

DATE ISSUED: July 24, 2002

REPORT NO. 02-169

ATTENTION: Honorable Mayor and City Council
Docket of July 29, 2002

SUBJECT: PILOT PRE-QUALIFICATION PROGRAM for
CONSTRUCTION CONTRACTS and PROTEST
PROCEDURES; CONSIDERATION OF CHARTER SECTION
94, the DEBARMENT ORDINANCE, MINOR
CONSTRUCTION PROGRAM AND SCOPE PROGRAM

REFERENCE: City Manager's Report 01-039
City Manager's Report 01-118
City Manager's Report 01-161
City Manager's Report 01-238
City Manager's Report 02-046
City Manager's Report 02-101

SUMMARY

Issues

How should the City address concerns related to Equal Opportunity Contracting, only contracting with qualified contractors, debarring contractors, and awarding construction contracts expeditiously?

Manager's Recommendation

Address concerns related to Equal Opportunity Contracting, only contracting with qualified contractors, debarring contractors, and awarding construction contracts expeditiously by:

1. Directing the Manager to implement a one year pilot Pre-Qualification Program for all projects over \$250,000 and modifications to the Council Policy and Ordinance on Protest Hearings.
2. Authorizing modifications to the Debarment Ordinance.
3. Adopting the necessary changes to the Minor Construction Program to establish two tiered program supporting Emerging Businesses and Small Businesses.
4. Adopting necessary changes to the Minor Construction Program's Income Cap.
5. Directing the necessary changes to the Minor Construction Program to increase the contract level from under \$100,000 to up to and including \$250,000. Directing the necessary changes to rescind SCOPE requirements for contracts between \$100,000 - \$250,000.

Other Recommendations

City Council. On March 18, 2002 Council unanimously supported the recommendations related to the Minor Construction Program.

Land Use and Housing Committee. On May 1, 2002 the committee unanimously approved the Manager's recommendation to implement a focused, pilot Pre-qualification Program for highly technical and specialized projects with the direction that a workforce report be included in the pre-qualification process. LU&H also approved modifications to the Debarment Ordinance.

Representatives of the Contracting Industry. Subsequent to the hearing at the Land Use and Housing Committee, representatives of the contracting industry requested that the proposed Debarment Ordinance be modified to allow contractors to voluntarily agree not to bid on City public works and other contracts for one year in lieu of the one year debarment. This would be at the Manager's discretion.

Public Safety and Neighborhood Services Committee. On May 8, 2002, the committee unanimously voted to forward the proposed modifications to Charter Section 94 to Committee on Rules, Finance and Intergovernmental Relations.

Committee on Rules, Finance and Intergovernmental Relations. On July 10, 2002, the committee voted unanimously to forward the proposed modifications to Charter Section 94 to the full City Council, without a recommendation, for further consideration.

Citizen's Equal Opportunity Commission. On July 17, 2002, CEOC in a special meeting, voted to recommend that the Charter 94 language be referred back to them for additional analysis, refinement and community input.

Fiscal Impact

The implementation of a pre-qualification program for all contractors would require the addition of 3.00 limited positions and nonpersonnel expense totaling \$298,461 (FY03 partial year) and \$361,164 annually. Departments that utilize the pre-qualification process will fund the program.

BACKGROUND

Several discussions have occurred at City Council Meetings, Council Committee meetings, the Equal Opportunity Contracting Program and construction industry advisory groups, such as the Public Works Advisory Committee, relating to the advertisement, award and construction of Capital Improvement Program (CIP) projects. The following issues have been raised:

I. Contractor selection - How to ensure only qualified and competent contractors are selected thus reducing chances of default or debarment after the project begins.

II. Minor Contracting Program - How to ensure that emerging businesses and Disadvantaged Business Enterprises participate in the City's Capital Improvement Program.

III. Contractor performance - How to ensure that contractors construct City projects in accordance with the plans and specifications with minimal negative impact to the community.

IV. Contractor debarment - How to modify the debarment ordinance to ensure

