

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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City Council Agenda Date: February 27, 2006

Item Number: 150

Item: Managed Competition Ballot Measure

OVERVIEW

This action is a measure proposed for placement on the November 2006 ballot that would allow Managed Competition in the City of San Diego.

FISCAL/POLICY DISCUSSION

The Office of the IBA has reviewed and is in strong support of the ballot measure proposing to allow managed competition in the City of San Diego. The IBA has seen that various other municipalities have successfully implemented managed competition saving millions of taxpayer dollars. These municipalities offer models not only on how to implement a rigorous and controlled managed competition process, but offer insight as to how to overcome failures and turn challenges into successes. For instance, other municipalities studied have a strong environment of employee support and, in some cases, detailed processes on the treatment and placement of workers in competitive settings. In these municipalities, public and private providers are given equal opportunity and resources with which to compete; detailed audits provide benchmarking, performance measures and other data to ensure quality of work and cost of service; and the organizations not only celebrate all the cost savings achieved, but the success of their own employees when they are able to provide the best, most efficient services to the public. Although the ballot language proposed lacks some specifications that we believe deserve to be codified in the authority of the City Charter, the IBA recommends approving this ballot measure for the November 2006 ballot.

The IBA further recommends contemporaneous development of the “implementation ordinance” that would ensure best practices are thoughtfully and completely included. At the time of this writing, the Mayor’s Office has drafted some language for this implementation ordinance, including how RFPs will be developed and utilized, how City departments will develop proposals, and requirements for performance audits. The latest draft language also includes IBA recommended procedures such as engaging an

independent audit every five years to review the City's post-implementation audits and the inclusion of key City staff on the Independent Review Board.

The IBA supports the development and refinement of these ideas and further recommends the inclusion of other specifications such as:

1. **Maximum percentage of a service that can be bid out.** For instance, it is not in the City's best interest to bid 100% of refuse disposal services to a private contractor since the loss of the City's ability to perform the service coupled with the risk of a defaulting contractor could result in significant service disruption to residents and legal exposure.
2. **Minimum number of bids received.** In our research, we have found that the critical component in making managed competition successful is the competition. The ordinance should not allow a service to be bid if sufficient competition is not realized through the bidding process.
3. **Semi-Annual or Quarterly implementation reports to the City Council.** A timeline for reporting on implementation and results of cost analysis and performance audits should be specified, rather than provided for in the vague terminology "regularly."

In addition, it is our expectation that other procedures will need to be implemented such as preparing for the appropriate cost allocation accounting; developing an employee program that encourages participation, information, education and opportunities to find cost savings in City operations, as well as training on how to monitor/administer contracts should a service be contracted out; and consideration of implementing successful features from other municipalities including a multi-year strategic plan for competition and a gainsharing program for employees. The IBA recommends that all of these aspects be considered over the months approaching the November ballot. In this way, the public will have the opportunity to more fully review the proposed program as they decide how to vote and the City can be prepared to implement the program, should the voters approve, without rush and in an informed and thoughtful manner.

Notwithstanding the IBA's strong support for managed competition, there are concerns surrounding how this measure, and the accompanying measure regarding pension benefits, was brought forth. At the Rules Committee on February 8, it was unclear why the February 27 date for City Council approval was a critical deadline. This timeframe for consideration was short, especially in light of the need to conduct a meet and confer process prior to a vote. The Rules Committee voted to forward these items to the full City Council with direction to the City Attorney to provide written clarification of ballot deadlines. In fact, the February 27 date, rather than being a legal deadline, is the date desired by the Mayor to allow time to pursue the petition process should the City Council fail to place the measures on the ballot. Nevertheless, the City Council and the public believed that there was an opportunity to provide input on the ballot language between

February 8 and February 27. However, it has recently been stated that, due to meet and confer, no changes could be made to the ballot language without starting the meet and confer process over, and thus missing the deadline desired by the Mayor. Further explanation as to why no changes are allowed to language once the meet and confer process starts should be provided.

It is the City Council's obligation to meet a high standard when passing legislation for the City of San Diego. Therefore, the IBA supports the presentation of items for City Council and committee action when deadlines and procedures can be fully disclosed and the City Council has some opportunity to review and provide input on the item.

QUESTIONS/COMMENTS

Why is it not possible to submit modified ballot language to the labor unions as the meet and confer process progresses?

How will the development of the implementation ordinance proceed and what is the timeline for completing it? Will the City Council have opportunities for input?

Please clarify the authority of the City Council and the City Manager to accept or reject proposals and/or advice by the Independent Review Board as described in the ballot language vs. the implementing ordinance. Are there inconsistencies?

What is/was the schedule for meet and confer with the five labor unions on both ballot measures?

Given the discussion above, what would be the impact of delaying this action until March 3 in order to give more thought to this?

CONCLUSION/RECOMMENDATIONS

The IBA is in strong support of implementing managed competition in the City of San Diego. The IBA recommends that the City Council choose to put this measure on the ballot for November 2006.

Given the concerns described above, the IBA suggests pursuing one of the following alternatives:

- (1) Approve the ballot measure as is, with the opportunity to incorporate refinements into the "implementation ordinance."
- (2) Delay a vote on the ballot measure if the City Council is concerned that some items, such as the audit requirements and competition requirements mentioned

above, must be included in the higher authority of the Charter. Pass a resolution today that the City Council intends to place this measure on the ballot, but take additional time to conduct a more rigorous review in order to strengthen measures placed in our City Charter.

In either case, the IBA recommends that the implementation ordinance be developed thoughtfully and thoroughly over the next several months with opportunity for City Council input in the process and including the suggestions provided above.

[SIGNED]

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