

A G E N D A



Recommendation for Council Action (Purchasing)

Austin City Council	Item ID:	10425	Agenda Number	51.
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Meeting Date:	October 20, 2011
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Department:	Purchasing
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Subject

Approve an ordinance amending Chapter 2-7, Article 6 of the City Code relating to anti-lobbying and procurement.

Amount and Source of Funding

Fiscal Note

Purchasing Language:	
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Prior Council Action:	December 6, 2007 - Original adoption of current Anti-Lobbying Ordinance 20071206-045
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For More Information:	Byron Johnson, 974-2050; Sabine Romero, 974-2518
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Boards and Commission Action:	
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MBE / WBE:	
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Related Items:	
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Additional Backup Information

In 2007, the City Council enacted Ordinance 20071206-045, which added a new Article 6 to Chapter 2-7 of the City Code. Staff developed and published rules providing for the enforcement of the Ordinance in 2008.

During the past four years of administering the ordinance, staff has received many questions and requests for clarification. As a result, staff has extensively reviewed the terms and language in the ordinance and is recommending clarifications and modifications to the ordinance to ensure increased transparency and ease of administration and interpretation.

Recommended revisions fall in several broad categories:

- **Consistency:** Staff recommends revising certain defined terms to improve consistency of the ordinance.
- **Applicability:** A new section provides specific guidance on the applicability of the ordinance. The revision provides that procurements requiring Council approval are covered by the ordinance, but that opportunities to compete for City social service funding, City cultural arts funding, City (including federal and state) block grant funding, and the sale of rental property are not covered by the ordinance unless Council specifically directs otherwise. Further, the proposed revision clarifies that anyone entering into a competitive acquisition with the City voluntarily agrees to abide by the ordinance. Last, campaign contributions are not considered representations under the terms of the ordinance.
- **Flexibility:** When procurements need to be expedited, such as for a public health or safety, the proposed revision allows the Purchasing Officer, Director of Contract and Land Management Department, or other properly delegated procurement authority to approve communication between the bidder / proposer and additional City staff outside the Authorized Contact Person.
- **Duration:** As originally enacted, sixty (60) days are provided for resolicitation activities. This amount of time is not sufficient for certain large projects, and staff recommends that the no-contact period for reissuance be lengthened to ninety (90) days.
- **Communication with Council and Staff:** The current ordinance promotes transparent and responsive government. Currently complaints regarding the solicitation process are forwarded to Council. Staff recommends clarifying this activity by not forwarding complaints to Council that promote one respondent over another, disparage a respondent, or amend a response already received from a respondent. Staff also recommends improved definition of the process for submitting procedural questions, including that nothing prohibits city employees or city officials from communicating as necessary for procedural questions.
- **Reporting and Enforcement:** The process for reporting violations has been revised to require notification of the authorized contact person in writing as soon as practicable about any possible violation. The Purchasing Officer, Director of Contract and Land Management, or other properly delegated procurement authority will disqualify a respondent if the authority finds that the vendor violated any provision of the ordinance and that a respondent will be debarred by the Purchasing Officer if they violate the ordinance more than twice within a sixty (60) month period.

If Council approves this item, staff is prepared to publicly post revised ordinance enforcement rules for public comment on Friday, October 21, 2011. The public comment period for rules is thirty-one (31) days; comments would be received, reviewed and incorporated, with a goal of publishing the rules along with the revised ordinance effective December 1, 2011.