



SENT TO COUNCIL:

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City Manager's Office

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Julia H. Cooper
David Sykes

**SUBJECT: WORK ENVIRONMENT
QUESTIONNAIRE/THIRD TIER
REVIEW**

DATE: December 12, 2011

Approved

Date

12/12/11

INFORMATION

At the November 29, 2011, City Council meeting, Council awarded the Citywide Janitorial Services contract to GCA Services Group Inc. [Item 3.4]. During Council discussion, questions were raised regarding the types of benefits provided to GCA employees and staff referred to the "Third Tier Review" process. The purpose of this memorandum is to provide Council with additional background information regarding Third Tier Review.

BACKGROUND

The Third Tier Review began as a pilot project in 1992 to expand the review of janitorial services Requests for Proposals (RFP's). At that time, the San José Municipal Code allowed a less formal methodology for the evaluation of proposals. Under the Code, the basis of award was the "most advantageous proposal." The Code further required that if the award recommendation was to a proposer that did not submit the lowest cost proposal, then the reasons for doing so had to be specifically stated. Thus, quality and responsiveness was the first tier of review and cost was the second tier. The Code also gave Council considerable discretion to override staff's recommendation and award the contract to any proposer.

The original pilot project established in 1992 added a third tier to the proposal evaluation process to ensure that firms doing business with the City provided a safe working environment for their employees and complied with all federal, state, and local nondiscrimination laws. Under the Third Tier Review, proposals were required to include an Employee Work Environment Questionnaire. The Questionnaire was designed to determine the proposer's employee health benefits, compensated days off, employee complaint procedures, compliance with state and federal workplace standards, and service disruption/labor peace provisions if applicable.

Staff considered the responses as a general overview of the characteristics of a good work environment. However, the Work Environment Questionnaire was not scored. Instead, this information could be used as a potential tie-breaker in the event that there was a tie between two or more "most advantageous" proposals.

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As part of the adoption of the Living Wage Policy in November 1998, Third Tier Review was officially expanded to all covered contracts that are subject to a competitive RFP process.

ANALYSIS

Since the initial adoption of Third Tier Review, the City has changed its procurement practices. In 2007, the San José Municipal Code was changed to require specific evaluation criteria that must be considered when evaluating “best value” proposals. These criteria include: adherence to applicable City Council Policies; quality; expertise; cost; ability to provide future maintenance/services; and local and small business preference. The Code further requires that the scoring weight of each evaluation criteria be established and included in each RFP. Under the new Code provisions, Council may consider staff’s award recommendation as well as any vendor protests that are appealed to Council. However, Council’s only option if they do not approve staff’s recommendation is to reject all proposals and re-solicit for the requirement.

CONCLUSION

The City’s Living Wage Policy contains provisions for requiring the completion of a Work Environment Questionnaire for the purpose of establishing that proposers are good employers. To achieve this objective, the City reviews certain characteristics that we cannot necessarily require but are desirable and encouraged such as health benefits and paid holidays/time off.

The Third Tier Review process provides the City with the opportunity to encourage contractors to provide a good work environment without encroaching on the contractor’s ability to conduct business. For reference a copy of the Work Environment Questionnaire is attached.

/s/
JULIA H. COOPER
Acting Director of Finance

/s/
DAVID SYKES
Director of Public Works

For questions, please contact Mark Giovannetti, Finance Purchasing at 535-7052 or Nina Grayson, Public Works/Office of Equality Assurance, at 535-8455.

Attachment



EMPLOYEE WORK ENVIRONMENT QUESTIONNAIRE

SECTION I: CONTRACTOR INFORMATION

Contractor Name: _____ Date: _____
Address: _____
Phone: _____ FAX: _____
Prepared by: _____ Title: _____

SECTION II: EMPLOYEE HEALTH BENEFITS

1. Does your company provide a health insurance plan or program for employees?

- NO, we do not provide a health insurance plan or program for employees.
- YES, we do provide a health insurance plan or program for employees.

If the answer is no, does your company provide benefits in lieu of a health insurance plan? (Be specific. Describe on a separate sheet and attach.)

2. If the answer to Question 1 above is yes, please provide the following information:

2a. Please list the health insurance plan(s) or program(s) offered to your employees (use additional sheets if necessary)

2b. What is the contribution by the employee per pay period to this plan?

\$ _____ for single coverage, no dependents
\$ _____ for family coverage, with dependents

Pay period is (check one): weekly bi-weekly semi-monthly Monthly

2c. What is the contribution by the company, per employee, per pay period, to this plan?

\$ _____ for single coverage, no dependents

\$ _____ for family coverage, with dependents

2d. How long must the employee be employed by your company before they are eligible for health insurance coverage?

_____ Days Month Year

2e. What job classifications of your employees are covered by the insurance program outlined above? (Use additional sheets if necessary.)

2f. Does your health insurance coverage pertain to part-time and full-time employees?

Yes No If no, please explain.

SECTION III: EMPLOYEE BASIC BENEFITS

1. Indicate the basic benefits your workers receive.

Years of Service	# of Vacation Days	# of Sick Days	# of Personal Days
After 1 year			
After 5 years			
After 10 years			

Other: (Explain.)

2. Indicate the paid holidays your workers receive by placing check mark to the left of each.

<input type="checkbox"/>	New Year's Day	<input type="checkbox"/>	Independence Day	<input type="checkbox"/>	Christmas
<input type="checkbox"/>	Martin Luther King Jr. Day	<input type="checkbox"/>	Labor Day	<input type="checkbox"/>	Floating Holiday
<input type="checkbox"/>	Washington's Birthday	<input type="checkbox"/>	Veterans' Day	<input type="checkbox"/>	Other:
<input type="checkbox"/>	Memorial Day	<input type="checkbox"/>	Thanksgiving Day	<input type="checkbox"/>	Other:

3. Do you allow for unpaid leave? No Yes, please explain policy

SECTION IV: EMPLOYEE COMPLAINT PROCEDURE

1. Does your company have an employee complaint resolution procedure?

- YES (Attach a copy of our company's employee complaint resolution procedure.
- NO, our company does not have an employee complaint resolution procedure.

SECTION V: COMPLIANCE WITH STATE AND FEDERAL WORKPLACE STANDARDS

Have any of the following State or Federal Regulatory agencies obtained final orders or final judgments finding a violation by your company of State or Federal law relating to the treatment of your employees? If your answer is yes to any of the questions below, please provide the date of entry of the final judgment or order, the agency which obtained the order, and a brief description of the nature of the violation on a separate sheet of paper.

1. California Department of Fair Employment and Housing Department (DFEH).

- NO, our company has not had any final judgment or administrative order.
- YES, our company has had final judgment(s) or administrative order(s).

2. California Department of Industrial Relations (Cal OSHA).

- NO, our company has not had any final judgment(s) or administrative order(s)
- YES, our company has had final judgment(s) or administrative order(s).

3. California Department of Industrial Relations (Minimum Wage, hours or working conditions) Labor Board

NO, our company has not had any final judgment(s) or administrative order(s).

YES, our company has had final judgment(s) or administrative order(s).

SECTION V WARRANTY AND REPRESENTATION

By signing below, proposer warrants and represents that if proposer is successful, the above listed benefits and complaint procedure will be maintained for the term of the agreement, and proposer declares that, to the best of its ability, it intends to ensure that essential services and labor for which it has been contracted will be provided efficiently and without interruption.

Company: _____

Signature: _____

Name: _____

Title: _____

Date: _____