



MEMORANDUM

TO: Mayor and Council Members

FROM: Byron E. Johnson, C.P.M., Purchasing Officer

DATE: October 7, 2011

SUBJECT: Proposed Revision of Anti-Lobbying Ordinance

On October 20, 2011, staff will bring forward an RCA recommending changes to the Anti-Lobbying Ordinance enacted in 2007. Staff is proposing changes based on almost four years of experience in applying the ordinance to City acquisition activities.

If Council approves the proposed revisions, staff is prepared to post enforcement rules for public comment on Friday, October 21, 2011. Rules will be available for public comment for thirty-one (31) days, with the comment period closing on Sunday, November 20, 2011. Since that is not a workday, comments would be received until 4:45PM, Monday, November 21, 2011. Comments would be reviewed, with a goal of publishing the rules along with the revised Ordinance, effective Thursday, December 1, 2011.

The recommended revisions fall into several categories, described below.

Consistency

- Staff recommends revising certain defined terms to improve consistency of the ordinance.

Applicability

- 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.
- The proposed revision clarifies that anyone entering into a competitive acquisition with the City voluntarily agrees to abide by the ordinance.
- The revision states that 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 and safety issue necessitating discussion with City technical experts, 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- As originally enacted, sixty (60) days are provided for re-solicitation activities.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.

Communications 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,
- A respondent will be debarred by the Purchasing Officer if they violate the ordinance more than twice within a sixty (60) month period.

I am available to address any questions you may have regarding this recommendation. Please contact me at (512) 974-2050.

CC: Marc A. Ott, City Manager
Sue Edwards, Assistant City Manager
Rudy Garza, Assistant City Manager
Robert Goode, Assistant City Manager
Bert Lumbreras, Assistant City Manager
Michael McDonald, Assistant City Manager
Leslie Browder, Chief Financial Officer, Financial and Administrative Services Department
Rosie Truelove, Director, Contract Management Department