

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: November 29, 2006

IBA Report Number: 06-57

City Council Agenda Date: December 5, 2006

Item Numbers: 330 and 331

Items: Amending the San Diego Municipal Code to Implement Voter Approval of Retirement System Benefit Increases and to Add Policies and Procedures to Implement Use of Managed Competition

OVERVIEW

On November 7, 2006 the voters of San Diego approved Propositions B and C, which require voter approval of increased retirement benefits and allows managed competition in the City of San Diego, respectively. The items before the City Council today are ordinances that amend the Municipal Code to provide supplemental guidelines on how these two measures will be implemented. These proposals have been developed over the course of four months of work and discussion with labor unions, at Closed Session hearings of the City Council, and with this office.

FISCAL/POLICY DISCUSSION

The IBA holds the process for development of these ordinances as a model for the City of San Diego. The Mayor's staff led this effort and practiced strong communication with the Office of the IBA throughout the development of the ordinances. We laud the process used by the Mayor's staff, through Lisa Briggs, and appreciate their commitment to keeping our office well-informed, thus increasing the opportunity for important information, ideas and practices to be incorporated into the final product in an appropriate manner.

The IBA supports the approval of these ordinances. Over the course of development, this office made numerous suggestions for improvement to the managed competition ordinance, most of which were ultimately accepted. Examples of suggestions made by

the IBA that are incorporated into the proposed ordinance before the City Council include:

- Allowing for an RFQ process prior to an RFP being issued
- Establishing performance standards and consequences for non-performance
- Independent contractor contract monitoring requirements
- Independent contractor to demonstrate ability to perform service through past services to other comparably-sized municipalities, when appropriate
- Independent contractor requirement to maintain customer service and complaint resolution plans, when appropriate
- Independent Review Board staggered terms
- Requirement for at least two private sector bids before the Independent Review Board may recommend contracting a service
- Management notification to affected employees prior to recommending a proposed agreement with an independent contractor to the City Council
- Requirement for annual performance audits for contracted services and an independent audit every five years to evaluate the City's experience and cost savings

In addition, the IBA recommended a requirement in the RFP process that an independent contractor that has vacancies available demonstrate an effort to employ the current City employees who have been performing the service and who could be displaced if service is awarded to the outside contractor. The IBA continues to believe that this language has merit and should be considered for incorporation.

The current ordinance, as proposed, attempts to address this issue as follows (p. 8): "In the event a service is awarded to an independent contractor through managed competition, impacted employees in the classified service will not be precluded or hindered from accepting employment with the independent contractor." While we agree that it is critical that employees should have freedom to exercise employment choices, we do still believe that an effort to employ where vacancies occur would be a win-win for all parties.

With the exception of the above, the IBA believes that the proposal by the Mayor's staff utilizes best practices from across the country and that this will provide a fair and appropriate framework for the use of managed competition in the City of San Diego. We suggest that, one year after the first use of managed competition in the City, staff evaluate all of the regulations implemented through this ordinance and report the results to the City Council with proposals for any modifications or refinements that are found to be necessary at that time.

CONCLUSION

The IBA supports approval of the implementation ordinances for Propositions B and C and suggests that the City Council request that the Mayor’s staff provide an evaluation report, with reconsideration of the issue discussed above, one year after the first use of managed competition in the City of San Diego.

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