

**SANTA BARBARA COUNTY
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors
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Agenda Number:
Prepared on: 1/11/05
Department Name: Planning & Development
Department No.: 053
Agenda Date: 01/18/05
Placement: Departmental
Estimate Time: 20 minutes
Continued Item: No
If Yes, date from: 1/4/05
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Director\EIR Contract Board Report
11805

TO: Board of Supervisors
FROM: Val Alexeeff, Director
Planning & Development
STAFF CONTACT: Dianne Meester, Assistant Director x2086
SUBJECT: County EIR Contract Procedures

Recommendation:

That the Board of Supervisors receive this report on the County's EIR Contract Procedures.

Alignment with Board Strategic Plan:

The recommendation is primarily aligned with actions required by law and by routine business necessity.

Executive Summary and Discussion:

At the January 4, 2005 meeting, the Board continued the administrative agenda item to authorize the consultant contract for preparation of an EIR and TDR study for the Santa Barbara Ranch project, requesting additional information regarding the consultant selection process and contract management. In particular, the Board requested clarification regarding (1) consultant qualification by the County, (2) management of the EIR contract, and (3) the consultant selection process.

Consultant selection and contract management are generally governed in the County by the County's Guidelines for the Implementation of the California Environmental Quality Act of 1970 (County CEQA Guidelines). The County CEQA Guidelines were originally adopted by the Board of Supervisors in 1988, and were last amended on April 8, 1997, in order to implement the requirements of the California Environmental Quality Act (CEQA), Pub. Res. Code Sections 21000 et seq., and the State CEQA Guidelines, 14 CCR Sections 15000 et seq., in the County. The last major revision of the County CEQA Guidelines changed the consultant selection process to allow project applicants to choose among qualified

proposals for preparation of a project EIR. A complete copy of the County CEQA Guidelines is attached as Attachment A, and details of the procedures outlined in the Guidelines are provided below.

A. Consultant Qualification by the County

Planning and Development maintains and regularly updates a list of qualified consultants to prepare environmental documents. To be included on the list, interested consultants must submit their statement of qualifications to Planning and Development documenting their environmental expertise and experience in a given area. Requests for inclusion on the list are evaluated by County staff. Staff makes recommendations to the Board on additions and changes to the approved list, usually on an annual basis. The department generates interest in being included on the list by soliciting Requests for Qualifications from consulting firms, primarily in California.

B. Consultant Selection Process

The County CEQA Guidelines prescribe certain steps to be followed in the selection of consultants for preparation of environmental impact reports. Upon determination that an EIR is required, the County CEQA Guidelines require staff to prepare and issue a request for proposals (RFP) to “several (usually three) of the best qualified and available consultants from among authorized consultants.” County CEQA Guidelines, Art. 5, Sec. D, Par. 5 at 5. The County CEQA Guidelines require that the applicant receive a copy of the RFP and list of recipient consultants and that the RFP be sent to one or two additional, authorized consultants upon the applicant’s request. They also require that a copy of consultant proposals received be forwarded to the applicant for review and comment. Staff then rates and identifies any inadequate proposals, discussing recommendations with the applicant. Finally, the County CEQA Guidelines provide that “the applicant shall select an EIR consultant from among the proposals rated as adequate, and the County shall hold and manage the contract with the EIR consultant.” Id.

C. EIR Contract Management

The County CEQA Guidelines specify that “the County shall hold and manage the contract with the EIR consultant.” County CEQA Guidelines, Art. 5, Sec. D, Par. 5 at 5. In accordance with this policy, P&D staff manages preparation of the EIR. The project applicant is required to fund the preparation of the EIR, but the County holds the contract with the consultant and manages the consultant’s work.

Planning jurisdictions in California differ in their approach to consultant hiring and contract management. A 2004 survey of California planning jurisdictions by the State Office of Planning and Research collected information by jurisdiction on which jurisdictions allow project applicants to hire EIR consultants and manage preparation of EIRs themselves. The OPR survey found, based on an approximately 28 percent response rate from local government planning jurisdictions within the State [134 out of 477], that 64.2 percent of responding jurisdictions prohibit applicants from hiring and managing EIR consultants, while 35.8 percent allow applicants to do so. Attachment C lists the results of this OPR survey in greater detail.

Regardless of who prepares the EIR, the County decision-maker is required to independently review and certify the document as adequate under CEQA Public Resources Code § 21082.1; 14 CCR § 15090 (See Attachment B. Some jurisdictions that do allow applicants to prepare their own EIRs require an independent

peer review of the document prior to certification by the jurisdiction. This practice can result in duplicative costs to project applicants.

Fiscal and Facilities Impacts:

Costs for consultant selection, preparation, and processing of the environmental document are borne by the applicant. Funding for this work is in the Permitting and Compliance Program of Development Review South on page D-290 of the adopted 04/05 fiscal year budget.

Concurrence:

Concurrences regarding the Services contracts for environmental consultants have been previously obtained from County Counsel, the Auditor-Controller and GSA/Risk Management.

Attachments:

- Attachment A: County CEQA Guidelines
- Attachment B: Public Resources Code § 21082.1; 14 CCR § 15090
- Attachment C: OPR Planning Survey 2004 Excerpt - CEQA Application