OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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Item Number: 200

Item: Fiscal Year 2007 Appropriation Ordinance

OVERVIEW

City Charter Section 71 prescribes that in July of each year the City Council must pass an appropriation ordinance, which becomes the City's legal budget spending authority for the fiscal year. On May 30, 2006, the City Council adopted a $2.7 billion budget for Fiscal Year 2007, including $1 billion for General Fund operations. The budget was subsequently approved by the Mayor on June 7, 2006, setting the basis for development of the Fiscal Year 2007 Appropriation Ordinance.

The Appropriation Ordinance establishes a comprehensive framework for how the budget is to be managed throughout the fiscal year, including the proper delegation of Council authority, and appropriates specific budget dollars for the fiscal year. This report reviews the framework established by the proposed FY 2007 Appropriation Ordinance, which has been subject to numerous changes from the prior year.

FISCAL/POLICY DISCUSSION

In recent years, the Appropriation Ordinance had become quite lengthy, at times reaching 80 pages or more. In addition, broad authority had been conferred to the Auditor and Comptroller and the Financial Management Department to administratively make budget adjustments to appropriations originally approved by the City Council. Over the past few months staff members from the Mayor's Office, the City Attorney's Office and the Office of the IBA have met to discuss revisions to the Appropriation Ordinance, with the emphasis being placed on returning the authority for making budget adjustments to the City Council, determining the appropriate delegation of authority, and reducing the size and complexity of the Ordinance.

Based on these discussions, a memorandum was issued by the Auditor and Comptroller's Office on June 8, 2006 that provided an overview of the proposed modifications to the Appropriation Ordinance for Fiscal Year 2007. The IBA concurred with these proposed modifications with one exception, described in Memo 06-10, released June 12, 2006. The memo from the Auditor and Comptroller's Office proposed that the Council delegate to the Auditor and Comptroller and Financial Management the authority to reallocate appropriations between departments as they relate to the Mayor's Business Process Reengineering program. The IBA recommended that the Council retain this authority for Fiscal Year 2007, given that it will be the first full year under the new form of government and that the Council has budget authority.

The issue was heard at the Budget and Finance Committee on June 14, 2006. However, due to limited time no resolution was achieved, and staff was directed to continue meeting and try to reach a solution. Further meetings were held, and the issue was once again heard at the Budget and Finance Committee on June 28, 2006. While the disagreement between the IBA and the Mayor's Office continued, the Budget Committee provided direction as to the level of authority that the Council should have. Citing Charter Section 26, members of the Budget Committee clearly indicated that they desired to retain Council authority in instances where functions, positions and/or appropriations were transferred from one department to another.

Overall, the current draft of the FY 2007 Appropriation Ordinance is an improvement upon those from previous years, and the Auditor and Comptroller's Office and City Attorney's Office should be commended for their hard work and dedication in re-writing the Ordinance. It has been significantly reduced in length and complexity, and returns considerable authority to the City Council. However, the IBA feels that there are still several sections that need modification, particularly as they relate to Council authority. These sections are discussed in the following section.

<u>IBA Recommended Modifications</u>

Section 2, General Fund, (B): *The City Auditor and Comptroller is authorized, upon approval of the Chief Financial Officer and/or the Financial Management Director, to transfer appropriations for costs avoided in one budget unit within a department by an agreement to incur them in another budget unit within a department.*

This section essentially delegates authority to reallocate funds within a budget department. While this is an appropriate delegation of authority, the placement of this section as a provision of the General Fund gives the impression that it only applies to General Fund departments. This Section should be placed appropriately so that it applies to all General Fund and Non-General Fund departments.

Section 2, Special Revenue Funds, (A)(2): *The City Auditor and Comptroller is authorized, upon the direction of the Mayor, to* ***~~allocate district reserves or~~*** *reallocate appropriations from budgeted projects later determined ineligible to* ***~~new or~~*** *existing CDBG eligible projects. The amount re-allocated to any individual project shall not exceed $100,000.*

This section should be modified as indicated to remove the words *"allocate district reserves or"* and *"new or"*. While it seems appropriate to allow the Mayor to reallocate appropriations from ineligible projects to existing CDBG projects, we believe the Council should retain authority to determine which new projects are funded. In addition, Council should retain authority over how their district reserves are used.

Add a new Section: The IBA recommends adding a new Section, following Section 14, stating that all authority shall be held by the City Council unless specifically delegated by any other section or provision of the Appropriation Ordinance. The intent of this Section would be to ensure that authority for all items not addressed in the Appropriation Ordinance rests with the City Council. While the City Charter may grant Council this authority by default, the new Section would clarify this authority and make it explicit.

<u>Business Process Reengineering</u>

One of the more prominent issues concerning the FY 2007 Appropriation Ordinance, and the main point of disagreement between the Mayor's Office and the IBA, is how to address Business Process Reengineering (BPR). The BPR process will likely entail changes in the City's organizational structure, which in turn will necessitate changes to departmental budgets. Charter Section 26 gives the City Council the authority to "change, abolish, combine, and rearrange" the City's departments, and the Budget and Finance Committee has declared that they wish for the Council to retain this authority.

Despite the authority granted by Charter Section 26, there is concern that having to obtain Council approval for each reorganization will slow down the implementation of BPR reforms, reducing their effectiveness. Furthermore, there is a more basic question as to whether BPR constitutes an operational issue, which would be jurisdiction of the Mayor. The concern by the Council is that in the course of BPR reorganizations, specific services or policy initiatives that were approved in the budget could be eliminated. While the Mayor's office has testified that BPR aims to increase efficiency, not eliminate services, the Council has made it clear that they wish to be part of the process, at least in the first year.

Business Process Reengineering is currently addressed in Section 14 of the proposed Appropriation Ordinance, by making reference to a new companion ordinance that aims to establish a policy to reorganize City departments pursuant to the BPR process. The Section states that in *accordance with the terms of said Ordinance*, the City Auditor and

Comptroller is authorized to transfer appropriations and/or positions as required between and within restructured departments as necessary to accommodate the reengineering. This represents a new proposal, released on Wednesday, July 12, that has not been presented or discussed at either of the Budget and Finance Committee meetings at which the Appropriation Ordinance was discussed. The IBA recommends that the new BPR Ordinance be docketed for Council consideration on Monday, July 24, and that Section 14 be struck from the proposed Appropriation Ordinance for now. This will also allow sufficient time for review by the IBA.

QUESTIONS/COMMENTS

The City Charter grants broad decision-making authority to the Council. The Appropriation Ordinance includes provisions that delegate this authority in certain situations to enhance operational efficiency. However, absent such provisions, authority rests with the City Council by default. Sufficient justification should be provided for the inclusion of sections and provisions of the Appropriate Ordinance that are unclear. The IBA continues to have questions about the meaning and/or intent of the following sections and provisions, currently included in the Appropriation Ordinance.

Section 2, Debt Service Funds: *There is hereby appropriated the current year's proceeds from the tax levy as required to pay debt service on the issuance of $25.5 million aggregate principal amount of General Obligation bonds authorized in an election held on June 5, 1990 by a favorable vote of more than two-thirds of all the voters voting on the proposition.*

The IBA is unclear as to the purpose of this language. Like Special Revenue Funds or Enterprise Funds, Debt Service Funds are a specific fund type that requires appropriation, but it is unclear why a specific appropriation is needed for tax proceeds that are used to pay off General Obligation bonds, while a similar appropriation is not made in this Ordinance for other debt.

Section 2, Capital Project Funds, (4): *The City Auditor and Comptroller is authorized to make cash advances from the appropriate revenue source funds for the purpose of funding incidental and engineering costs of projects included in the long-range Capital Improvements Program budget. Such advances shall be reimbursed to the respective Fund upon appropriation.*

Section 2, Capital Project Funds, (B2): *The City Auditor and Comptroller may reallocate funding among the projects contained in the RTIP and the Capital Improvement Program Budget…provided that such reallocation does not increase the total appropriation.*

The Auditor and Comptroller may...appropriate and reallocated Gas Tax and AB 2928 Funds for Council approved TransNet Funded projects in order to reduce the use of debt and maximize the use of cash in both funds. The Mayor is authorized as the Council designee to direct the San Diego Association of Governments (SANDAG) to amend the RTIP for such reallocations.

Section 2, Enterprise Funds, 5th Paragraph: *The Auditor and Comptroller may reallocate appropriations, (not changing total appropriations), within the Capital Improvement Program, changing the total appropriation for any given project contained in the Council-approved Capital Improvements Program in the reallocation is to cover costs related to a redistribution of program wide contracts, such as the Owner Controlled Insurance Program, extended environmental monitoring and re-vegetation, or Construction Management.*

The IBA is unclear as to the meaning and intent of these provisions. Further clarification should be provided to clarify what authority is delegated by these provisions and why such delegation is necessary.

CONCLUSION

The FY 2007 Appropriation Ordinance marks an improvement over those of previous years. Significantly shorter in length, the Ordinance is less complex and returns substantial authority to the City Council that had previously been delegated to other City officials. The City Auditor and Comptroller's Office and the City Attorney's Office deserve credit for crafting a much improved Ordinance.

The IBA recommends a few additional modifications to the current form of the Appropriation Ordinance, and requests additional clarification on other sections and provisions so that the Council may properly weigh the necessity of their inclusion. The IBA was not able to review the companion ordinance that aims to establish the terms for reorganization pursuant to Business Process Reengineering, but instead recommends that it be docketed for Council consideration on Monday, July 24th.

[SIGNED]

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