OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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Item Number: 4

Subject: City Council Participation in Intergovernmental Relations

BACKGROUND AND OVERVIEW:

The Intergovernmental Relations Department (IRD) represents the key mechanism by which the City of San Diego accomplishes the business of legislative relations with state and federal policy-makers. Each year, the IRD creates a legislative program that reflects the state and federal priorities of the City. This program is the embodiment of the IRD's annual work-product.

Structure and process are the two institutionally defined elements that govern the output of the IRD. Structure delineates relationships through reporting and appointing hierarchies as specified in the Municipal Code or Charter. Process encompasses how an entity operates within a prescribed structure to accomplish its work. The process of developing the City's annual legislative program is a loose, cooperative effort between Mayoral departments, IRD staff, state and federal contract lobbyists, and the City Council. The final legislative program is presented by the IRD to the City Council for approval. This process takes place in the context of a structured set of relationships. Currently, the IRD is located within the Mayor's office, with informal reporting duties to the City Council and the Rules, Open Government and Intergovernmental Relations Committee (Rules Committee). State and federal contract lobbyists report directly to the IRD Director.

In recent months several City Council members have expressed the desire to participate more readily in the process of creating the annual legislative program and overseeing the IRD's contract lobbyists with the Mayor.[1] The purpose of re-evaluating these processes within the current IRD structure is twofold. First and foremost the City should seek to enhance the exchange of information between the IRD, Mayor, and the City Council. Secondly, the City should strive to capitalize on its existing resources to further the City's legislative priorities at the state and federal levels.

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[1] See Rules Committee meeting November 22, 2006 and City Council meeting February 6, 2007.

The IBA has surveyed and analyzed the structures and processes of IRDs within twelve other large, U.S. cities to examine how the City Council's participation in the annual legislative program might be refined. This examination will also touch upon the development of a formal process to augment the Council's role in intergovernmental relations.

HISTORY AND CURRENT STRUCTURE OF SAN DIEGO'S IRD:

In order to properly evaluate potential amendments to the processes of the IRD, it is necessary to understand the structure under which the IRD currently operates and how this structure came to fruition.

According to the San Diego Municipal Code §22.1901, the IRD is broadly responsible for facilitating and administering the City's legislative program at the state and federal levels. The Municipal Code stipulates that the administrative head (Director) of the IRD is appointed by the Mayor. The Director of the IRD is authorized to appoint all personnel in the department to collectively perform the following duties, specified in the San Diego Municipal Code:

(a) Develop for City Council approval City legislative programs for the state and federal legislative sessions.
(b) Represent the City before state and federal legislative and administrative bodies.
(c) Analyze and submit reports on state and federal legislation affecting the City.
(d) Maintain liaison with and assist the City's state and federal legislative delegations in any matter of interest to the City.
(e) Initiate and assist other City departments and City organized or created entities in identifying, seeking and receiving federal and state grants and coordinate through legislative advocacy those grant efforts.
(f) Administer contracts and oversee independent contractors responsible for state and federal lobbying efforts.
(g) Perform related work as directed.

The IRD was officially formed in 1972 under the Council-Manager form of government, pursuant to Ordinance 10790. The Council authorized the administration of the IRD to the Mayor, who was the permanent chair of the Committee on Legislative and Intergovernmental Affairs. The Director of the IRD was appointed by the Mayor, subject to confirmation by a majority vote of the Council. In January of 1983 this structure was altered. By a majority vote, the City Council appointed and removed the Director of the IRD, who was under the direction of the Rules, Legislation and Intergovernmental Relations Committee. In October of 1987, the 1983 structure was replaced with the former 1972 structure. The IRD Director once again reported to the Mayor, who

additionally held appointment power over the Director upon majority confirmation by the Council. In 1995, this relationship was altered yet again, with the jettisoning of Council confirmation. In 2001, the responsibility for appointment of the IRD Director was placed under the purview of the City Manager. With San Diego's transition to the Mayor-Council form of government in 2006, the Mayor garnered the appointment authority over the IRD Director. Due to this transition, it is worthwhile to reassess the structural relationships and processes related to the IRD. The chart below summarizes the structural changes that have taken place in the IRD since 1972.

Year	Structure (appointment and/or removal)
1972	Mayor, subject to Council confirmation
1983	City Council (Rules Committee)
1987	Mayor, subject to Council confirmation
1995	Mayor
2001	City Manager
2006	Mayor

CURRENT SAN DIEGO PROCESS:

The structure of the IRD is not the only determinant of the department's work-product. The process by which the IRD creates and delivers its annual proposed legislative program may help explain the current level of Council participation in intergovernmental relations. This program is created by the Mayor and IRD in dialogue with the City's contract lobbyists and City departments that might benefit from specific legislation and potential funding options. In FY 2007, the IRD used specific criteria to guide the selection of legislative priorities. These criteria are as follows:

1) Does the proposal provide significant revenues or funding opportunities to the City?
2) Does the proposal provide significant cost savings if enacted?
3) Does the proposal enhance public safety?
4) Does the proposal provide the City with greater ability or flexibility to provide municipal services to its citizens?

Each year, prior to the commencement of the legislative session, the IRD appears before the full City Council for approval of the annual legislative program.[2] Moreover, the IRD has a reserved opportunity on the docket of each Council meeting, to provide

[2] The 2007 Legislative Program was presented to the City Council on February 6, 2007.

updates on pending legislation. If such additional legislative updates prove necessary, the Director of the IRD informs the Council President to schedule this time. To date, this opportunity has not been utilized.

The IRD reports to the Rules Committee based on important announcements and deadlines at the state and federal levels.[3] The IRD is not compelled to report to the Council or the Rules Committee on formally specified dates. Reporting dates, therefore, change from year-to-year. In connection with the annual legislative program, the IRD appears before the Rules Committee in or around November to discuss its proposed program, which is forwarded to the full Council. Around February, the IRD returns to the Committee to report on the Governor's Proposed State Budget. The Committee is updated in the spring on new, introduced legislation. In either June or July the IRD updates the Committee on the final state budget. A review of the legislative session completes the annual cycle of Rules Committee updates in early fall.

Although this informal process informs the Rules Committee of federal and state legislative issues approximately five times per year, it is reactive and might not sufficiently involve the full Council throughout the year. The development of a formal process to increase early and substantive Council participation is warranted.

COMPARATIVE SURVEY AND ANALYSIS:

The IBA surveyed and analyzed IRD departments from twelve comparable cities to examine how other cities incorporate legislative participation into intergovernmental relations (Attachment I). The twelve survey cities consist of eight Mayor-Council cities and four California cities operating under the Council-Manager form of government. Four questions were posed to each IRD or related office:

1) What role does the Mayor/City Manager play in the creation of the annual legislative program?
2) What role does the City Council play in the creation of the annual legislative program?
3) Who appoints the IRD director and what is the reporting relationship?
4) Who do contract lobbyists report to?

This study included an evaluation of the Municipal Codes, Charters, and other relevant documents from the survey cities to supplement phone interviews with relevant city officials. The following sections will provide an analysis of the IRD structures and processes found in the twelve survey cities.

[3] This reporting relationship is not stipulated in the Municipal Code.

Intergovernmental Relations - Council Participation				
City	**Form of Govt.**	**IRD Dept.**	**Form of Council Participation**	**Council Approval**
Los Angeles	Mayor-Council	yes	Council-initiated Legislation	yes
Houston	Mayor-Council	yes	Informal Consensus Building	yes
San Jose	Council-Manager	yes	Informal Consensus Building	yes
Indianapolis	Mayor-Council	no	Council-initiated Legislation	yes
San Francisco	Mayor-Council	yes	"Hybrid" Committee (state)/Council-initiated Legislation (federal)	no
Seattle	Mayor-Council	yes	Informal Consensus Building	yes
Denver	Mayor-Council	no	"Hybrid" Committee	yes
Portland	Mayor-Council	yes	Informal Consensus Building	no
Long Beach	Council-Manager	yes	Council-initiated Legislation	yes
Sacramento	Council-Manager	yes	Informal Consensus Building	yes
Oakland	Mayor-Council	no	Council Structure	yes
Anaheim	Council-Manager	yes	Informal Consensus Building	yes

Structure:

Nine out of the twelve survey cities have departments devoted to intergovernmental relations at the state and federal levels.[4] The cities without an IRD conduct intergovernmental relations, but do not dedicate a specific department to this business.[5]

All nine cities with IRDs are formally positioned under the Mayor or City Manager (management). Directors are appointed by management in eight cases, with the exception of Seattle, in which the Director is appointed by the Mayor, subject to confirmation by a majority vote of the Council. Reporting relationships are also comparable. Although the IRD Director is accountable to management, the Director is responsible for reporting to Council on a regular basis. In addition, contract lobbyists at the state and federal level report to management, usually through the Director of the IRD.[6] Ten out of twelve survey cities require that the City Council approve an annual legislative program. In essence, a majority of the survey cities have an IRD structure comparable to that of San Diego.

Oakland is the only city in the IBA's survey in which contract lobbyists report directly to the Council on current or pending legislation. These lobbyists are overseen by the City Council's Legislative Analyst. The Oakland Charter specifies that the Mayor is to "represent the City in inter-governmental relations as directed by the Council." The

[4] Houston, Los Angeles, Portland, San Francisco, Seattle, San Jose, Sacramento, Anaheim, and Long Beach.
[5] Denver, Indianapolis, Oakland.
[6] Oakland was an exceptional case, in which the contract lobbyists reported to a staff member of the Council and gave direct presentations before the City Council.

Mayor may make recommendations to the Council to support or oppose state and federal bills. Oakland's IRD was cut during the FY 2005-2007 budget process and there are no staff currently assigned to this function. This structure implicates a process that must directly involve the City Council.

The Process: Council Participation

The IBA found that while the structural aspects of the surveyed IRDs are comparable to that of San Diego, the processes by which the business of intergovernmental relations is conducted tends to vary. Most notably, variations in process can be discerned by distinguishing the form of participation by the legislative body in the development of the annual legislative program. The IBA found three prevailing models of legislative participation: (1) informal consensus building; (2) council-initiated legislation; and (3) "hybrid" committee.

Informal Consensus Building:

Six of the survey cities engage in, what we will term here, "informal consensus building."[7] This process involves direct, often informal, communication between management, the IRD Director, contract lobbyists, and the Council to establish principles and priorities to mold the legislative program. After informal meetings among council members, management, the IRD Director, and department heads, the legislative program is formally proposed by management to the City Council or a Council committee. Five of the six informal consensus building cities, excluding Portland, require Council approval of the proposed legislative program. The City of San Diego currently employs a process that describes the informal consensus building model and includes Council approval of the legislative program.

Council-initiated Legislation:

Three of the survey cities give the Council greater latitude in intergovernmental affairs by compelling the Council to initiate the development of the legislative program. Both the legislative bodies of Los Angeles and Long Beach produce and deliver the annual legislative program for their cities. Indianapolis gives the Council latitude to create a legislative program that may be distinct from the Mayor's program. In contrast, San Diego's City Council may approve the legislative program, but it does not mold the program from inception. The following examples illustrate intergovernmental relations processes that demand policy initiated by the legislative body.

The Los Angeles City Council takes a proactive approach to the City's legislative program. Positions on specific legislation are established by the Council through

[7] Houston, Portland, Seattle, Sacramento, Anaheim, San Jose

resolutions, subject to ratification by the Mayor. While official city policy is determined by the City Council, the Mayor represents the City in intergovernmental affairs and can propose "position statements."[8]

In Long Beach the City Council develops the legislative program through the Councils' Federal and State Legislative Committees. Recommendations are solicited from the City Manager, and the final proposed legislative program is forwarded to full Council for approval. The Mayor and the City Council are, therefore, responsible for developing policy and the City Manager is responsible for implementing policy. The IRD department is coordinated through both the City Manager's office and the Mayor, who chairs both the Federal and State Legislative Committees.

In the case of Indianapolis, the Council's policy stance may be separate from the "administration's policy," however, the latter policy must be approved by Council. The Mayor publicly advocates for the approved policy. The Councilors of Indianapolis often attend meetings of the state legislature to espouse their policy stances and may hire lobbyists apart from those hired by the Mayor. It is important to note that Indianapolis does not have an IRD department.

"Hybrid" Committee:

Two of the twelve survey cities conduct the business of intergovernmental relations through a committee with participation from management and the legislature. This committee-based approach was referred to as a "hybrid system" by Carol Boigon; one of Denver's At-Large Council members. This working group committee model is best illustrated through the examples of Denver and San Francisco.

The City and County of Denver establishes its legislative program through an ad hoc working group comprised of officials from the Mayor's office, the City Council, and legal staff. The ad hoc working group meets with lobbyists and interacts with departments to establish a program that is approved by the Mayor and then sent to the City Council for final approval. Pursuant to Denver Charter §3.2.6(D), "intergovernmental agreements require approval by the City Council by ordinance or resolution prior to their execution by City officials if the contract instrument: i) provides for tax revenue sharing; ii) contains any commitment by the mayor or other official to seek legislative action by the City Council or otherwise implicates the legislative authority of the Council; or iii) requires the approval of the City Council pursuant to any other law." Under this structure, contract lobbyists report to a representative of the Mayor, who is a member of the ad hoc working group.

[8] Position statements entail a communications that express clearly indicated, personal views to a governmental body that deviate from the City's official position. Any elected official may make such statements, as long as they indicate their position is contrary to the adopted City position.

The City and County of San Francisco has a State Legislation Committee that studies pertinent proposals before the state legislature and recommends policy endorsement, opposition, or neutrality. The Committee is chaired by the Mayor's office, and consists of two Board members designated by the President of the Board, the Controller, the Assessor, and the Treasurer. The Board of Supervisors can take action by resolution upon any recommendation of the Committee, but may establish policy regarding state legislation without a report from the Committee. The Board may also overturn official endorsements made by the Committee. In absence of Board action, however, state lobbyists take action pursuant to Committee policy.[9] The federal legislative program, however, is formed by the Mayor's office and does not require formal Board approval. The Board may pass resolutions on federal policy that can either contradict or support the Mayor's federal program. The federal component of intergovernmental relations in San Francisco is comparable to the process followed by Indianapolis.

These models provide for varying degrees of council participation based on the structure and processes implemented to conduct intergovernmental relations. The City of San Diego should evaluate such processes when considering the possibility of enhancing the current level of City Council participation in intergovernmental relations.

MAXIMIZING EXISTING RESOURCES:

At the November 22, 2006 Rules Committee meeting, it was mentioned that Council Policy 000-19 "Legislative Policy Guidelines" is in need of updating. The policy was last updated on October 2, 2000 and does not reflect current policy issues. The IRD is in the process of updating this Council Policy, as reported to the Rules Committee in November 2006. The IBA recommends that the IRD work with the IBA to incorporate a formal process into this policy to provide for more active Council-participation in the early construction of the City's annual legislative program. The IBA additionally suggests closer coordination between the IRD and the City Council to develop legislative strategies and positions throughout the year. The revised Council Policy should include more frequent City Council updates regarding the status of pending legislation of interest to the City and the Mayor's legislative activities and positions.

Further ideas to increase Council participation in intergovernmental relations have been advanced in recent Council and Committee meetings. Council members have discussed lobbying on behalf of the City at the state and federal levels on priority issues, as well as, participation in the California League of Cities' eight Policy Committees. These committees are administered by over 400 city officials who meet four times per year to discuss broad-sweeping, subject area issues affecting California cities. Committee appointments are made by League Division or Department Presidents, or the

[9] State and federal lobbyists report to the Director of Intergovernmental Affairs under the Mayor's office.

League President. Appointments must be requested from one of these sources before the conclusion of the League's annual conference, as this marks the end of all annual appointments. Current forms of such participation include the service of Council member Jim Madaffer as the First Vice President for the California League of Cities and Council President Scott Peters' appointment as a representative for the San Diego County Division of the League of Cities. The IBA suggests that the Council explore ways in which individual City officials might contribute to furthering the business of intergovernmental relations through such participation.

CONCLUSION:

The IRD ties the City of San Diego to other regional, state, and federal legislative bodies. This vital legislative function is strengthened through internal and external communication and information flows. The Council's desire to participate more actively in this process could enhance the IRD's effectiveness in advocating intergovernmental issues. The Rules Committee may wish to contemplate the various processes discussed herein to augment Council participation in intergovernmental relations in the context of San Diego's existing structure.

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Attachment: I