SEOUL METROPOLITAN GOVERNMENT ORDINANCE ON THE ADMINISTRATIVE WORK TO THEPRIVATE SECTOR

Enactment No. 3684, Nov. 15, 1999
Partial Amendment No. 3767, Jul. 15, 2000
Amendment of Other Laws No. 3769, Jul. 15, 2000
Amendment of Other Laws No. 3776, Jul. 25, 2000
Partial Amendment No. 3783, Sep. 25, 2000
Amendment of Other Laws No. 3791, Oct. 25, 2000
Amendment of Other Laws No. 3802, Nov. 30, 2000
Amendment of Other Laws No. 3827, Jan. 05, 2001
Amendment of Other Laws No. 3884, Jul. 16, 2001
Amendment of Other Laws No. 4024, Jul. 15, 2002
Partial Amendment No. 4084, May. 15, 2003
Amendment of Other Laws No. 4192, May. 25, 2004
Partial Amendment No. 4240, Jan. 05, 2005
Amendment of Other Laws No. 4284, Jun. 16, 2005
Amendment of Other Laws No. 4588, Dec. 26, 2007
Partial Amendment No. 4749, Mar. 18, 2009
Partial Amendment No. 4818, Jul. 30, 2009
Partial Amendment No. 5210, Dec. 29, 2011
Partial Amendment No. 5415, Dec. 31, 2012
Partial Amendment No. 5519, Aug. 01, 2013
Partial Amendment No. 5705, May. 14, 2014
Partial Amendment No. 5961, Jul. 30, 2015
Amendment of Other Laws No. 6016, Oct. 08, 2015
Partial Amendment No. 6094, Jan. 07, 2016
Partial Amendment No. 6383, Jan. 05, 2017
Partial Amendment No. 6567, Jul. 13, 2017
Partial Amendment No. 6630, Sep. 21, 2017
Partial Amendment No. 7041, Mar. 28, 2019
Amendment of Other Laws No. 7044, Mar. 28, 2019
Partial Amendment No. 7296, Sep. 26, 2019
Amendment of Other Laws No. 7423, Dec. 31, 2019
Partial Amendment No. 7666, Jul. 16, 2020
Partial Amendment No. 7778, Dec. 31, 2020
Partial Amendment No. 7910, Mar. 25, 2021
Partial Amendment No. 8068, Jul. 20, 2021
Amendment of Other Laws No. 8127, Sep. 30, 2021
Partial Amendment No. 8234, Dec. 30, 2021
Partial Amendment No. 8390, Apr. 28, 2022

Article 1 (Purpose)

The purpose of this Ordinance is to provide opportunities for the private sector to participate in public administration voluntarily and to improve the efficiency in public administration through the simplification of administrative affairs by providing for administrative affairs with which a legal entity, organization, or agency or private individual who belongs to such legal entity or organization may be entrusted pursuant to Article 104 of the Local Autonomy Act, among administrative affairs under the authority of the Mayor of the Seoul Metropolitan Government. <Amended by Ordinance No. 4588, Dec. 26, 2007; Ordinance No. 4818, Jul. 30, 2009>

Article 2 (Definitions)

Terms used in this Ordinance shall be defined as follows: <Amended by Ordinance No. 4818, Jul. 30, 2009; Ordinance No. 5705, May 14, 2014>

1. The term "entrustment to the private sector" means the entrustment of part of administrative affairs of the Mayor of the Seoul Metropolitan Government (hereinafter referred to as the "Mayor") under various statutes and regulations, ordinances, and rules to legal entities, organizations, and agencies and private individuals who belong to a legal entity or an organization to authorize them to excercise the entrusted authority in their names and under their responsibilities;
2. The term "entrusted agency" means a legal entity, organization, or agency or private individual who belongs to a legal entity or organization, to whom the Mayor's authority is entrusted;
3. The term "entrusted work" means administrative affairs entrusted to a legal entity, organization, or agency or private individual who belongs to a legal entity or organization, among administrative affairs under the authority of the Mayor;

4. The term "re-entrustment" means passing entrustment of administrative affairs determined for entrustment to the private sector, on to an entrusted agency newly selected, due to the expiration of the period entrusted to the existing entrusted agency or due to other grounds;
5. The term "renewal of agreement" means concluding a contract again with the existing entrusted agency after the expiration of the entrusted period for administrative affairs determined for entrustment to the private sector.

Article 3 (Scope of Application)

Except as otherwise provided for in any other statute, regulation, or ordinance, entrusted work shall be governed by this Ordinance. <Amended by Ordinance No. 4818, Jul. 30, 2009>

Article 4 (Criteria for Administrative Affairs Entrusted to Private Sector)

(1) The Mayor may entrust the private sector with the following administrative affairs that does not directly affect citizens' rights and obligations, such as surveys, inspections, tests, and management, among administrative affairs falling under the jurisdiction of the Mayor, determined under statutes,regulations, or ordinances: <Amended by Ordinance No. 4818, Jul. 30, 2009; Ordinance No. 5415, Dec. 31, 2012; Ordinance No. 5705, May 14, 2014>
1. Administrative operation that constitutes a factual act;
2. Administrative affairs that demands significant efficiency;
3. Administrative affairs that demands special expertise or technology;
4. Other simple work for administrative management, such as the management of facilities.
(2) Deleted. <by Ordinance No. 5705, May 14, 2014>

Article 4-2 (Examination of Validity relating to Entrustment to Private Sector)

Where the Mayor intends to entrust administrative affairs falling under subparagraphs of Article 4 to the private sector, he/she shall pre-examine validity relating to entrustment to the private sector, considering the following matters:
1. Possibility to perform such administrative affairs by other methods;
2. Public interest and stability in providing service;
3. Economic efficiency;
4. Possibility to utilize expertise and technology provided by the private sector;
5. Simplicity to measure performance;
6. Transparency in management and operation;
7. Market conditions to provide service from the private sector.
[This Article Newly Inserted by Ordinance No. 5705, May 14, 2014]

Article 4-3 (Consent from the Council and Reports)

(1) The Mayor shall obtain consent form the Seoul Metropolitan Council (hereinafter referred to as the "Council") where he/she intends to entrust administrative affairs falling under subparagraphs of Article 4 to the private sector.
(2) In cases of re-entrustment or renewal of agreement, the Mayor shall substitute obtaining consent from the Council with reporting such re-entrustment or renewal of agreement to the competent standing committee: Provided, That where the Mayor consecutively entrusts the relevant administrative affairs to the private sector, he/she shall obtain consent from the Council for the first re-entrustment or renewal of agreement, after seven years has elapsed since the Council gave consent to the relevant entrustment.
(3) Where the Mayor intends to obtain consent from the Council pursuant to paragraphs (1) and (2), he/she shall submit outcome reports on entrustment to the private sector thereto.
(4) Where the Mayor intends to entrust part of administrative affairs entrusted to an entrusted agency again pursuant to the proviso to Article 15 (6), he/she shall report such re-entrustment to the Council in advance.
[This Article Wholly Amended by Ordinance No. 6567, Jul. 13, 2017]

Article 4-4 (Consent for Entrustment to Private Sector)

(1) The Mayor shall include the following in written consent for entrustment to the private sector, submitted pursuant to Article 4-3:
1. Name of entrusted work;
2. Grounds and reasons for promoting entrustment to the private sector;
3. Particulars of entrusted work;
4. Outline of entrusted facilities (locations, scales, supporting facilities, and maps);
5. Period of entrustment to the private sector;
6. Methods for selecting entrusted persons or agencies;
7. Estimated budget and grounds for calculating the budget;
8. Results following deliberation by the Committee for the Operation and Evaluation of the Entrustment to the Private Sector;
9. Other necessary matters for deliberation on entrustment to the private sector.
[This Article Newly Inserted by Ordinance No. 6630, Sep. 21, 2017]

Article 5 (Committee for Operation and Evaluation of Entrustment to Private Sector)

(1) The Mayor shall establish the Committee for the Operation and Evaluation of the Entrustment to the Private Sector (hereinafter referred to as the "Operational Committee") in order to have the Operational Committee deliberate on the selection of administrative affairs that may be entrusted to the private sector and the evaluation of the status of operation.
(2) Where the Mayor intends to entrust administrative affairs falling under subparagraphs of Article 4 to the private sector, he/she shall undergo deliberation by the Operational Committee; and the Operational Committee shall comprehensively examine and deliberate on validity relating to entrustment to the private sector. <Amended by Ordinance No. 5705, May 14, 2014>
(3) The Operational Committee shall be comprised of not more than 15 members, including public officials of the Seoul Metropolitan Government (hereinafter referred to as "Seoul Government"), members of the Seoul Metropolitan Council, and experts specializing in entrustment to the private sector. In such cases, the number of Operational Committee members who are non-public officials of the Seoul Government shall be at least a majority of all members of the Operational Committee. <Newly Inserted by Ordinance No. 5705, May 14, 2014>
(4) The term of office for Operational Committee members shall be two years but may be renewed consecutively, while the term of office for an Operational Committee member filling a vacancy shall correspond to the remaining term for his/her predecessor: Provided, That the term of office for an Operational Committee member who is a public official shall coincide with the term of service in his/her position. <Amended by Ordinance No. 5705, May 14, 2014>
(5) The Operational Committee chairperson shall be elected by and from among Operational Committee members. <Amended by Ordinance No. 5705, May 14, 2014>
(6) A meeting of the Operational Committee shall be duly formed with the attendance of a majority of incumbent Operational Committee members, and shall adopt a resolution by a concurrent vote of a majority of Operational Committee members present at the meeting. <Amended by Ordinance No. 5705, May 14, 2014>
(7) The Operational Committee may establish and operate subcommittees, if necessary for carrying out its duties efficiently. <Amended by Ordinance No. 5705, May 14, 2014>
(8) Operational Committee members who attend a meeting of the Operational Committee may be reimbursed activity costs, allowances, travel expenses, and other expenses within the budget: Provided, That the foregoing shall not apply to an Operational Committee member who is a public official and attends a meeting in direct connection with his/her duties. <Amended by Ordinance No. 5705, May 14, 2014>
[This Article Newly Inserted by Ordinance No. 4818, Jul. 30, 2009]

Article 6 (Scope of Administrative Affairs Entrusted to Private Sector)

The administrative affairs that may be entrusted to the private sector pursuant to Article 4 shall be as follows: <Ordinance No. 4749, Mar. 18, 2009; Ordinance No. 4818, Jul. 30, 2009; Ordinance No. 5705, May 14, 2014>
1. Administrative affairs for the operation of welfare facilities for the elderly, disabled, women, youth, or homeless;
2. Administrative affairs for the operation of basic environmental facilities:
3. Administrative affairs for the operation of cultural or tourism facilities;
4. Administrative affairs for the operation of public park facilities;
5. Administrative affairs for the operation of City-operated hospitals or facilities for the enhancement of health;
6. Administrative affairs for the operation of facilities for assistance to industries, occupational training, or transportation;
7. Administrative affairs for the operation of welfare facilities for public officials;
8. Administrative affairs for the operation of English Villages;
9. Other administrative affairs deemed necessary by the Mayor, which meets criteria established under Article 4.

Article 7 (Standards, etc. for Selection of Entrusted Agencies)

The Mayor shall examine the following matters comprehensively in selecting entrusted agencies: <Amended by Ordinance No. 4818, Jul. 30, 2009; Ordinance No. 5705, May 14, 2014>
1. Levels of human resources, instruments, equipment, facilities, and technology necessary for the performance of entrusted work;
2. Capability of bearing financial burden;
3. Whether expertise in the areas related to entrusted work is secured and the outcome of performance of administrative affairs;
4. Employment and labor conditions of employees working for entrusted agencies;
5. Responsibility and public confidence.
[This Article Newly Inserted by Ordinance No. 4818, Jul. 30, 2009]

Article 8 (Selection of Entrusted Agencies)

(1) In principle, entrusted agencies shall be selected by open invitation; and the Mayor shall release criteria and allotted points, etc., to select entrusted agencies when he/she gives public notice of the selection of entrusted agencies. <Amended by Ordinance No. 5705, May 14, 2014>
(2) Where the Mayor invites entrusted agencies openly, applicants shall file an application along with a business plan and other documents for entrusted work; and the qualified persons falling under Article 7 shall be selected by the Committee for the Deliberation on Qualified Persons (hereinafter referred to as "Deliberative Committee"), comprised of experts in relevant areas.

<Amended by Ordinance No. 5705, May 14, 2014>
(3) Notwithstanding paragraph (1), where the Mayor selects an entrusted agency by any method other than by open invitation, the case shall undergo deliberation by the Operational Committee. <Newly Inserted by Ordinance No. 4818, Jul. 30, 2009; Ordinance No. 5705, May 14, 2014>

Article 9 (Committee for Deliberation on Qualified Persons)

(1) The Deliberative Committee shall be comprised of at least six members, but up to nine members, including one chairperson and one vice chairperson; but the Deliberative Committee chairperson shall be elected by and from among external members. <Amended by Ordinance No. 5519, Aug. 1, 2013>
(2) The Mayor shall appoint and commission Deliberative Committee members from among the following persons, while the number of Deliberative Committee members who are public officials shall not exceed one fourth of the number of all members of the Deliberative Committee; and the Deliberative Committee shall be deemed dissolved when it completes deliberation. <Amended by Ordinance No. 5519, Aug. 1, 2013; Ordinance No. 6016, Oct. 8, 2015>
1. The Seoul Metropolitan Council members;
2. Attorneys-at-law, certified public accounts, professional engineers, certified architects, or certified tax accounts;
3. Persons recommended by civic organizations (referring to non-profit, non-governmental organizations prescribed in Article 2 of the Assistance for Non-Profit, Non-Governmental Organizations Act);
4. Persons working as at least associate professors in departments related to the field of the relevant administrative affairs entrusted to the private sector, in colleges or universities;
5. Relevant public officials;
6. Other persons deemed necessary by the Mayor, for professional and fair deliberation by the Deliberative Committee.
(3) The Deliberative Committee may conduct examinations on a business plan and other documents as well as on-site inspections and may require an applicant to submit supporting materials as may be necessary.
(4) A meeting of the Deliberative Committee shall be duly formed with the attendance of a majority of incumbent members and shall adopt resolutions by a concurrent vote of a majority of members present at the meeting.
(5) Committee members who attend a meeting of the Deliberative Committee may be reimbursed allowances and travel expenses within the budget: Provided, That the foregoing shall not apply to a committee member who is a public official and attends a meeting in direct connection with his/her duties. <Amended by Ordinance No. 4818, Jul. 30, 2009>

Article 10 (Responsibilities and Indication of Name)

(1) Responsibilities for performing entrusted work shall be attributed to each entrusted agency, while the Mayor shall be responsible for supervision over entrusted agencies.
(2) Each entrusted agency shall exercise the authority for entrusted work in its own name. <Amended by Ordinance No. 4818, Jul. 30, 2009>

Article 11 (Conclusion of Agreement, etc.)

(1) When the Mayor entrusts administrative affairs, he/she shall conclude an entrustment agreement with the entrusted agency, in which the following matters shall be included, and shall have the agreement notarized: <Amended by Ordinance No. 5705, May 14, 2014>
1. Name and address of the entrusted agency;
2. Period of entrustment;
3. Entrusted work and details thereof;
4. Matters concerning the safety control of facilities;
5. Efforts to improve employment and labor conditions of employees;
6. Matters concerning instructions, inspections, comprehensive outcome evaluations, etc.;
7. Other matters deemed necessary by the Mayor to perform entrusted work.
(2) The period of entrustment shall not exceed three years. <Amended by Ordinance No. 4818, Jul. 30, 2009>
(3) The Mayor may extend the period of entrustment temporarily for up to 90 days only once, following consultation with the entrusted agency, where extenuating circumstances exist. <Newly Inserted by Ordinance No. 5705, May 14, 2014>
[This Article Wholly Amended by Ordinance No. 4818, Jul. 30, 2009]

Article 12 (Renewal of Agreement)

(1) Where the Mayor intends to renew an agreement with the existing entrusted agency, he/she shall determine on whether the entrusted agency is competent through deliberation by the Deliberative Committee and the Operational Committee by not later than 90 days before the expiration of the period of entrustment. <Amended by Ordinance No. 5705, May 14, 2014; Ordinance by 5961, Jul. 30, 2015>
(2) When the Mayor determines on whether the entrusted agency is competent pursuant to paragraph (1), such determination must be based on reflection on the outcome of request to take corrective action, as instructed and inspected by the Mayor for the latest

period of entrustment under Article 16, on the result of comprehensive outcome evaluation prescribed in Article 18, and on other various audit results including an accounting audit. <Newly Inserted by Ordinance No. 5961, Jul. 30, 2015>

Article 13 (Assistance in Operation)

(1) If the Mayor deems necessary for an entrusted agency's performance of entrusted work, he/she may permit the entrusted agency to use public property or commodities, or may subsidize the entrusted agency for incurred expenses within the budget. <Amended by Ordinance No. 4818, Jul. 30, 2009; Ordinance No. 5705, May 14, 2014>

(2) Where the Mayor provides budget funds to an entrusted agency pursuant to paragraph (1), the Mayor shall require the entrusted agency to guarantee the performance of an agreement concluded mutually; and the Act on Contracts to Which a Local Government Is a Party may apply mutatis mutandis to methods, etc., for guaranteeing such performance. <Newly Inserted by Ordinance No. 5705, May 14, 2014>

[This Article Wholly Amended by Ordinance No. 4818, Jul. 30, 2009]

Article 14 (Collection of Use Fees, etc.)

(1) The Mayor may permit an entrusted agency to collect use fees, other fees and expenses prescribed by any statute, regulation, or separate ordinance in connection with the performance of entrusted work.

(2) Except as otherwise provided for in any other regulation, when an entrusted agency intends to collect use fees, other fees and expenses pursuant to paragraph (1), it shall report to the Mayor.

(3) The Mayor may require an entrusted agency to transfer to the Mayor part of revenue from the operation of facilities or permit it to spend such revenue for the operation of the facilities. <Amended by Ordinance No. 4818, Jul. 30, 2009>

Article 15 (Obligations of Entrusted Agencies)

(1) No entrusted agency shall delay executing administrative affairs, demand unnecessary documents, perform administrative affairs in an unfair manner, or collect undue expenses in executing entrusted work.

(2) No entrusted agency shall use entrusted facilities or equipment, or spend costs and expenses for any purpose other than purposes of entrustment.

(3) Every entrusted agency shall observe relevant statutes and regulations, this Ordinance, and terms and conditions of the entrustment agreement, and shall comply with the Mayor's orders, dispositions, and instructions.

(4) When an entrusted agency intends to expand or renovate an entrusted facility or build a new facility additionally, it shall obtain prior approval therefor from the Mayor.

(5) The Mayor may require entrusted agencies to donate facilities expanded, renovated, or additionally built pursuant to paragraph (4) to the Mayor. <Amended by Ordinance No. 4818, Jul. 30, 2009>

(6) No entrusted agency shall entrust administrative affairs entrusted again to a third legal entity, organization, or agency or private individual who belongs to such legal entity or organization: Provided, That each entrusted agency shall re-entrust part of administrative affairs entrusted, by obtaining approval from the Mayor. <Newly Inserted by Ordinance No. 5705, May 14, 2014>

(7) Each entrusted agency shall prepare the settlement of accounts by project for each business year; shall undergo an accounting audit for the settlement of accounts by an external auditor designated by the Mayor; and shall submit such settlement to the Mayor by not later than three months after the end of the relevant business year. In such cases, procedures and methods for the accounting audit (including preparing criteria for calculation of project costs, preparing a calculation manual, and defining types of improper uses) shall be prescribed by rule. <Amended by Ordinance No. 6383, Jan. 5, 2017>

(8) The Mayor shall pre-designate independent external auditors including accounting corporations or certified public accountants pursuant to Article 7. <Amended by Ordinance No. 6383, Jan. 5, 2017>

(9) Each entrusted agency shall endeavor to improve employment and labor conditions of employees performing entrusted work. <Newly Inserted by Ordinance No. 5705, May 14, 2014; Ordinance No. 6383, Jan. 5, 2017>

Article 16 (Instruction and Inspection, etc.)

(1) The Mayor may require an entrusted agency to report necessary matters regarding the performance of entrusted work. <Amended by Ordinance No. 5705, May 14, 2014>

(2) The Mayor shall instruct and inspect an entrusted agency at least once each year, and may examine necessary documents and facilities, etc., for instruction and inspection. <Amended by Ordinance No. 5705, May 14, 2014>

(3) The Mayor may take necessary measures including request an entrusted agency to take corrective action when it is deemed that entrusted work has been performed illegally or wrongfully, based on the outcome of the report, instruction, and inspection prescribed in paragraphs (1) and (2). <Amended by Ordinance No. 5705, May 14, 2014>

(4) Where the Mayor requests an entrusted agency to take corrective action pursuant to paragraph (3), he/she shall notify the entrusted agency of particulars in writing, and shall give the entrusted agency an opportunity to state opinions in advance. <Newly Inserted by Ordinance No. 5705, May 14, 2014>

(5) Where auditing entrusted work is deemed necessary, the Mayor may audit entrusted work. <Newly Inserted by Ordinance No. 5705, May 14, 2014>

Article 17 (Work Manual)

(1) Each entrusted agency shall prepare and keep the work manual clearly describing the processing department, processing period, processing procedure, processing guidelines, required documents, forms, fees, etc. separately for each type of entrusted work.

(2) When an entrusted agency prepares the manual under paragraph (1), it shall obtain approval thereof from the Mayor. <Amended by Ordinance No. 4818, Jul. 30, 2009>

Article 18 (Comprehensive Outcome Evaluation)

(1) The Mayor conduct a comprehensive outcome evaluation on administrative affairs prescribed by rule, among entrusted work, by not later than 90 days before the expiration of period of entrustment. <Amended by Ordinance No. 5705, May 14, 2014>

(2) The Mayor may entrust a comprehensive outcome evaluation prescribed in paragraph (1) to a specialist evaluation agency. <Amended by Ordinance No. 5705, May 14, 2014>

(3) The Mayor shall report the result of comprehensive outcome evaluation prescribed in paragraph (1) to the Operational Committee, and shall release such result on the website of the Seoul Government. <Newly Inserted by Ordinance No. 5705, May 14, 2014>

[This Article Newly Inserted by Ordinance No. 4818, Jul. 30, 2009]

Article 19 (Cancellation of Entrustment, etc.)

(1) The Mayor may cancel entrustment, if any of the following causes or events occurs:

1. If an entrusted agency fails to perform its obligation under Article 15;
2. If an entrusted agency breaches a term or condition of the entrustment agreement.

(2) When the Mayor intends to cancel entrustment pursuant to paragraph (1), he/she shall give the entrusted agency an opportunity to state opinions. <Amended by Ordinance No. 4818, Jul. 30, 2009>

(3) Where the Mayor cancels entrustment pursuant to paragraph (1), he/she shall take necessary measures, including recovering subsidies for expenses incurred in entrustment and canceling a permit to use public property or commodities. <Newly Inserted by Ordinance No. 5705, May 14, 2014>

Article 20 (Enforcement Rule)

Matters necessary for the enforcement of this Ordinance shall be prescribed by rule. <Amended by Ordinance No. 4818, Jul. 30, 2009>