



**THE CITY OF SAN DIEGO**

**CITIZENS' EQUAL OPPORTUNITY COMMISSION**

**MEETING MINUTES**

**Wednesday, September 2, 2015**

**6:00 – 8:00 p.m.**

**City Administration Building**

**12<sup>th</sup> Floor Committee Room**

**202 C Street – 12th Floor**

**San Diego, CA 92101**

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**CALL TO ORDER at:** 6:00 p.m. by Chair Warner

**ROLL CALL:**

Laura Warner, Chair

Kristine Custodio, Vice Chair

Lan Jefferson

Susan Jester

Monte Jones

Dan Ortiz

Rafael Perez

Cynthia Suero-Gabler

**EXCUSED:**

None

**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 Stadille, Associate Management Analyst, Equal Opportunity Contracting

Lara Easton, Deputy City Attorney, Office of the City Attorney

Gregory Halsey, Deputy City Attorney, Office of the City Attorney

James Nagelvoort, Director, Public Works

Al Rechany, Deputy Director, Public Works - Contracts

Marshall Anderson, Policy Advisor, Office of the Mayor

Rosalind Winstead, Principal, Winstead & Co.

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**APPROVAL OF:** Meeting Minutes of August 5, 2015 ([Attachment A](#))  
Minutes approved unanimously (6/0)

**Motion made by Commissioner Custodio to approve August 5<sup>th</sup> Meeting Minutes, seconded by Commissioner Jester. Minutes approved unanimously.**

**NON AGENDA PUBLIC COMMENT:** Rosalind Winstead, Principal, Winstead & Co. ([Attachment B](#))

- Ms. Winstead raised concerns regarding the City's participation with the Associated General Contractors (AGC) – San Diego Chapter and potential impacts to City contracts and programs.

**ACTION ITEMS: Item A: Letter to Mayor on Vote of Confidence for Equal Opportunity Contracting (EOC) Staff**

- Recommended Action: CEOC to draft letter to the Mayor expressing confidence in EOC Staff
- Commissioners discussed drafting a letter expressing confidence in EOC staff and to follow up on meeting held with the Mayor's Office in the spring.
- Commissioner Custodio offered to draft the mentioned letter.

**Motion made by Commissioner Jester to draft a letter to the Mayor expressing confidence in EOC staff, seconded by Commissioner Jones. Vote 8/0; motion passes unanimously.**

**ACTION ITEMS: Item B: Letter to Mayor Requesting Summary/Report of Tracking and Monitoring of Contracts & Relevant Data from All Procuring Departments**

- Recommended Action: CEOC to draft letter to the Mayor to request contract award data routinely collected by departments and systems and processes used to collect, verify, & report Equal Opportunity Program related data for Construction, Goods, Services, and Consultant Contracts.
- Commissioners discussed drafting a letter to request information regarding the practices of procuring departments related to tracking Equal Opportunity requirements.
- Ms. Winstead expressed her appreciation regarding consideration for previous items. Ms. Winstead stated there have been problems with SAP for a number of years. Various modules have been purchased & consultants have been acquired over time and the system is still not successful in capturing the City's data related functions.
- Ms. Winstead asked:
  - What are the processes employed by procuring departments to track data? The variance between what was committed and actual spend is significant.

**Motion made by Commissioner Jester to draft a letter to the Mayor requesting a report of contract award data collected by departments related to Equal Opportunity requirements, seconded by Commissioner Jones. Vote 8/0; motion passes unanimously.**

**ACTION ITEMS: Item C: Letter to Mayor to Request Report on Technical Assistance Provided to Promote Equal Opportunity Program**

- Recommended Action: CEOC to draft letter to Mayor to request report on programs addressing certification, marketing, business management, prevailing wage & other needs of Small and Local Business Enterprise and Emerging Business Enterprises (SLBEs/ELBEs)

**Motion made by Commissioner Jester to draft a letter requesting a report on technical assistance provided to promote Equal Opportunity programs, seconded by Commissioner Ortiz. Vote 8/0; motion passes unanimously.**

**ACTION ITEMS: Item D: 2015 CEOC Annual Retreat ([Attachment C](#))**

- Recommended Action: Vote on selection of Commissioner Retreat Date/Time, Location, and Discussion Topics
- Commissioners discussed the date, time, and location of the upcoming commissioner retreat.
- Mr. Foster stated that the HR Department was unable to provide a facilitator. Staff is looking into other options and will fill the role of facilitator if needed.

**Motion by Commissioner Jester to approve the 2015 CEOC Annual Retreat agenda, seconded by Commissioner Suero-Gabler. Vote 8/0; motion passes unanimously.**

**DISCUSSION ITEMS: Item A: Changes to P&C Management and Reporting Structure**

- Purchasing & Contracting Staffing Memorandum (dated 7/16/15)
  - Process for Termination of At-Will City Employees ([Attachment D](#))
  - Process for Recruitment of New Purchasing & Contracting Director
- Mr. Foster stated that staff did not have a report for this item; this item requested by the commission at the last meeting for further discussion. Staff provided links to the relevant City Charter & Administrative Regulations related to the hiring and termination process for at-will employees. This information is publicly displayed on City website.
- Chair Warner asked:
  - What is the timing for the recruitment of the new Purchasing & Contracting Director?
- Staff has no information regarding the timing.
- Commissioner Ortiz stated this item resulted from the commissioners' concern after reading an article in the Voice of San Diego regarding the termination of the Purchasing & Contracting director.
- Deputy City Attorney Greg Halsey advised the commissioners that this item would not be appropriate for discussion.
- Commissioner Custodio asked:
  - How did the memorandum regarding Purchasing & Contracting management changes become public?
- Commissioner Ortiz asked:
  - Is the City concerned that personnel information was released to the public?
- Chair Warner asked:

- Can the commission ask about the termination process?
- Chair Warner voiced concerns of process and protocol precluding giving personnel information to the newspaper.
- Mr. Foster reminded the commission that they would need to send an email to staff with their specific questions and they would be routed to the appropriate department. Administrative Regulations and City Charter sections regarding hiring and termination processes for at-will employees were previously provided to the commission.
- Commissioner Jester asked:
  - Is there a policy that information like this is fed to the newspaper? How was the termination publicly revealed?
- Chair Warner stated that the commission will put their request in writing.
- Commissioner Custodio requested the following:
  - Item to remain on the agenda to be addressed.
- Mr. Halsey stated that he can only comment on legal issues and not policy issues. Mr. Halsey advised the commission to refrain from making speculative comments.
- Ms. Winstead asked:
  - What is the City's obligation to protect the reputation for at-will employees who are terminated?

**DISCUSSION ITEMS: Item B: Performance Audit of Citywide Contract Oversight**

- Review of audit for determination of Equal Opportunity Program related recommendations for oversight improvements relating to diversity, participation, & commitments
- Commissioner Custodio provided an overview of the findings and 9 recommendations by the Office of the City Auditor regarding Citywide contract oversight. Commissioner Custodio advised the commissioners to read through the report and specific resolutions.
- Commissioner Jones asked:
  - Do we know how long these issues have been recurring?
- Mr. Foster stated the question would have to be deferred to the Purchasing & Contracting Department. In the past, staff has provided info on Construction & Consultant Services since 2010. Information related to Goods & Services has been an issue. The anticipated time frame to have information was 18 months as previously discussed.
- Chair Warner stated this will be basis of a lot of recommendations that the Commission will make moving forward to further increase participation.

**PRESENTATION: Recommended Changes to Contractor Prequalification Program ([Attachment E](#))**

James Nagelvoort, Director, Public Works  
Al Rechany, Deputy Director, Public Works – Contracts

- Mr. Nagelvoort & Mr. Rechany provided the commission with a presentation on the current prequalification process and issues with contractor performance in construction for all firms and project sizes.
- Mr. Nagelvoort informed the commission that the Public Works Department will return with potential improvements.
- Commissioner Jefferson asked:
  - How is the prequalification process being revamped so that feedback will be put into the new processes?
- Chair Warner stated that the contracting process is arduous and times before starting & payment cycles are extended for different contractors in different disciplines.
- Mr. Nagelvoort stated that the prequalification process is directly for construction contractors. Previous start times for projects were previously 2-6 months; currently it is 90 days. Delays in payment cycles are a result of disputed bid items. In the SAP system, the default payment cycle is 30 days. Currently there is no system in place to train SLBE firms who want to make the leap to become a prime contractor; this is part of what needs to be developed.
- Ms. Winstead added that contractors may not understand the administrative process for doing business with the City because they are not proactively engaged. Ms. Winstead recommended that the commission ask how many workshops have been done with SLBEs to address administrative processes.
- Mr. Nagelvoort stated that the City is willing to meet with organizations to share process changes. The Department of Public Works hosts quarterly events with certified SLBE firms, consultants, and construction contractors.
- Commissioner Custodio asked:
  - How are these events shared with the community?
- Mr. Nagelvoort stated that a notification email is sent to all SLBEs. Consultants receive notifications through a program the County administers. Information regarding the meetings can also be found on the City website.
- Commissioner Jester asked:
  - What number of people does this email go to?
- Public Works will look into the number of recipients of the quarterly meeting emails and provide information to the commission at a later date.

**STAFF UPDATES: Christian Silva, Equal Opportunity Contracting (EOC) Program Update**  
([Attachment F](#))

- Christian Silva, EOC Senior Contract Compliance Officer, provided an update on the SLBE program, contracting updates, training sessions, and outreach updates.
- Mr. Silva informed the commission that proposed changes to Council Policy 100-10, *Small and Local Business Preference for Goods Services and Consultant Contracts*, will go before the Economic Development & Intergovernmental Relations Committee on Thursday, September 24<sup>th</sup>.

**CHAIR ANNOUNCEMENTS:** None.

**SUBCOMMITTEE REPORTS:**

**Data Subcommittee** ([Attachment G](#))

- Vice Chair Custodio (Subcommittee Chair) referred commissioners to Appendix A of the subcommittee meeting minutes regarding for requests for information. The subcommittee discussed coordinating for commissioners to attend Budget & Government Efficiency Committee meetings .

**Public Relations Subcommittee**

- Commissioner Perez (Subcommittee Chair) will send update to staff for distribution to the commission. The subcommittee discussed potential opportunities to connect with the Office of Small Business and posting informational material on doing business with the City online.

**Bidding & Contracting Subcommittee** ([Attachment H](#))

- Chair Warner (Subcommittee Chair) noted that the subcommittee came up with priorities for the quarter. They are working to create an ongoing list of contracting changes and challenges for further review and recommendations. The subcommittee is also looking to request meeting with the DCOO and COO to see what they are doing to seek contracting improvements.

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

**ADJOURNMENT:** 7:41 p.m.

**NEXT MEETING:** September 11<sup>th</sup> (Retreat)

**MATERIALS PROVIDED:**

- [Attachment A](#) – August 5, 2015 Meeting Minutes
- [Attachment B](#) – Non-Agenda Public Comment – Rosalind Winstead Handout
- [Attachment C](#) – 2015 CEOC Annual Retreat Draft Agenda
- [Attachment D](#) - City Charter Section 30 Removal of Unclassified Officers and Employees
- [City Charter Section 29](#) - Responsibility of Manager – Powers of Appointment and Removal
- [City Charter Section 117](#) - Unclassified and Classified Services
- [AR 96.00](#) - Dismissal Procedures of Unclassified Officers and Employees
- [AR 96.05](#) - Recruitment and Appointment of Unclassified Officers and Employees
- [Attachment E](#) - Recommended Changes to Contractor Prequalification Program Presentation Slides
- [Attachment F](#)- EOC Program Update
- [Attachment G](#) – Data Subcommittee Update

- [Attachment H](#) - Bidding & Contracting Subcommittee Update