



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: September 7, 2007 . **REPORT NO:** 07-142
ATTENTION: Council President and City Council
Agenda of Sept. 12, 2007
SUBJECT: Managed Competition Status Update
REFERENCE:

REQUESTED ACTION:

This report provides an update on the managed competition program. No action is required.

STAFF RECOMMENDATION

Staff recommends the Budget Committee schedule quarterly updates on managed competition program activities.

SUMMARY

The voters expressed their enthusiasm for a managed competition program within the City of San Diego through their approval of Proposition C in November 2006. Since that time, staff has made significant progress on the foundational work that will enable the City to use managed competition as a means to deliver quality services to residents in the most economical and efficient way possible for years to come.

Background

The City of San Diego (City) is committed to delivering quality services to taxpayers, residents, and visitors in the most economical and efficient means possible. This commitment can also be expressed as delivering services through "competitive government," defined as government with processes in place to validate that service quality and costs are comparable to those offered by any legitimate available provider.

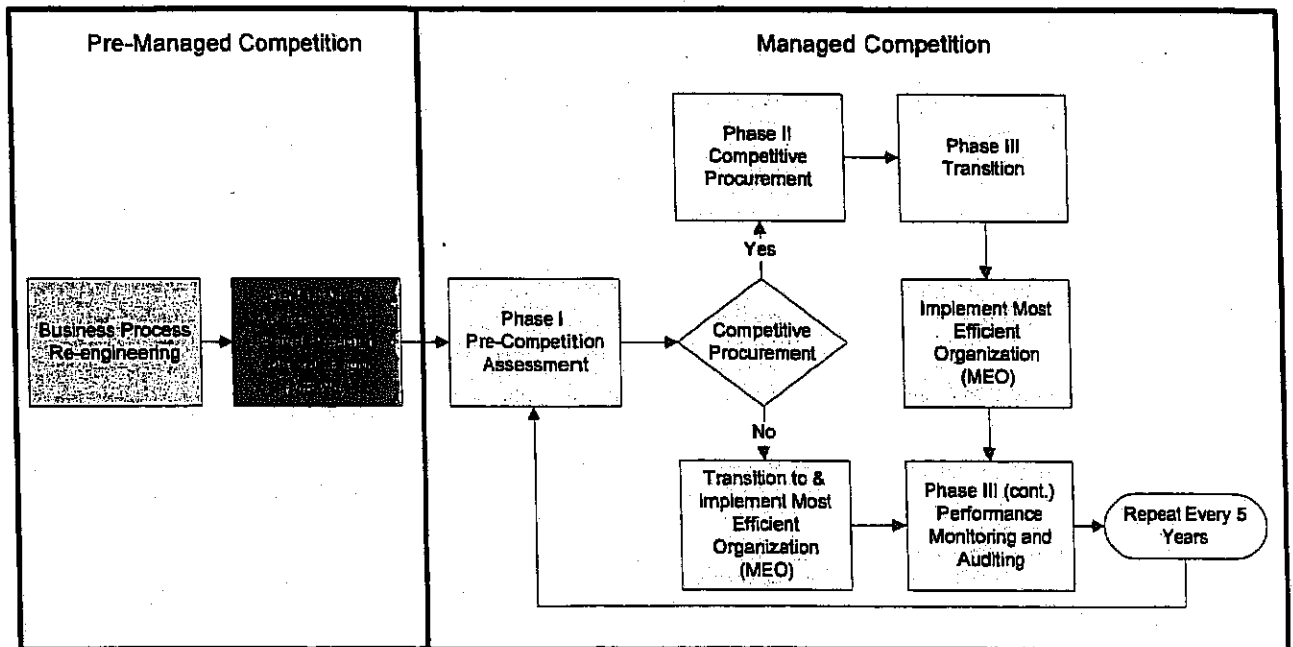
Managed competition provides a structured, transparent process that allows an open and fair comparison of public sector employees and independent contractors in their ability to deliver services to our citizens. This strategy recognizes the high quality and potential of public sector employees and seeks to tap their creativity, experience and resourcefulness by giving them the opportunity to structure organizations and processes in ways similar

to best practices in competitive businesses. Inherently governmental¹ functions are not considered for this procurement strategy.

Managed Competition Guide

Development and receipt of labor feedback on the Managed Competition Guide (“Guide”) is a significant step forward for the managed competition program. A copy of the Guide is attached to this report. The Guide charts the intended course for program implementation and lays the foundation to allow the City to move forward in beginning its pre-competition assessments to determine which functions are appropriate for competitive sourcing. Staff is confident that having the Guide in place provides a clear roadmap to continue forward.

While the Guide currently reflects both staff input as well as labor input, we expect it to be a living document that will be updated to reflect both program evolution as we move forward into implementation and lessons learned through program execution. To the extent that changes to the Guide and/or the process impact wages, hours or conditions of employment, the City will meet and confer with the affected union over those impacts. The major steps involved in managed competition, as described in the Guide, are provided as background in the next paragraphs.



Business Process Reengineering

Initiating and completing Business Process Reengineering (BPR) studies is, while valuable independently and seen as outside the overall managed competition process, a critical first step to managed competition. The value of BPR is that it enables

¹ Inherently governmental services are those so intimately related to the public interest as to require performance by government employees. The City of San Diego has included police officers, firefighters and lifeguards in this definition.

management and personnel to evaluate current ways of doing business and costs of providing services, to identify and eliminate non-value added work, and to identify opportunities to improve efficiency and effectiveness. With the foundation of BPR, the City is able to review functions' appropriateness for managed competition in their most efficient governmental state by defining their Most Efficient Government Organization (MEGO). As such, City employees are provided an opportunity to define methods for improving efficiency and effectiveness before a decision to compete a function is even considered. In some instances, the MEGO may be withheld from implementation to protect the City workforce's competitive advantage in managed competition. However, with the Guide now in place and the managed competition program underway, going forward, no BPR results will be held-back from implementation for more than one (1) year from the date of completion of the BPR.

Managed Competition Overview

Once a function within a department has completed BPR, it will be evaluated through a pre-competition assessment to determine if it will proceed on to a competitive procurement. Using the information gathered through the pre-competition assessment and documented in a pre-competition assessment report, the Mayor will decide if a function should be competitively procured. The decision will be based on several factors described in the Guide, including whether: (1) a function is inherently governmental, (2) a competitive market for the function exists, (3) significant legal limitations exists, (4) more efficiencies may be gained by competitively procuring, (5) the function is too complex to be carried-out by an outside entity, thus making the likelihood of failure too great, and/or (6) failure of performing the function would be too detrimental to the public welfare.

As part of the pre-competition process, key data will be collected and functions will be evaluated to determine if they should be competed independently or in conjunction with other functions.

If the decision is to move forward to the competitive procurement of a function or set of functions, an acquisition plan and Statement of Work (SOW) will be developed. The SOW defines the services and tasks to be performed, and forms the basis of the Request for Proposals (RFP). Once developed, the RFP will be released to the City employee team as well as outside vendors. In response to the RFP, an employee team will use their MEGO as the foundation for developing the in-house technical and cost proposals. The team may be assisted by a consultant, the Business Office, and other City stakeholders.

Once proposals are received, they will be evaluated in a manner that ensures that a level playing field will protect both City employees and outside vendors. The Managed Competition Independent Review Board (IRB) is a critical element to ensuring that the evaluation is fair and level. The IRB will be made up of seven individuals, four of whom will be private citizens. The IRB will be supported in its proposal evaluation activities by a Technical Evaluation Group and a Cost Evaluation Board. The IRB will propose the membership of these two groups, which is expected to include both external subject matter experts and City personnel. These groups will make a determination as to whether

a proposal of an independent contractor or the employee proposal is the "best value," meaning it provides the specific service to the City most economically and efficiently while maintaining quality and protecting the public interest. The recommendation will then be provided to the Mayor. Upon receipt of a recommendation from the IRB that a City service should be awarded to an independent contractor, the Mayor can either accept or reject that recommendation in its entirety. If the Mayor accepts the recommendation, then the Mayor will forward that recommendation to the City Council.

Upon selection, the service provider, whether in-house or independent contractor, will have six (6) months to transition to providing the services in accordance with their proposal. During the course of the contract, which shall not exceed five years, the performance of the provider will be monitored on a monthly basis and audited after the end of each annual performance period.

Progress to Date

Staff has made significant progress in a number of areas:

- Completing Business Process Reengineering studies on eleven (11) City functions, while initiating studies on another nine (9) functions, with many of those studies expected to be completed by the end of 2007
- Establishing the Managed Competition Ordinance, which included negotiating with the unions
- Developing a Managed Competition Guide which defines the process to be used for our managed competition program and the role of key decision makers in the program
- Meeting with the unions for feedback on the Managed Competition Guide
- Soliciting support for a consultant firm to provide program support
- Requesting recommendations for citizens to participate on the Managed Competition Independent Review Board

Business Process Reengineering studies

Initiating and completing BPR studies is a critical first step to the managed competition process. To date, we have completed BPR studies on: Contracts, Human Resources, Information Technology, Engineering & Capital Projects, Environmental Services, Fleet Maintenance, Lifeguarding, and MWWD functions. We have also completed BPR studies on Development Services, Publishing Services and Streets. We will be seeking Council approval of these BPR studies in the coming weeks. In addition, we have initiated BPR studies on: the Position Classification process, Water Department Management, Reservoir Recreation, Facilities Maintenance, Park Maintenance, Fire-Rescue, Grants & Gifts, Libraries and Police.

Each of the BPR studies that has been completed and approved by Council is in a different stage of implementation. Some are nearly through implementation while others, approved by Council as late as July 31, 2007, are beginning implementation. In some instances, select efficiencies identified through BPR studies have been withheld from implementation to allow the employee teams to protect their competitive advantage in managed competitions. In other words, to allow their most efficient state to be

considered procurement sensitive until such time as it is proposed-upon through managed competition. To appropriately balance competitive advantage with the need to realize efficiencies on behalf of the City, going forward, all BPR efficiencies will be slated to begin moving toward implementation after no more than a year of hold-back. Regardless of the state of BPR implementation, functions will proceed to pre-competition assessment after the completion of the BPR study.

To support our BPR studies as well as our managed competition efforts, the Business Office is creating a functional breakdown of City services. This information is intended to assist in developing future BPR schedules and in grouping functions for managed competition studies.

Managed Competition Ordinance

With the placement of a managed competition measure on the November 2006 ballot, staff drafted a Managed Competition Implementation Ordinance. This Ordinance is intended to provide a general framework for the managed competition process. The initial version of the Managed Competition Implementation Ordinance was drafted by the City Attorney's office in preparation for negotiations with the impacted labor organizations.

In order to move toward approval of the Managed Competition Implementation Ordinance, the City began meeting with a coalition of four of the City's five recognized bargaining units on July 25, 2006. The coalition was comprised of the American Federation of State, County, and Municipal Employees (AFSME) Local 127, the Police Officer's Association, the International Association of Firefighters Local 145, and the Municipal Employees Association (MEA). The Deputy City Attorney's Association was not impacted by Proposition C, managed competition, and so limited their negotiations to Proposition B, the pension reform measure which was also on the November 2006 ballot.

City leadership attended a total of 20 meetings to discuss the managed competition Ordinance with the bargaining coalition throughout the summer and fall of 2006. In addition, represented employees from AFSCME Local 127 and from MEA were provided paid time to review the draft Ordinance and to attend meetings with City leadership to meet and confer on the proposed Ordinance. The process concluded in an impasse hearing held on December 5, 2006. At that hearing, the City Council voted unanimously to approve the proposed Implementation Ordinance that has formed the basis of the Managed Competition Guide.

While the Council approved the Implementation Ordinance, the City is actively defending an unfair labor practice charge filed by AFSCME Local 127 and MEA relating to the Implementation Ordinance process. The unions allege that the City failed to follow its impasse procedure, as defined in Council Policy 300-06. Additionally, they are alleging regressive bargaining and premature declaration of impasse. The City disagrees with these allegations and will be defending its position before the Public Employee Relations Board in a hearing which is scheduled for September 25 - 28, 2007.

Managed Competition Guide Development

As referenced above, the Managed Competition Guide provides an overview of the process by which we will select functions for competitive sourcing and conduct competitive acquisitions. The Guide was developed using knowledge from other managed competition programs, including programs run by the Federal government and the County of San Diego, as well as the City of San Diego's Bid-to-Goal programs. The first version of the Guide was released on December 4, 2006 and was delivered to the City's five bargaining units as well as each of the City Council offices. City staff met with each of the Council offices through out the month of February to update them on the Guide as well as the upcoming meetings with the labor organizations. Over the course of this year, the Guide has evolved through the feedback of staff, labor representatives and some Council feedback. This latest version of the Guide also reflects best practices information gleaned agencies that have been involved in managed competition programs elsewhere and from expert consultant support.

Union Feedback on the Managed Competition Guide

While the Managed Competition Guide is expected to be a management tool to assist in process definition and execution, the Mayor committed to soliciting the input of the labor unions on this document. Initial meetings were held in March of this year. Meetings began again in earnest this past summer with a revised version of the guide being delivered on June 11, 2007 to each of the City's labor unions. Meetings with AFSCME Local 127, Local 145, and MEA went through August 29, 2007. City leadership attended a total of seven (7) meetings with AFSCME Local 127, one (1) meeting with Local 145, and five (5) meetings with MEA. Represented employees from AFSCME Local 127 and MEA were provided paid time to review the draft Guide and to attend meetings with City leadership to provide feedback on the Guide. Based on feedback received from the unions, a number of updates were made to the Guide, as shown in the document control tracking matrix appearing at the front of the attached Guide. In addition, as a result of our discussions with union representatives, a Labor Advisory Committee has been proposed to provide a forum for regular dialog and union feedback.

We expect that the Guide, a management document outlining proposed processes for program implementation, will be a living document that will updated over time with additional program details, lessons learned through initial implementation activities and feedback from each of the stakeholders cited throughout this report. We have proposed to the labor organizations that a Labor Advisory Committee be established to provide a regular mechanism for communication about program implementation activities and to receive feedback on the program itself as well as proposed updates to the Guide. We expect that this Committee will address, among other topics, needed changes to the Guide to reflect lessons learned and continuous program improvement. Nonetheless, in the event an impacted labor organization identifies within the Guide impacts to mandatory subjects of bargaining and, as a result, requests to meet and confer, the City will fulfill its legal obligation to do so.

Contract for a Consultant Support Firm

Through a competitive Request for Proposal process, Grant Thornton LLP was selected to assist in the development of the program and strategic planning for program implementation. Thus far, the firm has been awarded four (4) task orders totaling \$202,185.

Managed Competition Independent Review Board

With the passage of Proposition C and the amendment/addition of subsection (c) to City Charter section 117, the IRB was established to advise the Mayor/City Manager on whether the proposal of City employees or that of an independent contractor will provide services more economically and efficiently while maintaining service quality and protecting the public interest.

An initial request was made for City Council recommendations/nominations of qualified private citizens to serve as candidates to fill four (4) vacant Board seats. Per the Charter, the public members of the IRB "shall have professional experience in one or more of the following areas: finance, law, public administration, business management or the service areas under consideration...". A final request for recommendations was sent to Council on August 31, 2007. We expect to bring recommendations for membership of the IRB to City Council for approval in early October.

Next Steps

In the coming weeks, we will initiate pre-competition assessments for some of the functions for which BPR studies have been completed in order to continue moving preparatory activities forward in parallel with working to reach agreement on the Ordinance. Once pre-competition assessments are complete, an uncontested Ordinance and a Guide are in place, and the first pre-competition assessments are complete, the results of the assessments will be forwarded to the Mayor for his decision on whether the assessed functions should undergo the competitive procurement process. No services or functions will be candidates for competitive procurement until they have been through the pre-competition assessment.

The managed competition program is complex, with many difficult tasks at each stage and with numerous stakeholders playing key roles throughout its execution. As a result, we are not able to provide a timeline that has great specificity for each stage of the process. Our expected high-level timeline appears below.

Activity	Timeline
Initiate pre-competition assessments	By end of 2007
Complete initial pre-competition assessments	Winter 2007/Spring 2008
Announce functions for initial procurement	Spring 2008
Develop RFP	Spring - Summer 2008
Advertise solicitation	Summer 2008
IRB reviews proposals	Fall 2008
Mayor/Council consider award recommendations	End of 2008
Transition to proposed service delivery process completed	By Summer 2009
Begin performance monitoring	Thereafter

In addition to the operational timelines set out above, there are some legislative issues still to be addressed. At the December 5, 2006 hearing which approved the implementation ordinance, staff indicated that some "clean up" of both Council Policies and Administration Regulations regarding the "cooling off" period for classified employees would be necessary to fully implement the text and intent of the Implementation Ordinance. In addition, certain Council members expressed an interest in addressing other elements of the Municipal Code which might further their stated goals of transparency and good governance. The Council President indicated that such actions should move through the Rules Committee prior to full Council consideration. These actions/processes will not impact the pre-competition process, but should be accomplished before completion of the first RFP.

FISCAL CONSIDERATIONS:

Although the managed competition program will have a positive impact on the City's financial situation, at this juncture there are no fiscal considerations.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

March 27, 2006. City Council adopted Ordinance O-19474, placing on the November 7, 2006 ballot the proposition to amend Article VIII of the City Charter by adding subsection (c) regarding the use of managed competition to section 117.

December 5, 2006. City Council approved Ordinance O-19565, which amended Article 2, Division 37 of the Municipal Code.

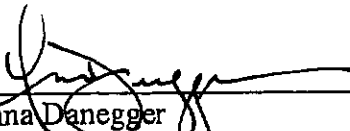
COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:


The managed competition program was initiated with the citizens of the City voting to approve Proposition C in November 2006. As we have worked to establish the managed competition program, staff has spent considerable time working with the labor unions (AFSCME Local 127, POA, IAFF Local 145, and MEA) to receive input on program plans. In addition, we have proposed a Labor Advisory Committee to facilitate continued work with the unions.

With the passage of Proposition C and the amendment/addition of subsection (c) to City Charter section 117, the Managed Competition Independent Review Board was established to advise the Mayor/City Manager on whether the proposal of City employees or that of an independent contractor will provide services more economically and efficiently while maintaining service quality and protecting the public interest.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Given that no pre-competition assessment has yet been conducted, it is premature to speculate on impacts. However, key stakeholders in this process are City employees, the City's recognized labor unions and the residents and visitors of the City of San Diego.


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ATTACHMENT: City of San Diego Managed Competition Guide