

REVISED LEGISLATIVE DIGEST

(12/1/2020, Amended in Board)

[Administrative Code - Selection of Contractors From a Pre-Qualified List and Under As-Needed Public Works Professional Services Contracts]

Ordinance amending the Administrative Code to require notification to prequalified contractors and written documentation of contractor selection from pre-qualified lists; require written documentation of contractor selection for work assigned under as-needed public works professional services contracts; and require the Controller to audit such selection documentation.

Existing Law

Section 21.4(c) of the Administrative Code authorizes the Purchaser to issue request for qualifications (“RFQ”) to determine the qualifications of prospective Contractors for particular types of Commodities and/or Services to the City. Contractors may be selected from a RFQ by issuance of a further solicitation to select from among the prequalified entities for a particular contract, a department may select a Contractor from a list, or a Contractor may be selected based on ranking of responses to the RFQ.

Section 6.43 of the Administrative Code authorizes the public works departments to procure temporary as-needed professional services for public work or improvement projects under certain circumstances. Contractors are selected for these as-needed contracts through a competitive process based primarily on qualifications. Work is then assigned by contract service orders that include a scope of services, time, and a not-to-exceed fee. Multiple-project as-needed contracts are further limited to a maximum duration of five years, cannot be modified by greater than 150% of the original not-to-exceed amount, and no contract service order can exceed the threshold amount, currently \$706,000.

Amendments to Current Law

Prequalified Lists for Commodities and/or Services. This Ordinance would prohibit, for Commodities and/or Services contracts equal to or greater than the Minimum Competitive Amount, departments from selecting a contractor from a prequalified list with no further solicitation. For contracts less than the Minimum Competitive amount, this Ordinance would require that when a Contractor is selected from a prequalified list with no further solicitation or based on a prior ranking, the department must first notify all existing prequalified list entities and also document the selection process. The selection documentation prepared by the department must at minimum address the following:

- i. the Commodities and/or Services required to meet the department’s needs;

- ii. the proposed Contractor's unique qualifications or experience to provide the Commodities and/or perform the Services, or explain why the nature of the Commodities and/or Services requires use of the selected Contractor; and
- iii. the anticipated cost to the City and determination that such cost will be in the best financial interest of the City.

The department would be required to keep the selection documentation for at least three years after expiration of the contract. The Controller would further be required to periodically audit the procurement of the prequalified lists contracts.

As-needed Professional Services for Public Works and Improvements. This Ordinance would require that when a public works department has more than one as-needed multiple-project professional services Contract, before it can issue any contract service order under than Contract, the department must document the selection process. The selection documentation must address the following:

- i. the work or services required to meet the department's needs;
- ii. the proposed Contractor's unique qualifications or experience to perform the services, or explain why the nature of the services requires use of the selected Contractor; and
- iii. the anticipated cost to the City and determination that such cost will be in the best financial interest of the City.

The department would be required to keep the selection documentation for at least three years after expiration of the Contract. The Controller would further be required to periodically audit the procurement of the prequalified lists Contracts.

Background Information

This digest reflects amendments made during the Government Audit and Oversight committee meeting of October 1, 2020.

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