

DETROIT CHARTER REVISION COMMISSION

PROPOSAL/ISSUE REVIEW SUMMARY

ISSUE NUMBER: BF 37

ISSUE CATEGORY: Business & Finance

SOURCE: Richard Mack, Esq.

RELATED CHARTER SECTIONS: §4-122 (Approval of Contracts)

Letter, December 26, 2010

RELEVANT ORDINANCE SECTION:

RELEVANT LAW(S):

ISSUE/PROPOSAL STATEMENT: Require contract renewals to be approved by City Council; within 180 days of a contract approval, post on city website a list of all contracts the contractor has with the city, with specified information; contracts in violation of law, Charter or Ordinance are null and void; make it a legal requirement that contractor comply with FOIA and provide information and assistance to Ombudsperson; contract requirement that employees, agents and principals sign statement not to make political contributions without written disclosure to Ombudsperson; statement will indicate cash contributions prohibited and will advise against illegal political contributions influence peddling; prohibit contracts to individuals/entities making political contributions to elected officials or related persons, within 4 years of making the political contribution (even if made before holding office); defines "political contribution."

Sec. 4-122. - Approval of contracts.

The city may not purchase or in any way procure property or the services of independent contractors, whether the contract with the independent contractor is an initial contract or a renewal, without approval by resolution of the city council except as provided by ordinance. Within one hundred and eighty (180) days of the effective date of this contract, the City Clerk shall post on the City's website a list of all contracts (new or renewed) which have been approved by City Council and which are currently in effect or under which work is being performed by the contractor. The list shall contain the following information: the name of the individual or entity which received the contract, a brief description of the goods and services being provided within that contract, the total value of the contract, the original value of the contract and the amounts and dates of all change orders, and the purchase order number. No contracts shall be approved unless the City and contractor comply with all applicable law, including provisions of this Charter and City ordinances, and contracts which were let out of compliance with such laws shall be null and void.

Upon the effective date of this Charter, all individuals and entities which have received and receive a contract with the City of Detroit shall agree, within the contract, to respond to all inquiries of the public submitted pursuant to the Freedom of Information Act of the state of Michigan, or any subsequent or other law passed of similar purpose. The contracting person or entity shall agree to comply with all public inquiries as if governed by the Freedom of Information Act or other such law. These individuals and entities which have received a contract with the City shall also agree, within the contract, to promptly provide any and all information and assistance requested of the City's Ombudsman. The contracts where the contractors do not comply with said law, or do not comply with requests of the Ombudsman, shall be declared null and void, per the language of the contract itself.

Upon the effective date of this Charter, all individuals and entities which have received and receive a contract with the City of Detroit shall agree, within the contract, that all of its employees, agents, and principals of the individual or entity which has the contract shall sign a statement that they will make no contributions to a City elective officer or person associated with an elective officer, without submitting to the City Ombudsman a full description of such payment. The statement of the employee,

agent, and principal will indicate that no such payments will be made in cash, and will advise the employee, agent and principal of the laws against illegal political contributions and purchasing of influence surrounding contracts with the City.

Upon the effective date of this Charter, all individuals and entities which have received and receive a contract with the City shall supply a statement which lists all Political Contributions (defined below) which the individual or entity, or any person employed by, related to, or associated with the individual/entity, has made to all elective officers of the City, within the previous four years. All such statements shall be kept by the City Clerk, organized by contractor name, and made available for immediate public inspection.

No individual or entity which has made a Political Contribution to any elective officer, or someone related to or associated with an elective officer, shall receive a contract with the City of Detroit to provide goods or services, within four years of having tendered the Political Contribution to the elective officer (even if made before the elective officer held such office).

A Political Contribution is defined as a payment, gift, subscription, assessment, expenditure, contract, payment for services, dues, advance, forbearance, loan, or donation of money or anything of ascertainable monetary value, or a transfer of anything of ascertainable monetary value to a person, services performed for less than market value of services or less than normally charged for such services, an in-kind contribution, and anything of value given to a candidate for public office under either state or federal law.

RATIONALE: “The Mayor proposes to eliminate City Council approval of each contract for goods and services. Given the number of scandals which have surrounded contracts to private entities in our City’s recent history, this change is unconscionable. The change proposes to restrict City Council contract approval to the budget cycle. The change should be rejected. Instead, the above changes are recommended. In recent years, the City has seen []”-Richard Mack, Esq., Letter, December 26, 2010.

ANALYSIS:

DISPOSITION/COMMISSION ACTION:

NOTES: