

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

3 **Ordinance amending the Administrative Code to require notification to prequalified**
4 **contractors and written documentation of contractor selection from pre-qualified lists,**
5 **and written documentation of contractor selection for work assigned under as-needed**
6 **Public Works professional services contracts; and to require the Controller to audit**
7 **such selection documentation.**

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

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

16 Section 1. Chapter 21 of the Administrative Code is hereby amended by revising
17 Section 21.4, to read as follows:

18 **SEC. 21.4. INVITATIONS FOR COMPETITIVE PROPOSALS OR QUALIFICATIONS.**

19 (a) **Authorization; Evaluation Criteria.** A Contracting Officer may issue a request
20 for Proposals, or request for qualifications, for the selection of Professional Service
21 Contractors following consideration of the evaluation factors set forth in the request for
22 Proposals, which may include cost, except as prohibited by law. If a department determines
23 that it would be in the best interests of the City to acquire combined Commodities and
24 Services or General Services by means of a request for Proposals or qualifications, rather
25 than an invitation for Bids, such request for Proposals or qualifications shall be issued by the

1 Purchaser. A request for Proposals or qualifications for Professional Services may be issued
2 directly by the department.

3 (b) **Negotiation.** The Contracting Officer is authorized to negotiate terms and
4 conditions, including price, with the highest ranked Proposer. If the Contracting Officer cannot
5 conclude a contract that, in the opinion of the Contracting Officer is in the City's best interest,
6 the Contracting Officer may terminate negotiations with the highest ranked Proposer. In the
7 event that the Contracting Officer cannot conclude negotiations with the next highest ranked
8 Proposer on terms acceptable to the City, then the Contracting Officer may negotiate with
9 each successively ranked Pproposer.

10 (c) **Requests for Qualifications.** The Purchaser may issue a request for
11 qualifications ("RFQ") to determine the qualifications of prospective Contractors for particular
12 types of Commodities and/or Services to the City. A department may issue a RFQ to
13 determine the qualifications of prospective Contractors for Professional Services to be
14 provided to that department.

15 (d) **Prequalified Lists.** ~~In addition, The~~the Purchaser may maintain City-wide lists of
16 prequalified contractors for Commodities and Services as follows:-

17 (1) Except as provided in subsection (2) below, pPrequalification may be for the
18 following purposes: ~~issuance of of issuing a further Solicitation to select a Contractor(s) from~~
19 ~~among the prequalified entities for a particular contract, or it may be for the purpose of~~
20 ~~maintenance of (A) maintaining maintaining a list of prequalified entities from which~~
21 ~~Contractors will be selected~~ Contracting Officers may issue a further Solicitation for future
22 contracts as needed by the City, or (B) the City may selection of the highest available ranked
23 Contractor(s) based on ranking of responses to ~~the an RFQ~~ Prequest for qualifications.

24 (2) For Contracts less than or equal to the Minimum Competitive Amount,
25 selection of a Contractor(s) for a particular contract may be made without the use of a further

1 Solicitation provided that If a Contractor is to be selected from a prequalified list for
2 Commodities and/or Services without a further Solicitation or based on ranking, the department
3 selecting from the prequalified list shall notify other prequalified list members for that contract and
4 document the selection process. At a minimum, the written documentation shall address the following:

5 (A1) The Commodities and/or Services required to meet the department's needs;
6 (B2) The proposed Contractor's unique qualifications or experience to provide
7 the Commodities and/or perform the Services, or why the nature of the Commodities and/or Services
8 requires use of the Contractor; and

9 (C3) The anticipated cost to the City and the department's determination that
10 such cost will be in the best financial interest of the City.

11 ~~The department shall submit the selection documentation along with the contract to the~~
12 ~~Purchaser. The department shall maintain the selection documentation for at least three years after~~
13 ~~termination or expiration of the contract. The Controller shall periodically audit the procurement of~~
14 ~~these prequalified list contracts as provided in Charter Section FI.106.~~

15 (3d) Except as provided below, prequalification shall be valid for not more than
16 two years following the date of initial prequalification. Prequalification may be valid for not
17 more than four years so long as **Requests for Qualifications: Lists of Prequalified Entities**
18 **Created by the City.**

19 ~~(1) For the procurement of Commodities and Services for which lists of~~
20 ~~prequalified entities are created by the City;~~

21 ~~(1) Selection of a Contractor for a particular contract may be made without the~~
22 ~~use of a further Solicitation if the list is maintained by issuing a new request for qualifications~~
23 ~~at least once every two years.~~

24 ~~(2) Notwithstanding the two-year limitation in subsection (c)(1), the City may~~
25 ~~select a Contractor for a particular contract from a list of prequalified entities without the use of~~

1 a further Solicitation using a list that is up to four years old, if both the following two conditions
2 are met:

3 _____(A) The City re-opens the list by re-issuing the same RFQ within two
4 years of the original RFQ; and,

5 _____ (B) The City uses the same panel of evaluators to score the responses
6 to the RFQ.

7 ~~The City may not proceed under this subsection (cd)(2) if it does not use the~~
8 ~~same RFQ and the same scoring panel.~~ Entities included on the list of prequalified entities
9 pursuant to the original RFQ shall not be required to re-qualify under the re-issued RFQ, but
10 may choose to submit updated information regarding their qualifications when the RFQ is re-
11 issued. A list of pre-qualified entities may only be extended once under this subsection
12 ~~(ed)(32)~~ and may not be used for more than four years from the issuance of the original RFQ.

13 ~~(de)~~ **Content of Requests for Proposals.** A request for Proposals shall specify
14 evaluation criteria for selection, and shall reserve the right to reject or cancel the request for
15 Proposals in whole or in part.

16 ~~(ef)~~ **Mass-transit Vehicles.** Notwithstanding any other provision of the charter or laws
17 of the City, the Public Transportation Department-, through its department head and through
18 the Purchaser is authorized to include among its purchasing specifications the use of
19 negotiated procurement procedures for the purchase of mass-transit vehicles.

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23 Section 2. Chapter 6 of the Administrative Code is hereby amended by revising
24 Section 6.43, to read as follows:

25 **SEC. 6.43. AS-NEEDED PROFESSIONAL SERVICES CONTRACTS.**

1 Department Heads are authorized to procure as-needed professional services for
2 temporary professional services to supplement the expertise or experience of the department
3 for one or more Public Work or Improvement projects in conformance with Sections 6.40
4 through 6.42, with the following limitations:

5 (a) The Department Head shall designate an as-needed professional service
6 Contract as a single-project or multiple-project Contract in the request for proposals or
7 qualifications.

8 (b) Work shall be assigned by contract service orders. Contract service orders shall
9 include a scope of services, time, and a not-to-exceed fee.

10 (1) A multiple-project as-needed Contract shall provide for a not-to-exceed
11 amount and a Contract term of not more than five years from the date of certification by the
12 Controller of the Contract, including all modifications. The cumulative modifications to a
13 multiple-project as-needed Contract shall not exceed 150% of the original not-to-exceed
14 amount. No contract service order or multiple contract service orders for services provided for
15 any single project, whether in one phase or multiple phases, shall cumulatively exceed the
16 Threshold Amount, including all modifications. A department may issue or modify any contract
17 service order(s) to exceed the foregoing limit only upon the Department Head's written
18 determination establishing the justification for proceeding under the as-needed Contract rather
19 than soliciting services through a formal competitive process.

20 (2) A single-project as-needed Contract shall provide for a not-to-exceed
21 amount and identify the public work. The scope of the contract service orders must be limited
22 to that single Public Work or Improvement. The limitations in subsection 6.43(b)(1) shall not
23 apply to single-project as-needed Contracts.

24 (c) If a department has more than one as-needed multiple-project professional services
25 Contract for the same scope of services, prior to issuance of any contract service order under that

1 Contract, the department shall document the selection process of the Contractor from the other
2 Contractors holding contracts for the same scope of services. At a minimum, the written documentation
3 shall address the following:

- 4 (1) The work or services required to meet the department's needs;
- 5 (2) The proposed Contractor's unique qualifications or experience to perform the work
6 or services, or why the nature of the work or services requires use of the Contractor; and
- 7 (3) The anticipated cost to the City and the department's determination that such cost
8 will be in the best financial interest of the City.

9 The department shall maintain the selection documentation for at least three years after
10 termination or expiration of the Contract. The Controller shall periodically audit the procurement of
11 these as-needed Contracts as provided in Charter Section F1.106.

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13 Section 3. Effective and Operative Dates.

14 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
15 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
16 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
17 Mayor's veto of the ordinance.

18 (b) This ordinance shall become operative on December 1, 2020 and shall apply to all
19 Contracts and contract service orders awarded or initiated on or after this date.

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

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5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

7 By: /S/
8 YADIRA TAYLOR
9 Deputy City Attorney

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