

Memorandum

TO: MAKING GOVERNMENT WORK BETTER COMMITTEE **FROM: Scott P. Johnson**

SUBJECT: SEE BELOW

DATE: November 3, 2005

Approved

Date

SUBJECT: SUPPLEMENTAL REPORT - REQUEST FOR PROPOSAL PROCEDURES AND OTHER PROCUREMENT REFORMS

RECOMMENDATION

1. Acceptance of supplemental report on the City's Request for Proposal Procedures and other Procurement Reforms.
2. Review, comment and forward the proposed additional procurement reforms outlined in this supplemental report to the City Council for consideration and approval and to direct the City Attorney to take the necessary actions.

BACKGROUND

On September 15, 2005, staff partially presented an extensive report to the Making Government Work Better (MGWB) Committee outlining proposed reforms to the City's request for proposal procedures and other procurement reforms. Since staff was unable to complete the presentation due to timing constraints on the September MGWB meeting, the item was continued to the November 2005 MGWB Committee meeting.

ANALYSIS

This supplemental report addresses additions to the topics of Conflict of Interest, the proposed Protest Procedure, and the acquisition of a Financial Management System that includes modules for a Supply Chain Management System. Additionally, this report recommends an administrative procedure for complex and high dollar value Request for Proposals in lieu of submission of a Procurement Strategy to Council for approval.

Conflict of Interest

The September Committee report did not address the roles and responsibilities of elected officials regarding procurements as outlined in the Council approved Procurement Process Integrity Guidelines (PPIG) for the New City Hall Converged Network Request for Proposal.

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To expand the application of the approved PPIG, the forthcoming City policy titled "Conflict of Interest in Procurement Processes" will include all elements of the Council approved guidelines as they pertain to City staff and Elected Officials. Specifically, it will address that all questions regarding an ongoing procurement shall be directed to the City's Purchasing contact until Purchasing announces the selected proposer or bidder. Staff expects to present the updated policy to the City Council by January 2006.

Protest Procedure

Supplement to Recommendation Ic (September 15, 2005) – Adoption of Formal Protest Procedures in the Municipal Code

On October 25th, Council approved a process streamlining recommendation to allow Public Works contracts less than \$1,000,000 to be awarded by the Director of Public Works. This recommendation included the requirement that unresolved formal written protests be brought to the City Council for a hearing. To ensure consistency with this Council directive, staff recommends that the City Council serve as the final appeal authority of a protest versus the City Manager, as recommended in the September Committee report.

Specifically, interested parties in a procurement may submit a protest of the City's award decision or the City's determination that a submitted solicitation is non-responsive and/or non-responsible to the City's Chief Purchasing Officer detailing all grounds for the protest and providing all supporting documentation within ten days of the City's announcement of the selected solicitation or the City's determination that a solicitation is non-responsive and/or non-responsible. Failure to clearly state the grounds for the protest and provide supporting documentation shall be deemed a waiver of all protest rights and subsequent appeal rights to the City Council.

The Chief Purchasing Officer will review the grounds for the protest and all supporting documentation. After review of a bidder's or proposer's Protest, the Chief Purchasing Officer will provide written notice to the bidder or proposer of his/her determination, detailing the factual basis for the City's determination. If the protesting party desires to appeal the Chief Purchasing Officer's determination, the protesting party must submit a written appeal addressed to the City Clerk within ten calendar days of service of the Chief Purchasing Officer's determination. Failure to file a timely written Appeal shall bar consideration of the Appeal to the City Council. The written Appeal shall include a detailed factual response to the Chief Purchasing Officer's determination, including all supporting documentation. The Appeal will be heard by the City Council. The City Council's decision will be final. The proposed protest procedure will extend the procurement of goods and services at a minimum of ten days, if no protest is filed and up to several weeks, if the protesting party chooses to exhaust this administrative remedy.

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Acquisition of a Financial Management System that Includes Modules for a Supply Chain Management System

Supplement to Recommendation III (September 15, 2005) – Acquisition of a Financial Management System that Includes Modules for a Supply Chain Management System

During next year's budget process, assuming the Council approves a proposal to begin the acquisition and implementation of a new Financial Management System, including procurement modules, it is anticipated that the implementation will not be completed within two to three years. To bridge the need for a contract management, online vendor registration, on-line bid notification and bidding, enhanced procurement reporting capabilities, outreach to small and local businesses, and collection of emergency contact information from vendors, staff recommends to contract for an e-procurement system. Preliminary cost estimates range between \$50,000 and \$100,000 per annum for the entire procurement solution. This solution would also allow Purchasing to compile and track small and local businesses information, including outreach efforts, and the award of contracts and purchase orders. The Finance Department plans to request the funding for this interim solution during the FY 2006 – 2007 budget process.

Council Directives and Source Selection Plan

Recommendation: implement a Source Selection Plan in lieu of the procurement strategy previously approved by Council on technology related procurements above \$1 million.

On January 25th, 2005, Council directed staff to present a procurement strategy to Council for technology related procurements with an estimated contract amount above \$1 million. The procurement strategy directives required a staffing assessment, a cost assessment for the project including implementation costs, a list of evaluators, and a timeline allowing for timely noticing of the award recommendation on the Council agenda. The directives were approved to ensure a consistent approach to the procurement of technology valued above \$1 million.

To build on the outlined need for a consistent approach to the procurement of goods and services, and specifically IT purchases valued above \$1 million, staff expects to complete a Request for Proposal (RFP) procedures manual by the end of this calendar year. To specifically address the Council Directives on a procurement strategy, staff recommends an alternative solution called a Source Selection Plan (SSP).

Best Practices in public procurement stipulate that for large and complex procurements, the Purchasing organization develop a SSP in conjunction with the respective City Department(s). The SSP addresses the allocation of staff and staff time, the timeline for the procurement, the procurement method, the Scope of Work, the estimated cost of the procurement and respective funding source, and the evaluation factors and methodology. The SSP, serving as the foundation of the procurement, is required to be signed by the Chief Purchasing Officer and the respective Department Director(s). Through the adoption of the SSP administrative process in lieu of the Council approved procurement strategy, staff expects to reduce the procurement cycle by three to four weeks.

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OUTCOME

Implementation of the recommendations in this supplemental report will result in the City's procurement processes becoming more understandable, transparent, efficient, competitive, open and fair. Additionally, the procurement process will be streamlined and staff resources can be allocated to address the requirements of the recommended changes.

PUBLIC OUTREACH

Not applicable.

COORDINATION

This report has been coordinated with the Public Works Department, and the Offices of the City Attorney, the City Auditor, and the City Manager.

SCOTT P. JOHNSON
Director, Finance



Memorandum

TO: MAKING GOVERNMENT WORK BETTER COMMITTEE **FROM: Scott P. Johnson**

SUBJECT: SEE BELOW

DATE: September 8, 2005

Approved

Date

**SUBJECT: REQUEST FOR PROPOSAL PROCEDURES AND OTHER
PROCUREMENT REFORMS**

RECOMMENDATION

3. Approval of report on the City's Request for Proposal Procedures and other Procurement Reforms.
4. Review, comment and forward proposed procurement reforms outlined in this report to the City Council for consideration and approval to direct the City Attorney and City Manager to take the necessary actions.

BACKGROUND

On October 21, 2004, staff provided a detailed presentation to the Making Government Work Better (MGWB) Committee on the City's current Request for Proposals (RFP) process and the efforts underway to improve that process. In addition, the presentation included the status of implementing several audit recommendations made by the City Auditor and City Attorney in two separate audits.

At the October 21, 2004 MGWB Committee meeting, the Committee approved staff's report and directed staff to return in January with a status report. In January, staff returned with an update and status of the City's RFP process as it pertains to Conflicts of Interests and the City's Standardization Ordinance.

In February, Council approved the City's Standardization ordinance. In June, staff requested to update Council on the RFP process and other procurement reforms in September, to allow sufficient time for the newly hired Chief Purchasing Officer to analyze the City's purchasing policies and processes and recommend appropriate changes. The City also retained Jack Bursch, former Director for Procurement at the County of Santa Clara, as a consultant to recommend changes to the City's procurement rules and regulations.

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On June 22, 2005, the Santa Clara County Civil Grand Jury issued a report titled "City of San José Procurement Policies, Procedures, and Practices." In this report the Civil Grand Jury submitted four recommendations. Staff agreed with the four recommendations. Detailed responses were provided to two of the recommendations in the Memorandum to Council dated August 3rd and approved by Council on August 23rd. Specific responses to the remaining two recommendations were reserved for a detailed discussion in this report.

ANALYSIS

This report expands the focus of reforming the City's Request for Proposal process, which included the two highest priority audit recommendations, Standardization and Conflict of Interest, made in "A Review of the CUSP Request for Proposal Process" (dated June 2004), authored by the City Auditor, and "A Review of the Request for Proposal for the New Civic Center Converged Network System" (dated August 2004), authored by the City Attorney and City Auditor. In particular, this report recommends revising the Municipal Code to allow for flexibility in tailoring the procurement procedures to the type of goods or services being procured. Additionally, consistent with the Santa Clara County Civil Grand Jury's recommendation, staff proposes to raise the administration's authority to award contracts to \$1 million dollars, to institute administrative protest procedures in the City's Municipal Code, and to centralize the procurement of professional services in the Finance Department, Purchasing Division, consistent with the existing procurement processes for equipment, material, supplies and non-professional services (except for construction related activities in which the contracting authority resides with the Public Works Director).

Based on staff's review of the findings related to the above mentioned audits, the City's responses to the Santa Clara County Civil Grand Jury's report of the City's procurement processes, review of the City's procurement policies, procedures, manuals and related municipal code provisions by the Chief Purchasing Officer recently hired by the City as the procurement "subject matter expert" as well as a review of the City's purchasing practices by a consultant with over 30 years of government purchasing experience hired by the Director of Finance, staff makes the following specific recommendations to streamline the City's procurement processes and implement "best practices in government procurement":

- I. Direct the City Attorney to prepare the recommended changes to the Municipal Code for the following:
 - a. refinement of the standardization/brand name provisions;
 - b. restructure and make changes in the Municipal Code as outlined in the "best practices in government procurement" section of this report;
 - c. adoption of formal protest procedures;
 - d. centralization of procurement responsibility for professional services (except for construction related activities) to the Director of Finance;
 - e. increase in the City Manager and designate to the Director of Finance and his designees, contract award approval authority to \$1,000,000 and delegation of authority to Director of Finance and his designees to waive minor irregularities and informalities in the procurement process; to act on tied bids, and, if no bids

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are received; to re-advertise for the same requirement or acquire the goods or services;

- II. Direct the City Manager to develop a staffing assessment and related plan for budgetary action to facilitate centralization of professional services procurements in the Finance Department – Purchasing Division (except for construction related procurement activities) to ready staff for the centralization of procurement of said professional services beginning July 1, 2006;
- III. Direct staff to develop an acquisition strategy for a financial management system that includes modules for a supply chain management system as part of the 2006/07 fiscal year budget process.

Standardization

Recommendation Ia - - Refinement of the Standardization/Brand Name provisions in the Municipal Code

In February, the Mayor and City Council approved staff's recommendation for sole source and brand name purchases of goods and services by amending the City's Municipal Code. The Finance Department successfully implemented the process citywide by requiring Departments to justify a request for sole source or sole brand purchase of a product including but not limited to documentation of compatibility to existing equipment, operational requirements, and cost savings. After a thorough review, the Finance Director rejects or approves the request for brand name procurement for a limited period based on a review of the request and recommendation from the City's Chief Purchasing Officer.

Beyond outlining the process for brand name purchases, the current ordinance states that "a specification may contain a brand name, if the specification is followed by the words "or equal" under circumstances where it is reasonably possible for equivalency to be demonstrated." Staff recommends modifying the Municipal Code provisions by explicitly explaining the use of the term "or equal" and outlining the appropriate process for determining equivalency or the validity of a decision to make a brand name purchase and reject other products offered as part of a competitive solicitation.

Staff is proposing the following concepts: stating that a reference to a specific Brand Name in specifications are illustrative only and that it describes a component meeting the specific operational, design, performance, maintenance, quality, and reliability requirements of the City. Regarding the equivalency process, a bidder or proposer may offer an equivalent ("or equal"), which meets or exceeds the City's specifications, in response to a Brand Name reference. When a bidder or proposer offers an "or equal" product, the City may test and evaluate the product prior to award of the contract. At bidder's or proposer's expense, bidder or proposer bears sole responsibility for providing any information, test data or document required by the City to fully evaluate the acceptability of the "or equal." At bidder's or proposer's expense, this full evaluation may require independent testing, including destructive testing, at qualified test

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facilities. Finally, the City reserves the sole right to reject a bid or proposal containing any “or equal” offered.

Conflict of Interest

One of the recommendations in the August 9, 2004 audit titled “A Review of the Request for Proposal for the New Civic Center Converged Network System,” was that

“The Administration develop a policy to require a formal contract with scope of service and non-disclosure provisions for non-compensated outside parties who are providing technical or specialized assistance to the City.”

For close to a year, staff gained experience with the use of interim questionnaires to identify potential conflicts of interests for staff and consultants who were involved in the development of Request for Proposal requirements and evaluation of proposals received.

Additionally, staff reviewed the audit recommendations resulting from the Converged Network RFP and Consolidated Utility Billing System RFP. Based on these reviews, staff has determined that it is extremely rare for the City to use uncompensated third parties to develop technical or specialized assistance, and that such use could potentially create a conflict of interest. Therefore, instead of developing a form contract, staff developed the Conflict of Interest Form for non-compensated outside parties, consultants and City staff members who develop specifications and proposal requirements. The form was developed to assess whether a potential conflict of interest exists. Through the review of Conflict of Interest disclosures in consultation with the City Attorney’s Office, Purchasing staff will be able to identify potential conflicts of interest.

Technical Evaluation Committee members, who may be City employees or non-compensated participants, will have to sign a Confidentiality and Conflict of Interest agreement. This agreement outlines the restrictions on sharing information about proposals and the evaluation process until the City announces the selected proposal. Also, this form delineates clearly potential conflicts of interests and requires that the City’s Chief Purchasing Officer be informed immediately of any conflicts of interests. Violation of this agreement by City employees may result in disciplinary action.

In accordance with the forthcoming City Manual section titled “Conflict of Interest in Procurement Processes,” all collected Conflict of Interest forms will be reviewed by Purchasing and become part of the procurement folder.

Per State law, Purchasing employees will complete the Statement of Economic Interest, Form 700. In addition, Purchasing staff will be required to attend an annual ethics and conflict of interest training. It is Finance’s intent to have Purchasing staff commit and affirm to the Code of Ethics and Standard of Conduct for Procurement Professionals. This code of ethics and standard of conduct applies far stricter rules on the acceptance of gifts, lunches with vendors, and the declaration of potential and perception of potential conflicts of interest. The Code of Ethics, developed by the National Institute of Government Purchasing, is practiced nationwide.

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Purchasing is working with Employee Relations to implement the Code of Ethics and Standard of Conduct for Procurement Professionals.

Other Procurement Reforms

In the September 2004 report to the Making Government Work Better Committee, staff presented a survey of Request for Proposal (RFP) processes from several jurisdictions such as the Cities of Los Angeles, Sacramento, and San Antonio and the States of Alaska, California, and New Mexico. To complete this effort, staff researched further and surveyed additional agencies such as the Cities of Colorado Springs, San Diego, and Tucson. As a result of staff's efforts, the following process improvements have been implemented for inclusion into the current RFP process as documented in the Procurement Strategy for the San José International Airport North Concourse IT Systems and approved by the Mayor and City Council on June 21, 2005. Please note that the majority of recommendations were identified as improvements in the Management Reforms and/or the Auditor's recommendations, which will be discussed further below.

1. Protest Procedure including announcement of selected proposal to all proposers.
2. Debriefings with non-selected proposers.
3. Separate evaluation of technical and price proposals regardless of dollar value.
4. Confidentiality Agreements signed by all parties involved in the RFP process.
5. Rigorous process outlining the responsibilities of the Procurement Contact, the Technical Evaluation Committee, and Consultants, if applicable.

In addition to the above mentioned process improvements, instead of adding an additional layer of forms, the intent of the Process Integrity Guidelines will be incorporated in the described RFP template. Proposers signing the Proposal will be bound to these guidelines.

The finalization of the City's RFP manual is awaiting the incorporation of Council's consideration of the below-recommended enhancements to the Municipal Code. Further, staff will develop a Council Report Template for RFP Awards. Staff expects to publish the City's revised RFP Manual by the end of this calendar year.

Management Reforms

The revised RFP manual will also address the issues identified in the various Audit Recommendations and City Manager's Reforms listed below:

1. *leveling cost proposals;*
2. *communication with proposers before the submission of RFPs, during the evaluation of RFPs, after announcement of the selected proposal, and after contract award;*
3. *the appropriate use and evaluation of Minimum Qualifications;*
4. *the identification of the relative importance of evaluation criteria;*
5. *the appropriate methods for comparing price proposals;*
6. *the documentation of scoring changes and retention of all notes, minutes, and memoranda until the completion of the protest process and award of contract;*

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7. *the equal and fair treatment of all proposals through all stages of the evaluation process including oral interviews and references; and*
8. *review of the RFP process for high-profile, complex procurements by the City Auditor's Office.*

To capture all reforms identified on the City Manager's Matrix of Management Reforms, after the publication of the revised RFP Manual, the Purchasing Division will update the City's Purchasing Manual. The revised Purchasing Manual will outline the different procurement methods such as Request for Bid, Request for Information, Request for Proposal, Request for Qualification, and Request for Quote and their appropriate application. Staff expects to publish a revised Purchasing Manual by the end of this Fiscal Year.

Best Practices in Government Procurement

Incorporating the aforementioned Management Reforms and Audit Recommendations, the recommendations issued by the Santa Clara County Civil Grand Jury report dated June 22, 2005, titled "City of San José Procurement Policies, Procedures, and Practices," and the research on best practices in Government Procurement, staff is making the following five recommendations:

- Restructuring and various changes in the Municipal Code
- Adopting formal protest procedures in the Municipal Code
- Centralizing the contracting for Professional Services
- Increasing the City Manager's contract approval authority
- Acquiring a supply chain management system application.

Recommendation 1b – Restructuring and various changes in the Municipal Code

After a detailed review of the City's Municipal Code which governs the procurement of equipment, materials, supplies, and non-professional (general) services, staff recommends restructuring Municipal Code sections relating to the City's procurement practices. In the past, these sections of the code were amended several times which resulted in inconsistencies and disparate procedures. Through this recommended restructuring, the code will become more understandable, transparent, and fair. The matrix below describes the current code, the recommended changes, and the reasons for the recommended changes.

Present Code	Recommended Change	Reason for Recommendation
The purchase of supplies, materials and equipment and the contracting for general (non-professional) services is governed by separate code sections.	Combine these two sections into one and include contracting of professional services.	To ensure consistency in the code for the procurement of supplies, materials, equipment, non-professional and professional services.

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Present Code	Recommended Change	Reason for Recommendation
For bids, only Council has the authority to waive minor irregularities and informalities in the procurement process, be authorized to act on tied bids, and, if no bids are received, be authorized to re-advertise for the same requirement or acquire the goods or services without further complying with the respective section in the Municipal Code. For quotes or proposals, staff has said authority.	Regardless of procurement method and estimated dollar value of the requirement, staff shall be allowed to waive minor irregularities and informalities in the procurement process, be authorized to act on tied bids, and, if no bids are received, be authorized to re-advertise for the same requirement or acquire the goods or services without further solicitations.	This recommendation will streamline the procurement process. Whenever staff exercises any of these options, staff will document these actions in the procurement file and in contract award memoranda to Council.
Purchase Orders can only be issued for 12 months.	Purchase Order period shall coincide with the contract period or be issued for 12 months.	By allowing Purchasing to issue Open Purchase Orders for a longer period, Purchasing can align the purchase order period with the contract period. This will reduce paper work. The purchase order amount will be increased as funds become available through annual budget appropriations.

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Present Code	Recommended Change	Reason for Recommendation
Quotes or proposals required for purchases of \$5,000 or more.	Quotes or proposals required for purchases of \$10,000 to \$100,000 shall be distributed via the City's website or other e-procurement tool.	In Fiscal Year 2004 – 2005, staff processed 556 Purchase Orders (POs) between \$5,000 and \$10,000. These 556 POs represent 19.5% of all contracts and POs processed. However, in dollars, they only represent 2.3% of all POs and contracts processed. To re-allocate existing limited staff resources to more complex tasks required by the changes under consideration, the threshold for requiring quotations is recommended for increase from \$5,000 to \$10,000. To ensure adequate outreach for solicitations, the requirement to obtain three quotes, whenever practicable, is changed to distributing the quotation via the City's web site
For supplies, materials, and equipment, if the expenditure exceeds \$100,000, a formal bid is required.	Regardless of commodity or service, for an estimated dollar value exceeding \$100,000, a bid or proposal shall be issued.	This change will ensure consistency in the code for the procurement of goods or services. Additionally, it removes the restriction that bids can only be used for supplies, material, and equipment and proposals can only be used for services.

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Present Code	Recommended Change	Reason for Recommendation
For bids, price, which includes trade discounts, shipping costs, and life cycle costs, is the only determinative factor for award.	Regardless of procurement method, staff may include any of the following factors in its award decision: unit cost, life cycle cost, economic cost analysis, operating efficiency, warranty and quality, compatibility with existing equipment, maintenance costs (including the costs associated with proprietary invention), experience and responsibility of the bidder, and any additional factors the City deems relevant. To ensure fairness in the process, Purchasing staff shall be required to determine the factors for award evaluation in the solicitation document.	This will result in staff having the ability to issue a price determinative and non-price determinative solicitation regardless of the procurement method or the procurement of goods or services. Additionally, the City Environmentally Preferable Procurement Policy can be applied completely, as intended, to the procurement of supplies, materials, equipment and services. Specifically, the policy commits to integrate environmental factors into the City's buying decisions where external authorities have not established criteria by evaluating, as appropriate, the environmental performance of vendors in providing products and services.
Late Submission of Bids cannot be accepted.	Late submissions shall only be accepted, if the late submission is attributable to failed deliveries by the U.S. Postal Service or a third party courier service. These conditions will be clearly defined.	Sometimes, the City's competitive pool of bids and solicitations is reduced due to delivery failures by the U.S. Mail or third party Courier Service resulting from poor weather conditions or human error.

The above outlined changes to the Municipal Code will ensure consistency in the application of the code to all procurements for supplies, material, equipment, and services, streamline the procurement process, and ensure that the City acquires the goods and services which meet its operational needs at the best possible price.

Recommendation 1c – Adoption of Formal Protest Procedures in the Municipal Code

On June 21, 2005, the Mayor and City Council accepted the Procurement Strategy for San José International Airport North Concourse IT Systems. In the accepted procurement strategy, staff recommended the insertion of a two-step protest procedure to allow for an open and fair process.

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Through a process for objections to the specifications and a protest of the City's intended award decision and/or designation of proposals as non-responsive or non-responsible, proposers are provided a venue to dialogue about the RFP content and the City's evaluation process, respectively. To ensure open and fair competition and provide a venue for dialogue about any solicitation, staff recommends placing the protest process in the City's Municipal Code.

Specifically, after the City's written announcement of the selected bidder or proposer or the City's designation of a bid or proposal to be non-responsive and/or non-responsible, non-selected bidders or proposers may submit in writing, within ten days of the City's announcement or designation of non-responsive and/or non-responsible, to the Chief Purchasing Officer a "Notice of Intent to File a Protest" stating all grounds for the protest and provide all supporting documentation. Failure to clearly state the grounds for the protest and provide supporting documentation shall be deemed a waiver of all protest rights. The Chief Purchasing Officer will review the grounds for the protest and all supporting documentation. After review of a bidder's or proposer's Notice of Intent to File a Protest, the Chief Purchasing Officer will provide written notice to the bidder or proposer of his/her determination, detailing the factual basis for the City's determination. If the protesting party desires to continue its protest notwithstanding the Chief Purchasing Officer's determination, the protesting party must submit a written Formal Protest, which shall be received by the Chief Purchasing Officer within ten calendar days of service of the Chief Purchasing Officer's determination. Failure to file a timely written Formal Protest shall bar consideration of the Formal Protest. The written Formal Protest shall include a detailed factual response to the Chief Purchasing Officer's determination, including all supporting documentation. The Formal Protest will be heard by the City Manager or designee, before Council will be asked to award a contract. The City Manager's decision will be final. Details of protests will be documented in the award memorandum to Council. The proposed protest procedure will extend the procurement of goods and services at a minimum of ten days, if no protest is filed and up to several weeks, if the protesting party chooses to exhaust this administrative remedy.

Through the adoption of this recommendation, the City will ensure that businesses participating in the City's solicitation processes have a formal venue to object to specifications and the City's evaluation decisions. Consistent with the proposed staffing assessment plan referred to later in the report, the impact of staff due to additional processes will be analyzed.

Recommendations Id and II – Centralize Procurements for Professional Services in the Finance Department, Purchasing Division and develop a staffing assessment and related plan for implementation in the budget process.

On June 22, 2005, the Santa Clara County Civil Grand Jury issued a report titled "City of San José Procurement Policies, Procedures, and Practices." In this report the Civil Grand Jury submitted four recommendations. Staff agreed with the four recommendations as reported to Council in the in the Memorandum to Council dated August 3rd and approved by Council on August 23rd. In the aforementioned Memorandum to Council, staff mentioned that specific responses addressing these recommendations will be forthcoming in this report.

The second recommendation by the Santa Clara County Civil Grand Jury stated that,

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“The San José City Council should: (a) revise the Municipal Code to specify that excluding construction activities, Finance Purchasing is fully responsible for procurement of all supplies, materials, equipment, and general and professional services; and (b) ensure that sufficient staffing, training, financial resources and information technology systems are provided to enable Finance Purchasing to carry out this expanded role”

Staff agrees with the centralization of procurements of supplies, material, equipment and services (except for construction related contracting activities) due to the increased complexity of contracting. As procurement processes are further refined in the municipal sector, it behooves the City that “subject matter experts” ensure a consistent and open process. In the last 15 months, the Mayor and City Council adopted Municipal Code Section 4.06, “Contracting Preferences for Local and Small Businesses” and the Municipal Code Section 4.12.149, “Specifications limiting procurements to a single manufacturer or brand.” Additionally, it is important that all City procurement processes are followed appropriately, including the recommended changes to the Municipal Code as outlined in this report.

Adopting this recommendation will ensure consistent application of the Municipal Code as it pertains to the City’s procurement process, the City’s small and local preference, and the City’s Living Wage and Prevailing Wage policy. Additionally, trained contracting professionals will ensure that the RFP process will be properly followed as outlined in the forthcoming revised RFP manual.

Through the centralization of contracting (except for construction related activities), the City’s Chief Purchasing Officer will be able to develop procurement manuals and ensure uniform application of these standards. By entrusting the City’s contracting business to “subject matter experts”, the review of each solicitation by individual Deputy City Managers will no longer be necessary. With respect to procurements of professional services by other Council Appointees (City Attorney, City Clerk and City Auditor), the Purchasing Division will serve as a resource, if requested. Additionally, the Chief Purchasing Officer can ensure that reports to Council on Request for Proposals will follow a strict format and include all necessary information.

Upon direction from the Mayor and City Council, staff will develop a staffing plan for a mid-year budgetary addition for the centralization of professional services to prepare for the centralization of procurement of professional services beginning July 1, 2006.

Recommendation 1e – Increased City Manager Contract Approval Authority and Designate to Director of Finance

As stated in the City’s response to the Report from the Santa Clara County Civil Grand Jury, Staff agrees with the final Civil Grand Jury recommendation to increase the City Manager’s Contract Approval Authority. Through the recommended restructuring of the Municipal Code and codified protest procedure, the City of San Jose’s procurement process will provide for enhanced fair and open competition. These enhancements will align the governing code for the

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procurement of supplies, materials, equipment, and services with other major California Cities and Counties.

Per the survey of the California Association of Public Purchasing Officers published at the January 2004 conference in Long Beach, the Cities of Fullerton, Los Angeles, Merced, Newport Beach, Oxnard, Ventura, San Francisco, Irvine, and San Diego and the Counties of Alameda, Sacramento, and San Diego either do not require Council or Board approval for award of contracts or the City Manager or County Executive Officer, or their designee, has an approval authority of up to \$1 million for the purchase of supplies, materials, equipment and non-professional services. The approval authority for the award of professional services below \$1 million is granted to the City Manager or the County Executive Officer, or their designee, in the Cities of Fullerton, Merced, San Francisco, Irvine and the Counties of Sacramento, Ventura, and San Diego.

Comparing staff's contract approval authority to the ten largest Cities in the United States, five of the ten largest Cities delegate this procurement authority for contracts above \$1 million. Specifically, the table below depicts that staff at the City of Chicago, Los Angeles, New York, and Philadelphia have unlimited contract approval authority and staff at the City of San Diego can approve contracts valued up to \$1 million. In contrast, the approval authority for contract award at the Cities of Dallas, Houston, San Antonio and Phoenix is below \$25,000 and \$40,000, respectively.

Contract Approval Authority at the Ten Largest U.S. Cities

City	Contract Approval Authority
Chicago	Unlimited
Dallas	\$25,000 and above
Houston	\$25,000 and above
Los Angeles	Unlimited
New York	Unlimited
Philadelphia	Unlimited
Phoenix	\$40,000 and above
San Antonio	\$25,000 and above
San Diego	\$1 million and above
San Jose	\$100,000 and above

In Fiscal Year 2004 – 2005, nearly 300 Open Purchase Awards and Contract Awards with a contract value between \$100,000 and \$1 million were approved by Council, mostly on consent and with little discussion. By increasing the City Manager's or designee's approval authority to \$1 million, the procurement process for these contracts will be reduced by at least four weeks and staff time can be allocated to address the recommended procedure changes to further streamline the City's procurement process.

The most visible and strategic contracts over \$1 million will still require Council approval, such as major Information Technology contracts and equipment contracts. In Fiscal Year 2004 – 2005, the following contracts with a contract value above \$1 million were approved by Council:

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AFIS Upgrade, Systems Furniture, Microsoft Select Agreement, Oracle Site Licenses, SBC, Calnet, Services for External Auditor, Freestanding Furniture, and Converged Network.

To document contract awards to small and local businesses as defined in the Municipal Code Section 4.06, "Contracting Preferences for Local and Small Businesses," staff recommends reporting annually to Council on aggregate contract awards to said businesses. Staff further recommends that this report requirement supersedes the current requirement of reporting purchases of supplies, materials, and equipment and general services contracts in amounts between \$20,000 and \$100,000.

Increasing the City Manager's or designee's Approval Authority for award of contracts will streamline the acquisition process.

Recommendation III – Acquisition of a Financial Management System that Includes Modules for a Supply Chain Management System

As identified in the City Manager's Matrix on Management Reforms and the aforementioned report by the Santa Clara County Civil Grand Jury, the control of the City's procurement processes and the efficiency of the City's Purchasing function can be greatly enhanced through the implementation of a supply chain management system.

Currently, the majority of steps in the procurement process are highly dependent on paper forms and documentation and report capabilities are very limited. Because there is no computerized data reporting on purchases to Council and responding to requests for information by the public are extremely labor intensive.

The City's Finance Department is in need of an online Purchase Requisition to Purchase Order system with an integrated online vendor registration and email notification system. The online Purchase Requisition and Purchase Order system will allow for proper internal approval processes, management reports, and emailing of Purchase Orders. The online vendor registration and email notification system will provide for vendors who seek to do business with the City to register for email notifications for business opportunities, to provide information on emergency contact information and declaration for qualifying as a small business. Additionally, the system will facilitate online bidding, including reverse auctioning, and downloading of solicitations. Through integration with the various warehouses in the City, the cycle time for supplies, materials, and equipment essential to the City can be reduced from weeks to days. Finally, the System would allow for much more efficient and accurate reporting on transactions.

To ensure a successful operability of a supply chain management system, the system needs to be an integral part of an enhanced financial management system. The Finance Department, working through the Strategic Support CSA is in the process of developing a one year and five year information technology strategic plan. Included in the plan is the development of an RFP for an integrated financial management system in fiscal year 2006/07. Upon direction from the Mayor and City Council, staff will develop an acquisition strategy of a Financial Management System as part of the fiscal year 2006/2007 budget process.

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The Civil Grand Jury's last recommendation stated that,

“Once appropriate steps are taken, the San José City Council should revise the San José Municipal Code to significantly increase the \$100,000 threshold for requiring Council approval. These steps would include revision of procurement policy and procedures manuals, provision of sufficient procurement staffing, training, financial resources, and information technology systems, and institution of measures to manage conflict of interest and ensure prudent accountability. In the interim, consideration should be given to increasing the limit on contracting authority for procurement of equipment and materials when normal procedures are followed and the procurement budget has been appropriated.”

OUTCOME

Through the recommended restructuring of the Municipal Code governing the procurement of supplies, materials, and equipment and services, the City's procurement process will become more understandable, transparent, and fair. Additionally, the procurement process will be streamlined and staff resources can be allocated to address the requirements of the recommended changes.

PUBLIC OUTREACH

Not applicable.

COORDINATION

This report has been coordinated with the Public Works Department, and the Offices of the City Attorney, the City Auditor, and the City Manager. In addition, the proposed procurement process reforms relating to the procurement of major information technology contracts has been reviewed by the Information Technology Planning Board (ITPB) and the Architecture Committee of the ITPB.

SCOTT P. JOHNSON
Director, Department of Finance