

PURPOSE: To document policy and procedures for the procurement and engagement of professional services and consulting in accordance with the laws of the State of Texas.

BACKGROUND: Texas law specifically exempts contracts for personal services from the competitive bidding requirements. Professional services are services performed personally by an individual contracted to perform them and the compensation in the contract should mainly pay for the labor of the individual providing the service.

This policy and procedure shall apply to all purchases involving the use of outside professional services including but not limited to:

- A. "Public Works" Professional Services - As identified in Chapter 2254, Architecture, Landscape Architecture, Engineering, Land Surveying; and,
- B. Other" Professional Services - As identified in Chapter 2254, Accounting, Medicine, Optometry, Nursing, Real Estate Appraising.
- C. Professional Services Not Listed Under Chapter 2254 - Services that the City has used its discretion to identify as "professional services" including but not limited to legal or planning.

POLICY: Professional Services are those services that involve labor and skill that are predominately mental or intellectual, rather than physical or manual, and include members of disciplines requiring special knowledge or attainment, including attorneys, planners, accountants, architects, land surveyors, physicians, optometrists, engineers, real estate appraisers and similar professions. [Ref. Chapter 2254 V.C.T.A.; Texas Local Government Code Chapter 252.022; Texas AG Opinion DM-106 (1992); AG in Jm-940 (1988)]

- A. PROCUREMENT PROCEDURES FOR ALL CHAPTER 2254 PROFESSIONAL SERVICES
 - 1. Define the Scope of Services: The requesting department shall prepare a Statement of Work (SOW) / Project Charter that completely describes the contractual work requirement. A clear and concise SOW / Charter is essential to establish performance standards, provide contractors with a basis of estimate and to communicate effectively.
 - 2. PRE QUALIFICATION PROCEDURES FOR "PUBLIC WORKS" PROFESSIONAL SERVICES
 - i. Only firms that have made a formal presentation of their capabilities to the Public Works Department and provide an updated Statement of Qualifications will be permitted to participate in the City's process of contracting for professional services and consulting for Public Works Projects
 - ii. This shall include all prime consultants and all sub-consulting firms employed by prime contractors.
 - iii. The Public Works Department shall prequalify vendors through a Request for Qualifications process at least once every 5 years to

establish an updated data base of qualified professional service firms and consultants.

- iv. The Public Works Department will maintain a list of pre-qualified vendors for professional services and consulting services strictly for public works projects as defined by this policy.
3. Professional Services of \$5,000 or Less
 - i. The procurement of professional services at a cost of \$5,000 or less does not require the use of an RFQ or RFP, and the contractor may be selected at the discretion of the requesting department provided that the procurement process conforms to fiscal policy.
 - ii. The selection process used must be fair and competitive, which requires, at a minimum, that two or more providers be given an opportunity to submit qualifications or proposals. This generally precludes a "sole source" procurement that involves no such competitive opportunity; and
 - iii. The evaluation should include an analysis of the providers solicited and must be made on the basis of each proposer's demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required, without consideration of price.
 - iv. Descriptions of qualifications and/or proposals for professional services shall be written. All prospective professional service providers contacted must be given the same information and allowed adequate time to respond.
 4. Professional Services over \$5,000 and less than \$25,000
 - i. The issuance of a Request for Qualifications (RFQ) or Requests for Proposals (RFP) is not required, but if a RFQ or RFP is not used, the Department shall be responsible for soliciting at least three prospective professional service providers, unless the Department documents that the professional services are not reasonably available from at least three providers.
 - ii. The Department shall obtain written descriptions of qualifications and/or proposals from prospective professional service providers. All prospective providers contacted must be given the same information and allowed adequate time to respond.
 - iii. The Department shall evaluate each qualification or proposal/qualifications evaluators, as applicable, shall select the contractor based on qualifications.
 5. Professional Services over \$25,000
 - i. Develop Request for Qualifications (RFQ) or Request for Proposals (RFP): The requesting department shall prepare an appropriate formal solicitation document which shall include, at

a minimum, the criteria set forth below and a formal time, date and location for receipt of proposals by the City. Evaluation criteria must be reviewed and approved by the City Council prior to the RFQ/RFP being published. The following must be provided in each RFQ/RFP.

1. Demonstrated experience of the firm to perform work of a similar nature and, if applicable, knowledge of the area;
 2. Minimum of three (3) current references;
 3. Resumes of the firm's team that will be actively involved in the project;
 4. A brief history and description of the firm including manpower commitments, current workload, etc;
 5. If applicable, work previously performed by the firm on behalf of the City;
 6. Location of the firm and principle office from which the work will be performed.
- ii. This includes all professional services that have a cumulative total over \$25,000. For example if a contract is for 3 years and the total for each year is estimated to be \$10,000 the cumulative total for the services is \$30,000.
- iii. Evaluation: Upon receipt of proposals/statements of qualifications, an established evaluation committee coordinated the Department will rank the firms based on the weighted criteria in the Statement of Qualifications or Proposals.
1. Presentations and/or interviews may be requested of the top rated firms.
 2. References shall be checked of the top firms as necessary prior to final award.
- iv. Vendor Selection Process
1. Professional Services Vendor Selection: The RFQ / RFP process will include the development of a written request that either focuses on the qualifications of the firm to perform work similar to that identified in the initiating department's Scope of Work or requests details of how a firm will approach a specific project. In either case, the criteria for evaluating proposals should be expansive and quantifiable enough for the evaluation committee to clearly determine which firm is the most capable.
- v. Contract Award
1. The department will attempt to negotiate a contract with the highest rated firm. If negotiations are successful, the department will proceed to the approval phase.
 2. If a satisfactory contract cannot be negotiated with the most highly qualified provider of the services, the

department will notify the Mayor and City Administrator who shall formally end negotiations with that provider by issuing a letter. The department will then select the next most highly qualified provider, and attempt to negotiate a contract with that provider at a fair and reasonable price.

3. This process shall continue until an agreement for a satisfactory contract is reached with one of the vendors.

B. CONTRACT APPROVAL FOR ALL PROFESSIONAL SERVICES

1. All professional services over \$25,000 shall require a contract and are to be approved by the City Council.
2. Professional Services over \$5,000 but under \$25,000 must be approved by the Mayor.
3. Professional services less than \$5,000 require approval of the Department Head and City Administrator.
4. Several standard contracts have been developed by the City and may be used for professional services.