



THE CITY OF SAN DIEGO

CITIZENS' EQUAL OPPORTUNITY COMMISSION

MEETING MINUTES

Wednesday, December 2, 2015

6:00 – 8:00 p.m.

City Administration Building

12th Floor Committee Room

202 C Street – 12th Floor

San Diego, CA 92101

CALL TO ORDER at: 6:13 p.m. by Chair Warner

ROLL CALL:

Laura Warner, Chair

Kristine Custodio, Vice Chair

Lan Jefferson

Susan Jester

Cynthia Suero-Gabler

EXCUSED:

Rafael Perez

Monte Jones

Dan Ortiz

STAFF & GUESTS:

Henry Foster III, Program Manager, Equal Opportunity Contracting

Claudia Abarca, Supervising Management Analyst, Equal Opportunity Contracting

Christian Silva, Senior Management Analyst, Equal Opportunity Contracting

Cheryl Smoot Stadille, Associate Management Analyst, Equal Opportunity Contracting

APPROVAL OF: Meeting Minutes of November 4, 2015 ([Attachment A](#))
Minutes approved unanimously (5/0)

Motion made by Commissioner Jester to approve the November 4, 2015 Meeting Minutes, seconded by Vice Chair Custodio. Minutes approved unanimously.

NON AGENDA PUBLIC COMMENT: None.

DISCUSSION ITEMS: SDMC §26.16(b) Update

- City Attorney's legal review of the Municipal Code to add Women and Disabled Veterans to section 26.16(b) and legal review of currently listed groups represented on the Commission.
- Status of Legal Memorandum from the City Attorney's Office regarding legal concerns with Municipal Code section 26.16(b).

- Chair Warner asked staff to provide a status update regarding the Legal Memorandum from the City Attorney's Office. , once finalized it will be distributed to the Commission.

DISCUSSION ITEMS: Status Update: [Follow-Up letter to Mayor and City Council from Commission \(dated 11/4/15\)](#) addressing recommendations regarding disparity study, municipal code update and bidding and contracting processes in [previous correspondence \(dated 3/4/15\)](#).

- Chair Warner asked staff to provide a status update regarding the follow-up letter sent to the Mayor and City Council. Staff indicated response is in process, once finalized it will be distributed to the Commission.

DISCUSSION ITEMS: Status Update: [Letter to Human Resources Director \(dated 11/4/15\)](#) in response to previous correspondence from [Human Resources Director to Commission \(dated 10/8/15\)](#).

- Chair Warner asked staff to provide a status update regarding the correspondence sent to the Human Resources Director. Staff confirmed that the department received the letter and will continue to follow up regarding response.

DISCUSSION ITEMS: Precluded participation contract clause concerns for Architectural and Engineering Consultant Contracts raised by Small and Local Business firms during [11/4/15 Meeting \(Non-Agenda Public Comment\)](#)

- Chair Warner provided an overview of this item from the previous meeting. A member of the public raised concerns regarding the effects of the precluded participation clause on SLBE/ELBE firms and asked if the clause resulted from any legal concerns. Staff indicated that Public Works has requested a written Legal Memorandum from the Office of the City Attorney regarding this issue and will be made available to the Commission once finalized.

STAFF UPDATES: Christian Silva, Senior Contract Compliance Officer, Equal Opportunity Contracting ([Attachment B](#))

- Staff provided an update on SLBE program, contracting updates, training sessions and outreach updates. Staff noted the deadline for the CEOC Corner in the SLBE newsletter is January 5th.
- Vice Chair Custodio asked staff if the new Purchasing & Contracting Director will be coming before the Commission to introduce herself. Staff indicated the Purchasing & Contracting Department will be presenting SAP enhancements as requested by the Commission.
- Vice Chair Custodio asked staff for background on the Business Diversity Report. Staff indicated the FY 15 Annual Diversity Report was presented to the Budget & Government Efficiency Committee. The report includes an overview of performance for FY13-FY15. As the City goes through the budget process, specific performance measures are established for City departments.

For EOCP, a target percentage is set each fiscal year for SLBE/ELBE performance. Vice Chair Custodio asked if the percentage is based on benchmarks. Mr. Foster stated in previous years, 15% was set as a benchmark. In FY16, the goal was raised to 20% based on trend data. A copy of the budget narrative is available online.

- Vice Chair Custodio asked if this report was required. Staff indicated that the Municipal Code states that periodic reports should be provided; the frequency of the reports is not specific.
- Chair Warner stated that it appears the numbers are going down, specifically related to number of contract awards and female participation. Chair Warner also stated the report does not list information about obstacles with contracting with the City.
- Chair Warner asked if this report was specifically a staff report with no Commission input. Staff confirmed that the report is a staff report; any input from the Commission would be a public comment at Committee.
- Chair Warner stated that the report seems to be missing information regarding contracting challenges. Staff noted report covers performance data for the previous fiscal year.
- Chair Warner noted that anecdotal success stories were included and that it would be good to include contracting challenges. Staff noted that testimonials provided are in reference to the Small Business Development Program administered by the Economic Development department.
- Chair Warner asked if a report from the Small Business Development Program was included. Staff confirmed information was included in the FY15 Annual Diversity Report.
- Commissioner Jefferson asked if an annual report was done. Mr. Foster stated that the last report was for FY12, which was provided during FY13. Commissioner Jefferson asked for clarification regarding reports previously provided to the Commission.
- Commissioner Jefferson stated that she recalled the Commission receiving diversity information, which included City contracting statistics and data from 2014. Tables and charts mentioned information about specific groups. Staff noted that copies of the report would need to be provided in order to provide clarification. No formal report Diversity Report was provided to Committee or Council for that time period indicated, staff continued to track data and post statistics online. Staff noted that statistics and performance data has been provided to Commissioners at the last two annual retreats.
- Commissioner Jefferson stated that report might have had a different name and referenced employment. Staff noted that the Personnel Department came before the Commission to provide a report when Commissioner Jefferson was appointed to the Commission. Commissioner Jefferson stated that the Commission received a report as well. Staff noted that the Personnel report would provide information regarding internal hiring; EOCP would provide information regarding external contracting.
- Chair Warner stated that the goals are not related to the actual make up of different types of firms and only SLBE goals. Staff noted that the report includes SLBE/ELBE performance and Race/Gender performance.

- Chair Warner asked if one firm or one ethnicity could be awarded all of the contracts. Staff noted that the City's programs do not cap quantity of awards a firm may be awarded.
- Chair Warner asked if Committee is informed of this. Staff noted that the matter has been discussed at Committee
- Chair Warner noted that she was not worried as much about repetition, but about the breakdown. Chair Warner asked if Committee asked about contract spend versus award. Mr. Foster stated he did not recall if this was asked.
- Commissioner Jester asked what the source was of the Small Business Development Report. If it just came from one source, is that in the Mayor's Office. Staff noted that the Small Business Development Program is under Economic Development, which is a Mayoral Department. Staff noted that there is also a Small Business Advisory Board that is staffed by Lisa Gordon.
- Commissioner Jester stated that she met Ms. Gordon at a Council Committee meeting. Commissioner Jester asked if the report reflects the big picture of the program and if it includes people who apply or get rejected. Staff noted that EOCP does not monitor the Small Business Development Program any questions would need to be addressed to Lisa Gordon... Staff asked for Commissioner Jester to clarify what she meant by big picture. Commissioner Jester stated this report was used to describe successes that do not reflect the numbers seen on the chart. Staff noted that these are two different programs; Charts are provided by EOCP and reflect contracting performance data.
- Commissioner Jefferson asked if staff could track or capture successes by contract awards for those who went through the program and those who did not go through program. Staff noted that EOCP would have to defer question to Economic Development.
- Chair Warner stated that the data provided in the report does not include actual contract spend; there are instances where the full contract amount is not spent or the contract may be delayed. Chair Warner also noted that if all contracts are awarded to one firm, it may not help the economy or make the program appear to be successful when it actually may not be successful. Commissioner Ortiz noted that although the law does not allow public agencies to give preference, the City is not precluded in its outreach. Staff noted that all outreach efforts are included in the report. Staff noted that if there are any specific firms or organizations that they recommend EOCP contact to please provide contact information and EOCP would contact accordingly.
- Vice Chair Custodio noted that there was an increase of 4.8% for awarded Goods & Services Contracts and asked staff how this data was made available. Staff noted that the information was extracted based on purchase orders for prime contractors; this was the first time staff was able to work with IT to obtain and validate credible information and certifications. Previously in FY12, data was based on self-certifications. Chair Warner noted that purchase orders are one step closer to knowing contract award amounts.

- Chair Warner asked if the goal for SLBE participation included goods and services. Staff noted that the goal was for construction and A/E consultant contracts. Chair Warner asked if the decrease in contracts are comparable between certified SLBE and non-certified SLBE firms and if the drop was proportional. Staff noted that the drop could potentially be proportional and that there are many variables that impact numbers going up and down.

CHAIR ANNOUNCEMENTS: None.

SUBCOMMITTEE REPORTS:

Data Subcommittee

- Vice Chair Custodio (Subcommittee Chair) provided an update to the Commission ([Attachment C](#)) and directed attention to Item 4 regarding the appointment of additional commissioners. Staff noted that staff has no information at this time. Vice Chair Custodio also noted the subcommittee's standing meeting dates and goals are listed in the minutes.
- Chair Warner requested all subcommittees to set annual goals and benchmarks to present at the January meeting. Vice Chair Custodio stated that the subcommittee's overarching goal is to obtain data.

Business & Political Leadership Subcommittee

- Chair Warner stated that Commissioner Perez (Subcommittee Chair) is out and an update will be provided at a later date.

Public Outreach Subcommittee

- Commissioner Suero-Gabler (Subcommittee Chair) provided an update to the Commission ([Attachment D](#)). Commissioner Suero-Gabler directed attention to outstanding items for follow up and requested for commissioners to provide updates for any meetings they attended during the month. The subcommittee recommended for commissioners to have bios on the City webpage similar to the Arts & Culture Department website, for commissioner event forms to be archived on the CEOC website (similar to meeting minutes), and requested an update on the Commission's social media accounts. Staff noted that the Administrative Regulation (AR) for social media accounts has not been released. Staff will update commission once posted online. Chair Warner requested to be copied on the update to the CEOC Corner in the *Diversity Works* newsletter.

Ad Hoc Annual Report Subcommittee

- Commissioner Jefferson (Subcommittee Chair) provided an update to the Commission ([Attachment E](#)). The subcommittee reviewed the 2011 annual report and is working on completing the 2014-2015 report and is developing a sustainable process to develop future reports. The subcommittee reviewed the Commission's duties and functions, which stated the Commission is to submit reports on an annual basis. Although the Commission bylaws state that reports are to be provided on an annual basis, the 2011 report stated that reports are to be provided quarterly. Chair Warner stated that she will attend the next subcommittee meeting. Commissioner Jefferson recently attended the Construction Industry Prequalification Workshop and was able to speak to consultants and small businesses regarding contracting challenges.

Motion made by Commissioner Jester to adjourn the meeting, seconded by Commissioner Jefferson.

ADJOURNMENT: 7:29 p.m.

NEXT MEETING: January 6, 2016

MATERIALS PROVIDED:

- [Attachment A](#) – November 4, 2015 Meeting Minutes
- [Attachment B](#) – Equal Opportunity Contracting Program Update – December 2015
- [Attachment C](#) – Data Subcommittee Update
- [Attachment D](#) – Public Outreach Subcommittee Update
- [Attachment E](#) – Ad Hoc Annual Report Subcommittee Update