

# **CITY OF SAN DIEGO**



## **MANAGED COMPETITION GUIDE**

**July 26, 2010**

## ACRONYM AND ABBREVIATION LIST

Acronym	Meaning
CCT	City's costing tool
City	City of San Diego
CFP	City-furnished property
Council or City Council	City of San Diego's elected City Council
FTE	Full-time equivalent
Guide	City's Managed Competition Guide
IGCE	Independent government cost estimate
MCIRB	Managed Competition Independent Review Board
MEGO	Most efficient government organization
NPE	Non-personnel expense
P&C	Purchasing & Contracting Department in the City of San Diego
PE	Personnel expense
QASP	Quality assurance surveillance plan
RFI	Request for information
RFP	Request for proposals
RFQ	Request for qualifications
SDCERS	San Diego City Employees Retirement System
SOW	Statement of work

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## **INTRODUCTION**

A ballot proposition was submitted to the qualified voters of the City of San Diego (City) on November 7, 2006 as to a proposed amendment to the San Diego Charter (Charter) section 117. This ballot proposition amended Section 117 by adding subsection (c), which allows the City to employ any independent contractor when the Mayor determines, subject to City Council approval, City services can be provided more economically and efficiently by an independent contractor than by persons employed in the Classified Service while maintaining service quality and protecting the public interest.

### **Program Purpose**

Managed competition is a structured, transparent process that allows public sector employees to be openly and fairly compared with independent service providers (normally private sector firms) for the right to deliver services. This strategy recognizes the high quality and potential of public sector employees, and seeks to tap their creativity, experience and resourcefulness by giving them the opportunity to structure organizations and processes in ways similar to best practices in competitive businesses, yet still compatible with public sector realities.

### **Guiding Documents**

Charter section 117(c) states that the City Council shall by ordinance provide for appropriate policies and procedures to implement section 117(c). Such ordinance shall include minimum contract standards and other measures to protect the quality and reliability of public services. Nothing in this ordinance shall limit or restrict the City from contracting services under any other provision of law. Nor shall anything in this ordinance confer any right to any potential or current independent contractor to bid on a City service for which a solicitation has not been issued.

This Managed Competition Guide (Guide) describes a process negotiated by the City with its recognized employee organizations, specifically the San Diego Municipal Employees' Association and the American Federation of State, County, and Municipal Employees, Local 127, impacted by the provisions contained herein. Notwithstanding any provisions or statements herein to the contrary, this Guide is intended to be consistent with Charter section 117(c), and is not intended to broaden, enlarge, narrow, or limit the scope or effect of Charter section 117(c).

The City, acting through the City Manager or Strong Mayor, reserves its rights regarding any alternate process permitted under Charter section 117(c) to determine when City services can be provided more economically and efficiently by an independent contractor than by persons employed in the Classified Service while maintaining service quality and protecting the public interest. The City acknowledges that it must comply with its duties to provide notice and opportunity to meet and confer regarding any alternate process where required by the Meyers-Milias-Brown Act, and the City must comply with any requirements under Charter section 117(c). This reservation of rights shall not be construed as an acknowledgement by the City's recognized employee organizations, which negotiated this Guide, that any alternate process is permitted by Charter section 117(c).

## **Managed Competition Process Overview**

The first step in the managed competition process is documenting a Pre-competition Assessment Report for any function that is moving forward into competition. At this point, the function will move forward through the following five phases:

- Phase I: Competition Planning
- Phase II: Solicitation Development
- Phase III: Employee Proposal Preparation and Development
- Phase IV: Source Selection
- Phase V: Transition and Post-competition Accountability

The length of time required for each of these phases is dependent on the circumstances of, type, and size of function undergoing competition. During Phase II, Purchasing and Contracting will lead the team developing the Statement of Work (SOW) and the Request for Proposals (RFP). In Phase III, the Employee Proposal team will develop the employee response to the solicitation. As part of Phase IV, the Managed Competition Independent Review Board (MCIRB) will oversee the evaluation of the proposals. Once a winning proposal has been selected and approved, the City will transition to the winning service provider or service delivery model. At this juncture, the City will begin tracking the cost and quality of service during post-competition accountability in Phase V. *Figure 1: Managed Competition Process* shows a high-level summary of the process, including the outcome of each phase.

## **Managed Competition Stakeholders**

Managed competition stakeholders include:

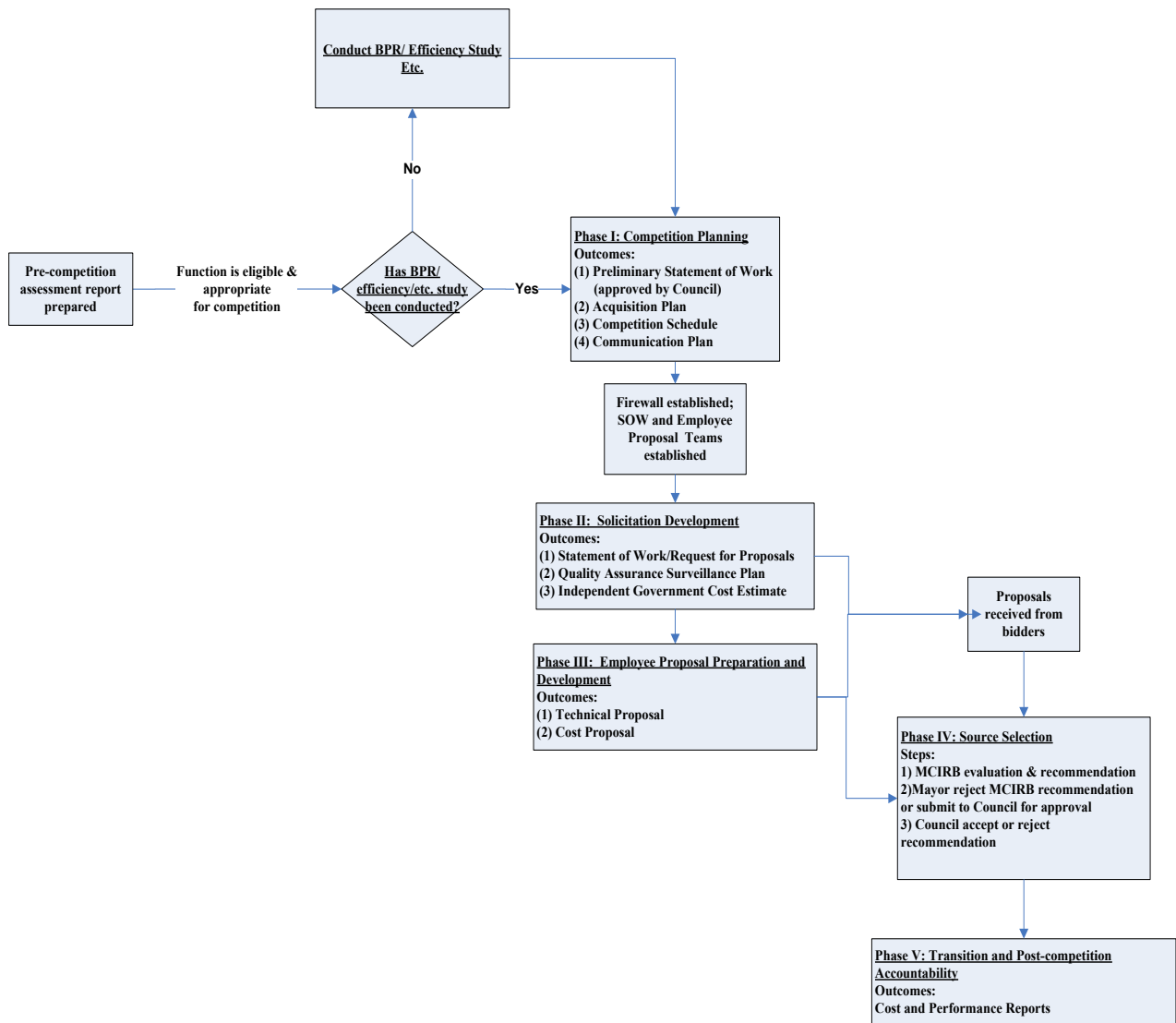
- The voters and residents of the City of San Diego
- City employees
- The City's recognized labor unions
- Local businesses

Managed competition is intended to aid the City of San Diego in ensuring that it is delivering quality services to taxpayers, residents, and visitors in the most economical and efficient means possible.

As employees and labor organizations are critical stakeholders who must be productively engaged in the managed competition process to ensure its success, a Labor/Management Committee, consisting of four representatives from the Mayor's office and two representatives from each labor organization that represents the employees who are impacted by the managed competition process, will assist in the effective implementation of the program. The Labor/Management Committee will meet a minimum of once a month and shall:

- Share information on current or future managed competition activities.

- Discuss and attempt to resolve disputes that arise in the interpretation and/or application of managed competition policies and procedures.
- Discuss potential bargaining issues that may come up as a result of managed competition activities. (However, the Committee's actions do not replace bargaining when it is required.)
- Provide a forum to discuss potential impacts on employees as a result of the managed competition program.
- Provide a forum to discuss employee concerns arising from the managed competition program.
- Provide a forum through which the parties can introduce new ideas and/or discuss concerns regarding the managed competition process.



**Figure 1: Managed Competition Process Overview**

The following sections of this Guide describe each step in the managed competition process in more detail.



## **PRE-COMPETITION ASSESSMENT**

If the Mayor determines as part of a pre-competition assessment that a City service may be provided more economically and efficiently by an independent contractor than by persons employed in the Classified Service, while maintaining service quality and protecting the public interest, the Mayor may select appropriate services for managed competition. If the Mayor intends to submit a City service to competition<sup>1</sup>, the Mayor will prepare a report (Pre-competition Assessment Report) setting forth the rationale for putting a City service into competition. This report will be transmitted to the (MCIRB) as an informational item which will require no formal action by the MCIRB. In addition, the Mayor will prepare a preliminary Statement of Work for that particular City service.

In determining whether a City service is appropriate for competition, the Mayor will consider such factors as the type of service provided, the abilities of the current and projected competitive market, potential efficiencies that could be achieved, the capacity of the City to deliver essential services in the event of contractor default, and the overall welfare of the public. The Mayor will not submit for competition those services he or she determines to be inherently governmental or those services so intimately related to the exercise of the public interest as to mandate their performance by City employees. This concept is consistent with the federal definition. Pursuant to Charter section 117(c), the core public safety services provided by police officers, firefighters, and lifeguards who participate in the City's Safety Retirement System shall not be subject to Managed Competition.

In areas where City workers are consistently productive and cost efficient, a City department can propose to the Mayor that City workers provide a service to other entities, provided that this would be of benefit to the City and its taxpayers, and when such work can increase the City's overall efficiency and effectiveness, while maintaining service quality and protecting the public interest.

Most City functions have undergone some form of assessment/analysis and improvement, using such tools as BPR, reorganization, and/or efficiency studies. In cases where the assessment or analysis resulted in impacts to the City's Appropriations Ordinance and Council approval was sought for change authorization, a one-year change implementation period from the date of Council approval will ensue during which the function will not be solicited for competition. (Note: Changes made to the Appropriations Ordinance through regular, mid-year, or special budget adoptions are not considered as part of this.)

In some instances, improvement activities will require more than a year for implementation. In instances in which implementation is expected to take more than a year, the Assistant Chief Operating Officer, or designee, in consultation with City Departments, will document in writing the expected implementation timeline before or at the time City Council approval is sought and the function will not be solicited for competition during the implementation period identified at approval. In instances when improvement or other activities or outside pressures would result in untenable timing for a competition, this information will be documented in the pre-competition

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<sup>1</sup> Throughout this Guide, "competition" is an equivalent term to managed competition.

assessment, allowing for an informed decision about whether to move to competition and, if so, on what timeline.

The following tasks are undertaken as part of a pre-competition assessment.

### **Task A: Prepare for Pre-competition Assessment**

The Business Office, with support from functional area Subject Matter Experts<sup>2</sup>, will prepare for pre-competition assessment by completing the following activities and by gathering relevant information for those that have been completed:

- **Develop Work Breakdown Structure** - The Work Breakdown Structure defines and organizes the function's activities and tasks.
- **Document service levels** - Once the Work Breakdown Structure is complete, the required level of service provided to customers is documented. The service levels will be based on current status and/or what the City is required to perform per existing Ordinance. The service levels should define the state of the desired outcome instead of how that outcome is to be derived.
- **Conduct market research** - Market research will be conducted to identify the potential market and assist the Business Office in recommending the appropriate scoping and grouping of the function during competition. Market research can take many forms including informal internet research and phone surveys of potential bidders. A request for qualifications (RFQ) or information (RFI) process may be used prior to the solicitation for services in appropriate cases. The City will document the results of the market research and utilize this information when determining the appropriate scoping and grouping of the function.
- **Determine recommended scoping and grouping** - The City will develop the proposed activity grouping for study using, if appropriate, the findings from market research. Where possible, the Business Office will look for economies of scale by grouping like functions together into a single competition. However, the Business Office will take into consideration the complexity of each function when making such decisions.
- **Document costs** - The City will document the current costs of service provision based on the function's actual costs from the most recently completed fiscal year and/or budgeted costs contained in the City's Appropriations Ordinance.
- **Identify workload data and government property** - Workload data is the indicator of work performed, such as number of permits issued, number of refuse collection stops, number of vehicles maintained, etc. Workload data is gathered using data collection systems that identify specific work units and/or quantifiable outputs associated with each task. Additionally, government property includes all property and equipment utilized by the function to complete its mission. Identifying workload and government property systems includes determining the availability of workload data and property tracking systems that collect this information. If required systems are not in place to capture

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<sup>2</sup> Subject matter experts may include employees currently performing or leading a function for the City and/or those who have been in key positions for delivery of the relevant function.

workload or track government property, the City will develop the necessary tracking tools so that this information is available during managed competition. The timeliness with which workload and property data may be available can have an impact on the timing for competition.

- **Perform risk analysis** - Risk analysis considers the degree to which contracting-out a function would expose the City to risk or liability, including service interruption, health and safety issues, financial liability, and damage to public trust. Functions with a high-risk profile may require the department to exercise more direct control of the function than is possible through an independent service provider. Functions involving limited potential financial liability or where risk may be shared, mitigated or assumed by an external provider will be stronger candidates for competition. In addition, a function may be a better candidate for competition if temporary disruptions will have a minimal negative effect on revenues, costs or public trust.

### **Task B: Develop Pre-competition Assessment Report**

The Business Office, with support from functional area Subject Matter Experts, will develop a report to document the criteria that supported the Mayor's decision on moving a function forward to competition. The Pre-competition Assessment Report will document the type of service provided, identify the available market for this service, and describe the risk to both the City and general public if this function were competitively sourced. Additionally, the report will provide a rationale for moving a function to competition by examining whether:

- The function is inherently governmental as determined by the Mayor
- There are legal limitations on external service provider performance of the function
- Failure to perform the function would be exceptionally detrimental to public welfare

Once the Pre-competition Assessment Report is complete, the Business Office will provide this to the MCIRB as an informational item (that will require no formal action by the MCIRB), and to the City Council and other stakeholders (including the Office of the IBA and relevant labor organizations) for information. Budget and workload information in the Pre-competition Assessment Report that has the potential of providing competitive information about the City's service delivery will be redacted before the Pre-competition Assessment Report is released publicly.

The Mayor will then direct the Business Office to begin Phase I, Competition Planning.

## **PHASE I: COMPETITION PLANNING**

Once the Mayor has chosen to pursue competition, the City will begin Phase I: Competition Planning. The purpose of Phase I is to develop the Preliminary SOW, develop a competition schedule and draft a communication plan specific to the competition.

### **Task C: Develop Preliminary Statement of Work**

If the Mayor intends to submit a City service to competition, the Mayor will prepare a preliminary written Statement of Work for that particular City service.

The Preliminary SOW will be developed by the Business Office using information from the Pre-competition Assessment Report and input from a committee of Business Office personnel and functional-area Subject Matter Experts. The Preliminary SOW will include the following information:

- Description of the function(s) to be competitively sourced
- Current or budgeted service levels associated with the function(s) selected for competition

The Preliminary SOW will be presented to the City Council for review and approval. The Preliminary SOW will be provided to the City Council at least two weeks prior to the City Council meeting. The purpose of the Preliminary SOW is to document the service levels associated with the delivery of the function(s) selected for competition. The service levels will be based on current status and/or what the City is required to perform per existing Ordinance. They will be included in the Request for Proposals, ensuring that there will be no service degradation as a result of the managed competition effort. The service levels of other services that are known to be impacted as a result of scoping and grouping will also be documented in a separate attachment that is not intended to be included in the SOW.

### **Task D: Competition Schedule**

The competition schedule (an internal management document) will be documented using Microsoft Project or another similar software tool. The schedule will cover the steps that need to be accomplished for each phase of competition. The Business Office will update and maintain the document and use it as a tool to track the progress of each competition.

### **Task E: Develop Communications Plan**

The Business Office will develop a Communications Plan for each competition that will lay out the approach to and schedule for communication with stakeholders including, but not limited to, labor organizations, City Council, the MCIRB, and affected employees. The Labor/Management Committee will assist as appropriate in developing and implementing the Communications Plans.

## **FIREWALL AND CREATION OF STATEMENT OF WORK AND EMPLOYEE PROPOSAL TEAMS**

The potential for abuse from knowingly or unknowingly causing or gaining unfair advantage from access to information, or the ability to affect the selection process for personal gain must be understood and avoided<sup>3</sup>. The City will assist departments to understand, train personnel, and implement safeguards and procedures to avoid the potential for ethical conflicts and abuses. No elected official or City employee shall provide procurement sensitive information to any potential contractor.

A firewall is a separation of communication, data, and responsibilities between the SOW Team, the Employee Proposal Team, and outside entities. A firewall will be established in advance of moving forward to solicitation development (acquisition plan, Statement of Work, etc.) or employee proposal preparation. The SOW Team will develop the Statement of Work and members of the SOW Team may assist in selecting the appropriate service provider. The Employee Proposal Team is responsible for developing the employee proposal in response to the RFP. A firewall is created between the two employee teams to ensure that a level playing field exists between the Employee Proposal Team and any independent service providers interested in responding to the solicitation.<sup>4</sup> The Mayor and City Council members are not on either side of the firewall and should not have access to any information that is behind the firewall. If Statement of Work or employee proposal information is received by the Mayor, a City Council member, or their staff while the firewall is intact, that information should not be shared and Purchasing and Contracting should be notified immediately to allow for appropriate investigation(s) which may result in possible disciplinary action(s) to be pursued against the member(s) or leader(s) of the SOW or Employee Team(s) who disclosed the information and acquisition status to be reviewed for determination of whether actions need to be taken to preserve a level and appropriate acquisition. City staff ~~can~~ who have participated in competitive preliminary planning prior to establishing the firewall can move on to either the Statement of Work or Employee Proposal Team.

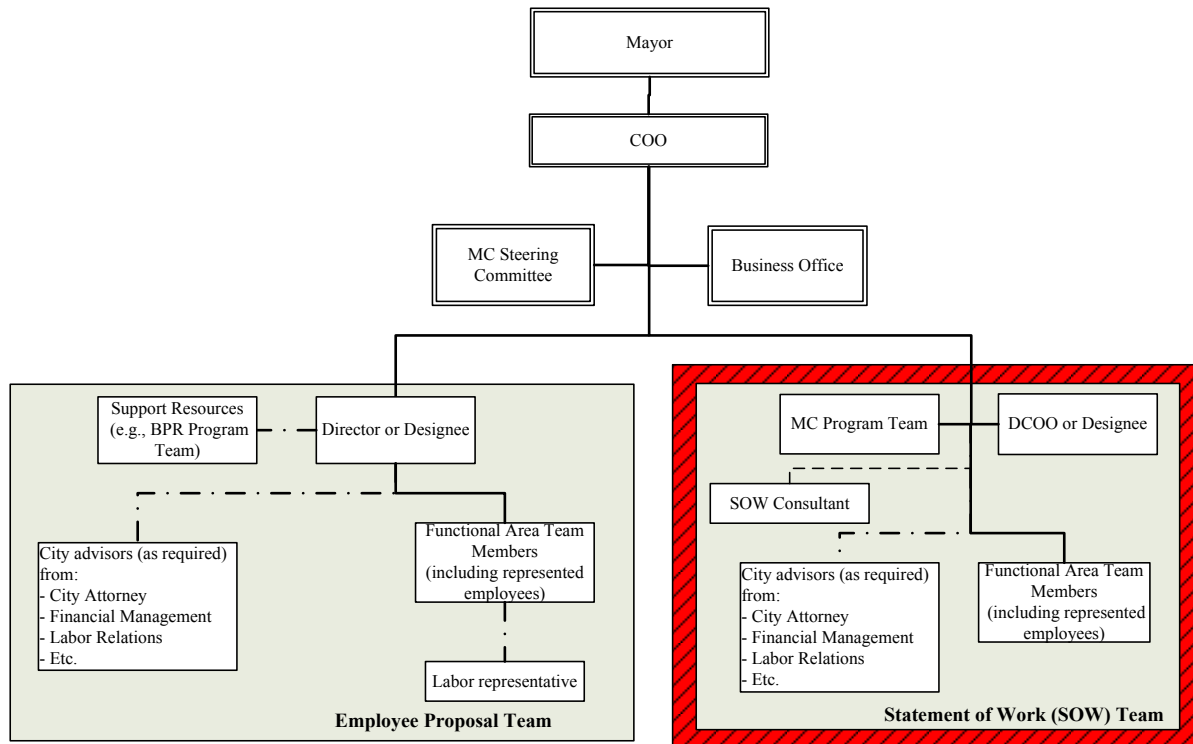
For the firewall to work effectively, roles and responsibilities must be clearly defined in order to avoid both actual and perceived conflicts of interest. The clear and appropriate assignment of roles and responsibilities to individuals and teams will enhance the City's ability to address the issues that may arise within or among key stakeholder groups (e.g., City personnel, labor organizations, independent service providers) and to mitigate any potential conflicts of interest during the course of the managed competition process. Figure 4: Managed Competition Organizational Chart shows the areas of responsibility in a competition and the firewall. Please refer to Exhibit B: Managed Competition Roles and Responsibilities for further definitions of each position.

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<sup>3</sup> The City Auditor's Fraud Hotline may be used to report any suspected cases of waste, fraud or abuse, including those involving managed competition.

<sup>4</sup> No individual may serve on both the Statement of Work and Employee Proposal Teams.

**Figure 4: Managed Competition Organizational Chart**



Potential conflicts of interest will leave the City open to questions from City residents and employees and may result in protests or law suits. The City will take stringent actions to avoid giving either an independent service provider or the City an advantage in its response to any solicitation. Therefore, City employees and stakeholders, along with all consultants, will sign Non-disclosure and Confidentiality Agreements (see Exhibit C) affirming that they will not share information across the firewall nor release any information outside the process in order to maintain the integrity of the competition.

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## **PHASE II: SOLICITATION DEVELOPMENT**

When it is determined that a competition process would benefit the City, appropriate acquisition actions, such as development and advertising of the solicitation of proposals for the service, will be undertaken by City staff, including the SOW team, the Business Office, and the Purchasing & Contracting Department.

Once City Council has approved the Preliminary SOW, the City will begin preparing for the solicitation. An Acquisition Plan will be developed and the SOW Team will work concurrently with P&C to develop the RFP. In addition, a Quality Assurance Surveillance Plan (QASP) and independent government cost estimate (IGCE) will be developed.

### **Task F: Develop Acquisition Plan**

Purchasing and Contracting, in coordination with Subject Matter Experts, will develop an Acquisition Plan for each competition. The Acquisition Plan will lay out the City's strategy for executing the competition including identifying the appropriate contract type, procurement method, and evaluation criteria. Additionally, the Acquisition Plan will lay out the City's approach for determining the length of the transition period.

### **Task G: Develop Statement of Work**

The SOW defines the requirements to which the Employee Proposal Team and independent service providers will respond. The SOW will be performance-based and will specify-required service levels. The final SOW will be submitted to P&C for incorporation into the RFP documents. The SOW Team will use information collected previously, including the Pre-competition Assessment Report and the materials generated during the Competition Planning (Phase I) stage of work.

The SOW will focus on what is to be done rather than on how it is currently done. Where this is not possible and specifications of how a function is or must be performed are necessary, these will be included in the SOW. The SOW will provide the information necessary for all bidders (independent service providers as well as the Employee Proposal Team) to develop an approach and cost for providing the service. The SOW will include the following information:

- **General and Specific Requirements** - The services the City is seeking from a service provider, including the overall scope of work, general operating conditions, quality control requirements and employee certifications and training requirements. The specific requirements will be stated in terms of performance standards or desired outcomes. Any unique requirements will be included, such as the required technical qualifications, certifications and/or licenses for service provider personnel. In addition, the applicable rules, regulations, and statutory requirements that govern the delivery of services will be included in the general and specific requirements.

Specific requirements will designate that the independent contractor:

- (1) Has appropriate safety policies and procedures in place to protect the public and its employees in providing the service.

- (2) Designate qualified personnel to monitor contract compliance.
  - (3) Employ in the service of its City contract only those who have the necessary technical qualifications to provide the services.
  - (4) Maintain for its employees the same certifications as will be required of City employees performing the same service.
  - (5) Perform background checks on employees performing a particular service if background checks will be required of City employees performing that same particular service.
  - (6) Has provided the service satisfactorily for a sufficient period of time to demonstrate expertise.
- **City-furnished Property, Materials and Services** - City-furnished Property is property in the possession of, or directly acquired by, the City and made available to the service provider selected to perform the specified functions in the SOW. City-furnished Property may include such things as facilities, heavy machinery, specialty tools, special test equipment, computers and software, and department-specific property.<sup>5</sup> The SOW Team will specify whether the cost of City-furnished Property replacement, when necessary, will be borne by the City or included in the service provider's proposed costs. As necessary, subject matter expert advisors (such as Fleet Division staff for vehicles) will be involved to inform decisions on City-furnished Property. Additionally, whether bidders should include or exclude the cost of any ongoing maintenance of City-furnished Property will be specific in the SOW.
  - **Technical Exhibits** - Technical exhibits include but are not limited to workload data, performance levels, facility data, and government furnished property inventory.
  - **Supporting Documentation** - Supporting documentation may include: drawings, maps, component system descriptions, property inventories, reporting formats, material usage, guiding documentation, and other reference materials.

As part of the SOW, the City will require that all bidders include in their technical proposals:

- **Transition Plan** - Each service provider must provide a transition plan detailing their approach for implementing their proposed organization to meet the requirements in the final SOW. Transition Plans may include strategies for: recruiting, training, procuring equipment, purchasing supplies and materials, developing standard operations procedures, and assuming the full responsibility of the contract while minimizing service disruption.
- **Quality Control Plan** - The Quality Control Plan is developed by each bidder and will define how they will conduct quality control internally based on the specific requirements and the defined services levels of the RFP.

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<sup>5</sup> If access to City systems or databases is to be provided, appropriate security measures will be taken to protect the information residing in the City's technical systems and/or databases.



- **First Preference in Hiring** – Contractors are required to give first preference in hiring to displaced City employees through recruiting, interviewing, and considering City employees for available positions provided that: (1) a City employee meets the contractor’s minimum qualifications for the position; (2) the particular circumstances of the service allow for it; and (3) to the extent permitted by law.

In addition, as with all City contracts, the City retains the right to set other requirements, terms, or conditions for successful proposers to meet and/or deliver services in accordance therewith. In appropriate cases, as determined at the discretion of the Mayor, the City may require that the independent contractor maintain a customer service and customer complaint resolution plan.

**Task H: Develop Request for Proposal and Final Solicitation**

P&C will compile a solicitation document in the form of an RFP. Effort should be made to create an RFP that will draw industry interest. The RFP will include detailed information describing how the competition will be conducted, specific instructions to potential service providers and methods of proposal evaluation and cost comparison. In addition, in accordance with applicable ordinances including Municipal Code Section 22.3224—Contractor Standards—the RFP shall include minimum contract standards and other measures to protect the quality and reliability of public services.

The RFP should include items such as:

- **Statement of Work** – A description of the functions and services to be provided by the selected service provider with the associated desired service levels or outcomes and monitoring requirements by the City. (See Task G.)
- **Solicitation Schedule** – The timeline for the solicitation from issuance of the RFP through the anticipated term of performance under the contract.
- **Pricing Structure** – The pricing sheet developed for the bidders to accurately reflect the cost of services.
- **Proposal Instructions** – A detailed list of instructions to bidders that describes proposal content and format.
- **Process Description** – A description of how the procurement process will be managed, including the pre-proposal meeting, evaluation process, possible interviews, selection, cost comparison, and award.
- **Equal Opportunity Workforce Analysis:** Each bidder must submit an Equal Opportunity Workforce Analysis of their workforce.
- **Contract Terms and Conditions** – A document that contains the general terms and conditions related to the contract term, liability, insurance, payment, audit and performance requirements, etc. As part of the terms and conditions, the Mayor shall require that any independent contractor providing services to the City meet minimum contract standards to be contained in the solicitation for services. The minimum contract standards shall include that the service provider:

- (1) Have adequate financial resources in order to provide the requested services (as part of this, any prior financial defaults or bankruptcies must be disclosed).
- (2) Provide proof that it maintains an adequate level of liability insurance consistent with City of San Diego risk management requirements.
- (3) Has a policy of equal employment opportunity.
- (4) Has committed to complying with the applicable terms of the City's Living Wage Ordinance<sup>6</sup>.
- (5) Will comply with all applicable employment and labor laws.

Contracts with all service providers shall include consequences for non-performance, up to and including termination of the agreement with the service provider, including an independent contractor or City department.<sup>7</sup> Should a contract be cancelled as a result of non-performance, the City may either retake the delivery of the function that had been under contract or initiate actions to establish a new contract in accordance with the City's purchasing and contracting guidelines. New contracts with outside service providers that are awarded through contracting means other than managed competition shall be awarded to allow for continuous service to the public for time periods of not more than one (1) year. After award of a time-limited contract to an independent service provider, actions associated with Task V, Repeat Solicitation Process, shall commence such that a managed competition effort is utilized for any future contracts.

In the event that a contract is cancelled and costs will be borne by the City to either resume performance of the function or initiate actions to establish a new contract, it is assumed that a performance bond, (as stipulated in the RFP) would provide financial support for these actions. [See City of San Diego Bid/Contract General Provisions (updated September 12, 2001), item 25, Faithful Performance Bond.]

In addition, the City shall unilaterally and immediately terminate the contract if the independent contractor enters into a contract with or employs:

- A member of the MCIRB during the term of the contract with the City
- A former member of the MCIRB during the term of the contract with the City, if that former Board member participated in the selection process for that contract

### **Task I: Develop Quality Assurance Surveillance Plan**

The Business Office, with input from the functional area Subject Matter Experts, will be responsible for developing the QASP. The QASP describes the process by which the City will monitor the selected service provider against the performance standards described in the SOW.

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<sup>6</sup> San Diego Municipal Code Chapter 2, Article 2, Division 42, sections 22.4201 through 22.4245

<sup>7</sup> City employees who will be laid off as a result of a Managed Competition contract termination shall be entitled to utilize the layoff procedures set forth in Section L-5A of the Personnel Regulations of the City of San Diego, entitled "Layoff, other than Police or Fire Units", as well as Rule V of the Civil Service Rules, entitled "Layoff and Reemployment."

The QASP details several methods for quality assurance as well as the frequency for conducting quality reviews.

The City will develop a QASP for each competition, will review each QASP annually for continued appropriateness, and will update the QASP as needed to reflect the best practices in quality assurance and current realities within the City. The QASP should define an approach for the following:

- Communicating deficiencies to the service provider
- Implementing action plans to deal with the deficiencies
- Taking corrective action when the action plan is not followed and/or resolved

Also, the QASP should outline a process for notifying P&C if:

- The service provider fails to take corrective action in a timely manner
- The contract manager deems the service provider to be in default or that default is imminent
- The contract requires modifications or change orders<sup>8</sup>

The QASP is a managerial document and will not be included as part of the solicitation provided to bidders.

### **Task J: Calculate Independent Government Cost Estimate**

The Business Office will develop the Independent Government Cost Estimate (IGCE). The IGCE is extremely procurement sensitive and will only be developed by the Business Office or designee. The IGCE represents the expected cost of SOW performance. The IGCE is produced for budget planning purposes and forms the basis of a ‘reasonable’ benchmark for proposal evaluation. The IGCE will be based on industry standards (e.g., RS Means, Timberline, Engineered Performance Standards) and local wage rates in compliance with the Living Wage Ordinance. Supporting data will provide a detailed basis of estimate to include types, quantities, standards, production rates, unit prices, escalation rates, and rationale (including calculations) for all elements including any that are not common costs. The IGCE is a managerial document and will not be included in the solicitation.

### **Task K: Advertise Final Solicitation**

Once the SOW Team and P&C finalize the solicitation, P&C will advertise the solicitation and distribute the RFP consistent with existing City guidelines and methods for issuing solicitation documents. P&C will advertise the RFP in the City’s official Publication of Record<sup>9</sup>, in various minority publications, and on the City Web page for contracting opportunities. The City will allow the Employee Proposal Team and other prospective bidders to submit questions regarding

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<sup>8</sup> All modifications or change orders that increase contract value will go before City Council for approval, in accordance with standard City Purchasing and Contracting guidelines.

<sup>9</sup> The Publication of Record is determined in accordance with A/R 25.80: Official City Advertising Published by the Official City Newspaper and by Auxiliary Publications.

the final solicitation. The time period for questions will be specific to each competition. If P&C and the Business Office determine that a response is required, the Business Office and P&C, with assistance from SOW Team members as required, will draft the necessary addendum, notify all registered potential service providers of such, and publicly post the addendum in the same manner as the solicitation.

**Task L: Conduct Pre-proposal Meeting**

Once the RFP is publicly released, P&C may conduct a pre-proposal meeting to clarify the solicitation process and answer questions from potential bidders. If appropriate, as part of the pre-proposal meeting, the Employee Proposal Team and independent service providers may be provided an opportunity to tour City facilities or view City-furnished property. Verbal discussions at the meeting are not considered official or binding.

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### **PHASE III: EMPLOYEE PROPOSAL PREPARATION AND DEVELOPMENT**

A City Department shall be provided with an opportunity and resources to develop efficiency and effectiveness improvements in their operations as part of the Department's proposal. The Employee Proposal Team will analyze existing business processes and develop a more efficient organizational structure that is capable of performing the tasks presented in the SOW. The Employee Proposal Team is responsible for developing both a technical and a cost proposal in response to the RFP.

#### **Task M: Develop Employee Team Technical Proposal**

The Employee Proposal Team will develop their most efficient and effective proposal based on the requirements defined in the RFP. City employees involved in Managed Competition will be provided with resources—such as information, technical assistance and staff support—to develop strategies for optimized efficiency, economy and effectiveness, in order to respond to a solicitation. The key element of the Employee Proposal Team proposals is the development of the Most Efficient Government Organization (MEGO). In order to develop the MEGO, a BPR, reorganization, benchmarking, or efficiency study will be conducted. Any such process used under Task M will include an employee involvement component and the City will notify the impacted employee organizations at the time the employee involvement is being solicited. Previously completed studies will be re-evaluated with employee involvement. Any participants in the above mentioned processes, including City and non-City employees, are subject to applicable conflict of interest laws, including but not limited to California Government Code section 1090, the Political Reform Act, the City's Ethics Ordinance and other governmental ethics laws, and other applicable legal provisions. To the extent permitted by law, appropriate confidentiality will be maintained to ensure that information related to the development of an employee bid is not exposed to private sector competitors.

Using the study information as a reference, the Employee Proposal Team will provide a detailed description of the staffing, organization, equipment, facilities and technical approach to meeting the requirements, terms and conditions established in the RFP. In its proposal, the Employee Proposal Team may propose using subcontracts in the performance of tasks and activities detailed in the RFP.

#### **Task N: Develop Employee Team Cost Proposal**

The Employee Proposal Team Cost Proposal is the total cost for City performance of the work described in the SOW. This proposal is developed in accordance with the City of San Diego Cost Comparison Guide located in *Exhibit D: Managed Competition Cost Comparison Guide*.

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## **RECEIVE PROPOSALS**

P&C will receive and log all proposals (those submitted by independent contractors and the Employee Proposal Team). When proposals are received by P&C, the proposals are effectively under the control of the MCIRB. All bidders shall comply with the submittal date and time as specified in the RFP. P&C will reject any proposals that are received after the established deadline including the employee proposal. Each proposal will consist of two separate documents, the technical proposal and the sealed cost proposal. The technical proposal shall address the bidder's compliance with requirements in the SOW and the cost proposal shall address the cost of performing the contract.

## **PHASE IV: SOURCE SELECTION**

The MCIRB will evaluate the technical and cost proposals and will make a recommendation to the Mayor on the service provider that offers the best overall value to the City. City staff will provide support to the MCIRB in its consideration of proposals. The Mayor will accept or reject in total the MCIRB's recommendation and will submit the decision (if it is to award a contract with an independent contractor) to City Council for approval. City Council will accept or reject the recommendation in total.

In determining whether a proposal of an independent contractor or City Department will provide a service to the City most economically and efficiently while maintaining service quality and protecting the public interest, the MCIRB will consider the following factors:

- (1) Whether the proposals by the City Department and the independent contractors are responsive to the solicitation and responsible
- (2) Whether there is reliable information demonstrating that any of the independent contractors bidding on the work have engaged in unethical business practices that would warrant the rejection of their proposal
- (3) Which independent contractor or City Department can provide the best overall value to the City
- (4) The MCIRB may take into consideration the value of health care costs when making a recommendation to the Mayor; provided, however, that the recommendation is not binding on the Mayor or the City Council.

The MCIRB will not necessarily recommend the low bidder, as the low bidder may not be the party that is presenting the most responsible and responsive bid (i.e., the low bidder may not always be the party that can provide the best and most reliable service to the City, perhaps because the low bidder has less experience or lacks the proven track record of a City Department or an independent contractor with a higher bid). However, unless the bid of an independent contractor is more than ten (10) percent lower than the bid of a City Department currently providing the service for the proposed term of the contract, the MCIRB will not recommend awarding the service in question to the independent contractor. This minimum cost differential is meant to discourage the City from implementing a significant change in service delivery on the basis of marginal estimated savings, and to account for such difficult to estimate factors as the potential costs of reduced productivity and service disruption during transition. In reviewing this factor, the MCIRB will utilize a cost analysis, the purpose of which is to calculate the costs that are saved and the costs that are generated by contracting the service.

If the MCIRB determines that an independent contractor meets the minimum contract standards and provides the best overall value to the City according to the factors set forth above, the MCIRB shall recommend to the Mayor that the contract be awarded to that independent contractor. The MCIRB's recommendation to the Mayor shall include a written explanation providing the rationale for its recommendation. The MCIRB will not recommend awarding a contract to an independent contractor unless at least two bids by independent contractors for the service subject to competition were received.

### **Task O: Conduct Cost Evaluation**

P&C will forward the cost proposals for each bidder (Employee Proposal Team and independent service provider) to the Cost Evaluation Board. The Cost Evaluation Board is assigned by the MCIRB and staffed by City analysts. The Cost Evaluation Board will analyze the Employee Proposal Team and independent service providers' bids using the City's Costing Tool. The City's Costing Tool is based on the principles established in the COMPARE<sup>®</sup> software used by the Federal government for their versions of managed competition. The City's Costing Tool is used to:

- Develop and document the City's cost of delivering services acquired through a competition
- Compare the cost of performance by a government agency to an independent source

The City's Costing Tool provides the City's approach for estimating the following<sup>10</sup>:

- Personnel costs (including fringe benefits)
- Asset depreciation, cost of capital, maintenance, and repair
- Personnel liability and casualty insurance
- Supplies and materials
- Rental, travel, utilities, and any other specifically attributable costs of performing a particular activity

### **Task P: Conduct Technical Evaluation**

The Technical Evaluation Group will consist of less than a quorum of the MCIRB and subject matter experts who serve as technical consultants to the MCIRB. P&C will forward the technical proposals to the Technical Evaluation Group. The Technical Evaluation Group will review and rank all of the proposals it receives (including the employee proposal) according to the evaluation criteria established in the Acquisition Plan. Evaluations are procurement-sensitive; therefore, the Technical Evaluation Group will include less than a quorum of the MCIRB and the subcommittee that supports a Technical Evaluation Group will not be subject to the Ralph M. Brown Act (Gov. Code, § 54950 et seq.).

If the Technical Evaluation Group requires further clarification on approach, method, or any other aspect of the proposals, the Technical Evaluation Group, along with a facilitator from P&C, may conduct interviews of the bidders. The Technical Evaluation Group will document their overall assessment of each proposal and submit their technical evaluation to the MCIRB.

### **Task Q: Receive MCIRB Recommendation**

Once complete, the Technical Evaluation Group and Cost Evaluation Board will forward their assessments of each bidder's proposal, including the Employee Proposal Team, for the MCIRB's consideration and recommendation to the Mayor. The MCIRB will combine the technical and cost rankings for each bidder and discuss the strengths, weaknesses, and risks of each proposal.

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<sup>10</sup> Please see Exhibit D for additional information on the City's Costing Tool.



The MCIRB will then make a determination as to whether a proposal of an independent service provider or the Employee Proposal Team is the best overall value, meaning it provides the specific service to the City most economically and efficiently while maintaining quality and protecting the public interest. The recommendation will then be provided to the Mayor.

### **Task R: Receive Mayor's Recommendation**

Upon receipt of a recommendation from the MCIRB that a City service should be awarded to an independent contractor, the Mayor shall either accept or reject that recommendation in its entirety. If the Mayor accepts the recommendation, then the Mayor shall notify all labor organizations whose members would be affected by such an agreement, as well as the City's Labor Relations Division and shall provide opportunity for the labor organizations to Meet & Confer on the decision to move the recommendation forward as well as the impact of such decision in accordance with MMBA.<sup>11</sup>

The Mayor will then forward that recommendation to the City Council. That recommendation shall include the written recommendation of the MCIRB and a transition strategy that addresses contract monitoring, service interruption, and affected employee procedures, as well as a proposed agreement with the independent contractor.

### **Task S: City Council Approval**

The City Council shall have the authority to accept or reject in its entirety any proposed agreement with an independent contractor submitted by the Mayor upon recommendation of the Managed Competition Independent Review Board.

When the City Council approves a contract with an independent entity, the Mayor or his designee will ensure that all relevant stakeholders are notified, including, but not limited to, Labor Relations, the Personnel Department, and the applicable labor organization(s). If the award results in changes to wages, hours, or working conditions for City employees, Labor Relations will enter into Meet & Confer with the applicable labor organization(s) on impacts or effects bargaining.

If a service is awarded to an independent contractor through Managed Competition, impacted employees in the Classified Service will not be precluded or hindered from accepting employment with the independent contractor. Workers whose jobs are being eliminated as a result of managed competition will be retained by the City in their same classification for 90 calendar days from contract award approval by City Council. During this period, employees will not be precluded from transferring, demoting, or promoting into other City positions.

## **PHASE V: TRANSITION AND POST-COMPETITION ACCOUNTABILITY**

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<sup>11</sup> The meet and confer process related to this Guide does not constitute a waiver of an exclusive bargaining representative's right to demand bargaining over subsequent decisions to contract out work pursuant to the MMBA, as interpreted by current case law.

Once the competition is complete, a seamless transition to the new service providers or delivery of services is critical. After the transition has taken place, the City must monitor the performance of the selected service provider to ensure performance requirements and cost expectations are met. This section outlines the transition plan and performance monitoring process.

Audits will be conducted pursuant to Charter section 117(c). In addition, as part of implementing a managed competition contract proposal, the City Auditor will be asked to review contract monitoring practices of the City department to offer suggestions for proper contract management. Within the term of a managed competition contract (for city workers or contractor), the City Auditor shall conduct a performance evaluation of the service – determining whether cost efficiencies and performance standards have been achieved and identifying ways for the department to improve contract management.

### **Task T: Implement Transition Plan**

Once the best overall value service provider is selected, the Transition Plan contained in the successful proposal will be implemented. This plan will have provided a detailed description of the changes in staffing, equipment, materials, service levels or processes required to meet the commitments in their technical and cost proposals. Additionally, the Employee Proposal Team will provide a description of their proposal for transition from the original organization to the MEGO. If the Employee Proposal Team is selected and the award results in changes to wages, hours, or working conditions for City employees, Labor Relations will enter into Meet & Confer with the applicable labor organization(s) on impacts or effects bargaining.

The appropriate Department Director must identify the City's tasks and subtasks that need to occur for a smooth transition, including the primary persons responsible, and expected completion dates. The service provider will be allowed a transition period to phase in the new service delivery system(s). The SOW will dictate the specific timeframe for the transition period.

There are several key issues to consider when implementing the transition plan including:

- **Labor Actions** - Regardless of the outcome of the competition, if the Department must reduce the number of employees, a formal reduction-in-force must be undertaken in accordance with City of San Diego Civil Service Rules.
- **Budget Changes** - Budget changes for the current fiscal year should be promptly prepared and processed for approval by the City Council.
- **Purchases/Investments** - Any significant purchases or investments that are required to implement the service provider's technical proposal or that were specified in the SOW should be processed as soon as feasible or on the timeline outlined in the technical proposal.

The Department Director is responsible for developing a strategy to communicate the transition plan to departmental employees.

### **Task U: Monitor Service Provider Performance**

The Mayor shall have the sole responsibility for administering and monitoring any agreements with contractors. The Mayor shall be required to produce annual performance audits for contracted services, the cost of which must be accounted for and considered during the bidding process. In addition, the Mayor shall seek an independent audit every five (5) years to evaluate the City's experience and performance audits.

For independent service provider performance, the City will appoint a Contract Manager who will be responsible for day-to-day contract administration. The Contract Manager will establish a regular schedule and format for communicating the status and effectiveness of the contract.

When appropriate for the service, the City will conduct a customer survey to establish a baseline for customer satisfaction, as well as a mechanism for customers to formally provide feedback on the quality of services received. In addition to performing regular inspections, the Contract Manager should investigate all complaints to determine whether they are valid in that they fail to comply with some provision of the contract. The customer feedback should be reviewed and summarized semi-annually to determine whether customer expectations are being met. If complaints are made frequently on the same or similar issues, the department should immediately initiate corrective action with the independent service provider.

The City will be responsible for monitoring the costs of the Employee Proposal Team or independent service provider on a monthly basis. The Contract Manager will be responsible for approving independent service provider's invoices and notifying P&C of any discrepancies. The Business Office will receive quarterly updates on the cost performance of either the Employee Proposal Team or independent service provider to ensure that they are meeting the terms established in their cost proposal.

Corrective action may be necessary if the City determines that costs and performance levels do not meet the committed levels, the action plan to correct these deficiencies has not been followed and/or issues have not been resolved.<sup>12</sup> Corrective action must be consistent with the guidelines established under the terms and conditions in the contract. As noted earlier, the guidelines should include specific details regarding the basis for declaring non-compliance, notification methods for non-compliance, length of time to correct any deficiencies, and penalties involved.

### **Task V: Repeat Solicitation Process**

The contract with the service provider (including City forces) shall specify the duration of performance. In the case of an outside service provider, by City Charter, the contract cannot exceed a maximum of five (5) years. Prior to the expiration of the contract, the Mayor or his designee will determine whether the function will proceed to pre-competition assessment or it will be performed by City forces without another competition.

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## **EXHIBIT A: MANAGED COMPETITION INDEPENDENT REVIEW BOARD**

The Mayor shall establish the Managed Competition Independent Review Board to advise the Mayor whether a City Department's proposal or an independent contractor's proposal will provide the services to the City most economically and efficiently while maintaining service quality and protecting the public interest.

The Mayor will appoint seven (7) members to the Board.<sup>13</sup> Four (4) shall be private citizens whose appointments shall be subject to City Council confirmation, and who shall serve without compensation. Each shall have professional experience in one or more of the following areas: finance, law, public administration, business management or the service areas under consideration by the Mayor. Three (3) shall be City staff including a Mayoral staff designee, a City Council staff designee and the City Auditor and Comptroller or staff designee. Such appointees shall not have any personal or financial interests which would create conflict of interests with the duties of a Board member.

### *Terms of Members of the Independent Review Board*

To promote continuity and organizational knowledge, the terms of the initial appointees to the Independent Review Board shall be staggered as follows: Two private citizens shall serve an initial three year term, and the other two private citizens shall serve two year terms. All subsequent terms by private citizens shall be two years. A member who has served two complete terms shall be ineligible for reappointment for two years after leaving the Board. The three City staff Board members shall not be subject to the above term limits.

### *Qualifications of Independent Review Board Members*

Each member of the Board shall comply with the following qualifications during his or her tenure on the Board:

- No member of the Board shall make a financial contribution to, or publicly support or oppose, a candidate for or incumbent in City office.
- No member of the Board is permitted to act as a lobbyist required to register with the City pursuant to Chapter 2, Article 7, Division 40 of this Code.
- Board members shall not have any personal or financial interests that would create conflict of interests with the duties of a Board member.
- Members of the Board shall be prohibited from entering into a contract or accepting employment from an organization which secures a City contract through the managed competition process for the duration of the contract. All City contracts secured through Managed Competition shall include a condition that the City shall unilaterally and immediately terminate the contract if the independent contractor enters into a contract with or employs a member of the Board during the term of the contract with the City.

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<sup>13</sup> Ordinance language reads: The Board shall consist of seven (7) members appointed by the (Mayor).

- Former members of the Board shall not enter a contract with or accept employment with an independent contractor that secures a City contract through Managed Competition for the duration of that contract after leaving the Board, if that Board member participated in the selection process for that contract. All City contracts secured through Managed Competition shall include a condition that the City shall unilaterally and immediately terminate the contract if the independent contractor enters into a contract with or employs a former member of the Board during the term of the contract with the City, if that former Board member participated in the selection process for that contract.

*Removal of Member of the Independent Review Board*

A Board member, subject to City Council confirmation, may be removed for cause by a vote of the majority of the members of the Council. Before the Council may remove a member of the Board, written charges shall be made against the Board member and an opportunity afforded for public hearing before the Council acts upon such charges. While charges are pending before the Council, the Council may suspend a Board member's participation on the Board.

*Confidentiality and Conflict of Interest*

A conflict of interest code shall be adopted by the City Council for all members of the Managed Competition Independent Review Board. All members of the Managed Competition Independent Review Board shall be required to complete and file statements of economic interests in accordance with the conflict of interest code.

## **EXHIBIT B: MANAGED COMPETITION ROLES AND RESPONSIBILITIES**

The following table illustrates the specific roles and responsibilities of each team or individual that will participate in the City's Managed Competition Program. A clearly defined set of roles and responsibilities is an important step to ensure the successful execution of the complex managed competition process. The information given in this document should serve as a baseline from which team members can establish an understanding of expectations for themselves and their colleagues. Although the nature of effort needed from team members may change and the level of effort needed from team members may vary throughout the competition process, this document is presented to avoid confusion and duplication of effort. The establishment of roles and responsibilities at the onset of these competitions will reduce redundancy and/or minimize any loss of time due to the misunderstanding of team member roles.

Competition Role	Participants	Roles and Responsibilities
Managed Competition Official (MCO)	Mayor	<p>All references in this Guide to Mayor shall mean City Manager if the City should revert from a strong Mayor form of government to a Council/Manager form of government</p> <p>The Mayor shall:</p> <ul style="list-style-type: none"> <li>▪ Select appropriate functions for competition.</li> <li>▪ Recommend members of the MCIRB (who will be subject to City Council confirmation).</li> <li>▪ Upon receipt of a contract award recommendation from the MCIRB, either accept or reject that recommendation in its entirety. If the Mayor accepts the recommendation, then the Mayor shall forward that recommendation to the City Council.</li> </ul>
Managed Competition Independent Review Board (MCIRB)	City Staff (3 members) Private Citizens (4 members)	<p>The MCIRB shall:</p> <ul style="list-style-type: none"> <li>▪ Receive a copy of the Pre-Competition Assessment Report.</li> <li>▪ Appoint members of the Technical Evaluation Group and Cost Evaluation Board.</li> <li>▪ Make an award recommendation based on technical and cost proposals received by the City.</li> <li>▪ The MCIRB's best overall value recommendation to the Mayor shall include a written explanation for its recommendation rationale in a decision document.</li> </ul>
City Council	Council members	<p>The City Council shall:</p> <ul style="list-style-type: none"> <li>▪ Confirm the appointments of all four private citizens to the MCIRB.</li> <li>▪ Review and approve the preliminary SOW.</li> <li>▪ Have the authority to accept or reject, in its entirety, any proposed agreement with an independent contractor submitted to them, by the Mayor, as a result of a competition.</li> <li>▪ Approve budget and service changes as appropriate.</li> </ul>
Business Office	Business Office and consultants as warranted	<p>The Business Office shall:</p> <ul style="list-style-type: none"> <li>▪ Develop the Preliminary SOW.</li> <li>▪ Develop the Communications Plan.</li> <li>▪ Establish Competition Schedule.</li> <li>▪ Support SOW and Employee Proposal development.</li> <li>▪ Coordinate required activities leading from one phase of the competition process to the next.</li> <li>▪ Develop the QASP.</li> <li>▪ Provide document control for guidelines, regulations, and other relevant guiding/reference documents.</li> </ul>

Competition Role	Participants	Roles and Responsibilities
Procurement Staff	Purchasing & Contracting Staff	<ul style="list-style-type: none"> <li>▪</li> </ul> <p>The Procurement Staff shall:</p> <ul style="list-style-type: none"> <li>▪ Assist in developing (as appropriate) and approve the SOW and other RFP documents in advance of their release.</li> <li>▪ Advertise the solicitation.</li> <li>▪ Issue addenda as required.</li> <li>▪ Conduct pre-proposal meetings (as appropriate).</li> <li>▪ Tailor the selection process to suit individual acquisitions to minimize the cost of the process for the City as well as prospective competitors.</li> <li>▪ Be responsible for portions of competition process to include contract award.</li> <li>▪ Represent the City during any bid protests.</li> <li>▪ Set up purchase orders.</li> <li>▪ Coordinate amendments.</li> </ul>
Managed Competition Steering Committee	City leadership, as designated by the Mayor and/or COO	<p>The Managed Competition Steering Committee shall:</p> <ul style="list-style-type: none"> <li>▪ Provide funding and resources for all phases of a managed competition and ensure the funds are appropriately used.</li> <li>▪ Acquire expert resources to support the managed competition process.</li> <li>▪ Provide resolution of cross-organizational issues.</li> <li>▪ Provide strategic direction and oversight to the Mayor for the execution of managed competition initiative.</li> </ul>
SOW Development Team Lead	Deputy Chief Operating Officer of the affected department (or designee)	<p>The SOW Team leader shall:</p> <ul style="list-style-type: none"> <li>▪ Provide the resources and training necessary to prepare a comprehensive SOW for the function(s) covered in the scope determined by the Pre-Competition Assessment phase of the Managed Competition.</li> <li>▪ Coordinate and manage development of the SOW.</li> <li>▪ Validate the SOW and verify that the stated requirements and service levels are those necessary to accomplish the functions and/or tasks of the activity subject to competition.</li> <li>▪ Structure the SOW so it is performance-based and the standards and measurements included in the SOW are quantifiable and attainable.</li> <li>▪ Provide assistance to the Business Office and Contracting Officer as required during the competition.</li> <li>▪ Assist in the development of evaluation criteria for technical proposals appropriate in relation to the SOW requirements.</li> </ul>



Competition Role	Participants	Roles and Responsibilities
SOW Team	Affected Department Employees (may include: employee(s) represented by the labor organizations, consultant staff, representatives of Purchasing & Contracting, Financial Management/Auditors, Personnel.)	<p>The SOW Team shall be independent of all Employee Proposal Team members:</p> <ul style="list-style-type: none"> <li>▪ Make final determinations for inventory of City-furnished facilities, equipment, services, and utilities.</li> <li>▪ Develop the SOW including the development of technical requirements, performance standards, and technical exhibits.</li> <li>▪ Determine applicable regulations and directives (including environmental, security, and customer requirements).</li> <li>▪ Provide input for the development of other SOW requirements of the solicitation.</li> </ul>
Employee Proposal Team Lead	Director of the Activity Department (or designee)	<p>The Employee Proposal Team Lead shall:</p> <ul style="list-style-type: none"> <li>▪ Establish schedule timelines and budget for the employee proposal development.</li> <li>▪ Designate members of the Employee Proposal Team.</li> <li>▪ Provide the resources and training necessary to prepare a competitive employee proposal.</li> <li>▪ Coordinate all aspects of the employee proposal including the development of the employee proposal in accordance with the solicitation for the function(s) under competition.</li> <li>▪ Oversee the development of a Most Efficient Government Organization (MEGO) capable of accomplishing the requirements of the SOW that is competitive with potential independent contractors.</li> <li>▪ Develop, certify, and represent the employee proposal.</li> <li>▪ Validate the ability of the employee proposal to satisfy the requirements of the SOW and certify the ability to commit to the approach/resources identified in the employee proposal.</li> <li>▪ Certify that the costs included in the employee proposal are calculated in accordance with the solicitation instructions.</li> <li>▪ Validate that funding is available to support the cost of preparing the employee proposal..</li> </ul>

Competition Role	Participants	Roles and Responsibilities
Employee Proposal Team	<p>Affected Department Employees (may include independent of the SOW team employee(s) represented labor organizations, consultant staff, representatives of Financial Management/Auditors, Personnel)</p> <p>Labor organization advisors</p>	<p>The Employee Proposal Team shall:</p> <ul style="list-style-type: none"> <li>▪ Help to identify employee proposal data collection requirements and collect data.</li> <li>▪ Assist in the completion of the employee proposal by developing process and productivity improvements.</li> <li>▪ Review personnel classification requirements to meet the solicitation requirements.</li> <li>▪ Assess material, supplies, and equipment requirements to meet the solicitation requirements, etc.</li> <li>▪ Include in the employee proposal all applicable components outlined in the RFP.</li> <li>▪ Receive assistance through the participation of one named representative of each labor organization involved in the managed competition effort serving as a non-voting advisor to the represented City employees participating on the Employee Proposal Team.</li> </ul>
Technical Evaluation Group	Members of the MCIRB (and as appropriate subject matter experts)	<p>The Technical Evaluation Group shall:</p> <ul style="list-style-type: none"> <li>▪ Be appointed by the MCIRB.</li> <li>▪ Evaluate the technical proposals of all bidders according to evaluation criteria stated in the solicitation.</li> <li>▪ Document evaluation conclusions.</li> <li>▪ Brief the MCIRB on conclusions based on the evaluated bids.</li> </ul>
Cost Evaluation Board	<p>Appointed by the MCIRB (subject matter experts)</p> <p>Independent</p>	<p>The Cost Evaluation Board shall:</p> <ul style="list-style-type: none"> <li>▪ Be appointed by the MCIRB.</li> <li>▪ Evaluate the cost proposals of all bidders according to evaluation criteria stated in the solicitation.</li> <li>▪ Document evaluation conclusions.</li> <li>▪ Brief the MCIRB on conclusions based on the evaluated bids.</li> </ul> <p>The Independent Budget Analyst (IBA) will receive information to assist the Cost Evaluation Board by</p>

Competition Role	Participants	Roles and Responsibilities
	Budget Analyst	providing an independent review of the costs proposed by the City’s employee team and external service providers to assure their accuracy and appropriateness.
Transition Team	Various Subject Matter Experts	<p>The Transition Team shall:</p> <ul style="list-style-type: none"> <li>▪ Monitor the transition of current performance to either the employee proposal or the independent contractor.</li> </ul>
Post-decision Monitoring Team	Person or Team in affected Department	<p>The Post-decision Monitor shall:</p> <ul style="list-style-type: none"> <li>▪ Monitor, track, validate, and report cost and performance information of the new Service Provider after a competition.</li> </ul>
Labor/ Management Committee	<p>Four representatives from the Mayor’s office</p> <p>Two representatives from each labor organization that represents employees who could be impacted by managed competition</p>	<p>The Labor/Management Committee shall:</p> <ul style="list-style-type: none"> <li>▪ Share information on current or future managed competition activities</li> <li>▪ Discuss potential bargaining issues that may come up as a result of managed competition activities. (However, the Committee’s actions do not replace bargaining when it is required.)</li> <li>▪ Provide a forum to discuss potential impacts on employees as a result of the managed competition program.</li> <li>▪ Provide a forum to discuss employee concerns arising from the managed competition program.</li> <li>▪ Provide a forum through which the City can introduce new ideas and/or discuss concerns regarding the managed competition process.</li> <li>▪ Discuss and attempt to resolve disputes that arise in the interpretation and/or application of managed competition guide</li> </ul>

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## EXHIBIT C: NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENTS

### Non-Disclosure and Confidentiality Agreement By and Between the City of San Diego and \_\_\_\_\_ (City Employee)

This Non-Disclosure and Confidentiality Agreement (hereinafter, "Agreement") is made and effective the \_\_\_\_ of \_\_\_\_\_, 20\_\_, by and between the City of San Diego (hereinafter, "the City") and \_\_\_\_\_, a City Employee (hereinafter, "Employee").

WHEREAS, the City possesses certain information (hereinafter, "Confidential Information") related to the City's Managed Competition Program (hereinafter, "Program"); said information is confidential and proprietary to the City; and

WHEREAS, the City desires to disclose Confidential Information to Employee to allow Employee to participate in the Program, pursuant to the terms of this Agreement; and

WHEREAS, Employee desires to receive disclosure of Confidential Information to allow Employee to participate in the Program, as a [*select one*] Member of a Statement of Work Team/Member of an Employee Proposal Team, as more fully described herein, pursuant to the terms of this Agreement;

NOW THEREFORE, for the mutual consideration contained herein, the City and Employee agree as follows:

#### **1. Purpose and Intent of Agreement/Mutual Consideration.**

The City is committed to delivering quality services to taxpayers, residents, and visitors in the most economical and efficient ways possible. Under Article VIII, Section 117(c) of the City Charter, managed competition is the process for determining whether City services can be provided more economically and efficiently by an independent contractor than by persons employed in the classified service of the City, while maintaining service quality and protecting the public interest.

Managed competition is a structured, transparent process that allows public sector employees to be openly and fairly compared with independent service providers (normally private sector firms) for the right to deliver services.

The Program involves a Solicitation Development phase during which a team, including City employees, shall develop the Statement of Work (hereinafter, "SOW") and the Request for Proposal (hereinafter, "RFP"). This team shall be designated herein as the SOW Team.

The Program also involves the Employee Proposal Preparation and Development phase, in which a team of City employees, with advice from City labor organization representative(s), shall develop the employee response to the RFP. This team shall be designated herein as the Employee Proposal Team.

The City and Employee acknowledge and agree that participation in the Program by the parties is mutually beneficial. Further, the City and Employee acknowledge and agree that the integrity of the managed competition process is contingent upon the development and implementation of certain safeguards and procedures to avoid the potential for ethical conflicts and abuses between the Solicitation Development and the Employee Proposal Preparation and Development and between Employee Proposal Preparation and Development and preparation of proposal documents by outside entities. Specifically, the potential for abuse from knowingly or

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unknowingly causing or gaining unfair advantage from access to information, or the ability to affect the selection process for personal gain must be understood and avoided.

The City and Employee acknowledge and agree that Employee's involvement in the Program as a [select one] Member of the SOW Team/Member of the Employee Proposal Team requires the implementation of safeguards and procedures to avoid the potential for ethical conflicts and abuses and to ensure that no elected official, City employee, or other person shall provide procurement sensitive information to any potential contractor.

The City and Employee acknowledge and agree that this Non-Disclosure and Confidentiality Agreement is a means to ensure the implementation and protection of the Firewall. Employee acknowledges and understands the importance of complying with this Agreement, and agrees to comply with the Agreement as a term and condition of employment.

## **2. Definitions.**

For purposes of this Agreement, defined terms are as follows.

—Authorized persons” shall mean any City employees designated in writing by the Mayor or Mayor's representative as authorized persons. Such designations shall be made in accordance with the Managed Competition Guide and applicable law. If Employee is a member of the SOW Team, authorized persons shall be other members of the SOW Team. If Employee is a member of the Employee Proposal Team, authorized persons shall be other members of the Employee Proposal Team. Unauthorized persons include all other persons, whether or not employed by the City, except where designated otherwise.

—Confidential Information” shall mean any and all information possessed, discussed, and/or obtained from, by, and/or through Employee's involvement in the managed competition process as a member of the SOW Team or a member of the Employee Proposal Team. Confidential Information shall include, but not be limited to, any and all data, materials, products, technology, computer programs, specifications, manuals, business plans, software, marketing plans, financial information, and other information disclosed or submitted, orally, in writing, or by any other media, to Employee in connection with the Program. Confidential Information shall include, but not be limited to, documents regarding pre-competition assessments, development of a SOW, or preparation of an RFP. Confidential Information shall include any and all of the aforementioned documents, whether or not marked as —Confidential,” —Procurement Sensitive,” —Privileged,” or similar designation. Confidential Information shall also include any ideas or information generated by Employee as part of Employee's involvement in the Program, as a member of the SOW Team or the Employee Proposal Team. Information or ideas generated by Employee as part of Employee's involvement in the Program are considered to be the intellectual property of the City, whether or not the information or ideas are reduced to writing. Consistent with applicable law, Confidential Information shall be broadly defined in favor of a finding of confidentiality.

—Firewall” is defined as a separation of communication, data, and responsibilities between the SOW team, the Employee Proposal Team, and outside entities. The SOW Team shall develop the SOW and members of the SOW Team may assist in selecting the appropriate service provider. The Employee Proposal Team shall develop the employee proposal in response to the RFP. A firewall shall be created between the two employee teams to ensure that a level playing field exists between the Employee Proposal Team and any independent service providers interested in responding to the RFP.

## **3. Protection of Confidential Information/Employee's Duty of Non-Disclosure.**

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To facilitate the Program, the City intends to disclose to Employee the Confidential Information necessary for Employee to engage in the Program as a member of the SOW Team or a member of the Employee Proposal Team.

Employee acknowledges and agrees to take all steps necessary to hold in confidence and protect from disclosure to unauthorized persons, as defined herein, the Confidential Information obtained, received, or otherwise disclosed to Employee through Employee's participation in the Program.

Employee shall not disclose, disseminate, publish, or otherwise reveal the Confidential Information, by any means, including but not limited to verbal or written dissemination or disclosure of documents, to any unauthorized persons.

Employee shall take all steps reasonably necessary to protect the established Firewall until the Firewall is no longer necessary, as determined by the City's undersigned Appointing Authority.

Employee shall not use the Confidential Information other than for the purposes of Employee's business with the City.

Employee shall return all Confidential Information received in written or tangible form, including copies, or reproductions or other media containing such Confidential Information, immediately upon the request of the City.

Employee's duty of confidentiality and non-disclosure of Confidential Information under this Agreement shall not prohibit Employee from communicating or otherwise interacting with other City employees or others not on Employee's designated team (SOW Team or Employee Proposal Team), so long as Employee maintains the Firewall as to Confidential Information.

Nothing herein shall require the City to disclose any of its information.

**4. Term.**

The duties of Employee herein shall continue until the Confidential Information disclosed or otherwise in possession of Employee is no longer deemed to be confidential by the Mayor or Mayor's representative.

**5. No Implied Waiver.**

Either party's failure to insist in any one or more instances upon strict performance by the other party of any of the terms of this Agreement shall not be construed as a waiver of any continuing or subsequent failure to perform or delay in performance of any term hereof.

Further, this Agreement shall not be construed to infringe any constitutionally or statutorily protected rights of Employee. The confidentiality and non-disclosure conditions of this Agreement are intended to function as reasonable regulations intended to further the City's ability, as an employer, to promote the efficiency of the public services it performs through its employees.

**6. Governing Law.**

This Agreement shall not prohibit disclosures required by law or court order.

**7. Remedies for Breach.**

Employee understands that any breach of this Agreement may result in discipline up to and including termination. In addition to any administrative remedies that may be available to the City, the City reserves the right to pursue any legal or equitable remedies, including but not limited to equitable relief as may be necessary to protect the City against any breach or threatened breach of this Agreement.

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**8. Final Agreement.**

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

**9. No Assignment.**

Employee shall not assign this Agreement or any interest herein without the City's express prior written consent.

**10. Severability.**

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

**11. Headings.**

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

**12. Counterparts.**

This Agreement may be signed in two counterparts, each of which shall be deemed an original and both of which together constitute one agreement.

WHEREFORE, the parties acknowledge that they have read and understand this Agreement and voluntarily accept and agree to the duties and obligations set forth herein, as evidenced by their execution of this Agreement.

\_\_\_\_\_  
Signature

City Employee

\_\_\_\_\_  
Signature

Appointing Authority/Designee

City of San Diego

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Department

\_\_\_\_\_  
Program Team

Catalogued by:

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

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**Non-Disclosure and Confidentiality Agreement  
By and Between the City of San Diego and**

**(Non-City Employee)**

This Non-Disclosure and Confidentiality Agreement (hereinafter, "Agreement") is made and effective the \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_, by and between the City of San Diego (hereinafter, "the City") and \_\_\_\_\_, an employee and representative of [name of organization] (hereinafter, "Non-City Employee").

WHEREAS, the City possesses certain information (hereinafter, "Confidential Information") related to the City's Managed Competition Program (hereinafter, "Program"); said information is confidential and proprietary to the City; and

WHEREAS, the City agrees to disclose Confidential Information to Non-City Employee to allow Non-City Employee to participate in the Program, as more fully described herein, pursuant to the terms of this Agreement; and

WHEREAS, Non-City Employee desires to receive disclosure of Confidential Information to allow Non-City Employee to participate in the Program, pursuant to the terms of this Agreement;

NOW THEREFORE, for the mutual consideration contained herein, the parties agree as follows:

**1. Purpose and Intent of Agreement/Mutual Consideration.**

The City is committed to delivering quality services to taxpayers, residents, and visitors in the most economical and efficient ways possible. Under Article VIII, Section 117(c) of the City Charter, managed competition is the process for determining whether City services can be provided more economically and efficiently by an independent contractor than by persons employed in the classified service of the City, while maintaining service quality and protecting the public interest.

Managed competition is a structured, transparent process that allows public sector employees to be openly and fairly compared with independent service providers (normally private sector firms) for the right to deliver services.

The Program involves a Solicitation Development phase during which the City's Business Office shall lead a team, including City employees, to develop the Statement of Work (hereinafter, "SOW") and the Request for Proposal (hereinafter, "RP"). This team shall be designated herein as the SOW Team.

The Program also involves the Employee Proposal Preparation and Development phase, in which a team of City employees shall develop the Employee response to the solicitation. This team shall be designated herein as the Employee Proposal Team.

The City and Non-City Employee acknowledge and agree that participation in the Program by the City and its employees is legally required and mutually beneficial. Further, the City has agreed that the Program will benefit from the advice of Non-City Employees as they fulfill their obligations as participants in the Program.

The City and Non-City Employee acknowledge and agree that the integrity of the managed competition process is contingent upon the development and implementation of certain safeguards and procedures to avoid the potential for ethical conflicts and abuses between the



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Solicitation Development and the Employee Proposal Preparation and Development and between Employee Proposal Preparation and Development and preparation of proposal documents by outside entities. Specifically, the potential for abuse from knowingly or unknowingly causing or gaining unfair advantage from access to information, or the ability to affect the selection process for personal gain or gain for members of the Non-City Employee's organization must be understood and avoided.

The City and Non-City Employee acknowledge and agree that Non-City Employee's involvement in the Program requires the development and implementation of certain safeguards and procedures to avoid the potential for ethical conflicts and abuses and to ensure that no elected official, City employee, Non-City Employee, or other person shall provide procurement sensitive information to any potential contractor. Nothing in this Agreement shall be construed to mandate that a Non-City Employee shall serve as an advisor to Member(s) of the Employee Proposal Team or mandate participation by the Non-City Employee in the Program in any other capacity.

The City and Non-City Employee acknowledge and agree that this Non-Disclosure and Confidentiality Agreement is the means to ensure the implementation and protection of the Firewall. Non-City Employee acknowledges and understands the importance of complying with this Agreement, and agrees to comply with the Agreement.

## **2. Definitions.**

For purposes of this Agreement, defined terms are as follows.

—Authorized persons” shall mean any City employees or other persons designated in writing by the Mayor or Mayor's representative as authorized persons. Such designations shall be made in accordance with the Managed Competition Guide and applicable law. If Non-City Employee is an advisor to a member of the Employee Proposal Team, authorized persons shall be members of the Employee Proposal Team. Unauthorized persons include all other individuals, whether or not employed by the City, except where designated otherwise.

—Confidential Information” shall mean any and all information possessed, discussed, and/or obtained from, by, and/or through Non-City Employee's involvement in the managed competition process as an advisor to a member of the SOW or Employee Proposal Team. Confidential Information shall include, but not be limited to, any and all data, materials, products, technology, computer programs, specifications, manuals, business plans, software, marketing plans, financial information, and other information disclosed or submitted, orally, in writing, or by any other media, to Non-City Employee in connection with the Program. For the purposes of this agreement, Confidential Information shall include, but not be limited to, documents regarding pre-competition assessments, Statements of Work, Business Process Reengineering studies, or development of a proposal. Confidential Information shall include any and all of the aforementioned documents, whether or not marked as —Confidential,” —Procurement Sensitive,” —Privileged,” or similar designation. Confidential Information shall also include any ideas or information generated by any member of the SOW or Employee Proposal Team. Information or ideas generated by members of the SOW and Employee Proposal Teams are considered to be the intellectual property of the City, whether or not the information or ideas are reduced to writing. Consistent with applicable law, Confidential Information shall be broadly defined in favor of a finding of confidentiality.

—Firewall” is defined as a separation of communication, data, and responsibilities between the SOW team, the Employee Proposal Team, and outside entities. The SOW Team shall develop the SOW and members of the SOW Team may assist in selecting the appropriate service provider. The Employee Proposal Team shall develop the employee proposal in response to the RFP. A firewall shall be created between the two teams to ensure that a level playing field

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exists between the Employee Proposal Team and any independent service providers interested in responding to the RFP.

—Non-City Employee” is defined as a consultant, labor representative, or other individual who is appointed, employed, or otherwise engaged to provide assistance to the SOW or Employee Proposal Team, but not both. Labor representatives may serve as advisors to the Employee Proposal Team members and shall not participate in the SOW Team as members or advisors.

**3. Protection of Confidential Information/Non-City Employee's Duty of Non-Disclosure.**

To facilitate the Program, the City intends to disclose to Non-City Employee Confidential Information necessary for Non-City Employee to engage in the Program, as an advisor to members of the Employee Proposal Team.

Non-City Employee acknowledges and agrees to take all steps necessary to hold in confidence and protect from disclosure to unauthorized persons, as defined herein, the Confidential Information obtained, received, or otherwise disclosed to Non-City Employee through Non-City Employee’s participation in the Program.

Non-City Employee shall not disclose, disseminate, publish, or otherwise reveal the Confidential Information, by any means, including but not limited to verbal or written dissemination or disclosure of documents, to any unauthorized persons.

Non-City Employee shall take all steps reasonably necessary to protect the established Firewall until the Firewall is no longer necessary, as determined by the City’s undersigned Appointing Authority.

Non-City Employee shall not use the Confidential Information other than for the purposes of Non-City Employee’s business with the City.

Non-City Employee shall not duplicate the Confidential Information, except upon authorization and approval of the City’s undersigned Appointing Authority.

Non-City Employee shall return all Confidential Information received in written or tangible form, including copies, or reproductions or other media containing such Confidential Information, immediately upon the request of the City.

Non-City Employee’s duty of confidentiality and non-disclosure of Confidential Information under this Agreement shall not prohibit Non-City Employee from communicating or otherwise interacting with others not on the SOW or Employee Proposal Teams, so long as Non-City Employee maintains the Firewall as to Confidential Information.

Nothing herein shall require the City to disclose any of its information.

**6. Term.**

The duties of Non-City Employee herein shall continue until the Confidential Information disclosed or otherwise in possession of Non-City Employee is no longer deemed to be confidential by the Mayor or Mayor’s representative.

**7. No Implied Waiver.**

Either party’s failure to insist in any one or more instances upon strict performance by the other party of any of the terms of this Agreement shall not be construed as a waiver of any continuing or subsequent failure to perform or delay in performance of any term hereof.

Further, this Agreement shall not be construed to infringe any constitutionally or statutorily protected rights of Non-City Employee. Non-City Employee acknowledges and agrees that the confidentiality and non-disclosure conditions of this Agreement are reasonable

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regulations intended to further the City's ability, as an employer, to promote the efficiency of the public services it performs through its employees. Non-City Employee acknowledges that it is entering into this Agreement, as a representative of City employees.

**6. Governing Law.**

This Agreement shall be governed and construed in accordance with the laws of the State of California. This Agreement shall not prohibit disclosures required by law or court order.

**9. Remedies for Breach.**

The City reserves the right to pursue any legal or equitable remedies, including but not limited to equitable relief as may be necessary to protect City against any breach or threatened breach of this Agreement. The City also reserves the right to disqualify the Non-City Employee from participation in the Program, following a breach of this Agreement.

**10. Final Agreement.**

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

**9. No Assignment.**

Non-City Employee shall not assign this Agreement or any interest herein without City's express prior written consent.

**10. Severability.**

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

**11. Headings.**

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

**12. Counterparts.**

This Agreement may be signed in two counterparts, each of which shall be deemed an original and both of which together constitute one agreement.

WHEREFORE, the parties acknowledge that they have read and understand this Agreement and voluntarily accept and agree to the duties and obligations set forth herein, as evidenced by their execution of this Agreement.

By:

\_\_\_\_\_  
Signature  
Non-City Employee  
  
\_\_\_\_\_  
Print Name  
  
\_\_\_\_\_

\_\_\_\_\_  
Signature  
Appointing Authority/Representative  
City of San Diego  
  
\_\_\_\_\_  
Print Name  
  
\_\_\_\_\_

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Date

Date

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Labor Organization

Catalogued by:

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Print Name

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Date

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**EXHIBIT D: MANAGED COMPETITION COST COMPARISON GUIDE**

**CITY OF SAN DIEGO**



**COST COMPARISON GUIDE**

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## Document Organization

The Cost Comparison Guide provides the user with a description of the cost elements that are used for cost proposal development and facilitation of cost comparisons. It is organized as follows:

- **Introduction** – The introduction provides the overall purpose of the document, and describes how the document is organized.
- **Using the CCT** – This section includes a description of all of the cost information that should be included in the CCT for Employee Proposal Team cost proposal development and the overall process and considerations for:
  - Establishing employee cost proposals using the CCT.
  - Conducting a fair and level cost comparison of employee cost proposals and cost proposals received from outside entities.
- **Tool ownership and maintenance** – The section describes the process involved in updating tables and standard variables within the CCT.

## INTRODUCTION

The City of San Diego (City) is committed to delivering quality services to taxpayers, residents, and visitors in the most economical and efficient way possible. This commitment can also be expressed as delivering services through “competitive government,” defined as a government with processes in place to validate that service quality and costs are as good as, or superior to, any legitimate provider available. The City’s Managed Competition Program is designed to help the City achieve this commitment.

Managed competition is a structured, transparent process that allows public sector employees to be openly and fairly compared with independent contractors (normally private sector firms) for the right to deliver services. This strategy recognizes the high quality and potential of public sector employees, and seeks to tap their creativity, experience and resourcefulness by giving them the opportunity to structure organizations and processes in ways similar to best practices in competitive businesses, yet still compatible with public sector realities. Inherently Governmental functions are not considered for this procurement strategy.

To determine costs for the City of San Diego, the City created the City’s Costing Tool (CCT) with the following objectives:

- Develop the baseline cost estimate for delivering the services associated with a particular function or functions.
- Guide the Employee Proposal Team through the process of creating a cost proposal in response to a Request for Proposals.
- Facilitate cost comparison between the Employee Proposal Team cost proposal and the private sector bids.

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The tool was created using principals of the COMPARE<sup>®</sup> software tool, a cost evaluation tool used by Federal government agencies in their managed competition (Federal A-76) efforts.

**Purpose**

The City of San Diego's Managed Competition Cost Comparison Guide has two purposes. First, it provides an overview of how the Employee Proposal Team will enter their cost information into the tool in order to develop their cost proposal. Second, it describes the City's methodology for developing fair and accurate comparisons between cost proposals developed by the Employee Proposal Team and cost proposals received from outside entities in response to a Request for Proposals. The Managed Competition Independent Review Board will utilize information from the Cost Comparison Tool to calculate the difference between the costs that are saved and the costs that are generated by contracting the service.

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## **USING THE CCT**

The CCT is divided into two sections, one is used by the Employee Proposal Team to construct proposal cost estimates (this module is also used by the City for baseline cost calculation) and another is used by the City to facilitate the cost comparison. This section provides an overview of using the CCT.

### **Developing the Cost Proposal**

The Employee Proposal Team will develop the cost proposal in the CCT based upon the technical proposal to respond to the Statement of Work (SOW). Where possible, values included in the proposal represent budgeted amounts. Care shall be taken to ensure that the value for each particular cost is only counted once in the proposal total. The items entered into the CCT to develop the employee bid include:

- **Classified Personnel Costs** – Any classified personnel costs that will be part of the employee bid is to be included, including salary, fringe<sup>14</sup>, overtime, and any special pay.
- **Unclassified Personnel Costs** – Any unclassified personnel costs that will be part of the employee bid is to be included, including salary, fringe, and special pay.
- **Other Department Support Costs** – The costs of Service Level Agreements (SLA) that support the MEGO are to be included in analysis. Overhead rates established by the City Comptroller’s Office are to be applied.
- **Supplies and Materials** – Any materials and supplies that will be consumed during the performance of the work being bid through the employee proposal.
- **Services** – Any service contracts that the employee team will use to perform tasks being bid through the employee proposal.
- **Equipment/Minor Items** – Any equipment and minor items that are not City furnished that will be used to perform tasks being bid through the employee proposal and, as appropriate, the costs of replacement.

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<sup>14</sup> Fringe includes those costs of employee service or benefits that are not paid by the employee. This includes the cost of retirement (not including UAAL costs), health care, disability insurance, fringe benefits and worker’s compensation. This amount varies by job class, primarily as a result of worker’s compensation which varies based on job field.

The standard budgetary definition of fringe will be used for cost calculations. Fringe includes, but is not limited to:

- FICA/Medicare contributions
- Supplemental Pension and Savings Plan (SPSP) contributions
- Annual Required Contribution (ARC) for Retirement
- Retirement Offset Contribution (ROC)
- Flexible Benefits (including health care) contributions
- Retiree Health/Other Post Employment Benefits (OPEB) contributions
- Workers’ Compensation insurance
- Long-Term Disability (LTD) insurance
- Unemployment insurance



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- **Rent** – Any rent that is paid for land or building space that will be used to perform tasks being bid through the employee proposal.
  - **Travel** – Any travel funds that will be used to perform tasks being bid through the employee proposal.
  - **Energy and Utilities** – Any energy and utility bills that support the tasks being bid through the employee proposal.
  - **Data Processing** – Any information technology related expenses that the employee team will incur.
  - **Facilities** – Costs related to City-owned facilities and properties used to perform the tasks being bid through the employee proposal.
  - **Property and Capital Improvement** – Property and capital improvements that will be required to perform the work being bid through the employee proposal.
  - **Service Growth** - Assumptions regarding service growth should be clearly stated in the technical proposal and reflected in the Employee Proposal Team cost proposal.
  - **Transition** - Any transition costs that may be required to implement the employee proposal.

Standard values, definitions, and formulas are used for some aspects of cost proposal development. They are as follows:

- **Hours worked** - The number of productive hours for the City will be based on an average of the past three consecutive years of actual productive hours charged to salaries/wages account at the time the bid proposal is being prepared. The number will be re-calculated every year using the three year rolling average approach. Fire and Police departments were excluded from the analysis.
- **Inflation** - Inflation for Personnel Expense (PE) will be calculated using the most current information on general salary increases stipulated in the exclusive bargaining agreement or Memorandum of Understanding (MOU) at the time of the bid. If the MOU expires prior to the term of the contract, the PE inflation rate will be based upon the most recent year's Consumer Price Index (CPI) for the San Diego Urban Area. For the employee proposal, Non-Personnel Expense (NPE) inflation will be based on CPI for the San Diego Urban Area or 5%, whichever is less. However, if during the time when the Employee Proposal Team (EPT) develops their cost proposal there are other economic factors that should be considered, the EPT may propose alternate inflation rates. In addition, they will have an opportunity to discuss the rationale for their cost proposal before the MCIRB prior to a decision to award a contract.
- **Insurance factor** – A rate of 0.05% will be applied to costs reflected within most of the NPE costs (energy, utilities and services are excluded in the rate) when actual insurance rates are not available. The figure 0.05% factor is based on COMPARE<sup>®</sup> principals.

- **Retirement** - Retirement contribution rates will be adjusted to exclude past pension obligations – ARC amounts are based on job classification.

The tool includes pre-populated tables of standard values established used across the City. For example, classified staff salary and fringe, equipment usage and assignment rates, and department overhead rates are pre-populated in the CCT and are used in the calculations when the user enters data in specific fields. These data resources will be updated as new information becomes available.

### **Conducting the Cost Comparison**

The City is responsible for entering information into the CCT to support a fair and level cost comparison. All costs that will be required to fulfill the terms of the contract resulting from a competition must be reflected in all bids (employee and outside), including administrative, monitoring and transitional costs. The bids will be evaluated based on the full contract term (i.e., if the contract is expected to be for four years, the full four-year cost will be compared rather than costs for one year alone). In addition, there are some costs that will be added to a bid in order to appropriately level all bids and there are some costs that will be captured to support a cost comparison of proposals. These are as follows:

- **Contract administration** – The contract administrative costs shall anticipate the costs necessary to manage the service provider through the life of the contract, these shall include but not be limited to contract monitoring, evaluating contract performance, dealing with disputes and processing payments. The transitional costs shall include the costs the City will incur when it makes the transition to a selected provider’s service delivery model. Contract administration costs will be assessed against external service provider bids based on the staffing level of a proposer’s bid. The City will standardize contract administration costs for the purposes of cost leveling by estimating a certain percent of time for contract administration personnel oversight. The table below shows the percent of contract administration personnel (Senior Management Analyst, job classification number 1106) that will be allocated to all bids received from external service providers. The FTE factor will also cover the NPE dedicated to contract administration. The FTE factor is based on providing 0.0125 FTE of contract administration personnel per position contained in a proposer’s bid. The Charter-required annual performance audit of managed competition should include an evaluation of whether contract oversight levels are sufficient.

<b>Minimum Staffing</b>	<b>Maximum Staffing</b>	<b>Contract Administration Personnel FTE</b>
-	5	0.05
6	10	0.125
11	20	0.25
21	40	0.50

41	80	1.00
81	120	1.50
121	160	2.00
161	200	2.50
For contracts with staffing levels greater than 200 positions, use the following formula to determine the number of Contract Administration Personnel FTE: $1 * 0.0125$		

- **Minimum cost differential** - The City will add 10% of the Employee Proposal Team’s cost proposal to each external service provider proposals in accordance with the Managed Competition Ordinance.
- **Revenue impacts** - Any change in revenue to the City must be taken into account in the cost comparison. Contracts may provide new revenue to the City or may cause a decrease in revenue to the City. These revenue impacts should be applied during the cost comparison phase.
- **Annual Performance Audits** - The City will identify costs of conducting annual performance audits for contracted services.
- **Avoidable/Unavoidable Costs** - Avoidable costs are direct and indirect costs which would be reduced or eliminated if a service currently provided by the City were to be provided by contract. Unavoidable costs are the costs the City incurs regardless of whether a service is provided by the City or by a contractor.. Avoidable and unavoidable costs can only be evaluated on a case by case basis.
- **Continuing governmental costs** - The City will identify staffing and equipment costs that need to remain within the City to support the performance of the service (with employees or an outside entity) that will result from the competition.
- **One-time conversion costs** - The City will apply any other one-time conversion costs as necessary to account for any one-time costs that will be incurred as a result of managed competition. Because conversion costs are incurred by the City and represent a cost concern, they must be taken into account when making a cost comparison decision.

**TOOL OWNERSHIP AND MAINTENANCE**

**Updating the CCT tables**

At a minimum, the master tables in the CCT that are used in generating standard cost values (i.e., salary and fringe, equipment and overhead rates) will be updated on an annual basis. The City will update the master tables within a reasonable amount of time of more current data becoming available.

**Updating the CCT variables**

Cost comparison data such as inflation factors, hours worked, health care costs, etc. will

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be updated when appropriate and based on the most current data available.

**CCT ownership**

The CCT template was developed by the City using COMPARE<sup>®</sup> software principles. The format, calculation methodology, functionality and layout are owned by the City. However, recommendations on how to improve the template will be considered and evaluated for merit and potentially incorporated into CCT.

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**EXHIBIT E: MUNICIPAL CODE, SECTION 22.3224**

**§ 22.3224 Contractor Standards**

(a) Prior to awarding a *contract* for Services greater than \$50,000, the City shall make a determination that the *bidder* has the capability to fully perform the contract requirements and the business integrity to justify the award of public tax dollars. Among the factors to be considered are: (1) financial resources; (2) technical qualifications; (3) experience; (4) material, equipment, and expertise necessary to carry out the work; (5) a satisfactory record of performance; and (6) a satisfactory record of compliance with applicable statutes and regulations.

(b) As part of its bid, proposal, or other application for a *contract* for Services, a *bidder* will be required to submit a response, under penalty of perjury, that will seek to determine if the *bidder* meets the standards set forth in paragraph (a) of this Section.

(c) During the term of a *contract* for Services, the contractor shall comply with all applicable state and federal laws, including health and safety, labor and employment, and licensing laws, that affect the employees, worksite or performance of the contract. Each contractor shall notify the Purchasing Agent within fifteen calendar days upon receiving notification that a government agency has begun an investigation of the contractor that may result in a finding that the contractor is or was not in compliance with said laws, or that there has been a finding by a government agency or court of competent jurisdiction of a violation of such laws by the contractor.

*(Added 5-24-2005 by O-19383 N.S.)*