

2510.7 SUBJECT: CONSULTANT SELECTION – Engineers, architects, landscape architects, and land surveyors

Objective:

To establish a uniform policy and procedure for the acquisition of professional services for the City of Orlando (City) by the most qualified and competent individuals and firms at fair, competitive and reasonable compensation by complying with the requirements of Florida Statutes, Chapter 287.055 as may be amended from time to time (Consultants' Competitive Negotiation Act).

Authority:

This procedure adopted by City Council, September 8, 2020 – Item A-6.

Direction:

The Chief Financial Officer, as an appointed official, serves at the pleasure of, and receives direction from the Mayor.

Functions:

1. Introduction

City government, as an institution, has multiple partners including citizens, taxpayers, businesses, visitors, employees, and other governments. As a major institutional, economic, and service force in the region, it is important that the City strengthen relationships with its partners by adopting a clear and comprehensive set of policies and procedures.

Furthermore the integrity of the City of Orlando is of utmost importance, and adopting a set of policies is a key element to maintain this integrity. This procedure shall be followed in selecting firms to provide professional services and in negotiating contracts for professional services in the fields of architecture, engineering, landscape architecture, and land surveying. This procedure shall also be followed in selecting firms to provide design-build services and in negotiating contracts for design-build services.

2. Definitions

For the purpose of this procedure the following words and phrases shall mean:

Act - Florida Statutes, Section 287.055, as may be amended from time to time (Consultants' Competitive Negotiation Act).

Advisory Committee (Committee) - The group of individuals who review the responses, interview and rank the firms, and make a recommendation of award.

Agency or Using Agency – Any department, division, commission, board, bureau, committee, institution, authority or other establishment or official of this City which utilizes any supplies, professional services, services or any other item procured under the Procurement Code.

CQB - The Consultants' Qualifications Board (CQB) shall be composed of the Chief Financial Officer, the Public Works Director, the City Attorney, and the Capital Improvements and Infrastructure Development Division Manager of the Public Works Department or their designees, and one member to be appointed by the Mayor and confirmed by City Council. A representative from the Public Works Department shall act as Chairman of the CQB. (See City Code Section 2.126.)

Compensation - The total amount paid by the City for professional services.

Continuing Contract – This term shall have the same meaning as provided for it in Section 287.055 of the Florida Statutes, as may be amended from time to time. As of July 1, 2020, such definition provides that a “Continuing Contract” is a contract for professional services between the City and a firm whereby the firm provides professional services to the City for projects in which the estimated construction cost of each individual project under the contract does not exceed \$4,000,000, or for a planning or study activity where the fee for professional services for each individual study under the contract does not exceed \$500,000, or for work of a specified nature as outlined in the contract, with the contract being for a fixed term, or with no time limitation except that the contract shall provide a termination clause.

Design-Build Contract - A single contract with a design-build firm encompassing the design and construction of a project.

Design-Build Firm - An individual, partnership, corporation, or other legal entity which is certified to engage in contracting as or through a certified or registered general or building contractor, or is certified to practice or to offer to practice engineering, architecture, or landscape architecture.

Design Criteria Package - Concise performance oriented drawings and specifications of the requirements of the project which define the design parameters and the time and budgetary constraints to be achieved.

Design Criteria Professional - An individual or firm which holds a current certificate of registration to practice architecture, or landscape architecture or an individual or firm which holds a current certificate as a registered engineer and who is employed by or under contract to the City for the provision of professional architect services, landscape

architect services, or engineering services in connection with the preparation of the design criteria package.

Firm - Any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering, landscape architecture, or land surveying in the State of Florida.

Professional Services - Those services within the scope of practice of architecture, landscape architecture, professional engineering, or registered land surveying as defined by the laws of the State of Florida, or those performed by any architect, landscape architect, professional engineer, or registered land surveyor, in connection with his professional employment or practice.

Project, Construction - A construction, rehabilitation or renovation activity which requires professional consulting services as defined in this procedure. A construction project may constitute a grouping of minor construction, rehabilitation or renovation activities, or a grouping of substantially similar construction, rehabilitation or renovation activities.

Project, Planning or Study - A planning or study activity which requires professional consulting services as defined in this procedure. A planning or study activity may constitute a grouping of minor activities or grouping of similar activities.

Qualified Firm – Any firm which has been certified as qualified by the CQB to render one or all of the professional services provided for in the Act.

Request for Qualification (RFQu) - A solicitation for statements of a firm's qualifications, with the intent of entering into a professional services contract. Also known as Request for Qualification Statements (RQS) and Statement of Qualifications (SOQ).

Request for Proposal (RFP) – a solicitation for competitive sealed proposals.

3. Qualification Procedures – General

a. Periodic Review

The CQB shall review the statements of qualifications and performance data submitted by interested firms or design-build firms and shall review other pertinent information available to the CQB to determine if individual firms are qualified to render professional services to the City. Among the factors to be considered in qualifying a firm is the capability and adequacy of personnel, and the past record and experience of the firm.

b. Performance Review

At any time, the CQB may request a performance evaluation of each firm or design-build firm under contract to the City and may make that evaluation part of the permanent record to be used when the firm is again under consideration for City work. In making an evaluation, consideration shall be given to performance in meeting quality level of services called for in the contract; to performance in administration; and in liaison with the City, construction contractor, and other persons concerned.

c. Qualified Consultants List

A current list of qualified firms and design-build firms, along with a designation for each firm indicating the disciplines of work for which the firm is qualified, shall be maintained.

d. Yearly Updates

Each year, firms on the qualified list may be required to submit a form or letter updating the information on file pertaining to professional qualifications.

4. Construction Project over \$325,000, Planning or Study Activity over \$35,000.

When a project has an estimated basic construction cost exceeding the Category Five threshold in Section 287.017 of the Florida Statutes (currently \$325,000), as may be amended from time to time, or when the estimated fee for a planning or study activity exceeds the Category Two threshold in Section 287.017 of the Florida Statutes (currently \$35,000), as may be amended from time to time, and a continuing contract is not feasible, desirable, or allowed, the following shall apply:

a. Publication

For each occasion when professional services are required, an RFQu, RFP or other authorized solicitation will be issued and a legal notice generally describing the project shall be published in a newspaper of general circulation within the area. The solicitation and legal notice shall indicate how interested firms can apply for consideration. An announcement will also be posted on the City's notification website. This publication requirement, however, shall not apply in any case declared to be a public emergency as certified by the Mayor.

b. Qualification

If a firm which is not currently qualified, or is not qualified for a project under consideration, applies for consideration for a project, the firm shall make a statement of qualification and provide such performance data and other information as deemed relevant by the City. A determination of whether the firm is to be qualified shall then be made by the CQB.

c. Questions from Proposers

Only the designated City procurement representative or designee identified in the solicitation shall be the contact for questions or concerns in reference to the solicitation. Questions from proposers must be received in writing as directed in the solicitation. Questions timely received and the answers to them will be posted in the form of an addendum.

d. Competitive Selection

i. Committee

A formal selection committee initially consisting of at least five (5) members shall be established to evaluate proposals. The committee should represent a variety of disciplinary skills. The CPO, based on a recommendation by the using agency after consultation with the Public Works Director or designee, shall appoint at least four (4) members. The Minority Business Enterprise Official or designee shall serve on the committee as an additional member. Under unique circumstances requiring varied or unusual expertise, City Council may appoint the committee members, whose membership shall not be restricted by the above limitations. The subsequent inability of one or more committee member to serve or complete service on a committee shall not require the appointment of a new committee or a replacement committee member even if the loss of such member(s) causes the number of remaining committee members to fall below five (5).

ii. Committee Process

The committee shall evaluate the proposals submitted by the interested firms deemed qualified by the CQB. Such evaluation shall assure that a firm under consideration for a City project has been certified by another governmental agency or entity participating in the funding of the project when required by the procedures of the participating agency or entity. The committee shall conduct discussions with, and may require public presentations by, no fewer than three (3) qualified firms, unless there are fewer than three (3) qualified firms submitting proposals.

Factors to be considered in the selection process may

include, but are not limited to, the following: the ability of professional personnel; past performance; willingness to meet time and budget requirements; location of firm; recent, current and projected workloads of the firm; whether a firm is a certified minority/woman business enterprise or will utilize such enterprise as a sub-consultant; and the volume of work previously awarded to the firm by the City with the object of effecting an equitable distribution of contracts among qualified firms; provided, however, that such distribution does not violate the principle of selection of the most highly qualified firms. The committee may also utilize a design competition and/or follow-up interview(s) as part of the selection process.

The committee will report its ranking of the firms to the CPO or designee, who shall then report to City Council, requesting approval of the rankings. City Council may approve, reject, or revise the order of ranking.

e. Negotiations

i. Negotiations Primary

When the rankings have been approved by City Council, the Public Works Director or designee, by delegation from the CPO, shall attempt to negotiate a contract for professional services with the top ranked firm. As a part of the negotiations, the Public Works Director or designee shall conduct a detailed analysis of the cost of the professional services required giving full consideration to the scope and complexity of such services.

ii. Additional Firms

Should the Public Works Director or designee be unable to negotiate a contract with the top ranked firm at a price determined to be fair, competitive and reasonable,

negotiations with that firm shall be formally terminated. Negotiations with the second ranked firm shall then be undertaken; and failing accord with the second ranked firm, negotiations with the third ranked firm shall be undertaken. Negotiations will continue in ranked order until a contract is reached.

iii. Additional Selections

Should the Public Works Director or designee be unable to negotiate a satisfactory contract with any of the selected firms, additional firms may be selected as described above. Negotiations may continue in accordance with this policy until a contract is reached.

iv. Rejection of Proposals

Notwithstanding the preceding, the CPO or designee has the right at any time to reject any and all proposals, cancel a solicitation, and/or to issue a new solicitation if deemed in the best interest of the City.

v. Legal Review and City Council Approval

A successfully negotiated contract is subject to approval as to form and legality by the City Attorney's Office. In accordance with Chapter 7 of the City Code, contracts in an amount up to seventy-five thousand dollars (\$75,000.00), and up to one hundred thousand dollars (\$100,000.00) with the approval of the Chief Financial Officer, may be executed by the CPO. For contracts in excess of one hundred thousand dollars (\$100,000.00), approval of award shall be obtained from City Council prior to award or execution of the contract by the Chief Procurement Officer.

5. Construction Project \$325,000 or less, Planning or Study Activity \$35,000 or less

When a project has an estimated basic construction cost equal to or less than the Category Five threshold in Section 287.017 of the Florida Statutes (currently \$325,000), as may be amended from time to time, or when the estimated fee for a planning or study activity is equal to or less than the Category Two threshold in Section 287.017 of the Florida Statutes (currently \$35,000), as may be amended from time to time, and a continuing contract is not feasible, desirable, or allowed, the following shall apply:

a. Request for Services

The using agency requiring consultant services under this section shall submit a Solicitation Request Form along with a scope of work to the Procurement and Contracts Division. The Procurement and Contracts Division will produce a list of consultants qualified by the CQB to perform such work.

b. Competitive Selection

i. Committee

The committee, as described in the previous section of this policy, shall meet and evaluate current statements of qualifications and performance data for each firm qualified by the CQB to perform such specific work outlined for the project. Such evaluation shall assure that a firm under consideration for a City project has been certified by another governmental agency or entity participating in the funding of the project when required by the procedures of the participating agency or entity.

ii. Committee Process

The committee shall select the three (3) most qualified firms and shall report its selections in order of preference to the CPO or designee, who shall then report to the City

Council, requesting approval of the rankings. City Council may approve, reject or revise the order of ranking.

c. Negotiations

i. Negotiations Primary

When an order of preference has been approved by City Council, the Public Works Director or designee, by delegation from the CPO, shall attempt to negotiate a contract for professional services with the firm which has been determined first preference. As a part of the negotiation and in making the determination, the Public Works Director shall conduct a detailed analysis of the cost of the professional services required, giving full consideration to the scope and complexity of such services.

ii. Additional Firms

Should the Public Works Director or designee be unable to negotiate a contract with the top ranked firm at a price determined to be fair, competitive and reasonable, negotiations with that firm shall be formally terminated. Negotiations with the second ranked firm shall then be undertaken; and failing accord with the second ranked firm, negotiations with the third ranked firm shall be undertaken.

iii. Additional Selections

Should the Public Works Director or designee be unable to negotiate a satisfactory contract with any of the selected firms, additional firms may be selected as described above. Negotiations may continue in accordance with this policy until a contract is reached.

iv. Rejection of Proposals

Notwithstanding the preceding, the CPO or designee has the right at any time to reject any and all proposals, cancel a solicitation, and/or to issue a new solicitation if deemed in the best interest of the City.

v. Legal Review and City Council Approval

A successfully negotiated contract is subject to approval as to form and legality by the City Attorney's Office. In accordance with Chapter 7 of the City Code, contracts in an amount up to seventy-five thousand dollars (\$75,000.00), and up to one hundred thousand dollars (\$100,000.00) with the approval of the Chief Financial Officer, may be executed by the CPO. For contracts in excess of one hundred thousand dollars (\$100,000.00), approval of award shall be obtained from City Council prior to award or execution of the contract by the Chief Procurement Officer.

6. Non-Exclusion of Public

The public shall not be excluded from any proceedings under this policy except when allowed by law and approved by the CPO. Meetings held under this procedure shall be announced by posting the time and place of each meeting on the City Official Meeting Schedule at least forty-eight (48) hours in advance excluding weekends and holidays, of the meeting. Minutes shall be recorded.

7. Reusable Plans

Notwithstanding any other provision of this policy, there shall be no public notice requirement or utilization of the selection process as provided in the policy for projects in which the City is able to reuse existing plans from a prior project; provided, however, public notice for any consulting services which are intended to be reused at some future time shall contain a statement which provides that the plans are subject to reuse in accordance with the State Statutes.

8. Continuing Contracts

Nothing in this policy shall exclude Continuing Contracts between a firm and the City. The selection of continuing contract consultants will follow the procedures as outlined in Section 4.D of this policy. Continuing contracts, service authorizations under continuing contracts, and change orders to continuing contracts shall be negotiated by the Public Works Director or designee by delegation from the CPO. The CPO shall have the authority to execute continuing contracts for professional services (including any renewals and extensions thereto), and execute individual service authorizations under continuing contracts for authorizations up to \$200,000. The CPO shall also have authority to enter into amendments with respect to individual service authorizations in an amount not to exceed \$200,000 per amendment.

9. Selection of Design-Build Firm

a. Design Criteria Professional

The design criteria professional shall either be a City employee or shall be selected and contracted with in accordance with the requirements of Chapter 287.055, Florida Statutes, as may be amended from time to time, and as described in this policy. The design criteria professional shall not be eligible to render services under the design-build contract.

b. Design Criteria Package Requirements

The design criteria package shall be prepared by the design criteria professional. It shall consist of performance oriented drawings and/or specifications of the requirements of the project which define the design parameters and the time and budgetary constraints to be achieved. Performance based criteria may include, but are not limited to, the legal description of the site, survey information, interior space requirements, material quality standards, schematic layouts and conceptual design criteria, cost or budget estimates, design and construction schedules, site development requirements, utilities

requirements, stormwater retention and disposal, and parking requirements, as may be applicable to the project. The firm to whom the design-build contract is awarded will be responsible for creation of the project design based upon the criteria in the design criteria package.

c. Design Criteria Professional Review

The design criteria professional will assist in the evaluation of the project design drawings developed and submitted for review by the design-build firm. The design criteria professional will also review, as required, the project construction and report to the City as to its compliance with the design criteria package requirements.

d. Publication

For each occasion when design-build services are required, a legal notice generally describing the project and indicating how interested firms can apply for consideration, shall be published in a newspaper of general circulation within the area. An announcement will also be posted on the City's notification website. This publication requirement, however, shall not apply in any case declared to be a public emergency as certified by the Mayor.

e. Questions from Proposers

Only the designated City procurement representative or designee identified in the solicitation shall be the contact for questions or concerns in reference to the solicitation. Questions from proposers must be received in writing as directed in the solicitation. Questions timely received and the answers will be posted in the form of an addendum.

f. Competitive Selection

i. Committee

A formal selection committee shall be established as described above in Section 4D.4.a. of this policy.

ii. Committee Process

1. The committee shall review and evaluate the responses received for the project.
2. The committee shall conduct discussions with, and may require public presentation by no fewer than three (3) firms (unless less than three (3) firms submit proposals) to determine the most qualified to provide services, considering such factors as the ability of personnel; past performance of the firm; ability to meet time and budget constraints; location of firm; financial capability; recent, current and projected workloads of the firm, and other factors which may be established prior to the solicitation of proposals.
3. The committee shall consult with the design criteria professional concerning the evaluation of the proposals. The committee or designee may utilize a design competition as a part of the selection process.
4. The committee will report its ranking of the firms to the CPO or designee who shall then report to City Council, requesting approval of the rankings.
5. City Council may approve, reject or revise the order of ranking.

g. Negotiations

i. Negotiations Primary

When the rankings have been approved by City Council, the Public Works Director or designee, by delegation from

the CPO, shall attempt to negotiate a contract for design-build services with the top ranked firm. As a part of the negotiation and in making the determination, the Public Works Director or designee shall conduct a detailed analysis of the cost of the design-build services required giving full consideration to the scope and complexity of such services.

ii. Additional Firms

Should the Public Works Director or designee be unable to negotiate a contract with the top ranked firm at a price determined to be fair, competitive and reasonable, negotiations with that firm shall be formally terminated. Negotiations with the second ranked firm shall then be undertaken; and failing accord with the second ranked firm, negotiations with the third ranked firm shall be undertaken. Negotiations will continue in ranked order until a contract is negotiated.

iii. Additional Selections

Should the Public Works Director or designee be unable to negotiate a satisfactory contract with any of the selected firms, additional firms may be selected as described above. Negotiations may continue in accordance with this policy until a contract is reached.

iv. Rejection of Proposals

Notwithstanding the preceding, the CPO or designee has the right at any time to reject any and all proposals, cancel a solicitation, and/or to issue a new solicitation if deemed in the best interest of the City.

v. Legal Review

A successfully negotiated contract is subject to approval as to form and legality by the City Attorney's Office. In

accordance with Chapter 7 of the City Code, contracts in an amount up to seventy-five thousand dollars (\$75,000.00), and up to one hundred thousand dollars (\$100,000.00) with the approval of the Chief Financial Officer, may be executed by the CPO. For contracts in excess of one hundred thousand dollars (\$100,000.00), approval of award shall be obtained from City Council prior to award or execution of the contract by the Chief Procurement Officer.

10. Statutory Contract Requirements

a. Truth in Negotiations

The City shall negotiate a contract with the most qualified firm for professional services at compensation which the City determines is fair, competitive, and reasonable. In making such determination, the City shall conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and complexity. For all lump-sum or cost-plus-a fixed fee professional service contracts over \$25,000, the City shall require the firm receiving the award to execute a truth-in-negotiations certificate stating that wage rates and other factual unit costs supporting the compensation are current at the time of contracting. Any professional service contract under which such a certificate is required shall contain a provision that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the City determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of the contract.

b. Contingent Fees

Each contract for professional services shall contain a prohibition against contingent fees as required by Florida Statutes 287.055(6), as may be amended from time to time.

11. Public Emergency

In a case declared to be a public emergency as certified by the Mayor, the Mayor can authorize negotiations to be conducted with the best qualified firm available at the time.

12. Inconsistency with the Act

To the extent of any inconsistency between this procedure and the Consultants' Competitive Negotiation Act, the provisions of the Act shall prevail.

13. Multiplier Rate for Fees

a. Multiplier Rate

In those cases where consultants are paid for their services based on an hourly rate of pay for the work performed, total fees for such services will not exceed a multiplier rate of 3.0 without approval by the Chief Financial Officer or designee.

b. Computation of Rate

The multiplier rate is determined by summing the direct labor cost, the indirect labor cost, and the profit, and dividing this sum by the direct labor cost. The quotient of this calculation must be 3.0 or less, unless a higher multiplier rate has been approved by the Chief Financial Officer or designee.

c. Definitions

- i. Direct Labor Cost - Determine the number of manhours required by each work task to accomplish the scope of work. Then multiply these hours by the actual hourly pay rate for each respective position, category, or discipline involved in the manpower determination. The total for this item will be the direct labor cost for the defined scope of work.

- ii. Indirect Labor Cost - The cost of this item is determined by multiplying the direct labor cost times the overhead rate for the consulting firm submitting the proposal.
- iii. Profit - The cost of this item is determined by first adding together the direct labor cost and the indirect labor cost. Then multiply the sum of these two (2) items times the percentage profit that is negotiated and agreed upon between the City and the consultant. Absent unique circumstances, the profit margin should not exceed ten (10) percent.

14. Grants

a. Application

This policy and procedure will be followed except when required by state or federal laws or by any grant received by the City. When required by law or by the terms of a grant, the CPO shall modify this procedure to comply with the requirements of the law or grant to the extent of any conflict including, but not limited to, the requirements of the Brooks Act, 40 U.S.C. 1101, when required by the terms of a federal grant. Multiplier rates and profit margins shall be negotiated for each project and a predetermined standard rate or cap may not be used when precluded by state or federal law.

b. Records

The project file maintained by the Procurement and Contracts Division shall include the solicitation and supporting documents, including, but not limited to, (i) the specifications and scope of work; (ii) the notification of solicitation (legal advertisements); (iii) evaluation criteria, meeting minutes, and addenda (if any); (iv) Council Agenda (if required); (v) a copy of the executed contract and/or purchase order; (vi) a copy of any required certificates of insurance; (vii) the rationale for the method of procurement; (viii) the selection of contract type; (ix) the basis for contractor selection or rejection, (x) the basis for the

contract price and payment method, and (xi) other relevant documents supporting the analysis and negotiation of the contract. Upon completion of a consultant's performance the using agency shall provide an evaluation of the consultant's performance of the procured services.

c. Ethics

In procuring and administering professional services funded by state or federal grants, Procurement and the using agency shall comply with the City's ethics policies, including but not limited to the City's policy and procedure on grants (Policy and Procedure 2320.1) and the conflict of interest provisions contained therein. In addition, with respect to grants funded by the United States Department of Transportation, directly or through the State of Florida, the City shall comply with the requirements of 23 CFR § 1.33 regarding conflicts of interest, if applicable to such grants.

15. Implementation

The CPO may, by written directive approved by the Chief Financial Officer, promulgate operational procedures to implement this policy and procedure consistent with the City Code.

Forms:

None.

Committee Responsibilities:

None.

Reference:

Office of Business and Financial Services
Procurement and Contracts Division / [Section 2510.7](#)

Procedure approved by City Council December 19, 2012 – Item A-3.
Superseded former policy Section #133.2. Amended September 8, 2020,
Item A- 6.

Effective Date:

This procedure effective September 8, 2020.