



THE CITY OF SAN DIEGO  
**REPORT TO THE CITY COUNCIL**

DATE ISSUED: April 11, 2011 REPORT NO: 11-049 Rev.

ATTENTION: Public Safety & Neighborhood Services Committee  
Meeting of April 13, 2011

SUBJECT: Reimbursements to Business Improvement Districts (BIDs)

REFERENCES: Councilmember Todd Gloria's January 24, 2011 Memorandum  
Council President Tony Young's January 25, 2011 Memorandum  
cosigned by Councilmembers David Alvarez, Lori Zapf, and Carl  
DeMaio

REQUESTED ACTIONS: Accept and/or make recommendations to the Report.

STAFF RECOMMENDATIONS: Accept and/or make recommendations to the Report.

SUMMARY:

On January 24, 2011 Councilmember Todd Gloria issued a memorandum to the City Attorney regarding the City's reimbursements to the Business Improvement Districts (BIDs). On January 25, 2011 Council President Tony Young, along with Councilmembers David Alvarez, Lori Zapf, and Carl DeMaio issued a memorandum to the Mayor and City Council on the same topic. Both memos requested changes to the current process of reimbursing these organizations for expenses already incurred. The Councilmembers have suggested a process that provided direct payment of the assessment funds to the BIDs on a monthly basis.

The City Attorney's office reviewed the request and prepared a Memorandum of Law that speaks to the legal requirements of making payments to these organizations. This report outlines the current process and where improvements can be made.

DISCUSSION

Business Improvement Districts (BIDs) are City-designated areas where the business owners are assessed annually to fund improvements and activities to promote the economic revitalization and physical maintenance of the community. The City collects assessments of \$1.3 million annually and partners with merchants associations, representing the assessed business owners, to

implement programs to promote the businesses and revitalize many of the City's older commercial neighborhoods.

Pursuant to the California Streets and Highways Code, budget reports for the BIDs are submitted annually to the City Council for approval and Council authorizes the levying of the assessments. The BID assessments are collected annually by the City Treasurer's Office along with the City's business tax at the time of application and then upon renewal of the business tax certificate.

The assessments are accounted for separately in the City's accounting system. Pursuant to Council Policy 900-07, the City contracts with a business association whose role it is to oversee the BID operation and to carry out their improvement programs.

Procedurally, BID assessment funds are remitted to the non-profit associations on a reimbursement basis to manage BID programs in the respective BID's, though working capital advances are permitted under certain circumstances as specified in the annual agreement. The procedures for processing reimbursements have evolved over time but are generally guided by historical City practices. Other requirements have been added as a result of various audit findings over the past several years. For example, the hotline investigation of Promote La Jolla resulted in findings on duplicate City payments (double-dipping) and a proposed mitigation was for City staff to require additional reporting to facilitate the cross-checking of reimbursement requests concerning multiple City funding sources.

The Office of Small Business in conjunction with the BID Council initiated efforts to standardize the BID accounting practices and to have each non-profit association use the same software with a consistent chart of accounts. This standardization aided BID contract management and compliance and facilitated City staff processing of reimbursement requests while holding down audit expenses. The agreed-upon procedures were updated prior to FY2010 and incorporated as Attachment B to the BID agreement.

Effective July 1, 2009 the City transitioned to a new accounting system, SAP, and the BID (and MAD) programs were then required to follow Purchase Order processes. This created a number of issues during the transition period, but hopefully these will be one-time issues and not lead to future cash flow issues for the non-profits. For example, staff had received training in a test environment which did not replicate the complexity associated with processing real transactions. This created a steep learning curve for Office of Small Business staff on entering and approving multiple lines of accounting for Purchase Requisitions (Purchase Orders), and then processing Goods Receipts and Purchase Order payments. These processes, while not new for other City programs, were new to the BID (and MAD) programs and extended the staff time needed to complete the reimbursements to make payments.

When the City standardized payment terms of NET30 for all City vendors this impacted some BID non-profit associations whose reimbursements had been previously processed using Direct Payments and not subject to a NET30 payment term. For example, if a BID non-profit management corporation dates a reimbursement request letter as April 1 and mails it in; the Office of Small Business receives it on April 5; staff finishes the review and submits the request in SAP on April 10; and then Comptroller's Accounts Payable staff processes it on April 20, the

payment will not be released until April 30 because that is 30 days from the date of the invoice (letter).

### When/How Assessments are collected for BIDs

The City Treasurer's Office collects the annual BID assessment on the anniversary date for each individual BID business. The BID assessment is included as a separate charge on the business tax certificate bill that every business receives. All assessment funds are returned to the BIDs through annual agreements. The City does not charge BIDs for the City staff or administrative costs associated with this service.

### Current Reimbursement Process

Every reimbursement packet requires the following information:

- Cover letter;
- Summary of Profit and Loss;
- Cash Disbursement Report for all transactions in the month;
- Journal Report for all transactions in the month;
- Transaction Detail by Account for each City Funding source;
- Banks Statements – including all pages or copies of canceled checks; and
- Monthly Activity Report.

In addition to these documents the packets must have:

- One copy of the invoice/receipt and associated check for those expenses that are being claimed. Back-up to be provided in the same order as the list on the Journal Report.
- Each invoice/receipt shall itemize the expenditures for which payment is requested and include the names and rates of pay for contracted personnel who have performed services on behalf of the BID, the hours worked, and details of any reasonable and necessary out-of-pocket expenses.
- The City will only process the reimbursement request where the expenses are documented through an invoice and not just a statement which may include past due or prior charges. When past due/prior charges are being requested for reimbursement, the prior invoice reflecting the amount owed must also be submitted.
- Payroll statements that detail all withholdings and taxes are to be included if salaries are included as part of the approved budget.
- Proof of payments to State and Federal agencies are required if the taxes/fringe benefits are to be reimbursed.
- For reimbursement of refreshments or meal expenses for public board and/or group meetings, an agenda and the sign-in sheet for each meeting must be included.
- For mileage, a log that has the starting and ending mileage and the destination for each trip must be submitted.
- Late fees, finance charges, citations, other penalties, nonsufficient fund bank fees, gift cards, and alcohol purchases are deemed as ineligible for reimbursement.
- One copy of the Minutes and Attendance sheets for Board meetings.

Once this documentation is received, the Office of Small Business staff follows the process outlined below:

- Staff reviews the requests and ensures all back-up documents are included, verifies that the expenses are eligible for reimbursement, ensures that summary expense categories match the Budget and Purchase Order, and verifies that everything was calculated correctly.
- Staff inputs payment request under the appropriate Purchase Order.
- Comptroller's Accounts Payable staff reviews the request and either releases the payment or returns it to the originator for correction.
- If the request is returned then Office of Small Business staff must re-enter the corrected payment information, attach appropriate documentation, and then re-submit for processing.

#### How the City can improve the process

Office of Small Business staff has met with the Comptroller's office and Purchasing & Contracting to discuss possible improvements to the process as follows:

- Consider alternatives for the need to create a Goods Receipt as a control check on the invoice payments.
- Utilize NET20 (20 days vs. 30 days) as the default payment term for the Master Vendor records for BID/MAD non-profit management corporations to reduce the payment times (instead of the current NET30 term).
- If it is possible within SAP, allow the Purchase Orders for the current fiscal year to remain open at year end which would provide Office of Small Business staff additional processing time of the BID May and June expenditures, (which are typically not received from the BID organizations until after June) and to allow for any final modifications of the Purchase Orders if needed.

Also, the Office of Small Business will work the other City Departments that are responsible for contract completion (as listed below) to expedite the processing time:

- Recording of the resolution confirming the BID budgets [City Clerk].
- Recording of the resolution authorizing the Mayor to execute the BID agreements [City Clerk].
- Recording of the BID Agreements [City Clerk].
- Signing of the resolutions [Mayor's office].
- Signing of the BID agreements [City Attorney and Purchasing & Contracting].
- Approval of the FMBB (budget) within OneSD to set up the BID budgets [Financial Management].
- Approval of the Purchase Requisitions to create the Purchase Orders [Comptroller's office and Purchasing & Contracting].

### How BID Organizations can improve the process

- Submit all required insurance documentation for contract compliance on time consistent with the provisions of their agreement with the City.
- Submit complete eligible reimbursement packets every month in a timely fashion.
- Categorize expenses consistent with the approved Budget and Purchase Order.
- Make sure that the amounts of the expenses by general expense category which are submitted for reimbursement do not exceed the corresponding individual line items of the Purchase Order before the reimbursement request is submitted.
- Close out expenses at year end in a timely manner so as not to delay the FY2012 process in SAP which requires the FY2011 Purchase Orders to be closed.

### Maintenance Assessment District Process

The reimbursement process for MADs is identical to the process for BIDs outlined above. The majority of the non-profits with whom the City contracts for administration of the self-managed MADs also oversee the BIDs and therefore those organizations submit reimbursement packages for both districts.

### CONCLUSION:

Current reimbursement processes are aimed at providing an appropriate level of fiduciary oversight to ensure that assessments are spent as permitted under state law and as authorized by the City Council and to minimize potential mis-use of funds. Possible changes to the processes would be aimed at maintaining safeguards while providing some simplification and time savings in the reimbursement process.

### FISCAL CONSIDERATIONS:

No net fiscal impact is anticipated for the City since MAD and BID payment administration staff positions are budgeted. However, if processes could be expedited and run more efficiently then that would free up staff time to perform other tasks associated with Program monitoring. For the BID and MAD non-profit management corporations, no additional funds would be available, but similarly, their staff could spend less time pursuing or juggling payments to forestall cash flow issues and could concentrate on providing other services.

### PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

None.

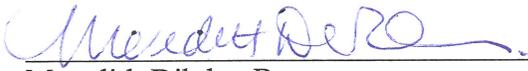
### COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Information has been communicated by Office of Small Business staff and through the BID Council to the affected non-profit management corporations.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

BID and MAD nonprofit management corporations and their members are the immediate stakeholders and improvements to the processes would likely result in greater staff time to enhance services for the member businesses (and property owners).

  
Beth Murray, Deputy Director  
Economic Development Division, CPCI

  
Meredith Dibden Brown  
Office of Small Business Manager

Attachments:

1. Councilmember Todd Gloria's January 24, 2011 Memorandum
2. Council President Tony Young, Councilmembers David Alvarez, Lori Zapf, and Carl DeMaio's January 25, 2011 Memorandum



**OFFICE OF COUNCILMEMBER TODD GLORIA  
COUNCIL DISTRICT THREE**

**M E M O R A N D U M**

**DATE:** January 24, 2011  
**TO:** Jan Goldsmith, City Attorney  
**FROM:** Councilmember Todd Gloria *Todd Gloria*  
**SUBJECT:** Supporting and Strengthening our Business Improvement Districts

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It has been brought to my attention that many of our City's Business Improvement Districts (BIDs) and the non-profit associations that administer BID work and contracts regularly experience substantial difficulties working through the City's current policy of reimbursement for expenses. Unfortunately, I have heard many cases of BIDs waiting multiple months to receive reimbursements. These delays and the arduous process of applying for reimbursement have placed a heavy strain on our BIDs.

I am concerned that requiring our BIDs to wait for reimbursement is obstructing the core intent of BIDs and is hindering small business growth, prosperity and responsibility. These assessment funds are collected to promote, support and strengthen business districts, but by making it difficult for our BIDs to access these funds, we are limiting their ability to do so.

**It is my desire to establish a new policy that provides direct payment of applicable assessment funds to our BIDs on a monthly basis.** For example, each BID would be allocated the funds assessed from its member businesses from the previous month.

I believe that such a policy would greatly enhance BID operations, stabilize cash flow, as well as promote autonomy, responsibility and cooperation between our BIDs and the City. In addition, this policy would also be beneficial to City staff by eliminating unnecessary work processing reimbursement requests.

I am proud to represent the BIDs of Adams Avenue, City Heights, El Cajon Boulevard Central, El Cajon Boulevard Gateway, Hillcrest and North Park. It is a legislative priority to me to support small businesses and continually better the City's relationship with the small business community. Our BIDs deliver an incredible return on investment and provide exponential benefits. BID non-profit associations present budgets to the City Council annually, maintain professional accounting and bookkeeping, and engage in established contractual relationships with the City of San Diego. I am confident that we can establish this policy and do so without jeopardizing necessary accountability.

In order to establish a new policy for BID fund allocations, please advise whether or not BID assessments are public funds, the necessary means by which this new policy may be established, and describe any additional safeguards that would need to be put in place to ensure accountability of these funds as soon as possible.

cc: Mayor Jerry Sanders  
City Councilmembers  
Independent Budget Analyst  
Office of Small Business

TG/da



City of San Diego

**TONY YOUNG**  
CITY COUNCIL PRESIDENT – DISTRICT 4

**CARL DEMAIO**  
CITY COUNCILMEMBER –DISTRICT 5

**LORIE ZAPF**  
CITY COUNCILMEMBER –DISTRICT 6

**DAVID ALVAREZ**  
CITY COUNCILMEMBER –DISTRICT 8

## MEMORANDUM

DATE: January 25, 2011

TO: Mayor and City Council

FROM: Council President Tony Young

Councilmember David Alvarez

Councilmember Lori Zapf

Councilmember Carl DeMaio

RE: Small Business Reforms in 2011

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As the economy continues to struggle through a market downturn and the unemployment level in San Diego remains a significant concern, supporting small businesses in the City of San Diego should be one of our top priorities as a City. This means finding ways to make the City of San Diego a help to small businesses, rather than a hindrance.

Currently, the City of San Diego contains numerous Business Improvement Districts (BIDs), which are administered by small, non-profit business associations working towards economic development within their areas throughout the City.

Businesses within BIDs pay assessments for the purpose of economic development within their area, and the City distributes the funds to the non-profit organizations that

administer each BID. This process is currently accomplished through an overly burdensome reimbursement policy where the administration organizations are forced to pay upfront expenses for their work within a district and then seek monthly reimbursement from the City.

This does not have to be the case. Other cities have implemented funding procedures that are less burdensome to the administrators of BIDs, yet contain sufficient checks and balances.

The City has recently imposed an additional 30-day waiting period for reimbursement checks on top of a process that typically takes as long as 60 days. This means that the non-profit administration organizations must now wait approximately 90 days (and sometimes up to 5 months) for reimbursements, creating significant cash flow problems and accounting headaches for these organizations. This decreases the effectiveness of BIDs to the detriment of small businesses throughout the City.

**Requested Action:** We request that Council Policy 900-07 be amended to include the suggested language below.

Further, we request that staff amend the annual Business Improvement District Operating Agreements (specifically sections 5.2 and 5.3) to ensure consistency with the changes to Council Policy 900-07 suggested below. The purpose of this amendment is to change the reimbursement system to a direct payment system.

*Disbursements to BIDs*

*BID Assessments are not public funds, but assessments that are collected from the merchants in a local community for economic development and distributed by the City of San Diego merely as an agent of fiscal management.*

*Therefore, those funds shall be distributed to the designated nonprofit that is under contract with the City of San Diego for administration of the BID on a 30 day cycle via direct payment that is made based on the available cash in treasury at the end of each 30 day cycle.*

*The association board shall use generally accepted accounting procedures for bookkeeping. All records of receipts and expenditures shall be kept in such a manner that will show:*

- *A daily record of receipts and expenditures (via accounting software)*
- *The amount received and disbursed*
- *The use of the funds and board action approving the annual budget or adjustments to the budget.*

CITY OF SAN DIEGO, CALIFORNIA  
**COUNCIL POLICY**

SUBJECT: BUSINESS IMPROVEMENT DISTRICTS

POLICY NO.: 900-07

EFFECTIVE DATE: September 10, 2001

BACKGROUND:

Business Improvement Districts (BID's) are governmentally-designated geographic areas formed to permit businesses to assess themselves to improve business conditions in community commercial areas. They are formed by the City Council under the provisions of State law (The Parking and Business Improvement Act law of 1989-SB 1424). The State legislature found that businesses located and operating within older commercial areas are at a competitive disadvantage with newer development because of inadequate parking, lack of organization and promotional programs. The legislature further found that it is in the public interest to promote the economic revitalization and physical maintenance of those older commercial areas in order to create jobs, attract new businesses and prevent erosion of the districts.

Oftentimes, voluntary merchant's associations serve as the catalyst to form a district. While effective, purely voluntary organizations by themselves benefit all businesses but draw their resources from only a minority. BID's permit the costs of improvements to be spread equitably over all those who benefit.

BID's are not voluntary organizations; they should, however, have the strong support of the underlying membership. They require annual budgets, assessments and hearings and generally have the same formation, administration and dissolution criteria as other governmental assessment entities. The City collects the assessment, contracts with a business association to carry out the improvement program and generally oversees the district operation. In its most successful form, however, the business district and its related association have a great deal of latitude in defining and carrying out their improvement programs with a minimum of bureaucratic intervention and related governmental overhead costs.

The following criteria shall apply to the operation of such BIDs:

Establishment

- Upon presentation of a petition signed by 20% of the eligible businesses within the proposed district, staff shall conduct a mailed ballot procedure of all eligible businesses. The procedure shall be held to determine whether a majority support exists among eligible businesses by assessed value and numerically that respond to the mailing. In the event that an assessed value and numerical majority of those responding support the formation, the City Council may proceed with a public hearing process.

- The district shall include only business tax certificate holders within the bounds established as part of the formation process and (optionally) rental unit business tax certificate holders.
- Businesses with Home Occupancy Permits may be excluded.
- Establishment shall be considered once annually prior to confirming the budget and levying the annual assessment for the following fiscal year.

#### Assessments

- The Council, as part of the annual confirmation of the various B.I.D. budgets, shall designate an entity, generally a non-profit business or merchant's association (the association) within each district to advise the Council on the district budget, assessments and activities and to carry out the improvement program.

Selection of the entity shall be based upon its involvement in small business affairs within the district, demonstrated track record and representation of business.

- The association shall be a legally formed California non-profit corporation whose membership shall include all businesses within the district holding current business tax certificates. The association shall elect its board at an annual meeting of the membership called for that purpose and shall take affirmative to assure its board reflects the ethnic and business diversity of the community; notice of the meeting shall be provided to all eligible businesses.
- Policy issues including assessment levels should be resolved through the board election process.
- Proposed reductions in assessment levels and changes to eliminate address ranges from the district boundaries shall be noticed to the BID membership. Any such proposed changes shall be approved by at least two-thirds of the association board of directors prior to City Council consideration as part of the annual confirmation of the various B.I.D. budgets.
- The City Treasurer shall collect the BID fees as part of the business tax certificate process. Fees collected shall be first applied against the BID fees due.

#### Disbursements to BIDs

- BID Assessments are not public funds, but assessments that are collected from the merchants in a local community for economic development and distributed by the City of San Diego merely as an agent of fiscal management.

Therefore, those funds shall be distributed to the designated nonprofit that is under contract with the City of San Diego for administration of the BID on a 30

day cycle via direct payment that is made based on the available cash in treasury at the end of each 30 day cycle.

The association board shall use generally accepted accounting procedures for bookkeeping. All records of receipts and expenditures shall be kept in such a manner that will show:

- A daily record of receipts and expenditures (via accounting software)
- The amount received and disbursed
- The use of the funds and board action approving the annual budget or adjustments to the budget

### B.I.D. Modifications

1. Proposed increases in assessment levels should be approved by at least two-thirds of the association board of directors. Upon presentation to the City of the association meeting minutes indicating support for the increase, staff shall conduct a mailed ballot procedure of all affected businesses. The procedure shall be held to determine whether majority support of both the number of businesses and the value of the assessments, exists among eligible businesses that respond to the mailing. In the event that an assessed value and numerical majority of those responding support the increase in the levels of assessment, the City Council may proceed with a public hearing process to amend the B.I.D. ordinance. The public hearing process will include a first class mailing to all businesses in the B.I.D. to inform them of the proposed change in the ordinance and the date(s) of the public hearing(s).
2. Proposed expansions of B.I.D. boundaries should be approved by 20% of eligible businesses which fall within the expansion areas. The petition should clearly indicate the proposed levels of assessment and the modified B.I.D. boundaries. Upon presentation of the petition to the City, staff shall conduct a mailed ballot procedure of all eligible businesses within the expansion areas. The procedure shall be held to determine whether majority support exists among eligible businesses by assessed value and numerically that respond to the mailing. In the event than an assessed value and numerical majority of those responding support the expansion of the B.I.D. boundaries, the City Council may proceed with a public hearing process to amend the B.I.D. ordinance. The public hearing process will include a first class mailing to all businesses in the existing and expansion areas of the B.I.D. to inform them of the proposed change in the ordinance and the date(s) of the public hearing(s).
3. If an expansion of B.I.D. boundaries and an increase in assessments for existing business is proposed then both processes 1. and 2. above must occur but the noticing by first class mail to all businesses may be combined. In the event that the mailed ballot procedure does not indicate sufficient support to move forward with a public hearing process for increasing the levels of

assessment and/or expanding the B.I.D. boundaries, then the existing B.I.D. ordinance will remain in effect.

### Disestablishment

- Disestablishment for any district shall be considered no more than once annually prior to confirming the budget and levying the annual assessment. The Council will consider disestablishment where strong support for such action is indicated by one or more of the following:
  - upon presentation of a petition signed by 20% of the eligible businesses within the district, staff shall conduct a mailed election of all eligible businesses. The election shall be held to determine whether there exists at least 50% of eligible businesses by assessed value that support district disestablishment. In the event that 50% or more of the total number of eligible businesses by assessed value do not vote to support disestablishment, further proceedings shall cease and the district shall not be disestablished. Non-responses to the election shall not be deemed as supporting disestablishment. The Council will consider only one petition process per district for disestablishment in any three-year period.
  - a resolution by at least four-fifths of the total number of directors of the association. In this event, the Council may proceed to disestablish the district or take any other appropriate action including district continuance.
  - special circumstances as determined by the Council.
- In the event of disestablishment, the Council shall allow for an appropriate period to permit for a reasonable wind down of operations and to assure that existing contracts are not impaired. Any remaining assets shall be returned to those businesses of record who were current in their BID assessments at the effective date of the disestablishment ordinance. If the costs to return the remaining assets is greater than the amount of the assets, then the assets shall be spent on an eligible BID activity as determined by the City Manager.

### Implementation

- The City Manager shall establish the necessary administrative procedures to implement this policy.

### HISTORY:

“Formation of Business Improvement Districts”  
Adopted by Resolution R-265208 03/10/1986  
Retitled to “Business Improvement Districts” and  
amended by Resolution R-279400 02/10/1992  
Amended by Resolution R-290890 10/19/1998  
Amended by Resolution R-295443 09/10/2001