



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: October 29, 2014 REPORT NO: 14-061
ATTENTION: Budget and Government Efficiency Committee
SUBJECT: Proposed Revisions to the Municipal Code Relating to the Approval of
Contracts for Goods and Services.
REFERENCE: San Diego Municipal Code Chapter 2, Article 2, Divisions 5 and 32

REQUESTED ACTION:

Approve the amendments of San Diego Municipal Code Chapter 2, Article 2, Divisions 5 and 32 as proposed.

STAFF RECOMMENDATION:

Approve the Requested Action.

BACKGROUND:

On April 14, 2014 the City Council (Council) approved streamlining and contracting improvements including revisions to the San Diego Municipal Code (SDMC). These improvements delegated authority to department heads for awards under \$25,000, as well as increasing various formal and informal procurement competitive bidding thresholds. Council also directed staff to continue looking at the City's procurement processes and to bring forward additional improvement recommendations. Subsequently, minor changes were needed to the amended language regarding the Purchasing Agent and the delegation of authority.

In addition to Purchasing and Contracting (P&C) streamline initiatives, the City of San Diego (City) engaged Huron Consulting Group (Huron) in December 2013 to conduct a review of P&C and identify process efficiencies that could be achieved through improvements to the City's purchasing and contracting processes. Huron presented a report of their findings to Council on April 8, 2014 (Huron Report) which included twenty improvement recommendations. A key finding in the Huron Report was that the Municipal Code-dictated threshold of \$1.0 million for seeking City Council approval has been in place for decades and is too low and restrictive for today's spend environment. The threshold results in significant labor time and resources spent on the process for both City staff and vendor personnel. The additional time often impacts the timely establishment of contracts and ultimately could be impacting bid prices.

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The Huron report recommended that City staff redesign the Council contract approval process as an opportunity for efficiency. P&C provided a memorandum to City Council agreeing to all the recommendations and committed to full implementation of all recommendations by 2015. (*Attachment A*). The Council directed City staff to implement the Huron report improvement recommendations. To date, seventeen (17) of the twenty (20) recommendations have been completed or are in-progress.

The following sections of this report discuss the proposed Municipal Code changes as supported by the Huron report and staff recommendations for Council consideration. If approved, the recommended Municipal Code amendments will increase efficiencies and reduce procurement cycle timelines. In drafting these proposed amendments, P&C also referenced the April 4, 2014, Independent Budget Analyst (IBA) report 14-11 (*Attachment B*) which put emphasis on selected issues identified in the Huron report.

Current Process

As described in SDMC section 22.3202, the Purchasing Agent or City Manager¹ is authorized to enter into contracts on behalf of City departments. Goods and services contracts that exceed \$1.0 million require Council approval before the Purchasing Agent or City Manager can award and execute a contract. Prior to Council presentation, these contracts are also required to be presented before Council Committee. Based on analysis of previous contracts, it may take anywhere from 45 to 90 days to obtain both Committee and Council approval depending on the docket schedule.

The Council approval threshold of \$1 million for goods and services has not changed for 16 years since 1998. Without any adjustment and considering inflation this has in effect lowered the threshold amount, resulting in Council having to approve numerous routine operational contracts.

In 2010, Council approved an increase to the thresholds for construction contracts from \$1.0 million to \$30.0 million with stipulations provided in the Municipal Code that provided guidelines for approval as part of the annual budget review process. This increase has greatly streamlined the Public Works contract award process and helped decrease the City's procurement timeframes. By some estimates from the Public Works group, the increased thresholds have helped reduce the procurement timelines by as much as fifty percent. P&C staff is confident that increasing the thresholds for goods and service contracts would also realize similar time savings and adequately address the Huron report recommendation.

Comparing Current Thresholds to Inflation

Council Policy 100-13 (*Attachment C*) states: "It shall be the policy of the City for the [Mayor] to submit to Council for consideration, when deemed appropriate, amendments to the San Diego Municipal Code using the San Diego Consumer Price Index (CPI), as published by the United States Department of Labor, to adjust figures related to purchase limitations regarding purchases and contracts for public works and consultant services." Consistent with this Policy, and to

¹ The Mayor is the City's chief executive officer under Charter sections 260 and 265(b) (1), and as such has assumed the responsibilities of the City Manager. For purposes of this Report, goods and services contracts up to \$1 million dollars are referred to as mayoral contracts.

ensure that current thresholds for goods and services are more representative and appropriate, Staff recommends an increase in thresholds that reflects 2014 and beyond instead of 1998. .

Applying an inflation/CPI adjustment to the current 16 year old threshold of \$1 million would increase the threshold to \$1,462,000. P&C recommends that Council approve increasing the threshold to \$3 million based on the operational requirement of commodities less than \$3 million. The following table compares the current thresholds to the inflated and proposed thresholds.

(Table A)

| | Current Threshold (As set in 1998) | Current Threshold (Inflated to 2014) | Proposed Threshold Goods & Services |
|------------------|---------------------------------------|---|--|
| Goods & Services | \$1,000,000 | \$1,462,000 | \$3,000,000 |

Improvement Recommendation 1

- *Increase City Council Approval Threshold*

For Fiscal Year 2015, P&C has received approximately 250 solicitation requests from City departments for various goods and services. Of those requests, a total of 49 are projected to require Council approval. Table B below provides data on the number of contracts that are projected to be presented before City Council. If the proposed improvement is adopted, this number would reduce from 49 to 21.

This improvement would allow twenty eight (28) contracts to be awarded almost immediately after the solicitation process is completed, saving staff time and allowing vendors to provide service or commodities more quickly. Figuring conservatively 40 labor hours as the estimated staff time required to process both committee and council actions for P&C, department, and council docket staff this action would equal savings of over 1,100 labor hours annually. These hours could then be dedicated to insuring that the contract specifications are well written and the contract performance is executed as expected. More importantly, it allows the vendors to be more responsive and aides the businesses in securing contracts more quickly.

(Table B)

| Fiscal Year | Forecasted Solicitations (Over \$1.0 million) | Forecasted Solicitations (Between \$1M - & \$3M) | Forecasted Solicitations (Over \$3.0 million) |
|-------------|--|---|--|
| 2015 | 49 | 28 | 21 |

Example Contracts that would continue to be presented before City Council

As demonstrated in Table C, examples of contracts requiring Council approval based on the current \$1 million threshold include routine and operational goods and services necessary to operate City departments. The funding for these items is typically included in the respective departmental budgets and is approved during the budget deliberation process. More complex good and services contracts exceeding \$3.0 million will still be presented before Council for consideration. Examples include the Public Safety CAD System for Police and Fire-Rescue, Risk Analysis/Management Services, and IT Enterprise Network Support Services.

(Table C)

| Contract \$Amount | Number | Contract examples |
|-------------------|--------|--|
| (Up to \$3M) | 28 | <p><i>Proposed Mayoral Approval</i></p> <ul style="list-style-type: none"> • Laboratory Chemicals • Fuel • Concrete for Street Division • Ferrous Chloride for Wastewater • Rubberized Material for Playgrounds • Police Department Body Armor, Ammunition |
| Over \$3M | 21 | <p><i>Council Approval</i></p> <ul style="list-style-type: none"> • Public Safety CAD System for Police and Fire-Rescue • Helicopter Maintenance • IT Enterprise Network Support Services • Parking Citation Processing System • Risk Analysis/Management Services • Tree Services for Maintenance Assessments Districts |

Improvement Recommendation 2

- **Simplify City Council Approval Process**

Complimenting the increased \$3 million threshold, P&C staff also recommends a measure to streamline the Council contract approval process by granting Mayoral authority to award contracts for goods and services above the Council approved threshold (proposed at \$3.0 Million) provided that any of the following (2) conditions apply:

- **Condition 1:** Grant Mayoral authority to award contracts provided that - The planned procurement was previously identified and appropriated through the Annual Fiscal Year budget

| Step 1: | Step 2: | Step 3: |
|--|---|---|
| City Staff: P&C Director will supply list of anticipated goods and services solicitations above \$3.0 Million threshold for Council approval as part of the annual fiscal year budget process. | City Council Action: City Council review and approve the appropriations within the respective departmental budget | Mayoral Action: Proceed with award of the contract after the procurement process has been completed |
| This streamlining improvement is similar to the amendments approved for the Public Works construction contracts. Just as the City Engineer provides a list of anticipated construction solicitations for approval as part of the annual fiscal year budget process, the P&C Director will supply a list of anticipated goods and services solicitations for Council approval as part of the annual fiscal year budget process. | | |

- **Condition 2:** Grant Mayoral authority to award contracts provided that - The planned procurement for the contract was previously approved by City Council

| Step 1: | Step 2: | Step 3: |
|---|--|---|
| City Staff: City staff formally request Council approval to proceed with a planned procurement (i.e. RFP/ITB etc) | City Council Action: City Council review and approve request to proceed with a planned procurement | Mayoral Action: Proceed with award of the contract after the procurement process has been completed |
| These would be procurements that may have been unknown or unforeseen during the annual fiscal year budget process. Staff would seek Council approval to proceed with advertising or issuing procurement (i.e. RFP, ITB etc). This process is currently used in the County of San Diego. | | |

City Council Oversight, Reporting and Transparency

To ensure continued Council oversight the following four measures will be implemented as part of the proposed improvements.

1. **Council Notification of Planned Procurements:** The P&C department will provide to Council a list of goods & service contracts above the \$3.0 Million dollar threshold that are anticipated for advertising and award during the upcoming fiscal year as part of the annual fiscal year budget process. Contracts will be grouped by department and also include the solicitation method, estimated amount of the contract, and contract description.
2. **Council Notification of Awarded Contracts:** The P&C department will send to Council a report each quarter of all goods & services contracts between \$1.0 million to \$3.0 million that were awarded under the Mayor's authority. This information will be provided to the Council offices via e-mail and will also be included on the City's Webpage.
3. **Tracking of Equal Opportunity Contracting Participation (EOCP) for Awarded Contracts:** The P&C department will maintain a database to track the respective EOCP data for all goods & services contracts awarded between \$1.0 million to \$3.0 million. This information will be provided to the Council offices via e-mail as part of the quarterly report and will also be included on the City's Webpage.
4. **Proactive Outreach for Planned Procurements:** P&C staff will host an outreach meeting each quarter in conjunction with EOCP to reach out to all vendors, including SLBEs, and ELBEs. The outreach meetings location, time, and date will be announced on the City's e-procurement system and website to ensure that all interested members of the public are aware of and can participate. A summary of future goods & services contracts will be provided to attendees at each meeting.

Comparing Proposed Thresholds with Other Cities

In drafting these proposed improvements, P&C analyzed a list of public entities and their respective Council approval thresholds listed on the April 4, 2014 IBA report as well as the legislative body approval thresholds for both the Counties of San Diego and Los Angeles. Of the different entities, five had an unlimited authority, including the City of Los Angeles and the County of San Diego. P&C recognizes the need for Council oversight and approval above a certain threshold and does not currently recommend unlimited contract approval authority for the City of San Diego. It is noted in the IBA report that for the cities of Seattle and San Antonio, despite there being no limit for the Council approval thresholds, their City Councils had additional oversight during the budget approval process.

Additionally P&C found that the City/County of San Francisco had an approval limit which is 10 times that of the City of San Diego. The City of San Jose has an approval threshold that matches the City of San Diego at a \$1.0 million. However, it should be noted that the most recent census data indicates that the City of San Diego is approximately 38 percent larger than the City of San Jose based on population.

The following matrix illustrates the dollar thresholds for legislative body approval for some other cities and agencies.

| Jurisdiction | \$ Threshold for Legislative Body Approval |
|--------------------------------|---|
| County of San Diego | Unlimited |
| County of Los Angeles, CA | Unlimited |
| City of Seattle, WA * | Unlimited |
| City of San Antonio, TX * | Unlimited |
| City of Los Angeles, CA * | Unlimited |
| City/County of San Francisco * | \$10.0 million |
| City of San Diego * | \$1.0 million |
| City of San Jose, CA * | \$1.0 million |
| City of Oakland, CA * | \$100,000 |

(*) denotes information included in the IBA report

IMPACTS OF PROPOSED IMPROVEMENTS TO DEPARTMENTS

These proposed improvements will reduce the volume of items presented before the Committees and full Council reducing City department administrative staff time which will save time and resources. The proposed improvements will also address the lack of adjustment for 16 years which is too restrictive for today’s operational requirements. Departments will seek approval for procurement of goods and services through the appropriation ordinance. Additionally, departments will have the option to seek approval from Council prior to soliciting if the contract dollar amount would exceed \$3,000,000 if not presented as part of their budget.

FISCAL CONSIDERATIONS:

It is anticipated that there will be minimal impact to departmental budgets based on current process.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None regarding this report.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE):

P&C will work with the Equal Opportunity Contracting Program (EOCP), key stakeholders, and the entire vendor community to ensure that the goals of Council Policy 100-10 are achieved. The P&C department will maintain a database to track the respective EOCP data for all goods & services contracts awarded between \$1.0 million to \$3.0 million. This information will be provided to the Council offices via e-mail as part of the quarterly report and will also be included on the City’s Webpage. P&C staff will host an outreach meeting each quarter in conjunction with EOCP to reach out to all vendors. The outreach meetings location, time, and date will be announced on the City’s e-procurement system and website to ensure that all interested members of the public are aware of and can participate. A summary of planned goods & services procurements will be provided to attendees at the meeting.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

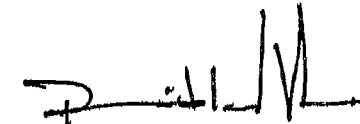
The proposed Municipal Code recommendations were provided to the Citizens Equal Opportunity Commission (CEOC) on October 8, 2014 and staff addressed questions. The Commission took action in support of the proposed recommendations at the October 8th meeting.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders for the proposed Municipal Code recommendations are citizens served by City departments, City employees, and all City vendors. The impact of the proposed recommendations will help improve the efficiency and effectiveness of the contracting process.



Dennis Gakunga
Director, Purchasing & Contracting



Ronald H. Villa
Deputy Chief Operating Officer, Internal Operations

Attachments:

1. Attachment A: P&C Memorandum: Response to Huron Consulting Group's Report on Procurement
2. Attachment B: IBA Report 14-11 Review of Huron Consulting Group Report on Efficiency Improvements
3. Attachment C: Council Policy 100-13 Procurement Limitations Adjustments Based on the Consumer Price Index