

**Recommended City Council Responses to Findings and Recommendations in San Diego County Grand Jury Report entitled, “Efficiency in Government: Managed Competition, Outsourcing, Reengineering and Reverse Auction within San Diego County”**

**Grand Jury Facts, Findings and Recommendation 10-99:**

*Facts – Set One - #5*

Mayor’s correction: The referenced PERB decision was entered on August 22, 2008, rather than September 18, 2008.

**Finding #01:** *In November, 2006 the voters of the City of San Diego amended Section 117(c) of the City Charter to permit the City to employ independent contractors to perform city services and requiring that the City Council enact an ordinance implementing the amended City Charter.*

Mayor’s response: Agree

IBA Recommendation: Join the Mayor’s Response.

**Finding #02:** *The City has expended many hours in numerous sessions attempting to negotiate with City unions the terms of the implementing ordinance and managed competition guide.*

Mayor’s response: Agree

IBA Recommendation: Join the Mayor’s Response.

**Finding #03:** *The City has yet to enter a contract under the charter amendment passed by the voters on November 7, 2006.*

Mayor’s response: Agree

IBA Recommendation: Join the Mayor’s Response.

**Finding #04:** *Managed Competition is stalled in a political and ideological battle that may ultimately have to be resolved: by enactment in November 2010 of the alternative Competition and Transparency in City Contracting Initiative 2010, an election result that alters the partisan split, or by some other means.*

Mayor’s response: Partially disagree. At the October 27, 2009 impasse hearing, the City Council voted against implementing the Mayor’s last best final offer and to continue vetting concerns by the City Council and labor organizations at the negotiating table. Since that time, the City Council has been providing direction to the Mayor’s negotiating team and progress is being

made with impacted labor organizations as the City continues to meet and confer, as required by law. The parties are working to resolve the impasse and adopt an appropriate Managed Competition Guide via an ordinance.

IBA Recommendation: Respond with a modification to the Mayor's response, replacing it with the following (*IBA's original addition to the Mayor's response is in bold italics*):

Partially disagree. There have been a number of delays which have stalled the implementation of Managed Competition- one being a complaint filed by labor to the Public Employee Review Board (PERB) in July 2008 and a subsequent ruling by PERB that labor and the City must renegotiate the original guide to clearly outline Managed Competition procedures. After reaching impasse with the affected labor unions on September 23, 2009, the City Council conducted an impasse hearing on October 27, 2009, at which time it rejected the Mayor's last best final offer. Since that time, the City Council ~~has been providing~~ provided direction to the Mayor's negotiating team and progress ~~is being~~ was made with impacted labor organizations. ~~as the City continues to meet and confer, as required by law. The parties are working to resolve the impasse and adopt an appropriate Managed Competition Guide via an ordinance. On September 27, 2010, the City Council approved by a vote of 6-1 (with one councilmember absent) to adopt the Managed Competition Guide via an ordinance. This is the first of two hearings as required by the City Charter that must be conducted to adopt the ordinance. The second hearing is scheduled in October 2010.~~ ***The City Council and the Mayor are committed to implementing Managed Competition following adoption of the Ordinance.***

**Finding #05:** *The Grand Jury is empowered to make recommendations to the Mayor and City Council; but lacks the jurisdiction to make recommendations to the American Federation of State, County and Municipal Employees, AFL-CIO, Local 127, and the Municipal Employees Association. If the Grand Jury had such jurisdiction it would include these employee organizations in its recommendations.*

Mayor's response: The Mayor declines to opine on the Grand Jury's jurisdiction to make recommendations to labor organizations, or what the Grand Jury's actions would be if they believed they had such jurisdiction.

IBA Recommendation: Join the Mayor's Response.

*The 2009/2010 San Diego County Grand Jury recommends that the Mayor and the City Council of the City of San Diego:*

**10-99:** *Proceed with the impasse process or other appropriate process to approve and enact the implementing ordinance, approve the Managed Competition Guide, and proceed to full implementation of amended Section 117(c) of the City Charter.*

Mayor's response: The recommendation has not yet been implemented but will be implemented upon completion of the required meet and confer process and City Council approval. After reaching impasse with the affected labor unions on September 23, 2009, the City Council conducted an impasse hearing on October 27, 2009, at which time it rejected the Mayor's last best final offer. Since that time, the City Council has been providing direction to the City's negotiating team, in fulfilling their duty under Council Policy 300-06 to resolve the impasse. The Mayor is hopeful the City Council will expeditiously resolve the impasse and adopt an appropriate Managed Competition Guide via an ordinance. At that point, the Mayor is committed to implementing a managed competition program to determine if city services can be provided more economically and efficiently by an independent contractor than by persons employed in the Classified Service while maintaining service quality and protecting the public interest.

IBA Recommendation: Respond with a modification to the Mayor's response, replacing it with the following (*IBA's original addition to the Mayor's response is in bold italics*):

The recommendation has not yet been implemented but will be implemented upon ~~completion of the required meet and confer process and~~ City Council approval of the ordinance adopting the Managed Competition Guide. On September 27, 2010, the Managed Competition Guide was presented to the City Council for the first of two hearings that are required under the City Charter for adoption of the ordinance. At this hearing it was approved by a vote of 6-1 (with one councilmember absent). The second hearing is scheduled for October 2010. ~~to The recommendation has not yet been implemented but will be implemented upon completion of the required meet and confer process and City Council approval.~~

After reaching impasse with the affected labor unions on September 23, 2009, the City Council conducted an impasse hearing on October 27, 2009, at which time it rejected the Mayor's last best final offer. Since that time, the City Council ~~has been providing~~provided direction to the City's negotiating team, in fulfilling their duty under Council Policy 300-06 to resolve the impasse. The Mayor ~~is hopeful and~~ the City Council ~~will expeditiously have~~resolved the impasse and as stated above, the adoption of the ordinance is underway. ~~an appropriate Managed Competition Guide via an ordinance. At that point~~Once the ordinance is adopted, the Mayor *and City Council are* committed to implementing a managed competition program to determine if city services can be provided more economically and efficiently by an independent contractor than by persons employed in the Classified Service while maintaining service quality and protecting the public interest.

#### **Grand Jury Findings and Recommendation 10-100:**

**Finding #06:** *The City Facilities Division completed its Business Process Reengineering in June, 2008, but the BPR has not been implemented because the Union will not meet and confer on implementation.*

Proposed Mayor's Response: Disagree. AFSCME Local 127 did initially refuse to meet and confer on the Facilities Maintenance BPR. They have since agreed to do so.

IBA Recommendation: Join the Mayor's Response.

**Finding #07:** *The Grand Jury is empowered to make recommendations to the Mayor and City Council; but lacks the jurisdiction to make recommendations to the American Federation of State, County and Municipal Employees, AFL-CIO, Local 127, and the Municipal Employees Association. If the Grand Jury had such jurisdiction it would include these employee organizations in its recommendations.*

Proposed Mayor's response: The Mayor declines to opine on the Grand Jury's jurisdiction to make recommendations to labor organizations, or what the Grand Jury's actions would be if they believed they had such jurisdiction.

IBA Recommendation: Join the Mayor's Response.

The 2009/2010 San Diego County Grand Jury recommends that the Mayor and the City Council of the City of San Diego:

**10-100:** *Proceed with the impasse process or other appropriate process to approve and implement the Facilities Maintenance Division Business Process Reengineering, as well as other BPRs that have been completed by the City but have not been implemented because of refusal of the applicable union to meet and confer regarding BPRs.*

Mayor's Response: The recommendation has not yet been implemented but will be implemented upon completion of the required meet and confer process and City Council approval. The Mayor is committed to achieving costs savings through business process reengineering, efficiency studies, and other efforts. Previous BPRs conducted by the Mayor have achieved over \$39M in annual savings and over \$6M in additional cost avoidances. Council approval will be sought on completed BPRs either after, or subject to, completion of meet and confer obligations with labor. The Facilities Maintenance BPR recommendations are currently under staff review prior to meeting with labor. The labor organizations are no longer taking the position that BPRs cannot be implemented before a managed competition process is complete. Progress has been made with impacted labor organizations and the City continues to meet and confer, as required by law. The Mayor is also committed to continuing to monitor the implementation of BPRs that are approved by City Council.

IBA Recommendation: Join the Mayor's Response

Revised Response: The recommendation has not yet been implemented but will be implemented upon completion of the required meet and confer process and City Council approval. The Mayor is committed to achieving costs savings through business process reengineering, efficiency

studies, and other efforts. There have been a total of 21 completed BPRs that have been docketed by the Mayor for City Council action. All have been approved by the City Council. ~~Previous~~-BPRs implemented to date ~~conducted~~ by the Mayor have achieved over \$39M in annual savings and over \$6M in additional cost avoidances. Council approval will continue to be sought on completed BPRs either after, or subject to, completion of meet and confer obligations with labor. The Facilities Maintenance BPR is one of three completed BPRs that have not yet been presented to the full City Council due to meet and confer obligations that are not yet complete. It is currently under staff review prior to meeting with labor. The labor organizations are no longer taking the position that BPRs cannot be implemented before a managed competition process is complete. Progress has been made with impacted labor organizations and the City continues to meet and confer, as required by law. The Mayor is also committed to continuing to monitor the implementation of BPRs that are approved by City Council.