

CITY COUNCIL COMMUNICATION 97-039
JANUARY 20, 1997 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
REVISION TO CITY CODE TO COMPLY WITH FEDERAL PROCUREMENT REQUIREMENTS	◆ RESOLUTION ORDINANCE RECEIVE/FILE	WILLIAM F. FLANNERY AVIATION DIRECTOR

SYNOPSIS —

The City of Des Moines is required to follow the United States Department of Transportation procurement guidelines in procuring property and services under a Federal Aviation Administration (FAA) grant. On June 3, 1996, by Roll Call No. 96-2091, City Council accepted a grant from the FAA for property acquisition for the 5-23 Runway Extension Project. The City currently has limited conflict of interest ordinances, but the existing ordinances are not broad enough to fully comply with the federal regulation. The ordinances have been drafted to apply to all City procurements of goods and services to avoid different standards for officers, employees and agents in procuring property and services depending upon whether federal funds are involved or not.

FISCAL IMPACT —

N/A.

RECOMMENDATION —

It is recommended that the City Council revise the City Code to comply with federal procurement requirements when the City procures property and services with federal funds. The proposed conflict of interest provisions have been drafted to apply to all procurements of property and services, not just those purchased with federal funds.

BACKGROUND —

The City Legal Department has undertaken a review of the United States Department of Transportation Procurement Procedures found in 49 CFR 18.36, and as a result, has recommended to the Airport Board that various procedures and policies be adopted in conformance with these requirements. The regulations require the City to have in place a written code of standards of conduct governing the performance of employees and officials engaged in the award and administration of contracts. This requirement is found in 49 CFR 18.36(b)(3), which provides as follows:

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer or agent,
- (ii) Any member of his immediate family,
- (iii) His or her partner, or

(iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.