

# Lompoc City Council Agenda Item



**City Council Meeting Date:** May 20, 2014

**TO:** Patrick Wiemiller, City Administrator

**FROM:** Ray Ambler, Purchasing & Materials Manager  
r\_ambler@ci.lompoc.ca.us

**SUBJECT:** Introduction of Ordinance No. 1603(14) Amending Lompoc Municipal Code, Title 3, by Adding Section 3.36.175 – Regulated Communications

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## **Recommendation:**

Staff recommends the City Council:

- 1) Introduce Ordinance No. 1603(14), approving Regulated Communications and amending the Lompoc Municipal Code, Title 3, by adding Section 3.36.175 – Regulated Communications (Attachment 1), and waive further reading; and
- 2) Provide alternate direction.

## **Background/Discussion:**

Standards of Public Procurement call for “equal access and opportunity to all qualified suppliers” and “no insiders when it comes to opportunity to do business with government.” Adoption of Ordinance No. 1603(14) adding Section 3.36.175, titled: “Regulated Communications,” to the Lompoc Municipal Code (LMC) is intended to memorialize the past practices of the City regarding interaction during a procurement process between active bidder/proposers (Proposer) and elected officials.

Especially during the solicitation period, communications between the Mayor or Council Members and active proposers/bidders may be seen as non-transparent or creating undue pressure. When the City has put forward a solicitation and has set a process in motion with set methods of communications through the offices of the Purchasing Agent, the City has a history of leaving all communications to that one point of contact.

Adoption of Ordinance No. 1603(14) would memorialize that past practice and provide during the solicitation period, all communication between the proposers/bidders and elected officials are prohibited, except for communications when they are:

- 1) Made on the record in a regular or special meeting of the Council; or

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- 2) Between or among elected officials outside of regular or special Council meetings; provided, that none of the communicants are agents or representatives of a proposer, or acting in concert with, or at the behest of a proposer; and provided, further, that the communication is not prohibited under the Ralph M. Brown Act (California Government Code §§ 54950, et seq.); or
- 3) Part of the record presented to the Council as a result of being communicated to City staff involved in, and in the ordinary course of, the competitive procurement; or
- 4) An identical writing that is delivered simultaneously and by identical means to all elected officials, the City's Purchasing Agent, and the City Administrator, at their respective official City offices. Except to the City's Purchasing Agent, hand deliveries must be made by someone other than a Proposer.

The regulated communication rule shall be set forth in each Bid Invitation, Request for Expression of Interest (RFEI), Request for Proposals (RFP) and Request for Qualifications (RFQ), or in the respective specifications or other documents referred to therein.

Any elected official and any proposer who has initiated, engaged in, continued in, or received, any regulated communication shall disclose that regulated communication. A regulated communication should be disclosed at the earliest feasible time, but in any event, it shall be disclosed no later than 24 hours, or on the next business day, following such communication, whichever is earlier.

A proposer who violates this provision may be sanctioned by disqualification, finding of non-responsibility, or withholding award of the contract.

**Fiscal Impact:**

The adoption of Ordinance No. 1603(14) is not anticipated to result in significant fiscal impact to the City's General Fund or other funds. The implementation of LMC Section 13.36.175 will allow for the continued, consistent application of Standards of Public Procurement, which call for "equal access and opportunity to all qualified suppliers" and "no insiders when it comes to opportunity to do business with government."

**Conclusion:**

The adoption of Ordinance No. 1603(14) will further the Council's goal of accountability and transparency in the procurement of goods and services when done through the formal procurement process outlined in Chapter 3.36 – Purchasing of the Lompoc Municipal Code.

Respectfully submitted,

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Ray Ambler, Purchasing and Materials Manager

**APPROVED FOR SUBMITTAL TO THE CITY ADMINISTRATOR:**

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Teresa Gallavan, Economic Development Director/Assistant City Administrator

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Kevin McCune, Public Works Director

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Brad Wilkie, Management Services Director

**APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:**

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Patrick Wiemiller, City Administrator

Attachment: [Ordinance No. 1603\(14\)](#)