

**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: October 17, 2019

TO: Honorable Members of the Ad Hoc Committee on Comprehensive Job Creation Plan

FROM: Sharon M. Tso ^{KEK}
Chief Legislative Analyst

Council File No: 19-0078
Assignment No: 19-01-0058

Compete4LA Regional Procurement Portal Proposal

SUMMARY

On January 23, 2019, Motion (Krekorian – Harris-Dawson) was introduced regarding the review of the LABCi Small Business Feasibility Study (Feasibility Study) concerning “Compete4LA” (C4LA), a regional procurement portal focused on engaging small and underserved businesses. The Motion was considered at the January 30, 2019 Special Meeting of the Ad Hoc Committee on Comprehensive Job Creation Plan, during which representatives from the Los Angeles Business Council (LABC) provided an overview of the Feasibility Study.

The Motion directed the Chief Legislative Analyst, with the assistance of the City Attorney, City Administrative Officer, Chief Procurement Officer, and the Information Technology Agency, to analyze and assess the efficiencies or benefits that may be achieved through the proposal, a potential legal framework for implementation of the proposal, and the overall budgetary needs necessary for implementation. This report assesses the governance structures presented in the Feasibility Study and provides a finding regarding the most feasible option, analyzes and assesses the potential benefits of the proposal and the concept of a regional procurement portal at large, and provides an analysis of potential budgetary needs for implementation of the C4LA proposal.

The most probable effective governance model for a Compete4LA procurement portal would be an independent 501(c)(4) entity. While the City would be precluded from contributing resources to the formation of C4LA without a contract, the City would be able to post procurement availability information on a portal. All procurement would need to be completed through the City’s procurement process. In order to identify the potential need for regional procurement portal, the Small Business Commission should be requested to identify gaps in service to small businesses.

CLA RECOMMENDATIONS:

That the City Council:

1. Request the Small Business Commission and instruct the Economic and Workforce Development Department (EWDD) and the Bureau of Contract Administration (BCA), with the assistance of the City Administrative Officer (CAO), Mayor’s Office, and the Chief Legislative Analyst (CLA), to report with recommendations to create policy objectives for small business engagement and procurement;

2. Instruct BCA, with the assistance of relevant departments, to report on resources needed to provide adequate monitoring for the Business Inclusion Program; and
3. Direct ITA to report on the feasibility and funding needs for implementation to integrate regional contracting functionality to LABVN as well as other improvements which may help achieve small and underserved business engagement efforts.

DISCUSSION:

“Compete4LA,” (C4LA) proposes the creation of a regional procurement portal for the Greater Los Angeles Region which would advertise contract opportunities posted by both public and private agencies. C4LA also proposes that the online portal be accompanied by support functions including a help desk and technical support for users. The portal and accompanying services would be free to users. The goal of the C4LA proposal is to help local, small, and underserved businesses in the Greater LA Region to find, win, and deliver business to public agencies and the private sector.

As outlined in the feasibility report provided by the LABC, the portal would be operated through a separate, self-sustaining entity governed by stakeholders from both the public and private sectors. The proposed portal would also allow communication between suppliers at different levels of the supply chain and provide certification assistance to small businesses.

Participating organizations would be able to post their opportunities onto the regional portal for advertising and the system would notify any suppliers who, based on the provided information, may be eligible or interested in responding to the opportunity. A potential supplier would be able to review and if desired, respond to the opportunity. Responses received would be used to provide an advisory shortlist of eligible businesses for the posting organization. Those businesses would be notified of their potential eligibility by C4LA and be invited to apply to the posting organization’s own procurement process. Alternatively, organizations may opt out of the shortlist function and simply have their opportunities advertised by the portal.

A similar CompeteFor program was implemented in London in anticipation of the contracting opportunities to be generated as a result of the 2012 Olympic and Paralympic Games. According to the Feasibility Study, implementation of the program resulted in the successful registration of 167,000 businesses and resulted in 75 percent of contracts being awarded to small and medium sized businesses. Following the program’s success in London, the London City government explored the possibility of continuing the service beyond the 2012 Games. Previously funded by Britain’s Regional Development Agencies, BiP Solutions, a Scotland-based procurement technology company, was provided a contract to continue the program through the provision of value-added services.

The C4LA proposal, as outlined in the Feasibility Study, was evaluated by the CLA, CAO, City Attorney, BCA, ITA, and the Chief Procurement Officer. Based on the information provided, an evaluation of C4LA’s potential governance structure, benefits, and necessary budget was performed.

Governance Structure

The Feasibility Study recommends a Joint Powers Agency (JPA) or 501(c)(3) non-profit organization as potential governance structures for C4LA. The City Attorney's analysis supports a finding that neither of these governance structures are likely to be feasible. The creation of a Joint Powers Authority would present several legal challenges and would preclude any private sector entities from participating. As proposed, C4LA is envisioned to be jointly operated and utilized by public agencies as well as private sector stakeholders. As codified in the Joint Exercise of Powers Act which governs the creation of JPAs, the formation of a JPA is limited to two or more public agencies, and does not allow for the inclusion of the private sector partners. The formation of a 501(c)(3) for the governance structure would also be incompatible with the purpose of C4LA. The 501(c)(3) public benefit corporation structure is governed by the Internal Revenue Code (26 U.S.C. Section 501) and is limited to the following purposes: religious, educational, charitable, scientific, literary, public safety, fostering of national or international amateur sports, or to prevent cruelty to children or animals. The C4LA proposal would not be compatible with any of these eligible purposes.

Because the two primary governance structures are not viable, an effort to identify other governance models was made, with the objective of identifying a model that would allow the City to maintain its authority in the procurement process while allowing C4LA or another similar organization to contract with public agencies at various levels. With consideration of the objectives of C4LA and the Charter, Municipal Code, and Administrative Code of the City, a 501(c)(4) social welfare organization would be a potentially viable governance structure for the C4LA proposal. This structure would allow the City to address several aspects of the C4LA proposal that may be a cause of concern under the current proposal.

As a 501(c)(4) social welfare organization, C4LA (or another organization) could be awarded a contract for operation of a regional procurement portal through an open and competitive Request For Proposals (RFP) process, requiring that services are provided in accordance with the City of Los Angeles' contracting process, and prevent any contradictions with the City Charter. An open, competitive RFP process would be conducted by the City to set the scope of work and the objectives of any proposed regional procurement portal, allowing service providers to bid for a regional procurement portal service that meets City priorities. C4LA would be able to respond to that RFP.

FilmLA, which coordinates film permitting processes throughout the County and simplifies the process for potential customers, was established and provides services to the City through a similar structure. Through the execution of individual contracts with differing jurisdictions, FilmLA has the flexibility to operate in accordance with the regulations and objectives of various agencies. C4LA could operate in a similar fashion.

Any contract entered into by the City for a regional procurement portal should ensure that the City's own contracting authority is not compromised. Currently, individual City departments post available opportunities to the Los Angeles Business Assistance Virtual Network (LABAVN). Following the submission period, all responsive bids are evaluated and an eligible supplier is

selected by the department which posted the opportunity. This process is governed by the Los Angeles Municipal Code, the Los Angeles Administrative Code, and the Los Angeles City Charter. These provisions are meant to ensure a transparent and equitable contracting process.

Accordingly, any participation in a regional procurement portal should be limited to advertising City opportunities without altering the City's own procurement process. Although the shortlist aspect of the C4LA proposal is meant to be solely advisory, it is recommended that any potential participation in C4LA or any regional portal be limited to advertising opportunities. The C4LA proposal also contains aspects which are not in line with current City practice, therefore in order to implement these requirements, amendments to the Charter, Administrative, or Municipal Codes may be required.

Benefits and Efficiencies of C4LA and a Regional Procurement Portal

Prior to examination of any benefits or efficiencies that the implementation of the regional procurement portal described in the Feasibility Report may bring, it is important to understand that a "regional procurement portal" and the C4LA proposal are not mutually inclusive. While the C4LA proposal may be focused on the implementation of a regional procurement portal, the C4LA proposal includes a range of services such as an engagement team, interoperability team, and supplier mapping. These additional services are solely ancillary features of the C4LA proposal and may not be a component in other regional procurement portals. Therefore it is important to distinguish the benefits or efficiencies which may be achieved through the concept of a regional procurement portal and those that may be achieved specifically through C4LA.

The implementation of any regional procurement portal, whether by the City itself or through a partner agency, would result in benefits for businesses in the City. The opportunity to advertise the City's contracting opportunities on a regional portal would provide the ability for the City to reach an increased number of suppliers. The number of suppliers accessible to the City through a regional portal would likely be a substantial increase over the amount that can be accessed solely by an individual agency. Aggregating the contracting opportunities from several public agencies may expose City contracts to suppliers who have been previously not aware of contracting opportunities with the City. This exposure would attract suppliers that work on a wide range of contracts and prime suppliers could potentially be exposed to sub-contractors with whom they have previously lacked contact. Access to an increased number of suppliers would lead to the potential diversification of suppliers for City contracts, potentially resulting in more competitive pricing and service provision for contracts. More competitive pricing for contracts throughout the City could generate savings for contractual services.

For suppliers on every level of the supply chain, having all contracts posted in a single location would simplify the search for opportunities, reducing effort to monitor multiple listings. This would provide the most notable advantage to local, small, and underserved businesses which often lack adequate capacity to examine multiple portals for opportunities and would provide access to more opportunities and business partners.

Accordingly, the C4LA proposal would align with the City's small business policy objectives, as outlined in the Comprehensive Job Creation Plan and the Comprehensive Economic

Development Strategy, by helping the City engage with an increased number of small and minority businesses. Implementation of the C4LA proposal could help in providing support to underrepresented businesses, attracting and retaining businesses, and providing small business services. Supporting small business has been a central policy objective of the City as a result of the potentially induced effects of small business success. Small businesses represent a substantial part of the City economy and provide a substantial number of jobs in the City. Helping small businesses succeed and grow would contribute to the City's economic development goals.

Supply chain tracking and reporting would also help in tracking contracts awarded and other trends in the regional procurement market. The information provided by C4LA could help develop additional strategies to engage small business.

Because the City is prohibited from giving preference to underserved businesses when evaluating contract bids, targeted outreach is crucial in ensuring equity in the City's procurement process. The City's Business Inclusion Program (BIP) requires prime contractors to perform outreach to certified businesses, however, a significant barrier to the effectiveness of BIP is the inability of contractors to find eligible, qualified sub-contractors. Compliance and monitoring has also proven challenging due to lack of adequate information and resources. According to the Feasibility Study provided by LABC, C4LA would help suppliers at every level communicate and form new supply chain relationships, complementing the objectives of the BIP.

The regional portal and the additional services proposed by C4LA reflect the priority of providing benefit to the business community. The help desk support aspect and other support features of C4LA would provide a compliment to the small business support efforts currently being undertaken by the City. Proposed value-added services such as education and training may lead to increased expertise in navigating the bidding process and identifying business opportunities. Supplier certification support, which would notify suppliers of their eligibility to apply for third party certifications, may help expand the number of certified businesses in the region. Allowing the private sector to participate in a regional procurement system, as proposed by C4LA, would open the City's opportunities up to suppliers that have traditionally provided services for the private sector, and may not have previously engaged in public contracts. This would further the diversification of suppliers and allow businesses to create new supply chain relationships. The ability to host private sector contract opportunities would also increase the accessibility of the opportunities that will be created as a result of notable upcoming events such as the World Cup, Super Bowl, and the 2028 Olympics.

A regional portal such as C4LA would produce benefits for the City of Los Angeles, though, it is important to also assess any potential ancillary effects of implementation of a regional portal. The benefits that the C4LA may bring to small business are based on the assumption that increasing the ability of small business to find contracting opportunities will result in an increased ability to win contracts. Simply increasing access to contracting opportunities will not guarantee a significant shift in the proportion of contracts awarded to small or underserved businesses. C4LA would not address the barriers to small business already existent within the City's own procurement system, including differing evaluation criteria among departments and complicated requirements small businesses have difficulty meeting. In addition, opening competition to

regional suppliers would increase the competition from both large and small businesses outside the City, potentially becoming a disadvantage for businesses based within the City of Los Angeles.

The County of Los Angeles (County) and the LA Chamber of Commerce are collaborating on a regional procurement proposal called “OneLA,” therefore, there is no guarantee that multiple regional portals will not operate concurrently with any portal utilized by the City. The City would also generally be required to share information regarding contracting opportunities requested by any agency due to the public nature of the information. Concurrent operation of any other regional portal would reduce the effectiveness and benefits that may be achieved by any individual regional portal proportionately to the amount of regional portals operating concurrently.

A regional procurement system would be most effective once the City has identified the barriers currently existing within our procurement process to small businesses and has addressed those issues in a more focused manner. As stated in the Feasibility Study, the objective of C4LA is to help small and underserved businesses. The proposal is not focused on improving the City procurement process or advancing City priorities. The City should ensure that the objectives of any regional portal align with the City’s own priorities. Further, the City should cooperate with other regional governmental agencies to explore the possibility of participation in a regional procurement portal.

Budget

According to the Feasibility Study, the start-up costs for the establishment of C4LA is estimated to be \$4,250,000 over a period of four years. The first year, which includes planning and set up, is projected to cost \$1,250,000. The following three years of operation are projected to cost \$1,000,000 annually. These costs are based on the establishment of the CompeteFor system implemented in London. The CAO is unable to complete a full evaluation of the budgetary resources necessary for implementation; they would require a set scope of work, and knowledge of any changes to the City’s procurement process, to provide a more accurate cost estimate. At this time, there are several aspects of the proposal which are likely to change prior to implementation of the program. These factors include scope of services provided and the governance structure of the program. Actual costs will be determined by the number of participating organizations as well as the volume of users. These factors could translate into increased staffing and administrative costs which cannot be foreseen with the information provided by the Feasibility Study. In addition, C4LA is intended to be free to users, with value-added services to contribute to the sustainability of C4LA. The feasibility of this model cannot be evaluated without the scope and cost of the proposed value added services, as well as an estimate of the volume of users that would opt to pay for those services. Because the model is projected to be self-sustaining, C4LA is envisioned in the Feasibility Study to result in minimal costs to the City.

Beyond the costs for the establishment and operation of C4LA, it would also be necessary to determine if implementation would require additional resources dedicated to coordinating with the C4LA. In order to advertise the City’s contracting opportunities on C4LA, City staff may be required to perform further work posting to both C4LA and LABAVN. This process may also potentially require additional training and resources for City staff. Additional procedures for use of C4LA that may require training are also currently unknown. A change in the City’s own

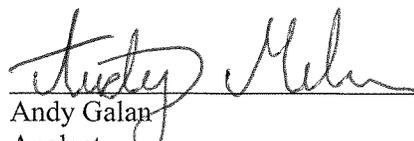
procurement regulations arising from implementation of C4LA would result in the need for monitoring and compliance. In the future, any changes in processes or procedures enacted by C4LA would have a budgetary impact on the City. The implementation of C4LA would not result in efficiencies for the City and would therefore not result in any cost savings.

C4LA calls for cooperation of several regional entities such as the City of Los Angeles, the County of Los Angeles, Metro, DWP, and the private sector to partner on Compete4LA and provide their contracting opportunities. C4LA would need substantial contributions from all or several of the participating agencies to gather the required start-up costs. If the City Council elects to participate in a regional procurement portal program, the Bureau of Contract Administration should be directed to prepare an RFP. The scope of work for that RFP would determine the range of funding needed. Final costs would further vary based on proposals received.

Conclusion

Implementation of C4LA or any regional procurement portal may have transformative benefits, but there is no guarantee that investment in C4LA is the most fiscally effective or feasible strategy to achieve the City's procurement policy objectives. The services provided by C4LA are not tailored to specifically address the City's procurement objectives or issues in the City's procurement process. In order to address the City's objectives and inefficiencies, additional measures should be taken to improve upon the City's own procurement process including LABAVN. Barriers and inconsistencies throughout the City's own procurement process should be addressed through a collaborative approach. The feasibility of further improvements to LABAVN should also be explored, including the feasibility of implementing a regional portal through LABAVN. These measures may also encompass benefits that could be provided by C4LA.

An effective first step would be the creation of small business engagement goals. The City recently enacted the Small Business Commission to improve business opportunities for this critical sector of the City's economy. The Commission should be engaged to develop those goals, so that the City's actions align with the needs of small business. Resources to track useful metrics within LABAVN could be used to identify additional barriers to access and craft more specific, and detailed policy solutions. If the Council would like to participate in a regional procurement portal, the appropriate City departments should be directed to work with the County and other regional governmental agencies to align objectives, support the development of a 501(c)(4) entity, and develop procedures to most efficiently post opportunities to that portal.


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