

## CITIZENS' EQUAL OPPORTUNITY COMMISSION

MINUTES
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MEETING DATE: Wednesday, July 2, 2008  
TIME: 6:00 P.M.  
PLACE: City Administration Building  
202 C Street, 12<sup>th</sup> Floor Committee Room  
San Diego, CA 92101

**ATTENDANCE:** Commissioners:  
Bradford Barnum, Eileen Chaske, Debbie Day, Dr. Patricia Hsieh,  
Rebecca Llewellyn, Daniel Salas, Jonathan Schneeweiss, Dr. Shirley  
Weber

**MAYOR'S STAFF:** Sanna Singer-City Attorney, Jeff Sturak-IBA, Fiscal Policy Analyst,  
Debra Fischle-Faulk-EOC Director, Hildred Pepper-P&C Director,  
Beryl Rayford-EOC Program Manager, Ramone Lewis -EOC Sr.  
Management Analyst, Laura Davis-EOC WPO.

**PUBLIC SPEAKERS:** Austin Cameron, Eddie Price, Roz Winstead, Rachel Fisher, Wendell  
Stemley, Patrick Knighton, Dorothy Randle.

### Item 1. CALL TO ORDER:

The meeting was called to order at 6:12 p.m. by Chairperson Dan Salas

### Item 2. APPROVAL OF June 4, 2008 MINUTES & TODAY'S AGENDA:

**MOTION:** To approve the June 4, 2008 Minutes with changes by Chairperson Dan Salas.

Commissioner Weber requested:

A correction to her degree to reflect "Dr. Shirley Weber, PhD"

Commissioner Barnum requested:

Under Item 3 correct the meeting date reference to June 5, 2008.

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Commissioner Schneeweiss requested:

Correct his misspelled name to Jonathan

Made by: Dr. Shirley Weber, PhD  
Second by: Eileen Chaske

**VOTE: PASSED-** (Yea-8; Nay-0)

**Item 3. PUBLIC COMMENT:**

**Speaker 1**

Mr. Austin Cameron TC Construction Company commented:

On the proposed SCOPE revisions by Mr. Franklin Lee. Mr. Cameron disagrees with the proposed requirement for SCOPE submittals at time of bid opening.

Commissioners Schneeweiss, Salas and Weber asked:

Questions of speaker regarding SCOPE submittal process and current projects held by his company, awareness of businesses that are minority and available as subcontractors, amount of hours spent preparing SCOPE documentation submittals as well comparison to bid and award dollar amounts; concern over bid shopping possibility, feasibility of prime contractors requiring subcontractors to submit bids by deadline.

**Speaker 2**

Mr. Eddie Price commented:

On his desire for African Americans and other "disadvantaged groups" to get portions of the contracting in San Diego. Mr. Price also expressed his concern that outreach efforts should be improved.

Commissioners Schneeweiss commented:

On his concern that broad-based outreach and the addition of further requirements being placed on prime contractor submittals could work current City staff beyond their capabilities.

**Speaker 3**

Ms. Roz Winstead submitted:

A handout entitled "**Key Findings: Affirmative Action in Contracting and Employment**". The document Ms. Winstead presented describes "The Impact of Proposition 209 on Public Contracting: Evidence from California's Transportation Construction Industry".

Ms. Winstead further commented on her concern with compliance by the contracting community and her impression that many have not submitted good-faith-effort

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documents.

Key Finding:

-“Proposition 209 had an overall strong, negative effect on California’s Disadvantaged Business Enterprises (DBEs) in the transportation construction industry”

-“There is a national state policy trend towards inclusive business practices. However, MBEs and WBEs in California and Washington (states with affirmative action bans), as well as Florida (which ended affirmative action before initiating a voluntary program) had lower growth rates than those in comparable states without affirmative action policy constraints”

Key Recommendations:

-Support and expand equal opportunity programs;

- Address the culture of the construction industry, including perceived “good old boy” networks;

- Advocate for a business model of diversity;

- Support data collection and continued research on DBEs.

Ms. Winstead further requested an independent and comprehensive review of current city contracting practices and a moratorium of contracts in excess of \$100,000 until these issues can be addressed.

**Speaker 4**

Ms. Rachel Fisher of The San Diego Contracting Opportunity Center commented:

That she feels SCOPE documentation fails to identify small DBE’s. She further commented that some of her clients receive solicitation for services which are not provided by their type of business.

**Speaker 5**

Mr. Wendell Stemley commented:

That he feels no provision for small or local businesses are included in the procurement process with the Purchasing Department. He expressed that the City should create vehicles for people to participate. Mr. Stemley feels that creating layers of paperwork could possibly be a way of avoiding issues within contracting and that rules should to be established to protect inclusion of all citizens who pay taxes.

**Speaker 6**

Mr. Patrick Knighton commented:

On his experience as an electrician and his realities of bid shopping and impression that the small profit primes typically receive on projects after factoring in outreach documentation efforts. Mr. Knighton would like to see good apprenticeship language on all project specifications to attract qualified apprentices.

**Speaker 7**

Ms. Dorothy Randle commented:

On her experience working in Los Angeles under the Mayors Office. Ms. Randle expressed that small, minority, and disadvantaged firms in all Cities share challenges and that all disadvantaged groups desire inclusion since exclusion still exists. Ms. Randle stated that Good Faith efforts in Los Angeles don't look at proven history of inclusion for points, as it should, so there is no penalty applied for failure to include. Ms. Randle feels that waivers are common in California and that the bait-and-switch games, as related to using listed subcontractors, are commonly played. She feels disadvantaged subcontractor lists should be provided well in advance to encourage participation of these groups. Ms. Randle thinks outreach efforts should be analyzed by actual DBE's used at the end of projects and prime contractors should be rewarded accordingly. Finally, Ms. Randle encouraged the City of San Diego to consider placing a focus on subcontractors being utilized as primes if they contain capacity for such.

Ms. Debra Fischle-Faulk and Commissioner Barnum discussed:

The issue that contrary to previous opinions, Los Angeles requires good faith efforts in construction to be submitted within three (3) days of bid opening; however on other procurement bids, outreach efforts are required to be submitted at the time of bid opening.

**Item 4. ACTION ITEMS:**

**Discussion of Revised SCOPE Recommendations**

Ms. Debra Fischle-Faulk discussed:

Overview of SCOPE recommendations by sharing information – Franklin Lee's June 26 amendments to SCOPE recommendations:

- 1) Modify the definition of subcontractor to exclude supplies and materials and to clearly define and credit the value of subcontractors for the purpose of this program;
- 2) Modify program audit piece to provide Equal Opportunity an outside audit firm should the city be unable to perform this function;
- 3) Provide additional basis for the waiver of the Subcontracting Outreach Program. Equal Opportunity Contracting exercises an option to provide an additional waiver for minor construction, lowered threshold from \$250,000 to \$100,000;
- 4) No later than 24-hours (or close of business) the day following bid opening, prime contractors must submit SCOPE submittal, pending the implementation of the City's automated notification system.

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Commissioner Schneeweiss requested:

The inclusion of LGBT in the process of SCOPE outreach requirements since he feels this group is also disadvantaged in contracting.

Commissioner Weber stated:

Collection of data to demonstrate exclusion or inclusion of LGBT would benefit this decision process.

City Attorney Singer stated:

After discussion on motion procedures to place the LGBT on a future CEOC agenda, that simply placing the LGBT outreach item on a future CEOC meeting agenda is sufficient and no motion is necessary to do such.

**Item 5:       DISCUSSION ITEMS:**  
**(a)   Matters for report/discussion**  
**-EOC Data for FY 07-08 (thru 3<sup>rd</sup> Qtr)**

Commissioner Llewellyn requested:

That Final Summary Reports contain posting of payments by item and not only the total amount paid to a subcontractor since she feels it is important for subcontractors to be aware if their item is paid.

Commissioner Salas asked:

Beryl Rayford to delay her EOC Presentation until next Friday's CEOC Meeting to be held on July 11, 2008.

Commissioner Barnum requested:

A list of contractors who bid on City projects in addition to statistics.

Ms. Beryl Rayford agreed:

She can provide the requested information, however; will not promise information by the next Friday CEOC meeting.

**(b)   Commissioner Reports**

**NO ACTION**

**Item 6:       CITY ATTORNEY REPORT:**

**NO ACTION**

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**Item 7: CHAIRS REPORT:**

**NO ACTION.**

**Item 8: ADJOURNMENT:**

**MOTION:** Motion to adjourn at 8:20 p.m.

Made by: Dr. Shirley Weber  
Second by: Rebecca Llewellyn

**VOTE: PASSED-** (Yea-8; Nay-0)