

MINUTES OF

**LEGISLATIVE REVIEW COMMITTEE –  
FINANCE, INTERNAL AUDIT, ENGINEERING/CIP & MANAGEMENT SERVICES**  
2<sup>ND</sup> FLOOR CITY COUNCIL CHAMBERS  
THURSDAY, SEPTEMBER 29, 2011  
9:00 A.M.

**The following members of the Committee were present:**

Representative Carl L. Robinson (Chair)  
Representative Michiel R. Noe  
Representative Steve Ortega

**Committee members not present:**

Representative Eddie Holguin Jr.

**AGENDA**

**1. Call to order and introductions.**

Action Taken: The meeting was called to order by Chair Carl Robinson at approximately 9:05 a.m.

**2. Approval of Minutes for the Finance, Internal Audit, Engineering/CIP & Management Services meeting of September 1, 2011.**

**Summary:** Representative Robinson presented the minutes of the September 1, 2011 LRC meeting (pp. 1-4)

**Action Taken:** Representative Ortega moved to approve the minutes. Motion seconded by Representative Noe and approved unanimously.

**3. Presentation, discussion and action on implementing House Bill 1869, Sections 271.905(a) and 271.9051 of the Texas Local Government Code (local bidding preference), and HB 628. [Financial Services, Bruce D. Collins, (915) 541-4313]**

**Summary:** Mr. Bruce Collins, Purchasing Manager, made a presentation regarding the strategic implementation of the local bidding preference by City staff following House Bill (HB) 1869 and HB 628 passed by the State of Texas in the most recent legislative session ending in June, 2011. This presentation was a review of changes in the Texas Local Government Code called for in HB 1869 presented at the last LRC on 9/1/11 and new information regarding changes in State law called for by HB 628. The Purchasing Manager's presentation focused on changes called for in HB 628, including revisions to TX Local Government Code chapter 271 as follow:

Revise Local Government Code Section 271.9051 in the following areas:

- Local bid preference is applicable to real property, personal property that is not affixed to real property or services;
- Local bid preference can only be applied to construction bid contracts "less than" \$100,000 dollars; and
- Stipulates if bid submitted by a local bidder is within 5 percent of non-local bidder the City can award to local bidder for construction services in an amount

less than \$100,000 dollars or other purchases in an amount less than \$500,000 dollars

Revise Local Government Code Section 271.905 in following areas:

- Local bid preference is applicable to real or personal property that is not affixed to real property; and
- Stipulates if bid submitted by a local bidder is within 3 percent of non-local bidder the City can award to local bidder for purchases in an amount equal to or greater than \$500,000 dollars

Representative Ortega asked what was the definition of local bidder in the house bill. Mr. Collins replied that the definition of local bidder in the house bill was that the firm be headquartered in the municipality that is facilitating the bid. Mr. Collins indicated that based on the results of discussion in the last LRC (9/1/11) and in consultation with City Attorney's Office, the City's definition of local bidder would also include bidders that have an office within the city limits of the City of El Paso and also having at least three (3) employees.

Representative Robinson asked how we would address any potential legal challenges in applying the Local Bidder Preference Policy. Carmen Arrieta-Candelaria, CFO and Financial Services Department Head indicated that language regarding the City's local bidder preference policy would be included in the bids and would be disclosed in the bid documents. Potential bidders would receive the information up front at the beginning of the solicitation process.

Representative Robinson followed up by asking if the bid announcement should include a disclaimer regarding the local bidder preference. Carmen Arrieta-Candelaria indicated we would disclose the use of this policy on the bids online website ([http://www.elpasotexas.gov/financial\\_services/bids.asp](http://www.elpasotexas.gov/financial_services/bids.asp)).

Mr. Collins concluded his presentation by mentioning the various media that the City would use to publicize and promote the City's Local Bidder Preference Policy, e.g. doing business with the City presentations, the Chambers of Commerce, El Paso Times, etc.

**Action Taken:** Representative Ortega made a motion to approve the implementation of the City of El Paso Local Bidder Preference Policy as describe in the presentation. The Motion was seconded by Representative Noe and approved unanimously.

#### **4. Discussion and action on the City's Cooperative Purchasing Policy. [Financial Services, Bruce D. Collins, (915) 541-4313]**

**Summary:** Mr. Collins presented the City's Cooperative Purchasing Policy in a presentation to the LRC. The presentation included the following principle points:

- Defined cooperative contracts and purchase alliance;
- Identified the key considerations for using cooperative contracts;
- Identified the benefits and savings throughout the supply chain associated with using cooperative contracts;
- Identified key cooperative contracts being used by the City of El Paso; and
- Identified the applicable award thresholds for cooperative contracts

Representative Robinson asked if non-profits could participate in purchasing cooperatives. Mr. Collins replied that it would depend on the particular cooperative organization as to what entities could participate. Mr. Collins gave the example of the

General Services Administration (GSA) purchasing cooperative which was formerly for use only by federal government agencies. The State of Texas was able to negotiate the use of GSA contracts which are contained in the State's TXMAS purchasing cooperative contract schedule.

Representative Robinson asked if each entity submits information related to specifications developed for bid for each purchasing cooperative. Mr. Collins stated that some purchasing cooperatives at times will assess member needs prior to going out for bid. In other instances a purchasing cooperative will identify certain specifications available and users may go and identify those specifications based on their individual needs. This was the case when the City bought a fire truck from a purchasing cooperative in FY 2011.

Mr. Collins continued with his presentation discussing the City's process for determining when to use cooperative purchasing programs or other sourcing methods. This process is outlined in the five factor memo found in the backup to each cooperative purchasing award that is taken to City Council for approval.

Mr. Collins requested that the cooperative contracts currently authorized at \$50,000.00 be increased to \$100,000.00 so that thresholds for cooperative contracts are standardized across the board and to reduce the frequency of purchases that are brought back to City Council for additional expenditure authorization.

Representative Robinson asked about the authority of the City Manager related to purchasing thresholds generally. Mr. Collins indicated that the City Engineer and the Purchasing Manager were designated by the City Manager to authorize expenditures below the \$50,000.00 threshold. Mr. Collins further explained that regarding instances where a department proposed to exceed the \$50,000.00 cap when using a purchasing cooperative, those purchases have to be brought back to City Council.

Representative Ortega asked why the cap wasn't \$50,000.00 for all purchases regardless of sourcing method. Mr. Collins replied that the \$50,000 cap for Council approval was related to the State requirement for competitive bidding. Mr. Collins contrasted the State required cap for general purchasing authority with the fact that existing co-op contracts have been competitively bid already complying with State procurement law. Mr. Collins mentioned that a number of years ago, Council approval was not required when purchases were made from cooperatives at any dollar level.

Carmen Arrieta-Candelaria stated that in the past once City Council approved participation in a purchasing cooperative, approval authorization was unlimited and department heads could authorize purchases at any dollar level. In 2006, Financial Services Department came forward to request authority for new cooperatives at the \$100,000.00 and \$50,000.00 limits.

Representative Ortega indicated that he wanted the City's policy to require staff to source locally whenever possible, then resort to the cooperative contracts.

Carmen Arrieta-Candelaria stated that it was a policy of the Purchasing Division to require a local quote whenever quotes were obtained.

Mr. Collins requested the LRC to recommend an increase to all cooperative contracts to \$200,000.00.

Representative Robinson said that he had reservations regarding increasing the limits requested by Financial Services because it may encourage lack of planning by City departments. Mr. Collins commented that multiple departments use the same contracts

and that having a lower threshold would mean more departments would have to get authorization from City Council more frequently to fully utilize the cooperative contracts they purchase from. Mr. Robinson followed up with a comment that it was still an example of bad planning by the departments.

Mr. Collins revised his request to increase cooperative contracts to align the spending thresholds for all cooperative contracts to \$100,000.00. Representative Noe commented that he understood that the initial request was to raise the threshold of the cooperative contracts from \$50,000.00 to \$100,000.00 and that such an increase would improve department efficiency without drastically effecting transparency. Representative Robinson indicated that this proposal was acceptable to him as well.

Representative Robinson asked if there were other cooperatives the City was a member of besides the ones presented during the presentation. Carmen Arrieta-Candelaria indicated that the cooperatives listed were those that were used most frequently and that a resolution presented before City Council was required to allow participation in any subsequent purchasing cooperatives.

**Action Taken:** Representative Robinson made a motion to increase the City's cooperative contract thresholds to \$100,000.00 for all cooperative contracts. The motion seconded by Representative Ortega and approved unanimously.

**5. Discussion and action on the City's Internal Audit Plan for FY 2012. [Internal Audit, Edmundo Calderon, (915) 541-4402]**

**Summary:** Mr. Edmundo Calderon presented the City's Internal Audit plan for FY 2012. Mr. Calderon discussed the audits planned for this fiscal year and the hours devoted to each audit. In addition Mr. Calderon presented the five-year audit plan showing that most areas of City operations had been reviewed.

Representative Robinson asked if audit hours not previously allocated to a specific audit could be used to audit a critical area. Mr. Calderon replied that yes should an area need special attention the City Manager could direct the Internal Audit Division to review those issues.

Representative Robinson asked a follow-up question related to the time given for departments to implement recommendations by the Internal Audit Division. Mr. Calderon replied that depending on the issue, departments have between six to ten months to remedy or comply with the findings of the Internal Audit Division.

Representative Robinson expressed a concern over the time limit to comply with efficiency recommendations by the Internal Audit Division. Mr. Calderon indicated that many departments start immediately on the Internal Audit recommendations. Mr. Calderon further clarified his earlier statement when he indicated that the Internal Audit Division returns in six months to verify compliance with findings.

Mr. Calderon continued that in the formal response to the Internal Audit division's findings, departments are required to provide a timeline and description of how they will address compliance with the recommended corrective actions. The City Manager, in many instances, requires the deputy City Managers to follow up on department compliance with the corrective action recommended by the Internal Audit Division.

Representative Robinson indicated that compliance and timelines for audited departments should be more stringent. Mr. Calderon indicated that he provides quarterly updates to the LRC on audit findings and progress and that he was currently completing the report for the fourth quarter of Fiscal Year 2012.

**Action Taken:** Representative Ortega moved to approve the Audit Plan for FY 12. Motion was seconded by Representative Noe and approved unanimously.

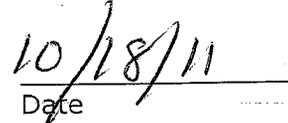
**6. Adjournment**

**Action Taken:** Representative Ortega moved to adjourn. Motion seconded by Representative Robinson who adjourned the meeting at approximately 10:19 a.m.

APPROVED AS TO FORM:



Carmen Arrieta-Candelaria  
Chief Financial Officer

  
Date