

MEMORANDUM

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DATE: DECEMBER 3, 2009 AD0000

TO: CRA/LA BOARD OF COMMISSIONERS

FROM: CALVIN HOLLIS, INTERIM CHIEF EXECUTIVE OFFICER

RESPONSIBLE PARTIES: DONALD R. SPIVACK, DEPUTY CHIEF OF OPERATIONS AND POLICY
ALEX PAXTON, SPECIAL ASSISTANT TO THE DEPUTY CHIEF OF OPERATIONS

SUBJECT: AMENDMENTS TO CRA/LA POLICY ON CONTRACTOR RESPONSIBILITY

RECOMMENDATION

That the CRA/LA Board of Commissioners, subject to City Council approval, adopt the amended CRA/LA Policy on Contractor Responsibility.

SUMMARY

At the November 5, 2009 special meeting of the Strategic Initiatives Committee, staff presented and the Committee authorized transmittal to the full Board of Commissioners amendments to the CRA/LA Policy on Contractor Responsibility. The amended Policy is attached (Attachment A). The key changes to the Policy are:

1. Dividing the Policy into two parts, Part A for construction, service and procurement contracts and Part B for development agreements, acknowledging that the conditions applicable to the two types of agreements are substantially different;
2. Adding clarifying definitions for specific types of contracts;
3. Differentiating between determinations of qualifications and of non-responsibility;
4. Adding language that prospective contractors and developers would be subject to staff evaluations of performance;
5. Creating a definition for developers that provides for extension to underlying principals and other parties.

The intent of these changes is to make the Policy more workable, clarify procedures for the benefit of both staff and CRA/LA's contractors and developers, and provide a more comprehensive, and comprehensible, means of evaluating performance. This will both enable staff to more effectively consider potential applicants for CRA/LA contracts and agreements, and provide for more effective feedback to contractors and developers to help improve their performance.

RE

March 3, 2005 – CRA/LA Board approval of proposed amendments to the CRA/LA Policy on Contractor Responsibility

September 26, 2003 – City Council approval of CRA/LA Living Wage, Contractor Responsibility, Service Worker Retention and Equal Benefits Policies (CF 03-1345).

May 29, 2003 – CRA/LA Board approval of CRA/LA Living Wage, Contractor Responsibility, Service Worker Retention and Equal Benefits Policies

SOURCE OF FUNDS

No CRA/LA funds are required for the recommended action.

PROGRAM AND BUDGET IMPACT

Staff time for issuing and reviewing bids, requests for qualifications, requests for proposals and similar solicitations is not expected to be increased as a result of these amendments, and may be reduced over time as a data base of performance is built. Limited additional staff time will be required to undertake the formal performance evaluations set forth in the amended Policy. There is no impact on the City's General Fund as a result of this action.

ENVIRONMENTAL REVIEW

The proposed action does not constitute a "project" as defined by the California Environmental Quality Act.

BACKGROUND

At the request of City Council, the CRA/LA, on May 29, 2003, adopted a Policy on Contractor Responsibility modeled after the City's Contractor Responsibility Ordinance. The Policy, as approved by City Council, requires the Board to consider amendments to the Policy when the City Council amends the Ordinance. On March 3, 2005, the Board approved amendments to the Policy to effectuate changes related to definition of "Contract" and bidder review of questionnaires that were embodied in Ordinance No. 176,292.

Over the past several months it has become evident that the Policy was difficult to apply in cases of poor performance since (1) there was no clear mechanism for contractor evaluation and (2) the Policy lacked both a notification and procedural requirement to enable such evaluations to be made. Further, it became apparent that the Policy as drafted, although it nominally applied to developers as well as other contractors, was set up in ways that made its application to developers problematic. The Board, through the Strategic Initiatives Committee, sought to have staff review and revise the Policy. An internal team of CRA/LA staff, in consultation with representatives of the City's Bureau of Contract Administration, prepared the revisions, which were publicly considered in several meetings of the Strategic Initiatives Committee prior to being approved for forwarding to the full Board on November 5, 2009.

Interim Chief Executive Officer

By

Glenn F. Wasserman
Chief Operating Officer

There is no conflict of interest known to me, which exists with regard to any CRA/LA officer or employee concerning this action.

Attachment A: Amended Policy on Contractor Responsibility, Parts A and B