

**State of Texas
County of Bexar
City of San Antonio**



**FINAL
Meeting Minutes
City Council B Session**

City Hall Complex
105 Main Plaza
San Antonio, Texas 78205

Wednesday, February 28, 2018

2:00 PM

Municipal Plaza Building

The City Council of San Antonio convened in the “B” Room of the Municipal Plaza Building. City Clerk Leticia Vacek took the Roll Call noting the following Councilmembers present:

PRESENT: 11 - Mayor Nirenberg, Treviño, Shaw, Viagran, Saldaña, Gonzales, Brockhouse, Sandoval, Pelaez, Courage, and Perry

1. Briefing on the City's Procurement Programs. [Ben Gorzell, Chief Financial Officer]

Mrs. Sculley stated that contractual Preference Programs were bound by multiple levels of law. She noted that statistical evidence was required to prove disparity and resulting programs had to be narrowly tailored. She recommended that the City Council remove the requirement for a Labor Peace Agreement (LPA) in the Airport Concessions Request For Proposals (RFP) and issue an addendum to that effect.

Troy Elliott provided an overview of laws governing procurement including State Statutes, Supreme Court Decisions, and City Ordinances. He stated that the Finance Department was responsible for procurement of Goods, Non-Professional Services, Professional Services, and Revenue or Concession Contracts. He noted that Transportation and Capital Improvements (TCI) oversaw procurement of Construction Services, Architectural Professional Services, Landscape Architectural Services, Engineering Services, and Land

Surveying. He stated that Finance administered the Local Preference Program and Veteran Owned Small Business Preference (VOSBP) Program and the Economic Development Department administered the Small Business Economic Development Advocacy (SBEDA) Program. He noted that use of cooperatives excluded the use of Preference Programs so reducing usage of same would increase the opportunity for Local and Small Business participation. He noted that the High Profile Contracting Program was implemented to promote transparency and City Council policy input during procurement.

Mr. Elliott stated that the city utilized Non-Discretionary and Discretionary Procurements. He noted that Non-Discretionary Procurements were awarded to the lowest responsive bidder and involved Requests for Price Quotes, Invitations for Bids, and Requests for Offers to acquire goods, Non-Professional Services, and Construction Services. He stated that Discretionary Procurements were based on experience, background, qualification, proposed plan, and price. He noted that the solicitation types included Requests For Competitive Sealed Proposals, Requests for Proposals (RFPs), and Requests for Qualifications (RFQs) to acquire Goods, Professional and Non-Professional Services, Construction Services, and Revenue or Concession Contracts. He stated that scoring responsibilities were divided between multiple parties to avoid score alterations or influence. He noted that in Fiscal Year 2017, there were 218 solicitations and 359 awards for contract amounts over \$50,000 totaling \$568.2 million. He added that there were 8,000 non-contract purchase order totaling \$17.7 million.

Mr. Elliott stated that the intent of the Local Preference Program was to reward local companies for doing business within San Antonio. He noted that Local Businesses were defined by being headquartered in San Antonio for at least one year or by having an established place of business within the incorporated city limits with at least 20% or 100 employees as a substantial part of the company's operations. He stated that Local Preference could be utilized to grant up to 5 Local Preference Points and award a contract to a Local Bidder if they were within 3% of the lowest Non-Local Bidder for Goods over \$50,000, Non-Professional Services between \$50,000 and \$500,000, and Construction Contracts between \$50,000 and \$100,000. He noted that in Fiscal Year 2017, \$36.7 million of \$171.6 Non-Discretionary Contracts were awarded to Local Businesses with \$1.8 million in flipped awards resulting from Local Preference. He stated that businesses headquartered in San Antonio for over a year receive up to 10 Local Preference Points. He noted that in Fiscal Year 2017, \$146.3 million of \$189.4 million Discretionary Contracts were awarded to Local Businesses where Local Preference was applicable. He stated that Governor Greg Abbott vetoed a 2015 Bill to allow Local Preference to be utilized in Requests For Competitive Sealed Proposals.

Mr. Elliott stated that the intent of the VOSBP Program was to promote Veteran-Owned Small Businesses in Discretionary Solicitations. He noted that the program allowed up to 5

Preference Points for Discretionary Contracts with no geographical limitations. He stated that a VOSBP was defined as having 51% or more ownership by an honorably discharged veteran who served on active duty or a reservist or member of the National Guard. He noted that the VOSBP only applied to RFQs and RFPs due to statute limitations.

Rene Dominguez stated that the intent of the SBEDA Program was to promote the use of Local Small, Minority, and Women-owned Businesses for City Contracts. He provided an overview of the legal precedent and local history of the SBEDA Program. He stated that SBEDA applied to solicitations over \$50,000, Cooperative Agreements, Funding Agreements, and Developer Agreements. He noted that SBEDA eligibility required certification as a Small Business Enterprise through the South Central Texas Regional Certification Agency and headquarters or a significant business presence in the San Antonio Metropolitan Statistical Area for one year or more. He stated that Discretionary Solicitations could award SBEDA points or set SBEDA Subcontracting Goals and Low Bid Solicitations could set SBEDA Subcontracting Goals. He noted that the Goal Setting Committee was comprised of a representative from the City Manager's Office, the originating department, Finance or TCI, the Small Business Office, and two Citizen Members. He stated that in Fiscal Year 2017, 49% of applicable City Contracts were awarded to 503 Local Small, Minority, or Women-owned Businesses. He noted a 24% increase in utilization of Minority and Women-owned businesses from 2011 to 2017. He added that the Small Business Advocacy Committee was appointed by City Council to review the success of the SBEDA Program.

Mr. Elliott stated that High Profile Contracts were defined as Discretionary Contracts valued over \$1 million, having a high level of community interest or other exceptional interest, highly complex or technical in nature, or containing terms and conditions that are non-standard or complex. He provided an overview of the High Profile Contract process including Pre-Solicitation and Post-Solicitation Briefings prior to full City Council consideration. He stated that next steps would include a future B Session presentation of recommendations for program enhancements, living wages, a Responsible Bidder Ordinance, Labor Peace Agreements, and coordination with stakeholders.

Mayor Nirenberg expressed support for the staff recommendation to remove the LPA requirement and for re-examining geographical restrictions in the Local Preference Program.

Councilmember Brockhouse spoke in support of expanding incentive options across San Antonio and asked for data regarding geographical distribution of awards. He requested time extensions for Councilmembers to consider High Profile Contracts prior to voting. He spoke in favor of a public process to consider LPA requirements.

Councilmember Saldaña spoke of the importance of community input and public

engagement. He asked of the inclusion of wage and benefit components in solicitations as outlined in his Council Consideration Request (CCR). Mr. Elliott replied that wage and benefit analysis was challenging without an actuarial study but the information could be provided to the Evaluation Committee as part of the plan evaluation. Councilmember Saldaña expressed support for removing the LPA requirement.

Councilmember Viagran asked if change orders were included in the award totals. Mr. Elliott replied that the amounts provided included any changes approved by the City Council. Councilmember Viagran asked of savings from Design-Build versus individual contracts. Mike Frisbie replied that Design-Build did not always result in monetary savings but the process was more efficient with more cohesive teams. Mrs. Sculley added that an advantage of Design-Build was Guaranteed Maximum Price. Councilmember Viagran asked if there was a standard timeframe for the Goal Setting Committee to provide information to bidders. Mr. Dominguez replied that it varied among contracts and the length of bidding time was based on the procurement process of the originating department. Councilmember Viagran spoke in support of standardizing the bidding timeframe across originating departments and a Responsible Bidder Ordinance. She spoke of the importance of public engagement regarding the procurement process and expressed support for removing the LPA requirement.

Councilmember Gonzales asked for staff to provide more specific examples of Preference Program successes. Councilmember Pelaez expressed the importance of a thorough, public process regarding LPA requirements. He spoke in support of an Incumbent Worker Clause and a Responsible Bidder Ordinance.

Councilmember Treviño spoke in support of a Responsible Bidder Ordinance and asked how SBEDA was improved for the Construction Industry. Mr. Dominguez replied that the latest iteration created a category for Emerging Small Businesses to improve access to City Contracts. Councilmember Treviño asked of planned feedback mechanisms for future RFPs. Mrs. Sculley replied that multiple options would be presented to the City Council at a future B Session.

Councilmember Perry spoke in support of pursuing legislative inclusion of the VOSBP Program in more solicitation types and gathering input from local professional organizations regarding the procurement process. He asked of the percentage goals for utilization of each Preference Program. Mr. Dominguez replied that goals were dependent on availability of applicable companies and the results of disparity studies to be presented at a future B Session. Councilmember Perry stated that LPAs were not historically required and he did not see the need to include it in future local contracts.

Councilmember Sandoval expressed concern that there was not sufficient consensus to consider inclusion of LPAs at this time. She asked if there would be an opportunity to

include the elements of Councilmember Saldaña's CCR in the current Airport Concession Contract. Mr. Handy replied that it would not be available for the current contract but might be an option for future contracts. Councilmember Sandoval spoke in support of a Responsible Bidder Ordinance and asked of the plan to update the procurement process. Mr. Elliott replied that staff would gather City Council input at a future B Session and seek input from community stakeholders.

Councilmember Courage asked the City Manager if she had been contacted directly by the businesses regarding changes to the LPA requirement. Mrs. Sculley replied that she had been copied on communications and staff's recommendation was based on Mayor and Councilmember input to hold a more public conversation. Councilmember Courage expressed his support for workers' ability to discuss and practice unionization and for the LPA to remain in the solicitation.

Mayor Nirenberg thanked the Council for their comments and staff for the presentation.

2. Briefing on proposed plan for the 2018 SASpeakUp Campaign. [Carlos Contreras, Assistant City Manager; Jeff Coyle, Director, Government and Public Affairs]

Due to time constraints; Item 2 was not addressed.

Mayor Nirenberg recognized Dwayne Wilson, retiring CEO and President of the North San Antonio Chamber of Commerce. Mr. Wilson spoke of the importance of cooperation for San Antonio's Economic Development. Mayor Nirenberg wished Mr. Wilson well in his retirement.

EXECUTIVE SESSION

Mayor Nirenberg recessed the meeting into Executive Session at 4:52 pm to discuss the following:

- A. Economic development negotiations pursuant to Texas Government Code Section 551.087 (economic development).
- B. The purchase, exchange, lease or value of real property pursuant to Texas Government Code Section 551.072 (real property).
- C. Legal issues related to charter petitions pursuant to Texas Government Code Section

551.071 (consultation with attorney).

RECONVENED

Mayor Nirenberg reconvened the meeting at 6:04 pm and announced that no action was taken in Executive Session.

CITIZENS TO BE HEARD

Mayor Nirenberg called upon the citizens registered to speak.

Yolanda Lacy spoke in opposition to the Fire Union's petitions to amend the City Charter. She expressed her support of the Mayor and City Council's efforts to support the Americans with Disabilities Act.

Mark Perez expressed concern with air pollution in San Antonio and misappropriation of Federal Grant Funds.

Antonio Diaz spoke of his experience filing for a permit for the Cesar Chavez March for Justice and the difficulties of organizing demonstrations. He asked the City Council to remove the statue from Columbus Park.

Nettie Hinton spoke of the importance of preserving the Hays Street Bridge and its surrounding area.

Ray Zavala proposed a Cart Ordinance to prohibit the homeless population from transporting their possessions in carts and asked the City Council to eliminate contributions to Haven for Hope.

ADJOURNMENT

There being no further discussion, Mayor Nirenberg adjourned the meeting at 6:26 pm.

APPROVED

RON NIRENBERG
MAYOR

ATTEST:

LETICIA M. VACEK, TRMC/CMC/MMC
CITY CLERK