

Agenda Report

TO: CITY COUNCIL **DATE:** APRIL 12, 2004
THROUGH: Legislative Policy Committee
FROM: CITY MANAGER
SUBJECT: AB 1829 – LIU – OFFSHORING STATE SERVICE CONTRACTS

RECOMMENDATION

It is recommended that the City Council oppose AB 1829.

BACKGROUND

Existing law requires state agencies to comply with specified procedures in awarding public contracts. This bill would prohibit state agencies and local governments, including charter cities, from contracting for services with a contractor or subcontractor unless that contractor or subcontractor certifies under penalty of perjury in his or her bid for the contract that the contract, and any subcontract performed under that contract, will be performed solely with workers within the United States. In the event a contractor shifted work overseas during the term of the contract, the contract would be terminated and penalties in the amount of the work shifted would be applied. Additionally, the bill would prevent the expenditure of state funds for the training of employees located in foreign countries.

Given the growing trend of "offshoring", AB 1829, if enacted, will most certainly reduce the population of potential service providers eligible to receive public contracts. As competition is reduced, it is axiomatic that the cost of services will increase, thereby putting more pressure on limited public resources at a time of significant financial stress at the state and municipal level. AB 1829 would also

place an additional administrative burden on the City without the benefit of reimbursement by the state.

Underlying AB 1829 is an assumption that there will remain completely domestic service providers to provide needed services to the state and municipal market. In rapidly changing sectors such as technology, it is conceivable that for certain services such providers may not exist. The legislation contains no provision to address such situations. For example, if the City were to issue a request for proposals for data-conversion services and all of the proposers were deemed non-responsive under AB 1829, the City's recourse is unclear. It may have to re-bid the work, possibly numerous times, until a responsive firm was identified, without regard to cost or project delays.

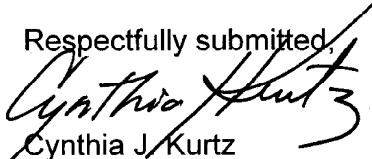
Similarly, the City currently uses the services of Earthlink, a firm with a local presence, for Internet access. A portion of Earthlink's operations are located overseas. It is unclear whether or not AB 1829 would prevent the City from continuing to use Earthlink.

In prior years the City of Pasadena, along with a number of other municipalities and institutions, had purchasing procedures aimed at avoiding those firms with economic ties to the apartheid regime in South Africa. The City's policy included provisions to exempt the policy where the cost-benefit was determined to be beyond a certain threshold or where the City Council determined it was in the best interests of the City to exempt a transaction from the policy. AB 1829 provides no similar exemptions, or any exemptions for that matter, and significantly reduces the City Council's discretion in the award of City contracts.

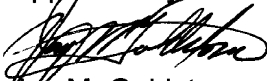
FISCAL IMPACT

Although AB 1829 is expected to have an adverse effect on the cost of City contracting, the extent of this is unknown at this time.

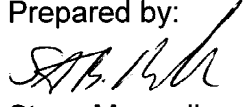
Respectfully submitted,


Cynthia J. Kurtz
City Manager

Approved by:


Jay M. Goldstone
Director of Finance

Prepared by:


Steve Mermell
Budget Administrator