applicable for temporary or on-call employees
- For use of unpaid sick time to care for employee and/or loved ones



# MCO Resources

- MCO Webpage:  
<https://sf.gov/information/understanding-minimum-compensation-ordinance>
- MCO Rules & Regulations:  
<https://sfgov.org/olse/sites/default/files/Final%20OLSE%20MCO%202020%20Rules%20-%20Posted%20March%2003.02.2020.pdf>





# Health Care Accountability Ordinance (HCAO)

Jade San Diego, Compliance Officer

# Health Care Accountability Ordinance (HCAO)

## Covered Employer:

- Have 20 or more workers anywhere in the world
- Has a City Contract
- subcontractors and subtenants need to comply

## Covered Employee:

- Anyone who works at least 20 hours a week or more on a City Contract for services or works 20 hours or more on the leased property.

## Keep in Mind:

- A worker is covered if they are performing work anywhere in the US.
- Work hours that fluctuate from week to week are Covered Employees if the average number of hours per week during applicable month is 20 hours or more.



# What if my worker is not an HCAO covered employee?

If your employee/worker does not work 20 hours or more a week AND performs work in the City and County of San Francisco, then you will need to comply with the Health Care Security Ordinance (HCSO)

## Health Care Security Ordinance (HCSO)

<https://sfgov.org/olse/health-care-security-ordinance-hcso>

[hcso@sfgov.org](mailto:hcso@sfgov.org)

(415) 554-7892





# HCAO vs HCSO

## HCAO

- City Contractors or Lessees
- Employees working at least 20 hours a week on the contract or City property
- Requires a minimum standard insurance plan (or a SF General Hospital fee payment)
- Employee has no waiting period for coverage

## HCSO

- Employers with employees in San Francisco
- Employees working at least 8 hours a week in San Francisco
- Is a spending requirement
  - Employer chooses how to spend the money (e.g. Health Insurance, City Option, etc.)
- 90 day waiting period for coverage



# HCAO Compliance

- Three (3) Options
  - Employer chooses which option(s)
- Where the work is being performed will dictate which options are available



# HCAO Requirements 1/3



## Option 1

- Available in all locations in the U.S.
- Offer each covered employee a compliant health plan at no charge to the employee-no later than the first of the month after 30 days
- A compliant health plan meets all HCAO Minimum Standards –  
<https://sf.gov/information/understand-health-care-accountability-ordinance>
- Health plan compliance review and answers to HCAO Minimum Standards questions contact Max Gara, Department of Public Health, (415) 554-2621 or  
[maxwell.gara@sfdph.org](mailto:maxwell.gara@sfdph.org)



# HCAO Requirements – 2/3

## Option 2

- Only available for work performed in the City and County of San Francisco, SFO, or San Bruno Jail
- Pay **HCAO Fee Rate** per employee, per hour to SF General Hospital, capped at 40 hours per week
  - Check HCAO Webpage for current HCAO Fee Rate - <https://sf.gov/information/understand-health-care-accountability-ordinance>
  - Rate adjusted every July 1
  - 7/1/23 – 6/30/24: \$6.35 per hour
  - Pay to be in compliance – not a benefit or \$ for worker



# HCAO Requirements – 3/3

## Option 3

- Only available to employees NOT working in the City and County of San Francisco, SFO, or San Bruno Jail
- Pay **HCAO Fee Rate** per hour to Covered Employee, capped at 40 hours per week.
  - Check HCAO Webpage for current HCAO Fee Rate - <https://sf.gov/information/understand-health-care-accountability-ordinance>
  - Rate adjusted every July 1
  - 7/1/23 – 6/30/24: \$6.35 per hour
  - Contact HCAO Unit for best practices and options



# MCO and HCAO Forms

1. MCO & HCAO Declaration Forms
2. MCO & HCAO Notice Posters
3. MCO & HCAO Know Your Rights Form
4. HCAO Voluntary Waiver Form



# 1. MCO and HCAO Declaration Forms

- To contract with the City and County of San Francisco, both the MCO and HCAO Declaration Forms are required for contracts that are \$25,000 or more
- By completing the Declaration Forms, you are agreeing to comply with the ordinances when the ordinances apply to your firm
- A Department can not request a waiver or exemption for the Declaration requirement



# MCO Declaration Form

- Contact us if you have any questions
- Supplier sends form to [sfcitypartnersupport@sfgov.org](mailto:sfcitypartnersupport@sfgov.org)



## Minimum Compensation Ordinance (MCO) Declaration

**What the Ordinance does.** The Minimum Compensation Ordinance (MCO) became effective October 8, 2000, and was later amended by the Board of Supervisors, with an effective date for the amendments of October 14, 2007. The MCO requires City contractors and subcontractors to pay Covered Employees a minimum hourly wage and to provide 12 compensated and 10 uncompensated days off per year. The minimum wage rate may change from year to year and Contractor is obligated to keep informed of the then-current requirements.

The MCO applies only if you have at least \$25,000 in cumulative annual business with a City department or departments and have more than 5 employees, including employees of any parent, subsidiaries and subcontractors.

The City may require contractors to submit reports on the number of employees affected by the MCO.

**Effect on City contracting.** For contracts and amendments signed on or after October 8, 2000 the MCO will have the following effect:

- In each contract, the contractor will agree to abide by the MCO and to provide its employees the minimum benefits the MCO requires, and to require its subcontractors subject to MCO to do the same.
- If a contractor does not agree to provide the MCO's minimum benefits, the City will award a contract to that contractor **only** if the contractor has received an approved exemption or waiver under MCO from the Office of Labor Standards Enforcement (OLSE) through the contracting Department. The contract will not contain the agreement to abide by the MCO if there is an exemption or waiver on file.

**What this form does.** If you can assure the City now that, beginning with the first City contract or amendment you receive after October 8, 2000 and until further notice, you will provide the minimum benefit levels specified in the MCO to your covered employees, and will ensure that your subcontractors also subject to the MCO do the same, this will help the City's contracting process.

If you cannot make this assurance now, please do not return this form.

**For more information,** (1) see our Website, including the complete text of the ordinance: [www.sfgov.org/olse](http://www.sfgov.org/olse), (2) e-mail us at: [MCO@sfgov.org](mailto:MCO@sfgov.org), (3) Phone us at (415) 554-7903.

**Where to Send this Form.** Submit this form via San Francisco's centralized vendor portal [sfcitypartnersupport@sfgov.org](mailto:sfcitypartnersupport@sfgov.org) or call the Supplier Support Desk at 415-944-2442, Ext 1

## Declaration

In order to be a certified vendor with the City and County of San Francisco, this company will provide, if applicable, the minimum benefit levels specified in the MCO to our Covered Employees, and will ensure that our subcontractors also subject to the MCO do the same, until further notice. This company will give 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

\_\_\_\_\_  
Bidder/Supplier # - if known

\_\_\_\_\_  
Company Name

( ) \_\_\_\_\_  
Phone

\_\_\_\_\_  
Federal Employer ID #





# HCAO Declaration Form

- Contact us if you have any questions
- Supplier sends form to [sfcitypartnersupport@sfgov.org](mailto:sfcitypartnersupport@sfgov.org)



## 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 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 any parent or subsidiaries.

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.sfgov.org/olse/hcao](http://www.sfgov.org/olse/hcao); send an e-mail to [HCAO@sfgov.org](mailto:HCAO@sfgov.org); or call (415) 554-7903.

**Where to Send this Form.** Submit this form via San Francisco's centralized vendor portal [sfcitypartnersupport@sfgov.org](mailto:sfcitypartnersupport@sfgov.org) or call the Supplier Support Desk at 415-944-2442, Ext 1

## 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

\_\_\_\_\_  
Bidder/Supplier # - if known

\_\_\_\_\_  
Company Name

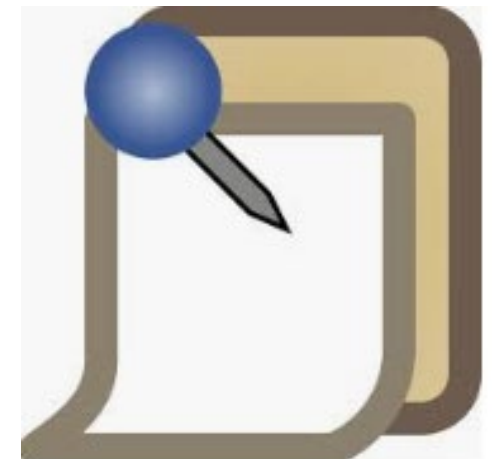
( )  
\_\_\_\_\_  
Phone

\_\_\_\_\_  
Federal Employer ID #



## 2. MCO & HCAO Notice Poster

- MCO & HCAO Notice Poster
  - Post the MCO and HCAO Notices in a common place for all employees to be made aware of their rights
  - You may also post the notice on your firm's intranet page or other electronic delivery for employees who may work remotely or other isolated locations where physical postings may not be made available
  - Posters are available in multiple languages on our website



# 3. MCO & HCAO Know Your Rights Form

- MCO & HCAO Know Your Rights Forms

- Who completes the forms:

- New hires execute the form during your new hire onboarding
- All employees who perform work on the San Francisco contract/work on the leased property

- Why: The forms notify employees of their rights that change annually

- How often: Must be completed on an annual basis by July 1<sup>st</sup>

- Keep the completed forms for your records




Signature



# 4. HCAO Voluntary Waiver Form

- HCAO Voluntary Waiver Form
  - Employer chooses to comply with the HCAO by providing a compliant health plan
  - Employer should provide:
    - An enrollment form (if the Employee wants coverage) and
    - A waiver form as proof of declination (if employee declines coverage)

CITY AND COUNTY OF SAN FRANCISCO  
GENERAL SERVICES AGENCY  
OFFICE OF LABOR STANDARDS ENFORCEMENT  
PATRICK MULLIGAN, DIRECTOR



SAN FRANCISCO HEALTH CARE ACCOUNTABILITY ORDINANCE ("HCAO")  
EMPLOYEE VOLUNTARY WAIVER FORM

**THIS SECTION TO BE FILLED OUT BY THE EMPLOYER:**

Employee Name: \_\_\_\_\_ Name of Employer: \_\_\_\_\_  
Employee Address: \_\_\_\_\_ Employer Address: \_\_\_\_\_  
\_\_\_\_\_  
Employer Contact Person: \_\_\_\_\_  
Employee Phone: \_\_\_\_\_ Employer Telephone Number: \_\_\_\_\_

Compliant Health Plan(s) being offered to this employee without a premium charge:

Insurance Company: \_\_\_\_\_  
Plan Name and Year: \_\_\_\_\_

**THIS SECTION TO BE FILLED OUT BY THE EMPLOYEE:**  
Under the San Francisco Health Care Accountability Ordinance (HCAO), your employer is required to (1) offer you a health insurance plan that meets the HCAO Minimum Standards (available at [sfgov.org/olse/hcao](http://sfgov.org/olse/hcao)) and **that does not require you to contribute any part of the premium (referred to here as a "Compliant Health Plan")**; or (2) make payments to the City; or (3) under limited circumstances, make payments directly to you. You may reject the employer's offer of health plan benefits; however, a rejection is valid only if the employer retains this form, signed by you, and you verify that you are receiving health coverage.

Your employer is offering you the Compliant Health Plan(s) listed above. In order to be a Compliant Plan, it must have no premium charge to you for individual coverage. This Waiver Form allows you to waive your right to receive a Compliant Health Plan from this employer. By signing this form, you are relieving your employer of the legal requirement to provide you with a Compliant Health Plan. Even if you have other health insurance, your employer is required to offer you insurance or make payments unless you sign this form.

**Do not sign this form if you want your employer to provide you with a health plan listed above. It is illegal for your employer to entice, pressure or coerce you to sign this form.**

This voluntary waiver is valid for one year from the date signed.

If you wish to provide a waiver to the employer listed above, please provide the information below:

I hereby certify that:

I am enrolling in another plan that is being offered to me by this employer (other than one listed above)

OR

I already have the following health insurance coverage from a different company or source:

\_\_\_\_\_

I hereby waive the right to the Compliant Health Plan listed above 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 554-7903 or visit [www.sfgov.org/olse/hcao](http://www.sfgov.org/olse/hcao).  
Para asistencia en Español, llame al 554-7903. 需要中文幫助, 請電 554-7903.

SF OFFICE OF LABOR STANDARDS ENFORCEMENT, CITY HALL ROOM 430  
1 DR. CARLTON B. GOODLETT PLACE • SAN FRANCISCO, CA 94102

TEL (415) 554-6235 • FAX (415) 554-6291  
[WWW.SFGOV.ORG/OLSE](http://WWW.SFGOV.ORG/OLSE)



# Compliance Reminders

- Annual Requirement – July 1
- MCO & HCAO executed forms should be kept for 3 years after the termination of the contract
- MCO and HCAO Webinars, Rules and Regulations, FAQs, etc.
- All posters, forms, more information on our websites
- OLSE Website: [www.sf.gov/olse](http://www.sf.gov/olse)



# Contact OLSE

Office of Labor Standard Enforcement (OLSE)

San Francisco City Hall

1 Dr. Carlton B. Goodlett Place, Room 430

San Francisco, CA 94102

Phone: (415) 554-7903

Fax: (415) 554-6291

Email: [mco@sfgov.org](mailto:mco@sfgov.org), [hcao@sfgov.org](mailto:hcao@sfgov.org)

Website: [www.sf.gov/olse](http://www.sf.gov/olse)



# Live Question and Answer Session

Send us your questions in the Q&A Box





# Session 4: Fair Chance, Consideration of Salary History Ordinances (Contracting & Citywide Labor Laws)

We will start at 11:30AM

Come to our Technical Assistance **“Breakout Room”** if you’d like to speak with OLSE staff 8:30AM - 4PM



A scenic view of the Golden Gate Bridge in San Francisco, with the bridge's towers and suspension cables visible on the left. The background shows the city skyline across the water under a clear blue sky.

# **City and County of San Francisco Office of Labor Standards Enforcement**

**Welcome!  
Labor Laws for City Suppliers**

**December 6, 2023**

# Session 4

- Fair Chance Ordinance
- Consideration of Salary History Ordinance

(Contracting & Citywide Labor Laws)



# Materials & Recording

The slide deck and a recording of this webinar will be posted at our website:

<https://sf.gov/departments/office-labor-standards-enforcement>



# Technical Assistance Breakout Room

- OLSE staff is available until 4PM to meet with you
- Access the Technical Assistance Breakout Room in WebEx

## Chat Box

- Public announcements & helpful information
- Chat/Message with Host



# Questions and Answers

## Questions & Answers Box

- Staff will provide answers to your questions via the Q&A box during the presentation(s)

## Live Question & Answer Session

- OLSE staff will answer select questions LIVE at the end of the presentation(s)

*Some questions may require more information and you may be asked to contact us*



# Session 4 – Fair Chance & Consideration of Salary History Ordinances

## Host

Beverly Popek

## Presenter

Jade San Diego

## Q&A

Beverly Popek

## Chat Box

Paige Shatola

## Slides

Yordanos Dejen





# Fair Chance Ordinance (FCO) and Salary History Ordinance

Jade San Diego, Compliance Officer

# San Francisco International Airport (SFO)

This presentation is NOT for companies with contracts at the San Francisco International Airport (SFO)







# Fair Chance Ordinance (FCO)

Jade San Diego, Compliance Officer

# Who is Covered?



## Employers Citywide

- 5+ employees worldwide & any employees (or planned positions) in SF
- Any position where the employee works/will work at least 8 hours/week in SF

## San Francisco City Contractors

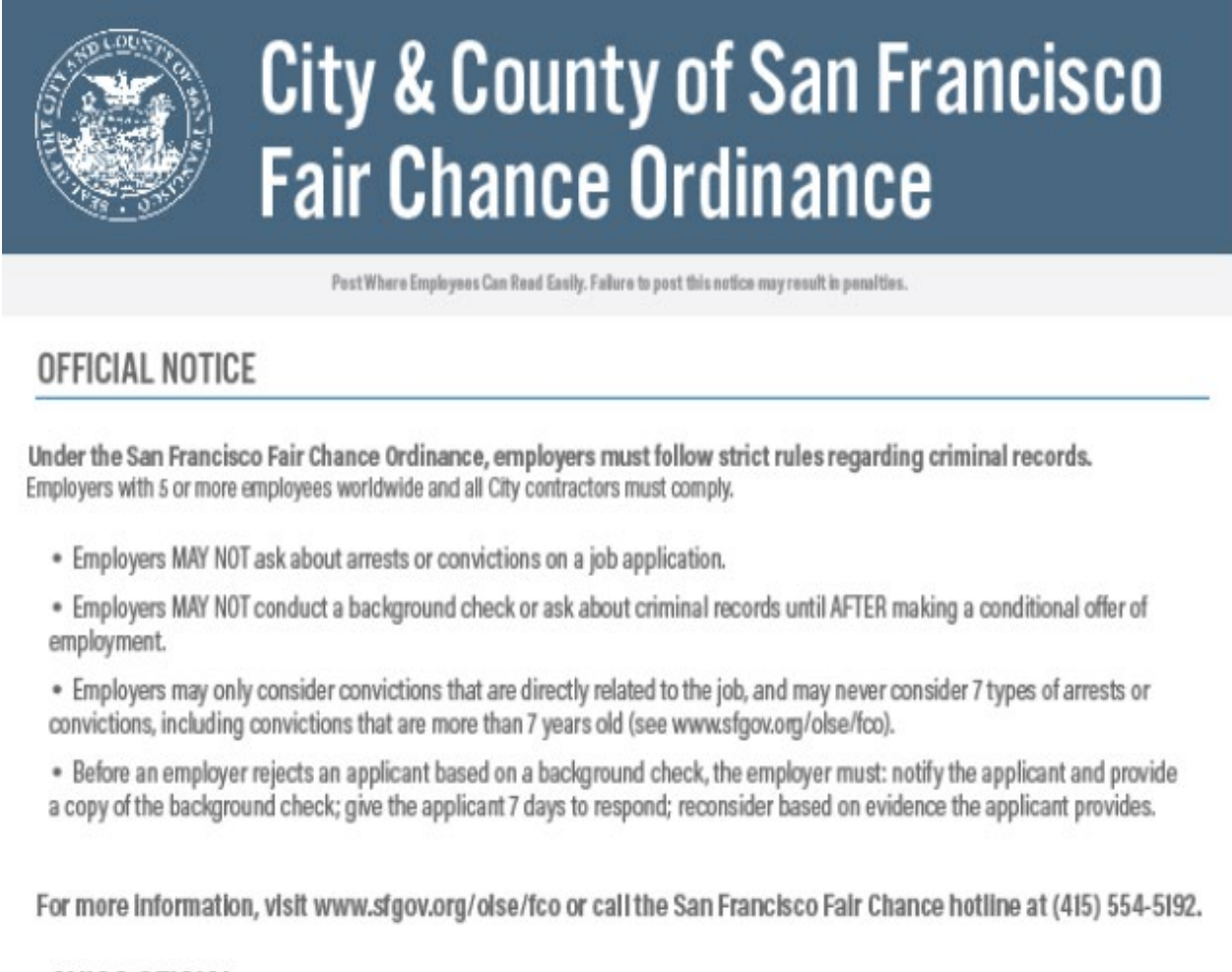
- Any size & any employees (or planned positions) in SF
- Any position where the employee works/will work at least 8 hours/week in SF



# What is the FCO?

The FCO is a process law

- Step by step process that employers are required to follow regarding applicants or employees with arrest and conviction records, or related information



The graphic is a dark blue header with the City & County of San Francisco seal on the left and the title 'City & County of San Francisco Fair Chance Ordinance' in white text on the right. Below the header is a light grey bar with the instruction 'Post Where Employees Can Read Easily. Failure to post this notice may result in penalties.' The main body is white with the heading 'OFFICIAL NOTICE' underlined. It contains a paragraph about the ordinance's requirements, a bulleted list of key rules, and a footer with contact information.

**City & County of San Francisco  
Fair Chance Ordinance**

Post Where Employees Can Read Easily. Failure to post this notice may result in penalties.

**OFFICIAL NOTICE**

Under the San Francisco Fair Chance Ordinance, employers must follow strict rules regarding criminal records. Employers with 5 or more employees worldwide and all City contractors must comply.

- Employers **MAY NOT** ask about arrests or convictions on a job application.
- Employers **MAY NOT** conduct a background check or ask about criminal records until **AFTER** making a conditional offer of employment.
- Employers may only consider convictions that are directly related to the job, and may never consider 7 types of arrests or convictions, including convictions that are more than 7 years old (see [www.sfgov.org/olse/fco](http://www.sfgov.org/olse/fco)).
- Before an employer rejects an applicant based on a background check, the employer must: notify the applicant and provide a copy of the background check; give the applicant 7 days to respond; reconsider based on evidence the applicant provides.

For more information, visit [www.sfgov.org/olse/fco](http://www.sfgov.org/olse/fco) or call the San Francisco Fair Chance hotline at (415) 554-5192.



# FCO Requirements

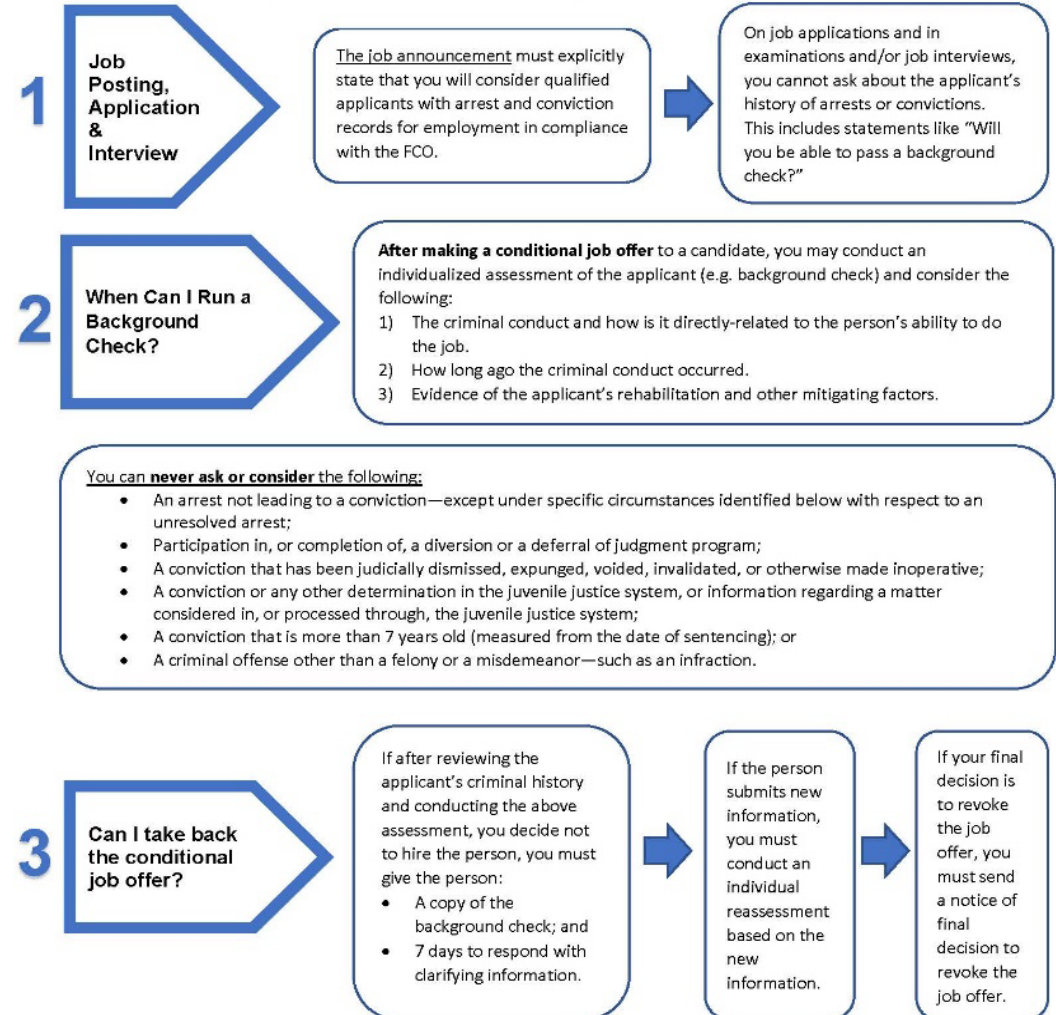
- Requires a compliant hiring process
- Use our FCO Employer Tool Kit
- Watch our FCO Employer Tool Kit Videos:  
[https://www.youtube.com/playlist?list=PLFJs8bFVpkCdOQ2glqPtvh\\_W74fWYXCii](https://www.youtube.com/playlist?list=PLFJs8bFVpkCdOQ2glqPtvh_W74fWYXCii)

## HOW TO COMPLY WITH THE FAIR CHANCE ORDINANCE

### Is the position covered by the San Francisco Fair Chance Ordinance (FCO)?

- Do you have 5 or more employees globally and the new or promotional position is for 8 or more hours per week in San Francisco?
- Are you a San Francisco City Contractor and the new or promotional position is for 8 or more hours per week in San Francisco?

If you checked either option, the position is covered and you must follow the steps listed below:





# Compliant Hiring Process

# 1. Job Announcements



- Announcements **cannot** say that someone with arrests or convictions will not be considered, or that a background check must be “passed”

- Announcements **must** include an affirmative statement of compliance with the FCO:

***“Pursuant to the San Francisco Fair Chance Ordinance, we will consider for employment qualified applicants with arrest and conviction records”***



## 2. Job Applications/Interview

- Job applications **cannot** ask about the applicant's history of arrests or convictions
- Employers **cannot** ask about, or inquire into, convictions or unresolved arrests until after a conditional offer of employment



# 3. Making a Conditional Job Offer

- The employer has the choice to conduct a background check or not
- After a conditional of employment has been made, employer may conduct background check

# 4. Background Report

- OLSE does NOT require you to conduct a background report
- The employer can make the decision to hire the applicant





# Background Check Prohibited Information

Seven categories of information may not be considered at any time:

1. an arrest not leading to a conviction (except unresolved arrests)
2. participation in a diversion or deferral of judgment program
3. a conviction that has been dismissed or expunged
4. a conviction in the juvenile justice system
5. a conviction that is more than 7 years old
6. an offense other than a felony or misdemeanor (i.e. traffic ticket)
7. Any decriminalized offense (such as some cannabis convictions)



# Exceptions to Prohibited Information

Employers can consider convictions and arrests prior to 7-year look back period for jobs supervising:

- Minors
- Dependent adults
- Persons 65 years or older

Employers can consider infractions (driving record) where driving is a significant part of the job



# State and Federal Preemptions

- Federal or State laws that require background checks for certain jobs preempt the FCO
  - Example: financial services/insurance employees



# 5. Individualized Assessment

- If you plan to revoke the job offer due to the background check, you must conduct an individualized assessment considering the following:
  - The criminal conduct and how it is directly-related to the person's ability to do the job
  - How long ago the criminal conduct occurred
  - Evidence of the applicant's rehabilitation or other mitigating factors
- Provide the preliminary decision to revoke the job offer
- No automatic rejections



# 6. Rescinding the Job Offer

- Provide the applicant a copy of the background check and a copy of the individualized assessment
- Offer applicant **7 days** to provide clarification of errors in the background, mitigating circumstances, and evidence of rehabilitation
  - Did the applicant perform the same job elsewhere?
  - Does the applicant have reference letters?
  - Did the applicant complete a rehabilitation program?



# 7. Individualized RE-assessment

- With the background check and new information from the applicant conduct an individualized Re-assessment and make your determination
- If you decide to not hire the applicant, provide the decision in writing, a copy of the Re-assessment, and FCO poster as the applicant has the right to file a claim with OLSE



# What the FCO Does NOT Do:

- FCO does **NOT** require employers to give preference to, or hire an unqualified individual with an unresolved arrest or conviction record
- FCO does **NOT** limit employers' ability to choose the most qualified and appropriate candidate among the applicants
- FCO does **NOT** require employers to conduct a background check
- FCO does **NOT** prohibit employers from conducting a background check





# Common Violations



# Common Violations

[1 of 2]

1. Employer asks about convictions on job applications
2. Employer refuses to hire based on a conviction that is 7+ years old
3. Employer implies that no individuals with convictions will be hired (saying a background check must be “passed”)

**VIOLATION**



# Common Violations

[2 of 2]

4. Employer has an improper process of notifying applicants of conviction or unresolved arrests and length of durations
5. Failing to provide a copy of the background check
6. Failing to provide 7 days for applicant to review and respond to the questions regarding the background report

**VIOLATION**





Go to the <https://sf.gov/information/fair-chance-ordinance> and review:

- Review the frequently asked questions and the ordinance
- View the recorded webinar

The FCO is a process law

Gain an understanding of the necessary steps to comply with the FCO



# Contact OLSE

Office of Labor Standard Enforcement – FCO

San Francisco City Hall

1 Dr. Carlton B. Goodlett Place, Room 430

San Francisco, CA 94102

Phone: (415) 554-5192

Fax: (415) 554-6291

Email: [fco@sfgov.org](mailto:fco@sfgov.org)

Website: [www.sf.gov/olse](http://www.sf.gov/olse)

FCO

<https://sf.gov/information/fair-chance-ordinance>





# Consideration of Salary History Ordinance

Jade San Diego  
Compliance Officer

# Legislative History



The Ordinance will help ensure that an individual's prior earnings, which may reflect widespread, longstanding, gender-based wage disparities in the labor market, do not continue to weigh down a woman's salary throughout her career



# Key Provisions

[1 of 2]



1. Employers may not ask applicants about their current or past salary
2. Employers may not disclose a current or former employee's salary history without that employee's written authorization unless the salary history is publicly available



# Key Provisions

[2 of 2]



3. An applicant may choose to share salary history information voluntarily and without prompting. If the applicant does so, the employer may consider that information in determining the salary to offer that applicant
4. Applies to all prime proposers and subconsultants







- Ensure that all steps of the hiring process do not inquire about salary history such as the job application
- Inform everyone involved in the hiring process about the requirements under the Consideration of Salary History Ordinance



# OLSE – Consideration of Salary History

Website: <https://sf.gov/information/salary-history-ordinance>

Phone: (415) 554-6469

Email: [salaryhistory@sfgov.org](mailto:salaryhistory@sfgov.org)



# Live Question and Answer Session

Send us your questions in the Q&A Box





# Session 5: Minimum Wage, Paid Sick Leave Ordinances (Citywide Labor Law)

We will start at 12:00PM

Come to our Technical Assistance **“Breakout Room”** if you’d like to speak with OLSE staff 8:30AM - 4PM

A scenic view of the Golden Gate Bridge in San Francisco, with the bridge's towers and suspension cables visible on the left. The background shows the city skyline across the water under a clear blue sky.

# **City and County of San Francisco Office of Labor Standards Enforcement**

**Welcome!**  
**Labor Laws for City Suppliers**

**December 6, 2023**

# Session 5

- Minimum Wage Ordinance
- Paid Sick Leave Ordinance

(Citywide Labor Laws)



# Materials & Recording

The slide deck and a recording of this webinar will be posted at our website:

<https://sf.gov/departments/office-labor-standards-enforcement>



# Technical Assistance Breakout Room

- OLSE staff is available until 4PM to meet with you
- Access the Technical Assistance Breakout Room in WebEx

## Chat Box

- Public announcements & helpful information
- Chat/Message with Host





# Questions and Answers

## Questions & Answers Box

- Staff will provide answers to your questions via the Q&A box during the presentation(s)

## Live Question & Answer Session

- OLSE staff will answer select questions LIVE at the end of the presentation(s)

*Some questions may require more information and you may be asked to contact us.*



# Session 5 – Minimum Wage and Paid Sick Leave Ordinances

## Host

Beverly Popek

## Presenter

Josh Pastreich

## Q&A

Evie Valle

## Chat Box

Paige Shatola

## Slides

Yordanos Dejen





# San Francisco Minimum Wage Ordinance (MWO)

# San Francisco Minimum Wage Ordinance



**City & County of San Francisco**  
**San Francisco Minimum Wage**

Post Where Employees Can Read Easily. Failure to post this notice may result in penalties.

**\$18.07** per hour  
por hora  
每小時  
bawat oras

Rate Effective - La tasa entrará en vigor el - 生效日期 - Simula sa  
**July 1, 2023**

OFFICIAL NOTICE

- The current minimum wage is **\$18.07** per hour
- On **July 1** of every year, the minimum wage is adjusted based on the annual calculation of the Consumer Price Index



# Covered Employees

- Works at least 2 hours per week in San Francisco
- Qualifies as an Employee under Section 1197 of the California Labor Code
- Welfare-to-Work Program participant



# OLSE HOTLINE for Minimum Wage Questions

(415) 554-6292

[mwo@sfgov.org](mailto:mwo@sfgov.org)

[www.sfgov.org/olse/mwo](http://www.sfgov.org/olse/mwo)





# San Francisco Paid Sick Leave Ordinance (PSLO)

# Covered Employees and Employers

- All businesses in San Francisco are required to provide paid sick leave
- Employees who perform work in San Francisco 56 or more hours per year must accrue paid sick leave





# Minimum Compensation Ordinance and Paid Sick Leave

- Effective 7/1/20, the Minimum Compensation Ordinance (MCO) integrated the PSLO into the PTO requirements. For more information, please watch the on-demand MCO webinars on the MCO webpage, read the MCO Rules and Regulations, or contact the MCO unit at [mco@sfgov.org](mailto:mco@sfgov.org).



# Use of Paid Sick Leave

- For illness, injury, medical care, treatment or diagnosis.
- To provide care for a family member, spouse, domestic partner or designated person.
- For victims of domestic violence, sexual assault or stalking.



# Accrual and Use of Paid Sick Leave

- Accrue 1 hour of PSL for every 30 hours worked
- Accrue PSL starting on day 1
- Use PSL hours after 90 days
- Caps on accrual:
  - 40 hours for employers with <10 employees
  - 72 hours for all other employers



# Accrual and Use of Paid Sick Leave

- Caps are not annual; accrued PSL hours carry over from year to year
- Employers must notify employees of PSL accrued each pay period
- Employees can use any PSL accrued



**QUESTION:** Can a company front load 72 hours instead of using an accrual method?

**ANSWER:** Yes, a company may front load hours. OLSE would consider that an advance on sick leave hours yet to be accrued.

If the company front loads 72 hours for an employee at the beginning of the year, it is possible for an employee to use and accrue more than 72 hours in a year. There should be a carry over provision.



## EXAMPLE:

- January 1 - Employee has 72 hours of sick leave previously accrued, calls in sick and uses all 72 hours
- Mid January – Employee returns to work
- Mid January to mid December – Employee works 1,944 hours and accrues 64 hours of paid sick leave
- End of December – calls in sick, uses 64 hours of sick leave



## EXAMPLE:

An example of a compliant policy would be to front load 72 hours at the start of each year, allow all unused hours to roll over and have a maximum cap of 136 hours of paid sick leave at any time.



# Paid Sick Leave Questions

(415) 554-6271

[psl@sfgov.org](mailto:psl@sfgov.org)

[www.sfgov.org/olse/pslo](http://www.sfgov.org/olse/pslo)





# Live Question and Answer Session

Send us your questions in the Q&A Box





# Session 6: Health Care Security Ordinance (Citywide Labor Law)

We will start at 12:30PM

Come to our Technical Assistance “**Breakout Room**” if you’d like to speak with OLSE staff 8:30AM - 4PM

A scenic view of the Golden Gate Bridge in San Francisco, with the bridge's towers and suspension cables visible on the left. The background shows the city skyline across the water under a clear blue sky.

# **City and County of San Francisco Office of Labor Standards Enforcement**

**Welcome!**  
**Labor Laws for City Suppliers**

**December 6, 2023**

# **Session 6**

## **Health Care Security Ordinance (Citywide Labor Laws)**



# Materials & Recording

The slide deck and a recording of this webinar will be posted at our website:

<https://sf.gov/departments/office-labor-standards-enforcement>



# Technical Assistance Breakout Room

- OLSE staff is available until 4PM to meet with you
- Access the Technical Assistance Breakout Room in WebEx

## Chat Box

- Public announcements & helpful information
- Chat/Message with Host



# Questions and Answers

## Questions & Answers Box

- Staff will provide answers to your questions via the Q&A box during the presentation(s)

## Live Question & Answer Session

- OLSE staff will answer select questions LIVE at the end of the presentation(s)

*Some questions may require more information and you may be asked to contact us*



# Session 6 – Health Care Security Ordinance

## Host

Beverly Popek

## Presenter

Kevin Brunner

## Q&A

Maura Prendiville

## Chat Box

Paige Shatola

## Slides

Yordanos Dejen







# Health Care Security Ordinance

Kevin Brunner, Compliance Officer

# Overview

- The HCSO has been around since 2008; it is a **spending requirement**. It requires employers to spend a certain amount of money on employee health care.
- There are different ways to comply with the HCSO.



# Who's a Covered Employer?

Minimum size threshold based on total number of persons performing work in ALL locations throughout the world, not only San Francisco

- For-profit employers: 20+ persons perform work per quarter
- Nonprofit employers: 50+ persons perform work per quarter

Exception: government employers are not covered by the HCSO



# Who's a Covered Employee?

- Employed for at least 90 calendar days for the company organization; and
- Works at least 8 hours per week **in San Francisco** in a quarter (104 hours/quarter)
  - Note: the SF airport is *not* within the geographic boundaries of San Francisco

→ This means that **nearly all** of a company's San Francisco employees are covered by the HCSO. The few categories of workers who are exempt are addressed later in the presentation.

*The employee's place of residence does not matter; what matters is where the work is performed.*



# Employer Obligation #1: Satisfy Employer Spending Requirement

- Expenditures must be made quarterly.
- Expenditure rate is based on employer's *global* workforce size, not just those in San Francisco. Companies with under 100 workers have a lower spending rate.

Employer size	2023 Rate
100+ workers	\$3.40/hr
20-99 workers	\$2.27/hr

***\*Health Care Expenditure Rates Change Annually\****



# Employer Obligation #1: Satisfy Employer Spending Requirement

- Multiply the expenditure rate by the employee's payable hours to get the correct quarterly spending amount.
- Payable hours: hours worked in SF or hours for which employee is *entitled to be paid* (sick time, vacation, overtime). Capped at 172h/mo.
- What this looks like for a **full time** employee:

Employer size	2023 rates
Large (100+ workers)	\$3.40/hr (rate) x max 172h/mo = \$584.80/mo or \$1,754.40/Q
Medium (20-99 workers)	\$2.27/hr (rate) x max 172h/mo = \$390.44/mo or \$1,171.32/Q



# Employer Obligation #1: Satisfy Employer Spending Requirement

Options to satisfy Employer Spending Requirement:

- Provide health insurance:
  - Payments for insurance premiums, including medical, dental, and/or vision insurance for covered employees and/or their spouses, partners, children, or other dependents
- Contribute to SF City Option (managed by SF Dept of Public Health, not OLSE. For more information see [www.sfcityoption.org](http://www.sfcityoption.org))
- Contribute to a Health Savings Account, Medical Savings Account, or other irrevocable reimbursement account
- Combination of these options.



# Direct Payments Don't Satisfy Spending Requirement

- Financial remuneration and/or wages paid to Covered Employees do not constitute Health Care Expenditures. Financial incentives to “opt out” of employer health benefits do not count as Health Care Expenditures.



# Prevailing Wage and the HCSO

- Payment of the prevailing wage fringe benefit requirement in cash (as part of the Covered Employee's paycheck or otherwise) shall not satisfy the Employer Spending Requirement of this Ordinance.
- A portion of the amount required by your prevailing wage status must be used to make health care expenditures for the employees as required by the HCSO.

# Employer Obligation #1: Satisfy Employer Spending Requirement

## Deadlines:

- Expenditures must be made within 30 days of the end of the quarter. Exception for self-funded health plans which are calculated annually
- **Quarterly Deadlines:**
  - Quarter 1: Apr. 30
  - Quarter 2: July 30
  - Quarter 3: Oct. 30
  - Quarter 4: Jan. 30



# Employer Obligation #2: Mandatory Poster

## City & County of San Francisco Health Care Security Ordinance



Covered Employers Must Post Where Employees Can Read Easily.

### Official 2022 Notice

You may be entitled to employer health care spending

Most workers in San Francisco are entitled to employer health care spending, if you:

- Work at least **8 hours** per week in San Francisco
- Have been employed by your employer for about 3 months (**90 days**)
- Work for a business that has **20 or more workers** worldwide or a non-profit with 50 or more workers worldwide

### 2022 Required Health Care Spending Rates

Employer size	Required Rate
20-99 workers worldwide (or nonprofits with 50-99 workers)	\$2.20/hour
100 or more workers worldwide	\$3.30/hour

Your employer may choose how they spend the money. For example, your employer may pay for health, dental, or vision insurance, make payments to the SF City Option program, etc.

The City may investigate possible violations of the law, and can order employers who violate the law to pay penalties and make payments to workers. Employers may not punish employees who file a complaint or who cooperate with an investigation.

If you have any questions, please contact your employer or the San Francisco Office of Labor Standards Enforcement at (415) 554-7892 or [HCSO@sfgov.org](mailto:HCSO@sfgov.org). You can also visit the OLSE website at [www.sfgov.org/olse/hcso](http://www.sfgov.org/olse/hcso).

### Aviso Oficial 2022 - Ordenanza de Seguridad del Cuidado de la Salud (HCSO)

Es posible que tenga derecho a los gastos de atención médica del empleador

La mayoría de los trabajadores en San Francisco tienen derecho a los gastos de atención médica del empleador, si usted:

- Trabaja por lo menos **8 horas** a la semana en San Francisco
- Ha estado trabajando por su empleador durante aproximadamente unos 3 meses (**90 días**)
- trabaja para una empresa que tiene **20 o más trabajadores** en todo el mundo o una organización sin fines de lucro con 50 o más trabajadores en todo el mundo

### Tasas de gasto en atención médica requerida 2022

Tamaño de la empresa	Tasa obligatoria
20-99 trabajadores en todo el mundo (o entidades sin fines de lucro con 50-99 trabajadores)	\$2.20/hora
100 o más trabajadores en todo el mundo	\$3.30/hora

Si su empleador puede elegir cómo gastar el dinero. Por ejemplo, su empleador puede pagar un seguro médico, dental o de visión, hacer pagos al



# Employer Obligation #3: Maintain Records

Maintain records for four years of:

- Payable hours;
- Health care expenditures made (including insurance enrollment and invoices ;
- HCSO waiver forms, if any;
- Anything else you'd need to demonstrate compliance (work location, payroll records showing start & end dates, City Option contributions, etc)



# Employer Obligation #4: Annual Reporting Form

- Available April 1 each year; due April 30<sup>th</sup> each year
- Purpose: to demonstrate total health care spending for SF employees, and demonstrate the different compliance options employer utilized
- Additional webinars and resources available on OLSE website



# Annual Reporting Form Notification

- Notices about Annual Reporting Form mailed to physical address listed on employer's business registration with City of SF
- Emailed to all employers on OLSE's email list

# Exemptions to HCSO: Part 1

Very few employees are exempt from these requirements. Safest approach is to assume they are all covered by HCSO and entitled to health care spending.

- Exempt: employees eligible for MediCare (program for ages 65+) or TriCare (for veterans). Note: employees on Medi-Cal are **not** exempt, and are still covered by HCSO.



# Exempt if covered by other Health Care Law

- Exempt: employees who are covered by Health Care Accountability Ordinance (only applies if employer is a City contractor or lessee).



# Non-profit Trainee Exemption

- Exempt: temporary non-profit employees in specific training programs
- Must be a bona fide training program consistent with Federal law, which training program enables the trainee to advance into a permanent position
- This exemption only covers a limited type of position. (Please contact OLSE for more info).

# Exemptions to HCSO: Part 2

Exempt: managerial & supervisory employees who earn a certain salary.

- Salary amounts change annually (2023 \$114,141);
- HCSO has a specific definition for “managerial” and “supervisory” that is different from other laws;
- **Always** contact OLSE for more information. Do **not** assume that all highly paid employees are exempt. Do not assume that any employee with the word “manager” in their title is exempt.



# Exemptions to HCSO: Part 3

- Exempt: Employees who sign voluntary waiver forms. Form must be:
  - (1) OLSE's specific waiver form for HCSO (**not** simply a form in which employee declines insurance);
  - (2) Signed voluntarily (free of coercion by employer);
  - (3) Employee **must** have health care services from **another employer** (spouse/domestic partner's job; parents' job; employee's other job) AND be willing to waive their right to an alternate expenditure.



# Waiver Exemption Continued

- Waivers good for one year only, can be revoked by the employee at any time, and cannot be retroactive.
- Employees who buy their own insurance, or who have Medi-Cal, or are uninsured may **not** sign a waiver.
- Waivers are the exception, not the rule; most employees do not want to sign them because they are entitled to an expenditure even if they have insurance from elsewhere.

# Other issues: self-funded plans

- Employers who have self-funded medical, dental and vision plans must still comply with the employer spending requirement at the same hourly rate as other Covered Employers
- However, self-funded plans are calculated differently, and the employer has to satisfy the spending requirement annually, rather than quarterly, *only for the employees enrolled in the self-funded plans*. For employees enrolled in traditional, fully funded health plans, the quarterly deadlines still apply



# Other issues: Surcharges

- The HCSO neither prohibits nor requires an employer to pass on the costs of HCSO compliance to its customers. However, if an employer *chooses* to implement a surcharge on customers to cover the costs, the employer must:
  - Ensure that the full amount collected is used towards the cost of satisfying the spending requirement for its Covered Employees; and
  - Keep record of the amount collected and the amount spent.



# Common Compliance Issues

- Failing to make any health care expenditures for anyone;
- Spending too little for health insurance;
- Disregarding part time workers who work 8+ hours/week and may not qualify for employer's health insurance program;
- Assuming employees are exempt from the HCSO when they are not;
- Failing to make health care expenditures for employees with other health care coverage;
- Surcharges (collecting \$ from customers but then not spending it on health care)



# Consequences

- Employers may face enforcement actions, including but not limited to audits; assessment of restitution, interest, and penalties; administrative hearings and/or court actions.

*HOWEVER...*

- OLSE does not punish employers who contact us to ask questions, or who realize they have a compliance issue and want our help figuring how to remedy it.
- It is always better for an employer to proactively contact OLSE than to have us take enforcement action.





# Frequently Asked Questions



# FAQ 1

**Q:** I offer insurance to my SF employees; isn't that enough to comply with the HCSO?

**A:** It depends. The employer must (1) ensure the insurance is sufficiently expensive to satisfy the expenditure rate for that year; and (2) ensure that all Covered Employees are enrolled in the plan.

If the answer to either of the above is “no,” employer should (1) add additional expenditures to the insurance; and (2) find a way to comply for the employees not on the insurance.

See more info here: <https://sfgov.org/olse/e-making-health-care-expenditures#insurance>



## FAQ 2

**Q:** Do I need to make expenditures for employees who already have health insurance from elsewhere?

**A:** Most of the time, yes. See here: <https://sfgov.org/olse/e-making-health-care-expenditures#7>

**Q:** What do I do if I've offered insurance and the employee declines it?

**A:** In most situations, you'll need to find another way to make the expenditures. Many employers use the City Option program as a way to comply for the folks who are not enrolled in the company's insurance plan. See here: <https://sfgov.org/olse/e-making-health-care-expenditures#eesoptout>



# FAQ 3

**Q:** What is the difference between the HCSO and the City Option?

**A:** The HCSO (Health Care Security Ordinance) is the law that requires employers to spend money on health care services. The HCSO is enforced by the OLSE. The OLSE also offers an advice hotline for employees and employers. The City Option is a health care program run by the San Francisco Department of Public Health. Payments to the City Option is *one of the ways* employers can comply with the HCSO.

**Q:** What is the City Option, and what do my employees get if I contribute to it?

**A:** Employees will get an individual MRA (Medical Reimbursement Account) that they can use for out-of-pocket medical expenses such as prescriptions, co-pays, premiums, and many other items. Employers must notify employees about the contributions and provide correct contact info.



# FAQ 4

**Q:** I thought I only had to worry about employees who aren't on my health plan. Aren't those the only ones covered by this law?

**A:** No. All Covered Employees (basically, all SF employees) must receive their full health care expenditures. The employer may or may not be satisfying the expenditure requirement with the insurance—it depends how much the insurance costs.

**Q:** Doesn't this law apply only to people who live in SF?

**A:** No. The employee's place of residence does not matter. The *work location* (including remote work) is what matters.



# FAQ 5

**Q:** Do I have to comply with this for my highly paid employees?

**A:** Employee salaries do not matter. The only time it comes into play is if the employee has a salary threshold above a certain amount **and** his/her job duties meet the HCSO's definition of a managerial/supervisory employee. For example, a CFO or CEO will not be covered by the HCSO. A "project manager" will be unlikely to satisfy the definition.



# FAQ 6

**Q:** I'm confused about waivers. When are they required?

**A:** They're not required! The employer should just be providing the health care expenditures. In rare situations, if an employee has health care services from another employer, and is willing to waive their right to an alternate expenditure from your company, then they can be asked to sign an HCSO waiver form (different from the 'opt-out' form your insurer may collect). This must be done free of coercion. If the employee signs it, that means the employer does not have an expenditure obligation for that person for a one-year period, unless the employee revokes it.

**Note: waivers are the exception, not the rule.**



# FAQ 7

**Q:** Where can I find more information?

**A:**

- [Sign up](#) for labor law updates, including HCSO news
- **OLSE/HCSO [Website](#)**
  - Administrative Guidance
  - OLSE Official Notices
  - Annual Reporting Form
  - Employee Voluntary Waiver Form
- **Attend a [webinar](#) (offered monthly)**
- **Email us: [HCSO@sfgov.org](mailto:HCSO@sfgov.org)**
- **Call us: (415) 554-7892**





# Thank you!

[hcsos@sfgov.org](mailto:hcsos@sfgov.org)

(415) 554-7892



# Live Question and Answer Session

Send us your questions in the Q&A Box





# Session 7: Lactation in the Workplace and Paid Parental Leave Ordinances (Citywide Labor Law)

We will start at 1:30PM

Come to our Technical Assistance **“Breakout Room”** if you’d like to speak with OLSE staff 8:30AM - 4PM

A scenic view of the Golden Gate Bridge in San Francisco, California, with the bridge's red towers and suspension cables visible on the left. The background shows the blue water of the bay and the city skyline in the distance under a clear blue sky.

# **City and County of San Francisco Office of Labor Standards Enforcement**

**Welcome!**  
**Labor Laws for City Suppliers**

**December 6, 2023**

# Session 7

- Lactation in the Workplace Ordinance
- Paid Parental Leave Ordinance

(Citywide Labor Laws)



# Materials & Recording

The slide deck and a recording of this webinar will be posted at our website:

<https://sf.gov/departments/office-labor-standards-enforcement>



# Technical Assistance Breakout Room

- OLSE staff is available until 4PM to meet with you
- Access the Technical Assistance Breakout Room in WebEx

## Chat Box

- Public announcements & helpful information
- Chat/Message with Host



# Technical Assistance Breakout Room

- OLSE staff is available until 4PM to meet with you
- Access the Technical Assistance Breakout Room in WebEx

## Chat Box

- Public announcements & helpful information
- Chat/Message with Host





# Questions and Answers

## Questions & Answers Box

- Staff will provide answers to your questions via the Q&A box during the presentation(s)

## Live Question & Answer Session

- OLSE staff will answer select questions LIVE at the end of the presentation(s)

*Some questions may require more information and you may be asked to contact us*



# **Session 7 – Lactation in the Workplace and Paid Parental Leave Ordinances**

## **Host**

Beverly Popek

## **Presenters**

Beverly Popek & Bianca Polovina

## **Q&A**

Jade San Diego & Maura Prendiville

## **Chat Box**

Paige Shatola

## **Slides**

Yordanos Dejen





# Lactation Accommodation in the Workplace

Beverly Popek  
Supervising Compliance Officer

# San Francisco International Airport (SFO)

This presentation is  
NOT for companies  
with contracts at the  
San Francisco  
International Airport  
(SFO)



# Covered Employers and Employees

## Covered Employers

All employers – except for government entities – that have employees working in San Francisco\* are covered

## Covered Employees

All employees working within the geographic boundaries of San Francisco\* including part-time employees, are covered

- \*Federal Enclaves (e.g. The Presidio or Fort Mason) and the San Francisco International Airport are not considered San Francisco



# Legislative History

- The purpose of the ordinance “is to provide a supportive work environment to enable employees who are nursing mothers to breastfeed or express breast milk during work hours”
- Complements State and Federal law
  - Amended the San Francisco Police and San Francisco Building Codes



# Employer Requirements – Lactation Breaks

Employers must provide a reasonable amount of break time for employees to express breast milk

- Break time shall, if possible, run concurrently with any break time already provided to the employee
- Break time that does not run concurrently with the rest time authorized under State law may be unpaid



# Employer Requirements – Lactation Location

## 1/2

- Employers must provide a location for lactation, other than a bathroom, in close proximity to the employee's work area that:
  - Is shielded from view and free from intrusion
  - Is safe and clean
  - Contains a surface
  - Contains a place to sit
  - Has access to electricity
  - Is not a bathroom





# Employer Requirements – Lactation Location

## 2/2

- Employers in multi-tenant buildings may use a shared location if they cannot satisfy the location requirements on their own
- Employers must provide, in close proximity\* to the employee's work area, access to a refrigerator and a sink with running water



# Definition of “Close Proximity”

It depends on the specifics of the situation, but it must be close enough that its location does not deter a reasonable employee from using it



# Employer Requirements – Lactation Accommodation Policy

1. Identify the process by which an employee may submit a request
2. Employer must respond within 5 business days
3. Must engage in an interactive process with employee to determine the appropriate
  - a) lactation break period(s)
  - b) location



# Denying the Request

If you deny the request, you must provide the employee a written response that identifies the basis upon which the you have denied the request



# Exemptions 1/2

- An employer may establish an exemption from a requirement in the Ordinance to provide lactation breaks and/or a lactation space
- Such exemptions may not be available under state law
- **Employer must still comply with all other requirements of the Ordinance, as well as all state and federal legal requirements**



# Exemptions 2/2

## **Undue hardship exemption under the Ordinance**

Significant expense or operational difficulty when considered in relation to the size, financial resources, nature, or structure of the employer's business

Examples of an undue hardship could, in some circumstances, include:

- building a room
- undertake a construction project
- remove seating from a restaurant
- remove retail floor space



# Best Practices (1/2)

- Learn about lactation
- Use sample policies to make your own
- Read the Rules and Regulations on our website
- Read the FAQ our website



# Best Practices (2/2)

- Distribute policy at the time of hire and/or issue a memo with a copy of the policy to current employees
- Make sure the policy is in your handbook
- Retain records
- Contact OLSE if you have any questions





# OLSE – Lactation in the Workplace

<https://sf.gov/information/lactation-workplace-ordinance>

- Legislative Text
- Frequently Asked Questions
- Sample Employer Policy & Request Form

(415) 554-6406

[lactation@sfgov.org](mailto:lactation@sfgov.org)





# Paid Parental Leave Ordinance

Bianca Polovina  
Compliance Officer

# San Francisco International Airport (SFO)

This presentation is NOT for companies with contracts at the San Francisco International Airport (SFO)



# What is the Paid Parental Leave Ordinance?

- Requires Covered Employers to pay supplemental compensation to Covered Employees who receive California Paid Family Leave for child bonding purposes
- Intended to help Covered Employees take all eight (8) weeks of California Paid Family Leave for child bonding, without worrying about loss of income



# Covered Employers

## Who is a Covered Employer?

- Global count of twenty (20) or more employees – if number fluctuates, average employees over PPLO Lookback Period
- Government entities are NOT covered employers (State of CA, UCSF, CCSF, School Districts)

## What must a Covered Employer do?

- Post / distribute the PPLO Poster
- Provide the PPLO Form to any employee expecting to become a parent
- Calculate and pay Supplemental Compensation on time and in full



# Covered Employees

---

Works in San Francisco

---

Commenced work for a covered employer at least 180 days before leave period

---

Work at least 8 hours per week in San Francisco for a covered employer

---

Work in San Francisco at least 40% of weekly hours for a covered employer

---

Apply for and receive California Paid Family Leave (PFL) benefits from the Employment Development Department (EDD)

---

**The employee does not have to be covered by other state or federal leave laws (CFRA, FMLA) to receive the PPLO benefit**



# Key Term: PPLO Lookback Period

- The 12 weekly, 6 semi-monthly or bi-weekly, or 3 monthly pay periods before the first day of an employee's leave
- How is the Lookback Period used?
  1. To determine if an employee is covered when work location(s) changes
  2. To determine if an employer is covered when the number of employees fluctuate
  3. To determine if an employee is covered when hours fluctuate
  4. To calculate the average Normal Weekly Wage when wages fluctuate
- When in doubt, call OLSE with questions about whether employer and employee are covered by the PPLO



# Employer's To-Do List

1. Post the Notice
2. Provide the PPLO form to any employee who indicates that they will be or have become a parent (Other employer obligations under federal & state law)
3. Determine employee eligibility
4. Calculate and pay employee



## EMPLOYER'S Guide to the San Francisco Paid Parental Leave Ordinance

### Step 1

#### Give Notice to Employees

Post OLSE's annual notice.

Include information about supplemental pay under the SF Paid Parental Leave Ordinance (SF PPLO) in employee handbook.

### Step 2

#### Give Employee SF Paid Parental Leave Form (SF PPL Form)

The form is available at [www.sfgov.org/pplo](http://www.sfgov.org/pplo).

Give your employee a copy as soon as they ask about parental leave or notify you that they are expecting a newborn, adopted, or foster child. If the company has vacation or PTO policies, review those with the employee now.

### Step 3

#### Determine Employee's Eligibility

The employee is eligible if they: (1) started work for you at least 180 days before the leave; (2) work for at least 8 hours and 40% of their total week hours in San Francisco; (3) have applied for and are eligible for EDD Paid Family Leave.

### Step 4

#### Calculate & Pay Supplemental Compensation

You will need the employee's Normal Weekly Wages and EDD Weekly Benefit amount. This information will be on the completed SF PPL Form and EDD Notice of Computation, which the employee receives from the EDD.

Calculation instructions are available on the OLSE website.

**Remember to Maintain Records and that Retaliation is Prohibited Under the Ordinance**  
Please contact the Office of Labor Standards Enforcement at [pplo@sfgov.org](mailto:pplo@sfgov.org) or at (415) 554-4190 with any further questions or online at [www.sfgov.org/pplo](http://www.sfgov.org/pplo).





# Employee's To-Do List



## EMPLOYEE'S Guide to the San Francisco Paid Parental Leave Ordinance

### Step 1

#### Apply for EDD Paid Family Leave

Apply for PFL through the Employment Development Department (EDD) online at [www.californiapaidfamilyleave.com](http://www.californiapaidfamilyleave.com) or with a [paper application](#). If you do not have a driver's license or ID, use a paper application.

Check box A22, allowing EDD to disclose your benefit amount to your employer.

### Step 2

#### Complete SF Paid Parental leave Form (SF PPL Form)

Your employer should give you the form. You can also find it online at [www.sfgov.org/pplo](http://www.sfgov.org/pplo).

If you have multiple employers, complete a form for each employer.

### Step 3

#### Give Employer SF PPL Form and EDD Notice of Computation

The EDD will send you a Notice of Computation that includes your weekly benefit amount. If you were paid State Disability Insurance (SDI) before PFL, use the Notice of Computation the EDD sent you for your SDI claim.

### Step 4

#### Notify Employer When You Receive First PFL Payment

Your employer may ask for your Notice of Payment or Electronic Benefit Payment Notification.

Please contact the Office of Labor Standards Enforcement at [pplo@sfgov.org](mailto:pplo@sfgov.org) or at (415) 554-4190 with any further questions or online at [www.sfgov.org/pplo](http://www.sfgov.org/pplo).

1. Apply for California Paid Family Leave, online or in paper form
2. Complete the San Francisco Paid Parental Leave (PPL) form
3. Submit the completed SF PPL form and the Notice of Computation to Employer
4. Maintain records and receipts from EDD



# Paid Family Leave (PFL)

- Employee funded benefit
- **Eight weeks** of partial wage replacement to employees while:
  1. caring for a seriously ill family member; OR
  2. bonding with a newborn, adopted or foster child
- Benefit, depending on income, is 60% to 70% up to cap
- Both parents can take the same or different time
- Can be taken consecutively or intermittently
- Must be taken within one year of birth, adoption or placement

PFL Questions: Call 855.342.3645

# Calculations: What the Employer Needs

## PPL Form

- From the E'er, filled out by E'ee, back to E'er

## EDD Weekly Rate

- From the EDD
- Easiest if E'ee provides to E'er

## Gross Weekly Wage

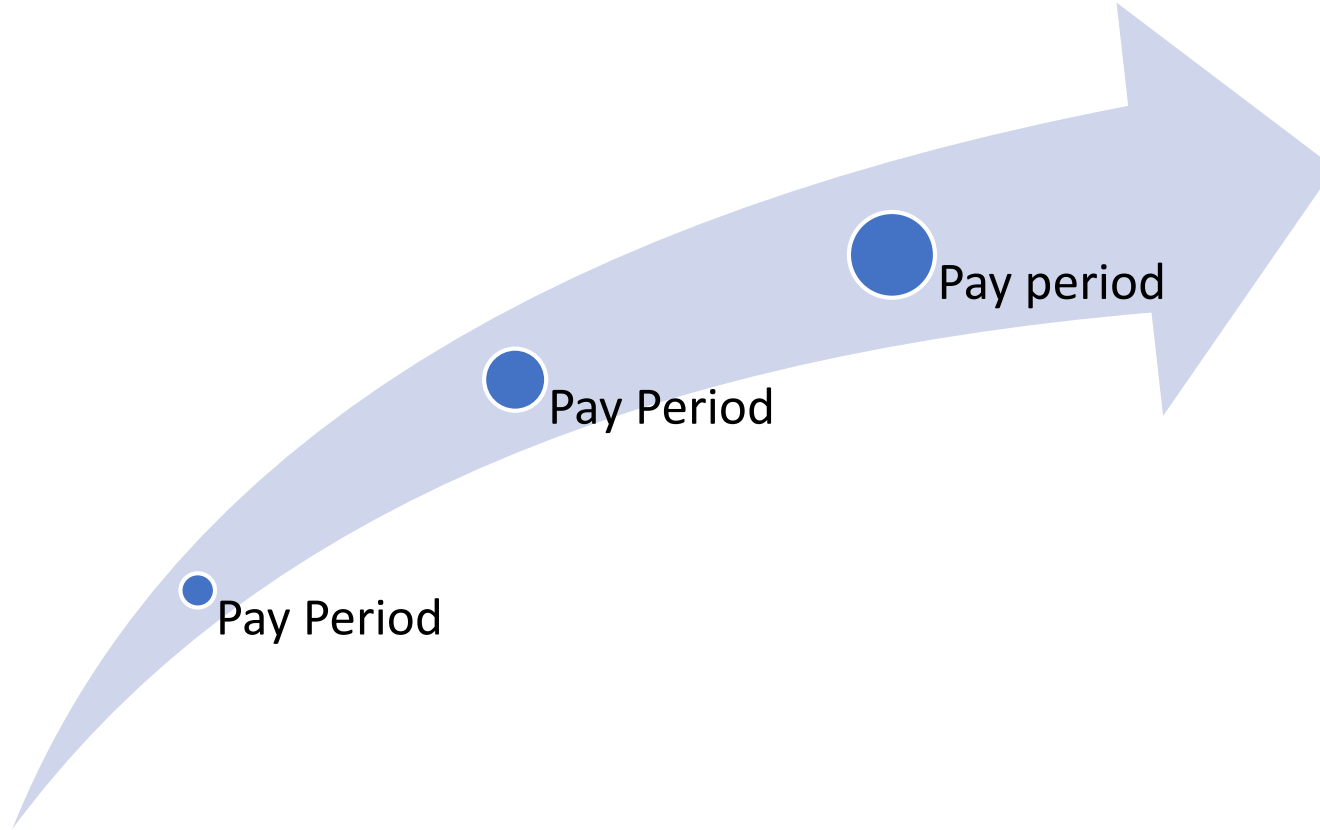
- From the PPL Form
- Calculator



# The Math for Supplemental Compensation



# When To Pay Supplemental Compensation



# Paid Parental Leave Ordinance: Common Compliance Issues

- Notifying employees about their rights: *as soon as you become aware that an employee expects to become a parent via birth, adoption, or fostering*, provide them with the PPLO form and document that you provided the form.
- Common misconceptions:
  - Paid Family Leave and PPLO compensation are only for birth mothers (false)
  - An employee has to take their eight weeks all at once (false)
  - If an employee hasn't worked for 180 days, I don't need to notify them of their rights (false, against plain language of law)



# Paid Parental Leave Ordinance Best Practices



Update your Employee Handbook/Portal about PPLO



Train everyone – supervisors, managers, etc – on PPLO duties



Keep records of the PPLO form: language (English/Spanish/Chinese/other), date provided to employee, date returned by employee.



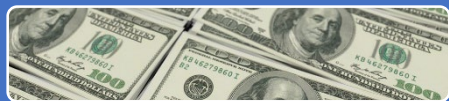
Communicate with the employee before, during and after leave



Maintain all EDD records and payroll records



Use the Calculation Instructions on the PPLO website



Pay the employee supplemental compensation at regularly scheduled pay periods



Contact OLSE if you have questions



# Employer Resources on PPLO Website

- Official Notice – required to be posted
- Webinar slides and audio presentations
- Downloadable Excel calculators
- Written Calculation Instructions
- FAQs
- Rules
- Employee & Employer documents in multiple languages

[www.sf.gov/pplo](http://www.sf.gov/pplo)





# Questions?

415.554.4190

[pplo@sfgov.org](mailto:pplo@sfgov.org)

[www.sf.gov/pplo](http://www.sf.gov/pplo)



# Live Question and Answer Session

Send us your questions in the Q&A Box





# Session 8: Family Friendly Workplace & Displaced Workers Protections Ordinances, Military Leave Pay Protection Act (Citywide Laws)

We will start at 2:30PM

Come to our Technical Assistance “**Breakout Room**” if you’d like to speak with OLSE staff 8:30AM - 4PM

A scenic view of the Golden Gate Bridge in San Francisco, California, with the bridge's towers and suspension cables visible on the left side. The background shows the bay and the city skyline under a clear blue sky.

# **City and County of San Francisco Office of Labor Standards Enforcement**

**Welcome!**  
**Labor Laws for City Suppliers**

**December 6, 2023**

# Session 8

- Family Friendly Workplace Ordinance
- Military Leave Protection Act
- Displaced Worker Protections Act

(Citywide Labor Laws)



# Materials & Recording

The slide deck and a recording of this webinar will be posted at our website:

<https://sf.gov/departments/office-labor-standards-enforcement>



# Technical Assistance Breakout Room

- OLSE staff is available until 4PM to meet with you
- Access the Technical Assistance Breakout Room in WebEx

## Chat Box

- Public announcements & helpful information
- Chat/Message with Host



# Questions and Answers

## Questions & Answers Box

- Staff will provide answers to your questions via the Q&A box during the presentation(s)

## Live Question & Answer Session

- OLSE staff will answer select questions LIVE at the end of the presentation(s)

*Some questions may require more information and you may be asked to contact us*





# **Session 8 – Family Friendly Workplace Ordinance, Military Leave Pay Protection Act, Displaced Workers Protection Ordinance**

## **Host**

Beverly Popek

## **Presenters**

Beverly Popek, Maura Prendiville, Josh Pastreich

## **Q&A**

Jade San Diego, Maura Prendiville, Josh Pastreich

## **Chat Box**

Paige Shatola

## **Slides**

Yordanos Dejen





# **Family Friendly Workplace Ordinance (FFWO)**

**Beverly Popek  
Supervising Compliance Officer**

# San Francisco International Airport (SFO)

This presentation is NOT for companies with contracts at the San Francisco International Airport (SFO).



# Employee Rights

The FFWO gives Covered Employees the right to a flexible or predictable working arrangement to assist with caregiving responsibilities for:

1. A child or children for whom the Employee has assumed parental responsibility
2. A person(s) with a serious health condition in a family relationship\* with the caregiver
3. *A person who* is age 65 or older and in a family relationship\* with a caregiver

\*“Family Relationship” means a relationship in which a Caregiver is related by blood, legal custody, marriage, or domestic partnerships, as defined in San Francisco Administrative Code Chapter 62 or California Family Code Section 297, as either may be amended from time to time, to another person as a spouse, domestic partner, child, parent, sibling, grandchild, or grandparent.



# Covered Employer

- 20 or more Employees (anywhere in the world)
- Must have a business location within the geographic boundaries of the City and County of San Francisco. A business location is any physical space used for the business to run its operations



# Covered Employee

- Works at least 8 hours per week within the geographic boundaries of San Francisco, with those boundaries extending to telework if Employee is assigned to the San Francisco business location
- Has been employed by Covered Employer for 6 months or more



# What about Employees who telework?

An Employee is covered by the FFWO if they are assigned to a San Francisco Business location at the time the request is made regardless of where they are physically working. An Employee is NOT covered by FFWO if they were never assigned to the San Francisco office.



See Rule 2.3: When determining where a remote Employee is assigned for purposes of the FFWO, an Employer should consider factors including, but not limited to, the location of the Employee's computer, manager, teammates or co-workers, personnel file, where the Employee worked prior to beginning Telework, and/or Employee's proximity to the business location.



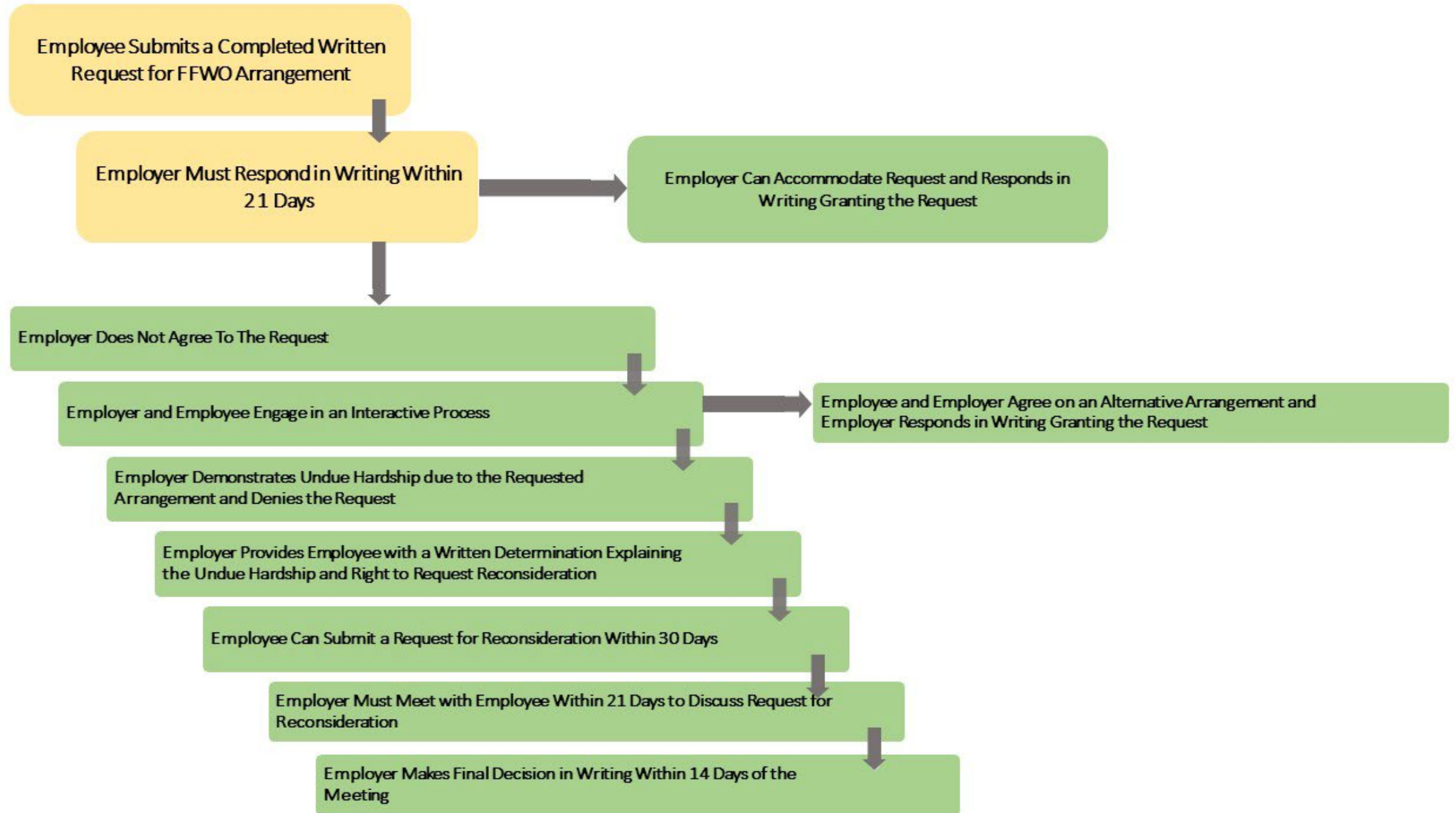
# What does the FFWO Require the Employer to do?

1. Upon receiving a completed written request, review to determine if you can provide the Employee with the flexible or predictable work arrangement to assist in caring for their children, family members with serious health conditions, or family member 65 or older as requested
2. If you do not agree to the request, engage in a good faith interactive process to determine a mutually-agreeable arrangement
3. If unable to accommodate the request, notify the Employee in writing, explaining the undue hardship determination and the Employee's right to request reconsideration and file a complaint with OLSE





# FFWO Process



# Employee Submits a Request

- Request must be in writing. If Employee makes a verbal request, Employer must immediately direct the Employee to submit in writing
- Request must be for caregiving responsibilities as defined under FFWO
- Request must explain how the request is related to caregiving
- Request must be specific as to the proposed start and end dates, modified hours, days, work location, predictable hours, etc.
- Request date should be at least 21 calendar days\* prior to the requested start date for the Flexible or Predictable Working Arrangement as Employers have 21 calendar days to issue a determination

\* If requested start date of the arrangement is less than 21 days from the time of the request, Employer should make best efforts to make a timely decision, but the law affords the Employer 21 days to issue a determination.



# Employer Receives a Request

- Once a completed written request is received, Employer has **21 days to respond to the Employee's request**
- Employer has the right to request verification\*
- The 21-day deadline may be extended if there is an agreement with the Employee confirmed in writing

\*More information discussed on next slide



# Verification

Employee's attestation of caregiving duties may suffice but Employer can request verification within limits

The Employer **may ask** the Employee to provide a note confirming the obligation (e.g. medical appointment is on Tuesdays at 3pm)

The Employer **may not ask** for confirmation about the reason for the appointment or extraneous verification, such as from Employee's family members that they are unavailable to assist, when there is no basis to believe that Employee's attestation is invalid



# Granting the Request

- Confirm the agreement in writing to the Employee
- This must be completed within **21 days of receiving the Employee's request**



# If Employer does not agree to the request...

## Engage in an interactive process

1. Both Employer and Employee must engage in an interactive process where they meet to discuss alternative arrangements
2. The Employer may approve an alternative arrangement that effectively meets the Employee's caregiving responsibilities



# Interactive Process (1/2)

Must engage in an interactive process with the Employee to attempt in good faith to determine a Flexible or Predictable Working Arrangement that is acceptable to both the Employee and Employer

- Interactive process - timely, good faith, discussion, either orally or in writing, between the Employer and Employee
- Exchange essential information without delay or obstruction of the process



# Interactive Process (2/2)

- Employer should analyze the functions and purpose of the Employee's position in relation to the operations of the Employer
- The Employer should consider the requested arrangement, but may approve an alternative arrangement that is effective in meeting the Employee's caregiving responsibilities if that arrangement better suits the operations of the business





# If after engaging in an interactive process, and no agreement is met...

1. If Employer seeks to deny the request, they must prove **undue hardship**, demonstrating the request would cause significant expense or operational difficulty
2. An Employer is not required to alter or impede their business operations in a manner that would cause significant expense or operational difficulty



# Undue Hardship Reason for Denial (1/3)

- Undue Hardship - causing the Employer significant expense or operational difficulty when considered in relation to the size, financial resources, nature, or structure of the Employer's business
- The denial must be in consideration of the most current arrangement the Employee has requested, whether it be the original request made or the altered request that resulted from the interactive process



# Undue Hardship Reason for Denial (2/3)

- If an Employer asserts that it can only comply with some of the requested arrangement (e.g., The Employer can reduce hours but not allow the Employee to begin work earlier in the day) without undue hardship, it should comply with those provisions of the request and demonstrate undue hardship for the part of the request it cannot accommodate



# Undue Hardship Reason for Denial (3/3)

- Each situation is unique and subject to an individualized analysis, and Employers should consider their circumstances in determining whether they can assert an undue hardship
- The burden of proof is on the Employer



# Send the Denial in a Written Response

An Employer must explain the denial in a written response containing the following:

1. Explanation of the basis for the denial and undue hardship
2. Notification to the Employee of their rights to:
  - a) Request reconsideration by the Employer under Section 12Z.6; and
  - b) File a complaint under Section 12Z.10, including a copy of the notice under Section 12Z.8



# Request for Reconsideration After Denial

- Worker has right to request reconsideration within 30 days after the denial
- Employer must meet with the Employee within 21 days to discuss and reconsider FFWO request
- Employer must issue a final decision in writing within 14 days of the meeting



# Employee May File a Complaint with OLSE

An Employee can file a complaint if:

1. They received a response from the Employer about reconsideration;

OR

2. The time frame elapsed without receiving a response from the Employer



# Noticing Requirements (1/2)

## Rule 11

- Post the Official FFWO Notice/Poster
  - OLSE mails all registered businesses a copy of the poster
  - Printable version on FFWO Webpage (English, Spanish, Chinese, & Filipino/Tagalog)

<https://sf.gov/information/family-friendly-workplace-ordinance>

- If the language spoken by 5% or more of the workforce is a language other than those listed, the Employer shall be responsible for translating the form and providing it to the workforce





# Noticing Requirements (2/2)

- Employer must provide Employees with the FFWO request form or comparable form within a reasonable time after the Employee inquired about the FFWO accommodation
  - FFWO Form on FFWO Webpage  
<https://sfgov.org/olse/family-friendly-workplace-ordinance-ffwo>
  - Give copy of the FFWO Form to current and new Employees
  - Must add policy to your Employee handbook when your handbook is updated



# Enforcement, Penalties, & Appeal Procedures

Review information in 12Z and Rules & Regulations

- Enforcement Procedures

*Section 12 Z.10 (a)(5)*

Rule 8

- Administrative Penalties

Section 12 Z.10 (a)(2) and (5)

Rule 10

- Appeals Procedures

Section 12 Z.10(a)(5)

Rule 10



# Best Practices (1/2)

- Must engage in an interactive process with the Employee to attempt in good faith to determine a Flexible or Predictable Working Arrangement that is acceptable to both the Employee and Employer
- Interactive process - timely, good faith, discussion, either orally or in writing, between the Employer and Employee
- Feel free to meet and discuss the request with Employee but everything should be memorialized in writing



# Best Practices (2/2)

- Keep good notes, emails, analysis, calculations, etc.
- Must save all documents involved in the FFWO process for at least three (3) years
- Remember that each situation is unique and subject to individualized analysis



# Resources

- FFWO Webpage

<https://sf.gov/information/family-friendly-workplace-ordinance>

- Rules and Regulations
- Amended Ordinance
- Poster/Notice
- FFWO Request Form
- Video On Demand (VOD) Comprehensive Training with Slide Deck



# Contact Us

<https://sf.gov/information/family-friendly-workplace-ordinance>

If you have any questions about your responsibilities, contact us at 415-554-6424 or email [ffwo@sfgov.org](mailto:ffwo@sfgov.org)





# Military Leave Pay Protection Act

Maura Prendiville  
Supervising Compliance Officer

# What is the Military Leave Pay Protection Act (MLPPA)?

Military reserve and National Guard personnel are often required to take military leave from work in order to attend training, and to assist with emergencies. They have been deployed to respond to the pandemic and natural disasters, to protect state and federal Capitols, and are sent overseas.

Reservists and Guards on military leave often suffer a loss in compensation because their civilian jobs pay more than their military service. The MLPPA was designed to avoid a loss in income for members of the military.

MLPPA became operative on **February 19, 2023**





# Covered Employers

## Who is a Covered Employer?

- Global count of one hundred (100) or more employees;
- Location of employer's headquarters is not relevant;
- Government entities are **not** covered employers (State of CA, UCSF, CCSF, school districts).

## What must a Covered Employer do?

- Notify employees of their right to supplemental compensation promptly after being told the employee will require time off work.
- Put MLPPA info in next edition of Employee Handbook; OLSE poster regarding MLPPA available here.
- Calculate and pay Supplemental Compensation on time and in full
- Service members already have job protection under federal law and state laws.



# Covered Employees

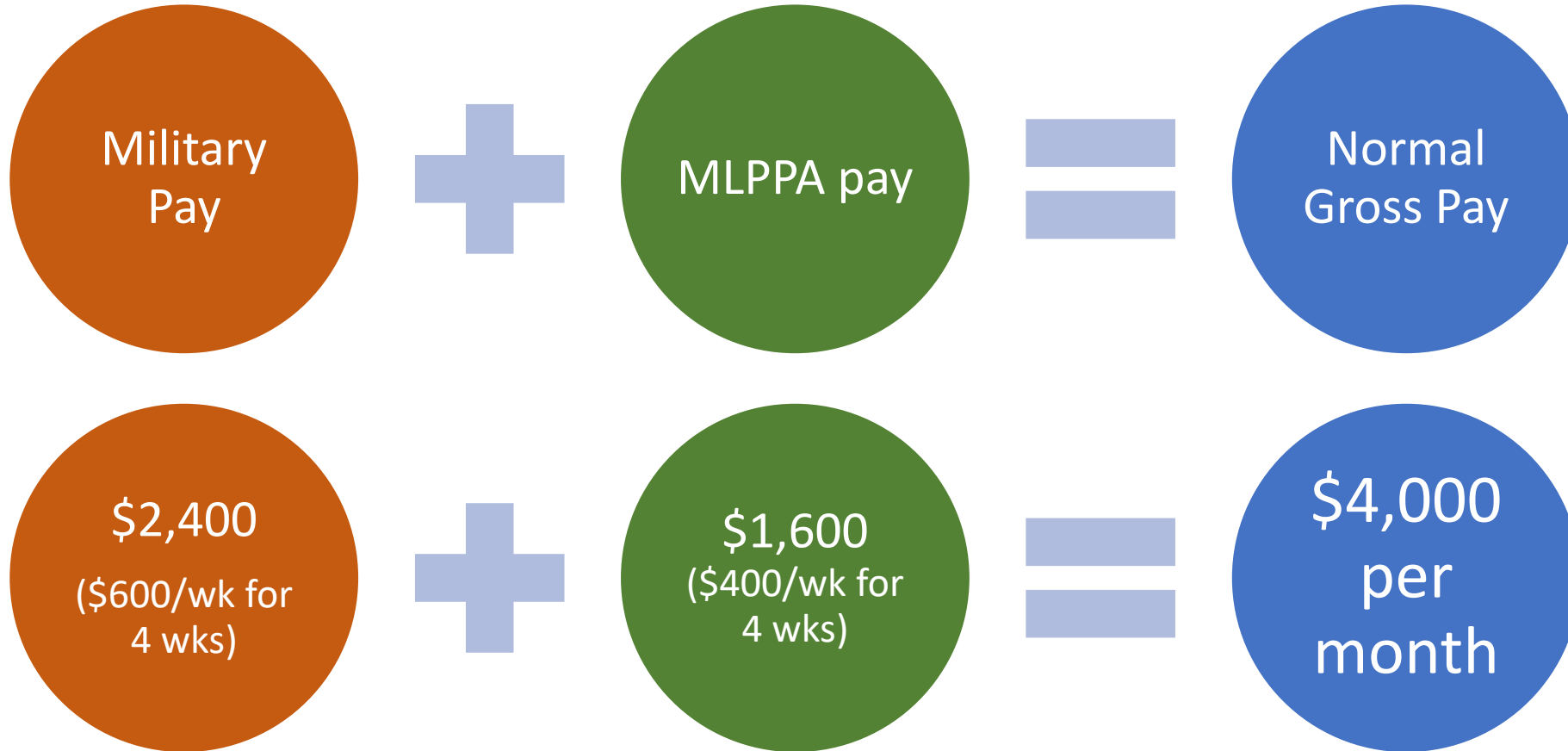
- **Work for a Covered Employer within the geographic boundaries of San Francisco**
  - No length of tenure requirements
  - Includes part-time and temporary employees
  - Note: SFO airport is not within S.F.



- **Are members of the reserve corps of the U.S. Armed Forces, National Guard, or other uniformed service organization of the U.S.**



# Calculating Supplemental Compensation: 1



# Calculating Supplemental Compensation: 2

- Employer must pay the Employee the difference between:
  - the Employee's gross military pay; and
  - *the amount of gross pay the Employee would have received* from the Employer had the Employee worked his/her regular work schedule
- If irregular schedule, "regular work schedule" can be determined by looking at the 3 monthly pay periods, 6 bi-weekly/semi-monthly pay periods, or 12 weekly pay periods immediately preceding the relevant period of military leave
- Employer does *not* need to pay for days that Employee would have been working *outside of San Francisco*, or for days that they would *not have been scheduled to work*



# Calculating Supplemental Compensation: 3

- How do I know how much pay my employee is getting from the Military?
  - Can vary based on rank
  - Employer may request that the Employee provide his/her written military orders showing pay, or a wage statement verifying the pay
  - Employer can also use the current rate chart to anticipate the military gross pay
  - If employer cannot confirm pay in advance, it can estimate and make adjustments in the following pay period(s)



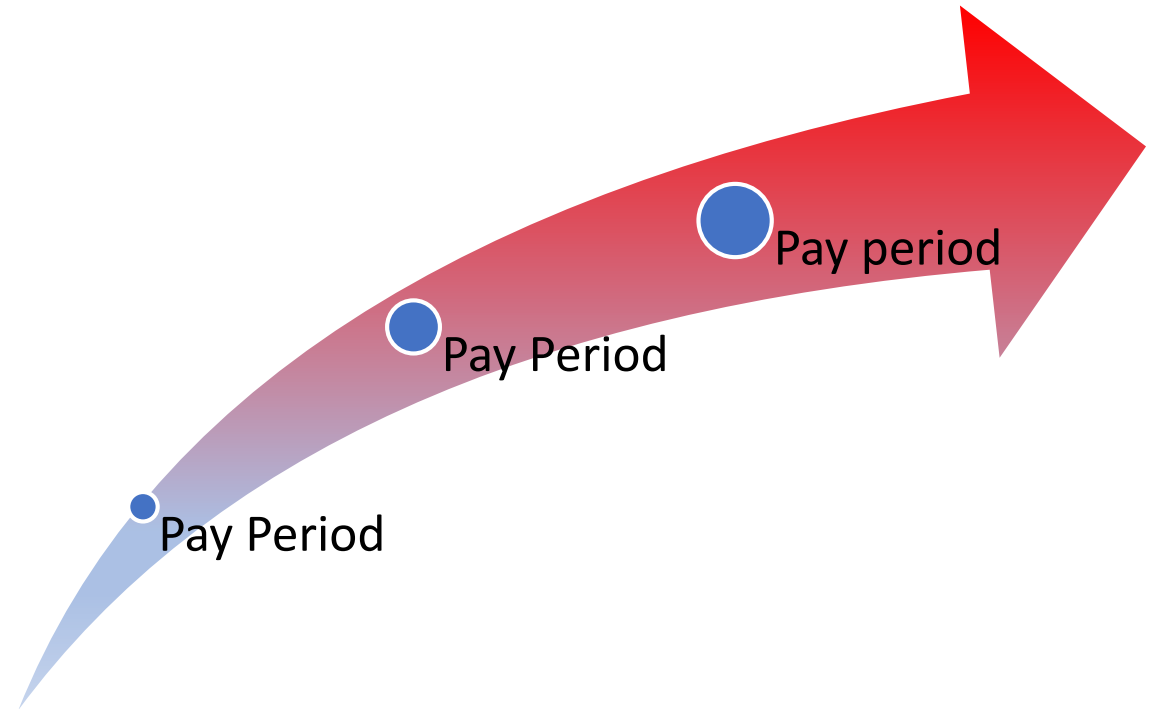
# Calculating Supplemental Compensation: 4

- The Employee should not receive more compensation than they would have if they hadn't gone on military leave
- Military Leave can be taken in daily increments for one or more days at a time, which means supplemental payment is paid incrementally
- Employers are responsible for supplementing pay for up to 30 days in a calendar year, even if the employee's military leave is longer than 30 days



# Timing of Supplemental Compensation

Employers should make a good faith effort to provide the Supplemental Compensation no later than the payday for the payroll period when the Employee's military leave began



# Other Requirements

- Keep records of:
  - Schedules and hours worked
  - Military leave records
  - Supplemental compensation records
- Maintain records for **four years**





# Resources

- Website: [Military Leave Pay Protection Act | San Francisco \(sf.gov\)](https://www.sfgov.org/military-leave-pay-protection-act)
  - Poster
  - FAQs
  - Statute
- Email hotline: [MLPPA@sfgov.org](mailto:MLPPA@sfgov.org)
- Phone hotline: (415) 554-4048





# Displaced Worker Protections Ordinance (DWPO)

Josh Pastreich  
Supervising Compliance Officer

# Displaced Worker Protections Ordinance

- Operative as of May 22, 2023
- Notification requirements for the awarding authority and terminated contractor
- Certain successor contractors and subcontractors are required to retain covered employees for at least 90 days after the termination of a covered service contract



# Exception

- City contracts for janitorial services or security guard services are covered under Administrative Code 21C



# Covered Contractors

- Security, Janitorial, and Building Maintenance
- Employ 25 or more persons



# Qualifying Awarding Authorities and Contractors must:

- Share information regarding current employees to facilitate retention requirements within a certain timeframe upon termination of a contract; and
- Retain employees for 90 days pursuant to the express guidelines



# Displaced Worker Protections Ordinance

(415) 554-4740

[dwpo@sfgov.org](mailto:dwpo@sfgov.org)

<https://sf.gov/information/displaced-worker-protections-ordinance>



# Live Question and Answer Session

Send us your questions in the Q&A Box





# Thank you for attending!

