



# City of San Antonio

## Agenda Memorandum

**File Number:**  
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**Agenda Item Number:** {{item.number}}

**Agenda Date:** November 29, 2022

**In Control:** Small Business Economic Development Advocacy (SBEDA) Committee Meeting

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**DEPARTMENT:** Public Works Department

**DEPARTMENT HEAD:** Razi Hosseini

**COUNCIL DISTRICTS IMPACTED:** Citywide

**SUBJECT:**

Briefing on Responsible Bidders Ordinance

**SUMMARY:**

On March 17, 2021, Councilmember Melissa Cabello Havrda issued a Council Consideration Request (CCR) requesting the development of a process that can be used to determine a contractor's ability to perform additional "low bid" contract work for the City such that the City does not hire contractors that perform poorly, are not able to complete contracts in a timely manner and any other lawful criteria at the City's disposal. This briefing will allow an opportunity for input from committee members.

**BACKGROUND INFORMATION:**

According to the CCR, low bid contracting regulations currently prevent direct stipulations in public solicitations that prioritize or restrict street improvement contract work for locally owned businesses. Locally owned businesses that perform quality work on time should be considered as

preferred contractors to reduce the number of low bid awards to non-locally owned businesses that have performed poorly and are simultaneously taking work away from San Antonio owned businesses.

#### **ISSUE:**

According to Local Government Code §252.043 (“Chapter 252”), if the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder (“Responsible Bidder”) or to the bidder who provides goods or services at the best value for the City. Chapter 252 Section 252.0436 provides that the City by ordinance may establish regulations permitting the City to refuse to enter into a contract or other transaction with a person indebted to the City; and it is not a violation of this chapter for the City, under such regulations, to refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the City.

The Public Works, Finance and City Attorney’s Office, worked together to create an ordinance and a refined process on establishing best value criteria for the purposes of determining who is a Responsible Bidder or who provides the best value for the City. This criterion will also be used to ensure City does not award contracts to contractors indebted to the City or who have a history of failure to perform its contractual obligations.

Staff will present recommended ordinance and associated process to the SBEDA Committee for discussion.

#### **FISCAL IMPACT:**

There is no fiscal impact associated with this briefing.

#### **ALTERNATIVES:**

There are no alternatives associated with this briefing.

#### **RECOMMENDATION:**

In coordination with City’s Attorney’s Office and Finance, the Public Works Department recommends staff present the finalized recommended ordinance and associated process to Audit & Accountability Committee followed by full City Council briefing in a future A-Session.