SPECIAL AUDIT COUNCIL COMMITTEE MEETING
MINUTES
APRIL 18, 2017 at 11:30 AM
CITY HALL, MEDIA BRIEFING ROOM

Committee Present:	Councilmember Rey Saldaña, *District 4, Chair* Councilmember Alan E. Warrick II, *District 2* Councilmember Shirley Gonzales, *District 5* Citizen Member Tom Nichta
Committee Absent:	None
Staff Present:	Erik Walsh, *Deputy City Manager;* Ben Gorzell, *Chief Financial Officer;* Troy Elliott, *Deputy Chief Financial Officer & Director of Finance;* Andrew Segovia, *City Attorney;* Kevin Barthold, *City Auditor;* Lauren O'Connor, *Deputy City Attorney;* Veronica Zertuche, *Deputy City Attorney;* Rene Dominguez, *Director of Economic Development;* Michael Sindon, *Assistant Director of Economic Development;* Charles Hood, *Fire Chief;* Yvette Granato, *Deputy Fire Chief;* Dr. David Miramontes, *SAFD EMS Medical Director;* Michael Stringfellow, *SAFD EMS Division Chief;* Leticia Saenz, *Deputy City Clerk;* Tina Flores, *Compliance Auditor;* Rebecca De La Garza, *Executive Management Assistant;* Cecily Hope Pretty, *Office of the City Clerk*

CALL TO ORDER

Chairman Saldaña called the meeting to order.

High Profile Contract Subcommittee Item(s)

1. **Purchase of Defibrillators for Fire/EMS**

Chairman Saldaña explained that the sole agenda item had been brought before the Audit Committee per the direction of the City Council after no official vote was taken on the defibrillator contract.

Mr. Erik Walsh noted that the committee members had been working with Rene Dominguez's team in order to enhance the accessibility of small, local, minority, and women-owned businesses to the City's goods and commodities contracts. He explained that the defibrillator contract had originated as a sole source contract; they subsequently developed an alternative as directed by Council to enhance future contracts under the Small Business Economic Development Advocacy (SBEDA) Ordinance. He noted that the new plan divided the solicitation into three parts and that Dr. David Miramontes was present in case there were questions regarding the equipment.

Mr. Troy Elliott discussed his interactions with Zoll Manufacturing and MedWheels, the two original companies involved in the defibrillator bid. He explained that the bid was now broken down into three "buckets": Zoll Proprietary – Defibrillators, Zoll Proprietary – Accessories, and Third Party – Accessories. He mentioned three different types of defibrillators and specified that the City would be purchasing the type for advanced paramedic use from Zoll at an anticipated rate of five per year, or ten over the proposed two-year contract. He explained that they had worked with Medwheels and the Small Business Advocacy Committee (SBAC) to explore other opportunities for small businesses. He mentioned that his included the modification of an Ordinance in 2016 to enhance SBEDA participation by providing a 5-year contract rather than a 2-year contract to those companies that are willing to use a small, local, minority distributorship with a subcontracting percentage goal of 15%. He also noted that small, local, minority-owned businesses would get a 3% local preference to enhance their likelihood of winning the line item bid.

Mr. Rene Dominguez stated that their goal was to maximize the benefit for small businesses using the subcontracting goal and the distributorship agreement. He explained that they were working with SBAC and the Goal Setting Committee to review whether the 15% goal of distributorship could be used to meet the subcontracting goal with a small business for the contract in question; this would give the small business the opportunity to learn additional skills such as invoicing, inventory, and product service. Mr. Elliott echoed that this format would allow more small businesses the opportunity to bid on the contract's line items. He stated that their proposed timeline would conclude with a re-submission to City Council on June 15, 2017.

Chairman Saldaña reiterated that the current process was looking at debundling the contract in order to award one part to Zoll and to open the rest up to smaller businesses for bidding. He acknowledged the change from the original recommendation of awarding the entirety of the contract to Zoll to the current recommendation of separating the bid for the defibrillator accessories.

Councilmember Warrick thanked everyone for their presentation and asked if Fire Chief Charles Hood had anything to add. Chief Hood noted that the Fire Department held a meeting regarding the contract and received positive feedback. He mentioned that it was important to the Department that they work with one kind of equipment consistently and that they are fiscally responsible. Councilmember Warrick asked what could cause the 15% distributorship to grow in a particular line item. Mr. Dominguez responded that the percentage is higher with a greater number of registered small firms in the community. Councilmember Warrick asked if the 15% distributorship would still need to be awarded even if a small business did not win the bid on a line item. Mr. Dominguez confirmed that it would. Councilmember Warrick inquired how many Request for Proposals (RFPs) this action would affect moving forward. Mr. Elliott responded that they would not know until the procurement came to them and that the City has largely moved away from sole source contracts.

Councilmember Warrick acknowledged Mr. Christopher Herring from SBAC and asked him if he would like to speak. Mr. Herring noted the work done to help small, minority businesses do more with the City. He stated that he received positive feedback regarding the suggestions for the new bid and that it would bring beneficial changes to the process. Councilmember Warrick noted that there was currently a gap of more than 3% in the pricing on the proposed line items and asked if it would be possible for the smaller companies to still be able to be competitive. Mr.

Elliott replied that the opportunity for local, small businesses to participate as distributors will develop relationships with larger companies and make them more competitive. Councilmember Warrick asked if there was a survey process post-bid with the winning and losing companies. Mr. Elliott noted that there is no formal survey but they do have conversations and debriefings with the losing companies if they request them. Councilmember Warrick acknowledged the presence of Ryan Grulke from Zoll Manufacturing and asked if Zoll would be able to share their expertise on best practices. Councilmember Warrick also asked if this was the only contract of its kind that Zoll had. Mr. Grulke replied that it was not; every large city has something similar to San Antonio's SBEDA Ordinance. Councilmember Warrick clarified that he was asking about the contracting process. Mr. Elliott responded that Zoll did not have anything to offer in terms of SBEDA which is why the subcontracting option is being considered. Councilmember Warrick thanked everyone for their work on the new proposal.

Mr. Grulke discussed some timeline suggestions that Zoll had presented which did not fit the SBEDA Ordinance's subcontracting goal. Mr. Elliott noted that these ideas had contributed directly to the current recommendation before the Audit Committee. He explained that the current suggestion was closest to Zoll's Classic Distributorship Model A. Mr. Dominguez stated that the Committee's role was to ensure that small businesses are getting a percentage of the business and building their capacity even if the models presented are different.

Citizen Member Nichta asked what would prevent Zoll from raising their prices after the end of their two-year contract. Chief Hood responded that the Fire Department already has a relationship with Zoll because of their current equipment. Citizen Member Nichta asked if the new bidding process would be broken down into packages or by individual line item. Mr. Elliott clarified that it would be by line item. Mr. Dominguez added that this open solicitation is unique in that it allows a small business to access any piece of the contract at any time. Citizen Member Nichta asked who makes the decision on what aspects will be handled by the manufacturer and what aspects will go to distributors. City Attorney Segovia responded that they were encouraging the manufacturer to divide the business with distributors and that those aspects would likely be selected by the manufacturers based on business factors.

Chairman Saldaña stated that the equipment needs to be of a like type and asked if there would be a part of the RFP specifying this requirement. Mr. Elliott answered that the equipment in the RFP would be based on Zoll's product numbers to guarantee compatibility. Chairman Saldaña asked if this new proposal was fiscally responsible. Mr. Elliott said they would not know until they received the bids but their research indicated it was likely that a small business could win portions of it. Mr. Walsh added that the solicitation that was done earlier in the year had also been a line item bid but MedWheels had overbid on all of the items.

Attorney Blakely Fernandez of Bracewell LLP stated that Zoll's original bid had already been a low-bid procurement with the offer of distributorship but the subcontract requirement at the time could not be met. She noted that Zoll's pricing had now been published and was available to competitors in a new bid process, putting them at a competitive disadvantage. She added that in the event that someone is not successfully resuscitated with one of the defibrillators in question; every single component of the machine must be traceable which may present difficulties for the Fire Department. She stated that this situation did not feel like a best practice in terms of a fair procurement process. Chairman Saldaña responded that the current action was based on an objective decision by City Council to pursue a small business policy objective in the

procurement process. Mr. Ben Gorzell added that the current discussion centered on giving a commercially useful function to the SBEDA Ordinance and that the idea of going to a third party for some of the defibrillator accessories was not clear during the time of Zoll's original bid.

Councilmember Gonzales asked if the next step was to go back to the full City Council or if it would go back to the RFP process. Mr. Gorzell responded that the proprietary items would stay with Zoll and not be re-bid; the accessories would be re-bid and then potentially brought before Council in June.

Councilmember Warrick moved for staff to move forward with the re-solicitation process. Councilmember Gonzales seconded the motion. The motion carried unanimously.

ADJOURN

There being no further discussion, Chairman Saldaña adjourned the meeting at 12:32 pm.

ATTEST:

Leticia Y. Saenz
Deputy City Clerk

Rey Saldaña, Chairman