

MEMORANDUM OF LAW

DATE: October 5, 1992

TO: Councilmember George Stevens, Fourth District

FROM: City Attorney

SUBJECT: Renewal of Contracts with Legislative
Representatives in Sacramento and Washington, D.C.

On October 1, 1992, you sent a memorandum to the City Attorney requesting answers to questions concerning a proposal to extend the contracts the City holds with certain individuals who provide legislative representation to the City in Sacramento and Washington D.C.

Your questions are:

1. What provisions exempted the lobby contracts from being subjective to competitive bid?
2. What is the City's chartered responsibility to advertise for services? And, is there a threshold on the number of years or dollar amount that a contract can be extended before being advertised for bid?
3. Does the City practice racial discrimination by not allowing for a competitive bid, when the existing provider is exempt from affirmative action compliance, is owned and operated by a group not protected by Federal guidelines, and there are other qualified minority and women firms who have expressed a desire to bid for the City's contract? And, what is the City's exposure if we were sued by one of these minority or women firms?

The answer to questions 1 and 2 is that the City Charter does not require that contracts for services to be rendered (as opposed to providing goods or performing construction) be competitively bid. In our view, Charter sections 35 and 94 clearly do not relate to contracts. The Council has adopted a Council Policy concerning this type of contract procurement (see Council Policy 300-07), but that is a policy matter, not a legal one.

The answer to question 3 is obviously more difficult. First of all, as we indicated above, there is no requirement for

a "competitive" bid. However, we would assume that any future agreements (whether negotiated with the current providers or obtained through the Request for Proposals process) would call for compliance with the City's policies concerning the participation of minority and women's business enterprises.

JOHN W. WITT, City Attorney

By

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