

# PROCUREMENT POLICES AND REGULATIONS TASK FORCE

## MEETING MINUTES

April 23, 2015 – 4:00 p.m.

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*5<sup>th</sup> Floor Council Conference Room, Council Office Building*

### ***Members Present***

Wayne Cobb  
Eppie Hankins  
Daniel Parra  
David Robbins, Chair

### ***Members Absent***

Tom Creamer  
Buddy Henley  
Linda Moore

### ***County Staff Present:***

Karen Federman-Henry, County Attorney's Office  
Richard Melnick, County Attorney's Office  
Mary Anne Paradise, County Council  
Linda Price, County Council

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## **I. Call to Order**

The meeting was called to order 4:05 p.m.

## **II. Procurement Process and the Office of the County Attorney**

Mr. Melnick and Ms. Federman-Henry presented an overview of the role of the Office of the County Attorney (OCA) in the procurement process, and Chapter 11B regarding Procurement Law.

- Contracts over \$100,000 must have formal competition
- The Chief Administrative Officer is responsible for leading the business of the County.
- The Office of Procurement is now its own office, separate from the Department of General Services. The Department of Finance, Risk Management, and the Office of Management and Budget are involved in the procurement process.
- Contract sign offs are a four-step process, starting with the head of the using department and ending with the Director of DGS.
- Within the County Attorney's Office, 2 paralegals do preliminary intake and review of contract documents. An attorney reviews documents for form and legality of the contract. Six attorneys within the Office handle the bulk of contracts. Using departments are notified of any issues to be resolved.
- The Office has an internal checklist of common issues that come up during the negotiation process, and there is an e-contract resource center available on the County's intranet; preapproved forms have been created by OCA and Procurement for use by departments that do not have to be submitted back to the Office.
- Using departments must develop the contract's scope of work. There is no boilerplate template for this.
- The Office has a goal of 0 – 3 business days for internal review of documents. Instances where review has taken longer than 3 business days include documents

that have been sent back to the using department to address issues, or the assigned attorney is out of the office.

- The office doesn't generally review solicitations. This is only done upon request.
- Contracts include the scope of work, compensation, method of payment, priority of documents provision. Sometimes a price adjustment clause is included. A waiver from the CAO is required for price adjustments. Certain construction contracts include performance and payment bond terms, acceptance and testing clauses, and software development agreements. Software contracts include source code escrow agreements and Y2K provisions.
- The County Attorney's Office serves in an advisory function to using departments and the Contract Review Committee, and addresses issues brought forth by contract administrators or the Office of Procurement.
- OCA also assist with public policy legislation, respond to protests and MPIA requests, draft letters for pre-cure and cure notices, and advise on legal and regulatory provisions.
- The Contract Review Committee includes a representative from the Chief Administrative Officer's Office, Office of Management and Budget, the Office of Procurement and the County Attorney's serve as an advisor.
- *Question and Answer session: The following points were made or clarified following the presentation:*
  - Mr. Parra noted that forms for LSBRP on the internet have not been updated, and discourage small business owners. OCA will follow-up with the Office of Business Relations and Compliance about the forms. Mr. Parra also asked if the Office receives many solicitation protests – not many, was the answer provided by Ms. Federman-Henry. She also noted that the economy has usually driven the amount of protests.
  - Mr. Cobb questioned what is the correct way to measure the turnaround time of documents. Ms. Federman-Henry clarified that the turnaround time is for reviewing the form and legality of documents. The larger contracts can take longer than 3 days, and depend on the experience and expertise of the using department. It's hard to measure the length of time to review negotiation items as there are many stakeholders involved.
  - The County Attorney's Office will get involved if asked to help with vendors' questions.
  - Chair Robbins asked how the County knows the process is working. Mr. Melnick commented that the Office of Procurement staff has varying degrees of expertise and experience, and there is a significant learning curve for new employees. Also, the Contract Administrators in using departments usually perform this role in an 'other duties as assigned' capacity, which limits the amount of accountability. However, using departments should ask Procurement if they need help in developing contracts. He also noted issues outside of the County's control, such as State laws adding layers to the process. Also, new practices and patterns are constantly introduced and the technology hasn't quite caught up to those needs.
  - Mr. Parra said that contracts seem to go to the same business owners and questioned how others might succeed. Mr. Robbins noted the need for

increased transparency and suggested a questionnaire or outreach to Chambers of Commerce, and recommended have a metric to validate that the system is working.

- Ms. Hankins asked who ensures the proposal meets solicitation criteria. Mr. Melnick said the Quality Selection Committee reviews the contracts.
- Mr. Robbins expressed the view that the odds are stacked against potential contractors if a protest is filed.

### **III. Group Discussion/Future Meeting Plans**

- Mr. Robbins mentioned the discussion had with County Executive Leggett. He shared Mr. Leggett's desire that the Task Force cast a broad net.
- Mr. Robbins suggested the group review the minutes and revise their top 3 straw poll issues.
- Ms. Price will invite the Office of Business Relations to attend a future meeting and give a presentation on their office.
- A press release will be issued directing the public to complete a questionnaire accessible from the Task Force's website. A special inbox will be created for the responses.
- It was mentioned that the Task Force could also leverage DED's business database for questionnaire outreach.

### **IV. Approval of Minutes**

The minutes of March 26 and April 9, 2015, were unanimously approved by all Task Force members present.

The meeting adjourned at 5:28 p.m.

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