

BOARD of SUPERVISORS



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MEMORANDUM

TO: Ben Rosenfield, City Controller, Office of the Controller
Mohammed Nuru, Director, Public Works
John Rahaim, Director, Planning Department
Jaci Fong, Director, Office of Contract Administration

FROM: Erica Major, Assistant Committee Clerk, Government Audit and Oversight
Committee, Board of Supervisors

DATE: March 14, 2016

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Supervisor Wiener on March 8, 2016:

File No. 160225

Ordinance amending the Administrative Code to allow departments authorized to perform public work to procure public work contracts through a best value process that selects contractors using a combination of price and qualifications, with bid discounts applicable to price; and to require completion of public works contractor performance evaluations, and to require the creation and maintenance of a database to collect the contractor performance evaluations.

If you have any additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Referral from the Office of the Clerk of the Board
Government Audit and Oversight Committee
March 14, 2016
Page 2

c:

Todd Rydstrom, Office of the Controller

Frank Lee, Public Works

Fuad Sweiss, Public Works

Scott Sanchez, Planning Department

Sarah Jones, Planning Department

AnMarie Rodgers, Planning Department

Aaron Starr, Planning Department

Joy Navarette, Planning Department

Jeanie Poling, Planning Department

Cameron Langer, Office of Contract Administration

Kofo Domingo, Office of Contract Administration

1 [Administrative Code - Best Value Public Works Procurement]

2
3 **Ordinance amending the Administrative Code to allow departments authorized to**
4 **perform public work to procure public work contracts through a best value process**
5 **that selects contractors using a combination of price and qualifications, with bid**
6 **discounts applicable to price; and to require completion of public works contractor**
7 **performance evaluations, and require the creation and maintenance of a database to**
8 **collect the contractor performance evaluations.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. The Administrative Code is hereby amended by adding Section 6.74, to
18 read as follows:

19 **SEC. 6.74. BEST VALUE PROCUREMENT.**

20 *Best value procurement is a procurement process for construction services whereby a*
21 *Contractor is selected on the basis of objective criteria to determine the best combination of price and*
22 *qualifications. Department Heads are authorized to contract for Public Work or Improvements using a*
23 *best value process under the following conditions:*

24 *(a) **Selection Process and Criteria.** Department Heads shall advertise for competitive best*
25 *value Bids in accordance with the procedures and requirements set forth in Section 6.21. Department*
Heads shall prequalify Bidders pursuant to Section 6.20(f) or shall include in the best value solicitation

1 specified minimum qualification criteria that all Bidders must meet in order for their Bids to be
2 evaluated. Best value Bids shall include both cost and qualitative information. The best value
3 Advertisement For Bids shall further include: (1) criteria that the City will consider in evaluating Bids;
4 (2) the methodology and rating or weighting system that will be used to evaluate Bids; and (3) the
5 relative importance or weight assigned to the criteria identified in the advertisement. The Department
6 Head shall designate a qualified panel to evaluate the qualifications of the Bidders based solely upon
7 the criteria set forth in the solicitation documents. The selection panel shall assign a qualifications
8 score to each Bid. The selection criteria used to evaluate the Bidder qualifications may include but is
9 not limited to the following:

10 (A) Safety record. The prior history concerning the safe performance of construction
11 contracts.

12 (B) Past performance. The satisfactory performance on prior City contracts.

13 (C) Labor compliance. The ability to comply with, and past performance compliance
14 with, contract and statutory requirements for the payment of wages and qualifications of the workforce.

15 (D) Demonstrated management competence. The experience, competency, capability,
16 and capacity of the proposed management staffing to timely complete projects similar in size, scope, or
17 complexity to the project under consideration.

18 (E) Financial condition. The financial resources needed to perform the contract. At
19 a minimum, the criteria shall include a Bidder's capacity to obtain all required bonds and insurance.

20 (F) Relevant experience. The experience, competency, capability, and capacity to
21 timely complete projects of similar size, scope, or complexity.

22 Cost information shall be sealed separately in a form prescribed by the Department Head. The
23 evaluation shall be done in a manner that prevents cost or price information from being revealed to the
24 selection panel evaluating the qualifications.

1 **(b) Final Selection and Award.** *The Department Head may recommend award of a*
2 *Contract to the Responsible Bidder whose Responsive Bid provides the best value to the City. To*
3 *determine the Bid with the best value to the City, the Department Head shall divide each total Bid price*
4 *by that Bidder's qualifications score. The lowest resulting quotient, or cost per quality point will*
5 *represent the best value Bid. If award to the successful best value Bidder is not made for any reason,*
6 *the Department Head may recommend the award of a Contract to the Bidder with the next lowest best*
7 *value score, and so on.*

8 **(c) Contract Terms.** *Except as provided above in subsections (a) and (b), Contracts*
9 *awarded under this Section 6.74 shall conform to the requirements of this Chapter 6 and*
10 *Administrative Code Chapters 12B, 12C, and 14B. Departments shall apply applicable Administrative*
11 *Code Chapter 14B Discounts as provided in Section 14B.7.*

12
13
14 Section 2. The Administrative Code is hereby amended by revising Section 14B.7, to
15 read as follows:

16 **SEC. 14B.7. PRIME CONTRACTS.**

17 * * * *

18 **(N) Best Value Public Works Contract Discounts.**

19 *For Contracts authorized under Administrative Code Section 6.74, Contract Awarding*
20 *Authorities shall apply the applicable Discount to the price or cost portion of the Bid only. No*
21 *Discount shall apply to the qualifications or non-cost portion of the solicitation.*

22
23 Section 3. The Administrative Code is hereby amended by adding Section 6.26, to
24 read as follows:

25 **SEC. 6.26. CONTRACTOR PERFORMANCE EVALUATION AND DATABASE**

1 (a) Each Department Head or Director authorized to enter into Contracts for Public Works
2 or Improvements under Article IV of this Chapter 6 shall document, evaluate, and report the
3 performance of all Contractors awarded construction Contracts under this Chapter 6.

4 (b) The awarding departments shall work with the Office of the Controller to create and
5 maintain a database to collect the Contractor performance evaluations.


6 (c) This Section 6.26 shall become operative on September 1, 2016 and shall apply to all
7 Contracts first advertised or initiated on or after this date.

8
9 Section 3. Effective Date. This ordinance shall become effective 30 days after
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
12 of Supervisors overrides the Mayor's veto of the ordinance.

13
14 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
15 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
16 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
17 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
18 additions, and Board amendment deletions in accordance with the "Note" that appears under
19 the official title of the ordinance.

20
21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By:


24 Yadira Taylor
Deputy City Attorney

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