

BILL NO.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF FRESNO,
CALIFORNIA, AMENDING SUBSECTION (b) OF SECTION
4-605 OF THE FRESNO MUNICIPAL CODE RELATING TO
REGULATION OF COMMUNICATIONS DURING
COMPETITIVE PROCUREMENT PROCESS

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Subsection (b) of Section 4-605 of the Fresno Municipal Code is amended to read:

(a) No Proposer shall initiate, engage in, or continue any communication to or with any elected official, and no elected official shall initiate, engage in, or continue any communication to or with any Proposer, concerning or touching upon any matter which is the subject of a competitive procurement within the scope of this article except as permitted in this Section 4-605.

(b) Only communications meeting the following requirements are allowed under this ordinance: a communication that is

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

(2) Between or among elected officials outside of a regular or special Council meeting, provided that none of the communicants is an agent or representative of a Proposer, or acting in concert with or at the behest of a Proposer, and provided further the communication is not prohibited under the Ralph M. Brown Act (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 Manager, and the City Manager, at their respective official City offices. Except to the

City's Purchasing Manager, hand deliveries must be made by someone other than a Proposer~~[-; or]~~

[(5) Made as a result of participation in a formal selection committee that may be established by the City Manager, or designee, to evaluate a proposal(s). Elected officials participating in a selection committee may receive documents that are not provided to all elected officials.]

(c) [An elected official's staff is not prohibited from communicating with Proposer(s), however, staff is prohibited from sharing with the elected official information received as a result of such communication unless that communication is permissible under subsection (b).] ~~The regulated communication rule established by this section and a reference to this article shall be set forth in each Bid Invitation, RFEI, RFP and RFQ, or in the respective specifications or other documents referred to therein.~~

[(d) The regulated communication rule established by this section and a reference to this article shall be set forth in each Bid Invitation, RFEI, RFP and RFQ, or in the respective specifications or other documents referred to therein.]

SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2014.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2014
Mayor Approval/No Return: _____, 2014
Mayor Veto: _____, 2014
Council Override Vote: _____, 2014

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN,
City Attorney

BY: _____
Katherine B. Doerr [Date]
Assistant City Attorney

KBD:elb [65949elb/kbd] Ord. 10/14/14