



THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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Contracting Process for Council Community Projects, Programs & Services Funds

OVERVIEW

In September 2010, the City Attorney's Office issued a Memorandum of Law (MOL) regarding the "Budgeting, Appropriation, and Expenditure of Infrastructure Funds." The MOL discussed the City's practice of carrying over annual savings from each Council Office budget for use in a subsequent year for community projects at the discretion of each Councilmember in their district. The City Attorney opined that this process was inconsistent with the requirements of the budget process as outlined in the City Charter. Due to the MOL, requested allocations for use of these funds were suspended during FY 2011, and the balance of the Infrastructure Funds fell to the City's General Fund Reserve.

To remedy this situation, the Office of the IBA worked with the Financial Management Department and the City Attorney's Office to develop a Council Policy (CP 100-06) that established guidelines for the annual appropriation and expenditure of City Council funding for community projects, programs and services. The new policy was adopted by the City Council on June 28, 2011, and approximately \$1.6 million in funding for community projects, programs and services ("CPPS funding") was included in the FY 2012 Adopted Budget. However, as CP 100-06 is currently written, CPPS funds may only be transferred to other City departments to supplement or initiate General Fund activities or capital improvement projects.

When the proposed Council Policy was presented to the Budget & Finance Committee in June, Committee members expressed a desire to have the ability to contract with non-profit organizations in addition to transferring funds to other City Departments. While CP 100-06 was forwarded to Council (and ultimately adopted) without a provision for contracting, the Committee directed the IBA to explore and recommend options that would allow Council Offices to contract with non-profit organizations. This report outlines a recommended process for contracting with non-profit organizations, and proposed amendments to CP 100-06.

FISCAL/POLICY DISCUSSION

Over the past several months, the IBA has worked with the City Attorney's Office, Council Administration, and Council District representatives to develop a process that will allow Council Offices to use CPPS funds to contract with public agencies and non-profit organizations. It is proposed that CP 100-06 be amended to provide the framework for a contracting process. In addition, a contracting process has been developed that minimizes the workload and involvement of Mayoral staff. The sections below highlight the most prominent elements of the proposed amendments to CP 100-06, and provide an overview of the recommended application and contracting process.

Council Policy Amendments

The proposed amendments to CP 100-06 specify that CPPS funds may be provided to public agencies or non-profit community organizations for one-time community, social, environmental, cultural or recreational needs that serve a lawful public purpose. The Council Policy has also been amended to include additional language regarding the procedure to award funds to public agencies or non-profit organizations, including allowable uses of funding, allocation procedures, eligibility and application requirements, and various other provisions and requirements.

Under the proposed amendments, CPPS funding may be used by public agencies or non-profit organizations for capital improvements; for the purchase of goods, supplies, materials or equipment; or for one-time community, social, environmental, cultural or recreational needs. To be eligible for funding, organizations must meet the following requirements:

- Be a public agency or legally recognized tax-exempt 501(c)(3) organization;
- Be financially solvent and provide most current Internal Revenue Service Form 990 at time of application (public agencies not required to provide IRS Form 990);
- Disclose all funding sources of the organization, and of the project, event or program for which CPPS funding is requested (public agencies only required to disclose all funding sources as they relate to the project, event or program);
- Enter into an agreement with the City that specifies the responsibilities of the organization with respect to the use of funds awarded.

Other significant provisions and requirements with respect to awarding funds to non-profit organizations include the following:

- There is a proposed minimum funding amount of \$1,500;
- All funding awards to public agencies or non-profit organizations must be approved by the City Council;
- Funding will only be provided on a reimbursement basis;

- Expenditures must occur in the same fiscal year in which funds are awarded.

Contracting Process

While the proposed amendments to CP 100-06 provide a framework for using CPPS funds to contract with public agencies and non-profit organizations, it is critical that a viable contracting process be established. The City's Chief Financial Officer has previously indicated that Mayoral staff would not provide contract administration for any contracts that are executed using CPPS funds. As a result, a contracting process has been developed with the intention of minimizing the workload and involvement of Mayoral staff. Under this process, Council District Offices and Council Administration will be responsible for much of the substantive contract administration. However, Mayoral staff would still be required to play certain routine administrative roles in the process.

The recommended process for awarding CPPS funds and entering into agreements with public agencies or non-profit organizations is as follows:

1. Agency or organization submits an application package to the Council District office;
2. If Council District recommends a funding award, the application package is sent to the City Attorney's Office to draft the funding agreement;
3. Funding agreement is then signed by the agency or organization, and returned to the Council District office along with additional required documentation (proof of insurance, certification of drug free workplace, certification of compliance with Equal Benefits Ordinance);
4. Council District Office and Council Administration certify that all required documentation has been received, and then submits the package for docketing via e1472;
5. Once City Council approves the funding award, Purchasing & Contracting signs the agreement on behalf of the City;
6. When project or event has been completed, agency or organization submits request for funding and proof of payment (receipts, invoices, bank statements or other documentation);
7. Council Administration reviews request for funding, and submits a final request for payment to City Comptroller;
8. City Comptroller reviews documentation and process payment to agency or organization;

Application for Funding

One of the central elements of the contracting process is the application for CPPS funding. In developing the application for CPPS funding, the IBA reviewed a number of existing application processes, including those for the County's Neighborhood Reinvestment Program and Community Enhancement Program, and the City's Commission for Arts & Culture, Economic

Development and Business Support, and Small Business Enhancement Program. Overall, the goal was to develop an application that is simple, yet provides adequate and essential information about the non-profit organization and the funding request.

It is proposed that the application for funding require the following information:


1. Name of organization
2. Contact information
3. Amount of funding requested
4. Description of project or event for which funding is requested
5. Description of how City funding will be used
6. Description of how project or event will be a benefit to the community
7. Financial summary of project, event or program, including other funding sources
8. Current and prior year financial summary of organization
9. Description of all funding received from the City in the past three years


Finally, required supporting documentation for non-profit organizations would include proof of non-profit/tax exempt status, certificate of good standing and most current IRS Form 990 (annual reporting return for tax-exempt organizations). In addition, it should be noted that additional documentation will be required along with the signed agreement, including proof of insurance, certification of a drug-free workplace, and certification of equal benefits.

CONCLUSION

Over the past several months, the IBA has worked with the City Attorney's Office, Council Administration, and Council District representatives to develop a process that would allow Council Offices to use CPPS funds to contract with public agencies and non-profit organizations. To facilitate this process, it is proposed that Council Policy 100-06 be amended to provide a framework for contracting with public agencies and non-profit organizations, include the procedure to award funds, allowable uses of funding, allocation procedures, eligibility and application requirements, and various other provisions and requirements.

In addition, an application and contracting process has been developed that minimizes the workload and involvement of Mayoral staff. Under this process, Council District Offices and Council Administration would be responsible for much of the substantive contract administration. Finally, the IBA has developed an application for CPPS funding that is simple, yet provides adequate and essential information about the non-profit organization and the funding request. Overall, the IBA believes that the procedures outlined in this report would result in a viable contracting process that minimizes the impact to Mayoral staff.


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