

Equitable Contracting and Purchasing Commission

Meeting Minutes – October 20, 2015

Meeting: October Meeting of ECPC

Date/ Time: October 20, 2015, 6:00 p.m. to 7:33 p.m.

Location: Portland Building, Room C

Chair: Bryant Enge, Director – Bureau of Internal Business Services (BIBS)

Secretary: Melissa Walton Hendricks, Staff – BIBS

In Attendance: Commissioners

- Marcela Alcantar, Alcantar & Associates
- Michael Burch, Pacific Northwest Regional Council of Carpenters
- Herbe Fricke, Oregon Native American Chamber
- Vicqui Guevara, Valley Growers Nursery & Landscape, Inc.
- Rosa Martinez, Professional Minority Group, Inc.
- Andrew McGough, Worksystems, Inc.
- Maurice Rahming, O’Neill Electric, Inc.

Excused: Commissioners

- Andrew Colas, COLAS Construction
- Tony Jones, Metropolitan Improvement Partnership

Welcome and Networking

- Chair Enge calls meeting to order, 6:00 p.m.
 - Welcomes commissioners and audience members
 - Invites everyone to network with one another for 10 minutes
 - Meeting called back to order at 6:10 p.m.
 - Commissioners Jones and Colas have requested excused absences in advance of the meeting

- Acknowledges State Representative Lew Frederick, who is in the audience
- Commissioner Rahming asks to recognize Commissioner Guevara for winning the Daily Journal of Commerce Oregon's "Women of Vision" award.

Auditor's Report Follow-up

- Audit Services Director Drummond Kahn, Sr. Management Auditor Tenzin Choephel, and former Sr. Management Auditor Beth Woodward gave a brief summary of the 2015 report, and were available for follow-up questions from the Commissioners.
 - Commissioners McGough and Alcantar asked about the Auditor's office enforcement authority.
 - Mr. Kahn explained that after one year their office plans to follow up with the city to see what progress they've made, and potentially do another audit report. Because the auditor is an independent office they cannot enforce anything against other offices because there would be no one to audit that enforcement. They only make suggestions, and entities like the ECPC are better suited for pressing the City for changes.
 - Commissioner Alcantar asked if the ECPC has authority to enforce recommendations.
 - Chair Enge clarified that the Commission is expected to go before Council and make recommendations to them. They can cite recommendations from the audit to make these changes.
 - Commissioner Guevara asked for clarification on if the ECPC has the authority to implement recommendations.
 - Chair Enge clarified that City Council has the authority, but that the ECPC was created to make recommendations to Council. As a group the Commission would need to decide which recommendations from the report to adopt, and then at least one Commissioner would need to go before Council to make the recommendation(s).
 - Commissioner Martinez raised concern that Council was planning to spend \$195 million on the Portland Building project without adopting the recommendations in the report.

- Auditor's office replies that they can only look backwards, and audit past behavior. The ECPC has the ability to look forward to new projects, and propose recommendations for things that will happen in the future.
- At 6:35 p.m. Chair Enge noted that we were over time for this topic
 - He recommended that the Commissioners go to City Hall tomorrow and make recommendations based on the Auditor's report, as individual members of the ECPC, but not as a recommendation from the ECPC. He noted that Commission was not ready to select targets, and instead should engage in more fact-finding
 - Commissioners Alcantar, Rahming, and Burch all expressed concern about moving forward too slowly.
 - Commissioner Rahming asked if anyone had a problem with taking the Auditor's office top five issues and presenting them to Council tomorrow
 - Commissioner Alcantar moved that the Commission adopt the top five issues as highlighted in the Auditor's report summary sheet:
 - In City Code, define the basis and clarify the priority among its objectives for the Procurement function
 - Increase transparency by distinguishing between groups subject to social disparity and emerging small businesses wherever applicable in data analysis, City Code, Council Directives, and City records.
 - Review social equity programs to ensure the City's investment is specific to groups that have been subject to disparate treatment.
 - Direct Procurement to track which types of certified businesses are benefitting from social equity programs. Review regular reports on progress toward the City's stated aspirational goals and outcomes to address identified disparities.
 - Ensure data reliability and completeness for purchasing activity analysis, performance measurement, and regular reporting.
 - Commissioner Burch seconds the motion

- Ayes: 7
 - Commissioner Alcantar
 - Commissioner Burch
 - Commissioner Fricke
 - Commissioner Guevara
 - Commissioner Martinez
 - Commissioner McGough
 - Commissioner Rahming
- Nays: 0
 - None
- Absent: 2
 - Commissioner Colas
 - Commissioner Jones
- The five recommendations (as listed above) are adopted.
- Commissioner Enge asks for volunteers from the Commission to attend the City Council meeting in the morning.
 - Commissioners Alcantar, Burch, Martinez, and Rahming agree to attend the meeting at City Hall at 10 a.m. on 10/2/15.

City's Baseline Numbers for PTE

- Melissa Walton Hendricks presented report to Commissioners on the City's utilization of M/W/ESB contractors for Professional Services (PTE) contracts for Fiscal Year 2013-14. Highlights from the report:
 - Less total money spent, but higher number of contracts than construction contracts (thus, each contract had a lower average value).
 - Better WBE utilization, but reduced MBE utilization compared to construction
 - Average value of a PTE contract is \$77,962.92.
 - Average value of a contract for an African American male: \$3,900.00
 - Average value of a contract for a Caucasian male: \$92,599.77.
 - Caucasian males are the only group that makes above average for the value of their contracts.
 - Caucasian males were awarded 188 out of 259 PTE contracts (72.5%), worth \$17,408,755.88 out of \$20,192,396.36 (86.2%).

Discussion of the Targets and Priorities of the ECPC

- Commissioner Guevara raised the issue of the classification of minority women by Procurement
 - Currently, the city uses a hierarchy in which anyone who is classified as an MBE is logged as MBE in the system regardless of other classifications. Thus, all minority men and women are categorized as MBE, and only white women are categorized as WBE.
 - Commissioner Guevara feels that this system is not clear. She wants a category for minority men, minority women, and white women so it is clear who is doing what.
 - Chair Enge agreed to meet with a representative from Procurement to find out why the city process is the way it is and report back to the commission.
- Chair Enge noted that the City Attorney will present on alternative contracting methods at next month's meeting. We will also revisit Commission targets and the audit report's recommendations at the meeting next month.
 - Multiple Commissioners begin asking questions about alternative contracting, and which bureaus are exempted.
 - Commissioner Rahming moved to ask the PDC and PHB for their M/W/ESB numbers
 - Commissioner Guevara seconded
 - Commissioner Fricke noted that he thought they had their own requirements for M/W/ESB
 - City Attorney Lisa Gramp was in the audience. She noted that their goals were very similar.
 - Ayes: 7
 - Commissioner Alcantar
 - Commissioner Burch
 - Commissioner Fricke
 - Commissioner Guevara
 - Commissioner Martinez
 - Commissioner McGough
 - Commissioner Rahming
 - Nays: 0
 - None

- Absent: 2
 - Commissioner Colas
 - Commissioner Jones
- Commissioner Enge also noted that we were going to be looking at subcontractor numbers, and that it takes time to get these numbers and process them.

Other Issues for Future Discussion

- Chair Enge then asked if there were any other issues Commissioners would like to discuss
 - Commissioner Burch raised the issue of staffing for the Commission, and asked if it was true we were only allocated 1 20 hour/week staff position.
 - Chair Enge confirmed this was the case.
 - Commissioner Burch moved that they get 1 FTE to support the Commission. He noted that they needed a full-time staffer if Council was serious about the mission of the ECPC.
 - Commissioner Rahming seconded.
 - Ayes: 7
 - Commissioner Alcantar
 - Commissioner Burch
 - Commissioner Fricke
 - Commissioner Guevara
 - Commissioner Martinez
 - Commissioner McGough
 - Commissioner Rahming
 - Nays: 0
 - None
 - Absent: 2
 - Commissioner Colas
 - Commissioner Jones
 - The commission formally moves to ask City Council to fund 1 FTE for the ECPC.
 - Commissioner Burch also raised the issue of Community Benefit Agreements and other social projects, and said he would like to take a look at those.

- Chair Enge said that we would consider these topics and will email the Commissioners regarding the topics for the November meeting.

Scheduling

- Chair Enge requested that the Commissioners set a recurring schedule for future meetings.
 - Commissioner Burch moved that the meetings be held on the third Thursday of the month at 6 p.m.
 - Commissioner Martinez seconded.
 - Ayes: 7
 - Commissioner Alcantar
 - Commissioner Burch
 - Commissioner Fricke
 - Commissioner Guevara
 - Commissioner Martinez
 - Commissioner McGough
 - Commissioner Rahming
 - Nays: 0
 - None
 - Absent: 2
 - Commissioner Colas
 - Commissioner Jones
 - Commissioner McGough will chair the November meeting in Bryant's absence.

Public Comment

- Jeff Moreland – contractor in Portland. This is very serious. The City Council is already thinking about changing the CBA tomorrow and you haven't made a decision yet. Also, Fred's response to the Auditor's report really concerns me. Is this all just an exercise in futility?
- Lew Fredrick – State Representative. I think you have the ability to publicize this in a way that we haven't had before. Not just a city report, but as a commission. Use your voice. The numbers we saw presented tonight are not surprising, but vocalize them. Secondly, please help pass this bill at the state level. The Mayor's office put in a bill to see if subcontractors are doing the work or are just shell companies. It provides enforcement action against

companies perpetuating fraud. Don't just talk about it – we need action. These numbers are incredibly upsetting. He also discussed two bills he passed during the 2015 legislative session that focused on contracting issues (HB 2716 and SB 584).

- Chair Enge thanked Rep. Frederick for his comments, and noted that we will put those two bills up on the ECPC website.
- James Faison – Faison Construction. I am a small general contractor, and also a subcontractor. We need to have good data on this. Please get us more and better data.
- Alex Colas – Colas Construction. I think it's a really good idea to take some action and push those five suggestions for City Council.

Commission Adjourned at 7:32 p.m.