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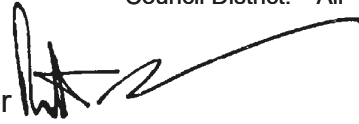
OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: February 11, 2022

CAO File No. 0220-05935-0000
Council File No. 21-1080
Council District: All

To: Honorable Members of the City Council

From: Matthew W. Szabo, City Administrative Officer



Subject: **ESTABLISHING THE OFFICE OF PROCUREMENT WITHIN THE OFFICE OF THE CITY ADMINISTRATIVE OFFICER**

RECOMMENDATIONS

That the City Council, subject to the approval of the Mayor:

1. Approve the transfer of the Office of Procurement from the Department of General Services to the Office of the City Administrative Officer (CAO) effective July 1, 2022;
2. Request that the Mayor include the recommended Office of Procurement staffing and expense account resources within the CAO in the 2022-23 Mayor's Proposed Budget; and,
3. Request that the City Attorney's Office draft the necessary ordinance language to establish the Office of Procurement within the CAO and to confer upon the Office of Procurement the responsibilities discussed in this report.

SUMMARY

Council Motion (Raman – Krekorian – O'Farrell) instructed the Office of the City Administrative Officer (CAO) to report on the details to establish a permanent Office of Procurement within the CAO with oversight over the citywide procurement process (C.F. 21-1080). This report includes the Chief Procurement Officer's (CPO's) recommended responsibilities, deliverables, governance mechanisms, and resources required to establish the Office within the CAO.

DISCUSSION

The Office of Procurement was established to take responsibility for all aspects of the procurement process which includes but is not limited to developing a citywide procurement strategy, providing oversight over the various procurement programs, training City staff, and reviewing the effectiveness of the City's various procurement programs. The following discussion outlines the benefits of establishing the CPO within the CAO, the recommended CPO responsibilities, and the recommended resources to establish the Office of Procurement within the CAO.

Establishing an Office of Procurement within the CAO's Office

The Office of Procurement is currently located within the General Services Department (GSD), transferring this Office to the CAO provides a number of benefits for the Office of Procurement. The CAO's Charter-mandated responsibility includes conducting research in administrative management for the improvement of the organization, policies, and practices for the purpose of promoting economy and efficiency in the conduct of City government. This responsibility aligns with the CPO's role over the City's procurement process. In addition, the CAO's involvement with the review of most contracts as a function of the Executive Directive 3 (Villaraigosa series, ED3) review provides the Office of Procurement an existing segue through which it can exert its responsibilities involving oversight over City departments' procurement functions without having to introduce new reporting structures.

In addition, transferring the Office of Procurement to the CAO addresses the inherent conflict of interest between the CPO's role in overseeing the City's procurement process and the GSD General Manager, the City's Purchasing Agent, who oversees the City's commodities purchasing program. Also, as an Office of Procurement within GSD, the CPO's budgetary needs will have to compete with GSD's 12 other operating divisions.

CPO RESPONSIBILITIES

The CPO/Office of Procurement's core responsibilities should include the following:

1. **Comprehensive Procurement Strategy.** A comprehensive procurement strategy would take into consideration the City's fiduciary responsibility, social, economic, and environmental policies and balances these ideals and responsibilities into an integrated procurement approach for the City's commodities, construction, and personal services contracts.

The City has various programs, ordinances, and directives that support local businesses, local hiring, worker retention, environmentally preferable materials and other goals. While there are designated administrative agencies who are responsible for implementing these various programs, the City lacks an entity that regularly reviews and reports on the effectiveness of these programs.

As the CPO develops the City's Procurement Strategy, subject to Mayor and Council approval, it should include a goal to regularly evaluate this strategy and recommend procedures that reduce the complexity of the City's procurement system and administrative burden for both City staff and vendors.

It is recommended that the CPO:

- Compile a list of all procurement related policies, programs, directives, ordinances, and other legislation;
- Propose a comprehensive procurement strategy that encompasses the various priorities that the Mayor and Council has outlined through these various programs;

- Develop a timeline to regularly review the effectiveness of the City's various programs; and
 - Evaluate and recommend methods to streamline existing City processes to facilitate the City's procurement process for City staff and contractors.
2. **Data.** Regular reporting to Mayor and Council on ongoing contract activities and citywide and department-level progress made toward achieving outcomes outlined in the Procurement Policy Strategy to determine the actual impact of the City's Procurement Strategy. In addition, contracting data provides insight on future contracting opportunities and informs the City's outreach efforts as well as timing for interested vendors and proposers to prepare for upcoming opportunities, which can potentially increase competition on City contracts.

The CAO is currently tasked with compiling annual reports submitted by all City departments regarding executed contracts with an amount of over \$1,000. (Division 10 Article 3, Section 10.21). Further, the CAO is also tasked with providing semi-annual reports on new or amended contracts that will subsequently require Council approval (Division 10 Article 3, Section 10.22). This responsibility has been largely assumed satisfied by the compilation of the contractual services schedule through the City's annual budgetary process.

The completion of these reporting requirements outside of the budgetary process would provide a renewed and focused approach on the City's contracting activities.

It is recommended that the CPO:

- Be designated to complete the annual and semi-annual reporting requirements;
 - Determine the level of departmental participation and technical specifications required to be able to auto generate this reporting requirement, including other contract related reporting requirements, using RAMP; and,
 - Audit the current usage of Authority for Expenditures as it relates to the purchase of goods and services.
3. **Procurement Oversight and Support.** Provide citywide oversight, support, and expertise in drafting solicitations for bids, managing competitive bidding processes, negotiating and executing contracts.

City departments rely on individual staff expertise to provide guidance on the procurement process, which allows for potentially inaccurate transfer of knowledge. Designating the CPO with the oversight and responsibility to provide the expertise in the drafting of solicitations through the execution of the contracts creates the first step to standardizing the City's procurement process. It allows the knowledge vacuum within smaller departments or departments with high staff turnover and infrequent procurement activities to look to the CPO to fill the gap. Further, this provides an added benefit of also reducing the amount of time to develop solicitations.

The City currently has Standard Provisions developed by the City Attorney's Office. The City should also have standardized templates for Request for Bids, Proposals, and Qualifications for construction, commodities, and personal services contracts. Any deviations from the template

should be highlighted as a separate attachment rather than a change to the template. Departments should only be responsible for drafting the scope of work, timeline and deliverables, remedies to cure, and other department specific information. Having standardized templates also expedites and simplifies the review process for vendors or contractors who chose to work with multiple City departments.

It is recommended that the CPO:

- Develop templates for Request for Bids, Proposals, and Qualifications for construction and personal services contracts;
- Coordinate regular updates on the City's Standard Provisions language, solicitation attachments and associated templates and forms for each program; and
- Assess the level of support required by each City department.

4. **Citywide Professional Services Contracts.** City departments execute a number of service contracts for similar services. The extent of overlap and monetary value of these similar services represent a duplication of effort wasted in the development and conduct of procuring similar services in addition to the missed opportunity of applying economies of scale. City currently lacks an organized depository of contract information that department staff can use to easily determine existing contracts for specific services.

Establishing citywide contracts would result in time savings for both City staff and vendors. In addition, both the City and the vendor can also benefit financially from the execution of citywide contract.

It is recommended that the CPO:

- Provide a report on similar services contracted by various departments and volume of contracted activity by each department;
- Designate the department to be responsible for developing the citywide contract, and allow other City departments to piggyback on the contract; and,
- Offer technical assistance to the department designated to develop the citywide contract.

5. **Timely Payment to Vendors.** Although this Office cannot verify the average time the City takes to pay its vendors, it is a commonly reported anecdote that the City does not pay its vendors in a timely manner.

The delay in payment can potentially create a cash flow issue for small businesses and put businesses into a precarious financial position. Therefore, the City's efforts in encouraging small business participation should also be accompanied by efforts to monitor and ensure reasonable payment processing times.

It is recommended that the CPO:

- Work with the Controller's Office to develop an FMS Interface to create a reporting mechanism to determine the time it takes to pay vendors within the RAMP platform.

6. **Monitor Subcontractor Utilization.** The City has several programs that monitor subcontractor utilization for various purposes. Construction contracts have mandatory subcontracting minimum requirements wherein a specific percentage of the work to be performed is required to be set aside for subcontractors. The Business Inclusion Program requires that the prime contractors or proposers conduct outreach, utilize selected subcontractors, and maintain pledged participation levels based on the results of the outreach. The Local Business Preference Program also allows for the use of a local subcontractor to receive up to five percentage points preference in the evaluation of the main proposer's bid or proposal.

The creation of a separate subcontractor and supplier diversity program is not recommended. However, the review of the effectiveness of existing subcontractor utilization programs are part of the recommended actions in the development of a Citywide Procurement Strategy, and the contractors' adherence to contract compliance requirements throughout the term of its agreement with the City is part of the contract compliance review functions that is discussed further in this report.

7. **Business Certification Program.** The Bureau of Contract Administration certifies qualified firms for Disadvantaged Business Enterprises (DBE), Airport Concessions Disadvantaged Business Enterprises (ACDBE), Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Small Local Business Enterprises (SLBE), and Local Transitional Employer (LTE), with the goal of promoting opportunities for these business enterprises that want to participate in the City's procurement process.

The CPO should review the Program to ensure that the program design is aligned with established policy priorities of increasing participation by these certified business.

It is recommended that the CPO:

- Provide a report, in collaboration with the Bureau of Contract Administration, on the amount of City contracting opportunities that were awarded to businesses, newly certified by the City, during the past three years.
8. **Developing New Standards.** New procurement related ordinances inclusive of social and environmental standards should be in alignment with the City Charter and ordinances and Citywide Procurement Strategy to be developed by the CPO, in collaboration with the City Attorney, and subject to Mayor and Council approval.
9. **Compliance Review.** BCA administers the following contract compliance requirements - Living Wage, Prevailing Wage, Local Business Preference Programs, Business Inclusion Program, Contractor Responsibility Program, First Source Hiring, Equal Benefits Ordinance, Slavery Disclosure Ordinance, and more.

The CPO will be responsible for working with BCA to ensure that contractors remain in compliance with the terms of their agreements with the City for the duration of those

agreements. Further, the CPO's effort should be focused on the overall effectiveness of the City's programs in meeting the Mayor and Council goals.

It is recommended that the CPO:

- Work in collaboration with BCA to ensure contract compliance programs remain effective and relevant.

10. Citywide System Infrastructure. Managing the data and technology associated with procurement and developing a unified citywide system infrastructure.

The City currently has various systems involved in the procurement process. In many cases, the development of procurement related reports involve a time consuming manual process because not all information is housed in a single system and inconsistency in which departments report information.

In light of the various reporting functions and oversight responsibilities that the CPO will have over various contract compliance programs and citywide contracting activities, the development of an end-to-end procurement platform that would simplify data gathering and reporting requirements becomes a necessity.

It is recommended that the CPO:

- Develop a plan with an estimated timeline for the development of RAMP to include further enhancements inclusive of the unification of the City's various procurement related systems, and citywide reporting functions which include but not limited to monitoring timely payment of contractors and its subcontractors.

11. Stakeholder Relations. The Office of Procurement should also perform the duties outlined for the Office of Contract Relations, established through Executive Directive 27 (Villaraigosa series). In addition, with the evolving and expanding functionalities of the Regional Alliance Marketplace for Procurement (RAMP, replacement to the LABAVN) as a regional opportunities marketplace, it is all the more imperative that the City maintain external stakeholder relationships to ensure that they remain engaged in the process and continue their partnership through the utilization of the system.

Further, with the recommended shift in focus from monitoring compliance to program effectiveness, maintaining stakeholder relationships will be critical in receiving feedback on the impact of the City's programs from the businesses involved in the procurement process to ensure that the City's Strategy remains relevant and beneficial to all parties involved.

GOVERNANCE MECHANISM

Procurement Funding. The CAO budget analysts annually review each City department's Contractual Services account as part of the City's annual budgetary process. This review is limited to ensuring that the amount of funding is sufficient based on the anticipated contract expenditures for the ensuing fiscal year. However, the economies of scale that may be attained through the identification and consolidation of the solicitation process for citywide services as well as prompt payment discounts that can be achieved are outside the scope of the current annual budget review process.

The CPO team would coordinate with CAO budget analysts to ensure that any savings identified or additional costs as provided by incentives are accurately accounted for in the development of a department's Contractual Services account budget.

Change Mechanisms. The CAO uses the ED3 process to review the department's procurement process and compliance to related contractual requirements. In the event of minor deficiencies, the CAO would note these deficiencies in the report and include in the ED3 report recommendation instructions to complete the necessary compliance documentation or action steps prior to execution of the contract. When significant deficiencies are identified or the department repeatedly fails to complete the necessary documentation or action steps as instructed in prior ED3 reports, the CAO will work with the department to resolve these issues prior to releasing the ED3 report with a recommendation to execute the contract. Although the ED3 does not prescribe the level of review to be accomplished, the CAO uses this mechanism to ensure that the department has followed the City's procurement process, the selected contractor has submitted the necessary contract compliance documentation, and funding is available to meet the contract ceiling outlined in the proposed contract.

The CPO team may also use the ED3 review process to either replace or complement the CAO's contract review process.

Departmental Procurement Liaison. The development of departmental service agreements with expectations, duties, and roles of procurement liaisons within each department is not recommended. However, Departments are currently required to designate one or more staff as Departmental Contract Coordinator(s) to serve as the centralized contracting resource for the department or bureau. This staff ensures compliance with each step of the contracting process, has basic information on the proposed contract, or is able to identify the appropriate department representative responsible for the proposed contract (C.F. 03-1673).

It is recommended that the CPO be designated as the authoritative resource on the City's procurement process and that departments be required to adhere to the CPO's guidance on all procurement related issues.

PROPOSED BUDGET REQUEST

Staffing Resources:

The CPO’s ability to perform its duties and responsibilities are contingent upon the availability of sufficient resources.

Prior to 2021-22, the CPO’s staff was composed of the CPO, 2 Management Analysts loaned from the GSD, and 1 Management Assistant loaned from the Bureau of Contract Administration.

In 2021-22, Council provided the CPO with 1 Senior Management Analyst II, 1 Senior Management Analyst I, and 3 Management Analysts. In addition, Council provided funding for marketing and outreach services (\$250,000).

For 2022-23, the CPO requests the following resources through the GSD’s proposed budget to support the CPO’s expanding responsibilities: 1 Chief Management Analyst, 1 Senior Management Analyst II, 9 Management Analysts, 1 Accounting Clerk, 1 Senior Administrative Clerk, and expense account funding.

	Regular ¹	Resolution ²	New ³	Total	Amount
Salaries					
Prima Program Manager ⁴	1			1	\$ 225,235
Chief Management Analyst ⁴			1	1	137,635
Senior Management Analyst II ⁴		1	1	2	286,460
Senior Management Analyst I ⁴		1		1	127,088
Management Analyst ⁴	2	3	9	14	1,145,915
Accounting Clerk ⁵			1	1	53,006
Senior Administrative Clerk ⁵			1	1	53,182
Expense					
Contractual Services					500,000
Office and Administrative					31,000
GRAND TOTAL					\$ 2,559,522

¹ Regular. These are regular authority positions within GSD’s Departmental Personnel Ordinance. Funding and position authority will have to be transferred to the CAO if the transfer of the Office of Procurement is approved.
² Resolution. These are resolution authority positions within GSD that were authorized in FY2021-22 and subject to annual approval through the City’s budgetary process.
³ New. Nine-months funding for these new positions have been requested through the City’s budgetary process for FY 2022-23.
⁴ GSD Wages and Count used to calculate the cost of these positions
⁵ CAO Wages and Count used to calculate the cost of these positions

Transferring the Office of Procurement to the CAO will entail a functional transfer of the existing staff from the GSD to the CAO. While the table above represents the existing and requested resources for the Office of Procurement as included under GSD, the specific position authorities and expense costs may need to be reevaluated if this Office becomes a new Division of the CAO.

The CAO will work with the Chief Procurement Officer as well as the Mayor's Office to evaluate resource needs for inclusion in the 2022-23 Budget. In addition, as the CAO currently does not have sufficient office space for these additional positions, the Office would be required to work with the Municipal Facilities Committee to allocate additional office space to the CAO for this new function.

FISCAL IMPACT STATEMENT

Approval of the recommendations in this report will not result in an immediate General Fund impact. However, funding for new positions and expense accounts in the amount of \$1.56 million, continued funding for resolution authority positions in the amount of \$0.58 million, and transfer of funding for regular authority positions from the GSD budget in the amount of \$0.42 million, totaling \$2.56 million is required to establish the Office of Procurement within the CAO.

FINANCIAL POLICIES STATEMENT

To the extent that this report takes into consideration the ongoing costs of establishing the Office of Procurement within the CAO, it is in compliance with the City's Financial Policies.