

# Non-Professional Services

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**Scope:** CITYWIDE

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**Regulatory References:**

[City Charter-Article XIV Public Contracts and Supplies](#)

City Code Chapters [3.04](#), [3.54](#), [3.56](#), [3.58](#), [3.60](#), [3.62](#)

[Signing Authority Policy](#)

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## I. Policy Statement

This policy sets forth City of Sacramento (City) policies that apply to contracting for Non-Professional Services and supplements requirements outlined in the [City Charter](#) and [City Code Chapter 3.56](#).

## II. Purpose

To ensure that all contracting functions are performed in compliance with applicable federal, state and City laws, regulations, ordinances, and policies, to ensure the uniform and consistent application of the procurement process, and to ensure fairness, open competition, and competitive pricing.

## III. Definitions

- **Addendum** – An amendment to a solicitation.
- **Amendment** – A modification to the terms of a contract.
- **Best Value** – Best value means the contract that, in the City’s estimation, provides the greatest overall benefit to the City.
- **Bidder** – Any person that submits a bid in response to a solicitation for a contract to be awarded to the lowest responsible bidder.
- **Scope of Work or Specifications** – Complete directions, provisions, and requirements for the performance of non- professional services. Scope of Work or Specifications shall be included with the solicitation.
- **Citywide Contract** – A contract administered by Procurement to procure non-professional services for multiple Departments.
- **Competitive Bidding** – The process of soliciting bids and awarding a contract to the lowest responsible and responsive bidder.
- **Competitive Solicitation** – The process of soliciting bids and awarding a contract on the basis of best value when factors other than cost are considered.
- **Contract** – Any binding document, regardless of what it is called, for the procurement of non-professional services. References to a “contract” shall be deemed to include all documents attached to or incorporated in the contract.
- **Contractor** – A person, firm, or other entity that contracts with the City to perform non-professional services.
- **Contracts Manager** – A position or employee authorized by the department head to administer the contracting process for non-professional services on behalf of the

department. A Contracts Manager is not authorized to execute non-professional service contracts on behalf of the City unless such signature authority has been delegated by the City Manager in accordance with applicable provisions of the City Code.

- **Cooperative Purchasing** – Procurement conducted by, or on behalf of two or more public agencies to leverage their combined purchasing power.
- **Emergency Contract** – A contract initiated when the public interest and necessity demand immediate procurement of non-professional services to safeguard life, health, or property, to permit the continued conduct of City operations or services, or to mitigate further damage.
- **Micropurchase Threshold** – The dollar amount at which the federal government has determined no competition is required for purchasing.
- **Invitation for Bid (IFB) or Request for Bid (RFB)** – A written invitation or request for bids, for a contract to be awarded to the lowest responsible bidder.
- **Local Business** – A business operating within the City of Sacramento or unincorporated County of Sacramento consistent with the City's [Local Business Enterprise \(LBE\) Program](#).
- **Lowest Responsible Bidder** – The lowest responsible bidder determined in accordance with the criteria specified in [City Code § 3.56.020](#), that includes a bid evaluation deduction for local bidders subject to the City's local sales or use tax.
- **On-Call Services Contract** – A contract for on-call services for a specified term.
- **Non-Professional Service** – A service of a non-professional character of any type, description, or variety such as: tree trimming services, janitorial services, appliance repair, pest control, window washing, canvas awning repairs, street/parking lot sweepers, pressure washing, carpet cleaning, repair services for office machines and equipment or automotive vehicles, landscape maintenance services, and work performed by a licensed contractor that does not constitute “public project” work under [City Code Chapter 3.56](#), such as sidewalk maintenance and repair.
- **Payment Voucher** – A document that records the accounting, distribution, and payment of an invoice.
- **Piggybacking** – Relying on a solicitation process conducted by another public agency, if permitted by the other public agency.
- **Procurement** – The term is intended to include all functions that pertain to obtaining the service or work, including the preparation of specifications and requirements, selection and solicitation of sources, preparation and award of

contract, and all phases of contract administration.

- **Procurement Procedures** – Written procedures developed by Procurement that specify more detailed operational guidance for City procurement, consistent with applicable provisions of the City Charter, City Code, and City policies and procedures.
- **Project Manager** – The employee designated as the project manager responsible for administering the performance of a contract for non-professional services. A Project Manager is not authorized to execute non-professional service contracts on behalf of the City unless such signature authority has been delegated by the City Manager in accordance with applicable provisions of the City Code.
- **Proposal** – An offer in response to a solicitation for a contract to be awarded on a basis other than lowest cost.
- **Proposer** – Any person that submits a proposal in response to a solicitation for a contract to be awarded on the basis of best value.
- **Purchase Order** – A written authorization for a contractor to supply goods or services at a specified price and over a specified period of time. In the absence of a contract, acceptance of the purchase order shall constitute a binding contract. The use of a purchase order instead of a fully executed contract is subject to approval by Procurement, the City Attorney’s Office, and Risk Management.
- **Request for Proposals (RFP)** – A written request for proposals to provide specified non-professional services for a contract that will be awarded on a basis other than the lowest responsible bid.
- **Request for Qualifications (RFQ)** – A written request for the submission of qualifications to provide specified non-professional services. RFQs are used to identify contractors with adequate qualifications to provide the specified services.
- **Responsive Bidder** – A bidder whose bid meets all of the bidding requirements in the solicitation.
- **Statement of Qualification** – A written document submitted by a potential contractor in response to an RFQ.
- All definitions set forth in [City Code Chapter 3.56](#) shall also apply.

## IV. Policy

### 1. General Requirements Applicable To All Non-Professional Services

- A. The City Code prohibits splitting or separating into smaller units any requirement for non-professional services for the purpose of evading the applicable requirements for competitive bidding or City Council award. The City Code defines this prohibited practice as reducing the amount of non-professional services to be furnished under circumstances where there is a reasonable knowledge that the same services will be required within the same budgetary term, that there are funds available for such additional services, and the purpose is to knowingly avoid formal competitive bidding.
- B. To the extent practical: (1) the Contracts Manager shall use on-call services contracts or Citywide contracts for various routine, recurring, or non-professional services; and (2) Departments and Procurement shall work together to plan annual requirements for non-professional services to maximize economic efficiencies. Information about Citywide service contracts can be found on the [Procurement page](#) of the City's intranet site.
- C. The solicitation and award procedures specified in this policy vary depending on the amount of the procurement. For purposes of determining which solicitation and award procedures apply:
  1. When an on-call services contract is used, the procurement amount is the total amount to be spent over the potential life of the on-call services contract or contracts (if multiple on-call services contracts are awarded to multiple contractors for the same services); or
  2. When a Citywide contract is used, the procurement amount is the total amount of the Citywide contract; or
  3. When an on-call services contract or Citywide contract is not used, the procurement amount for a specific contract is the total amount that the department will pay for the same services in the same fiscal year within that department.
  4. The determination of what constitutes the "same services" under subsection 1 and 3 above, shall be made by the Procurement Manager or their authorized designee.
- D. Contracts less than \$250,000 do not require the approval of the City Council and may be executed on behalf of the City by the City Manager or authorized designee. Delegations of approval authority are specified in the [Signing Authority Policy](#). In the event of a declared emergency pursuant to [City Code](#)

[Chapter 2.116](#), the City Manager or authorized designee may supplement an existing contract by up to \$249,999.99 (without regard to the original contract value) for transactions related to the emergency response.

- E. For services of any amount, the contract amount shall be calculated based on the full cost of any term extensions provided for in the contract (e.g., the amount for a two-year contract in the amount of \$40,000 per year, with an optional extension for year 3, shall be based on the total three-year term, for a contract amount of \$120,000).
- F. When purchase of non-professional services includes services to be performed onsite, general liability and workers compensation insurance (including a waiver of subrogation) shall be required. If a vehicle is used to perform the services, auto liability insurance shall be required.
- G. When purchases utilize non-City funding (i.e., federal, state, or local grant funds, or other outside funding sources), purchasing must be completed in accordance with all requirements imposed by the funding entity and applicable laws and regulations. As a result, special terms may be required in the solicitation and/or the contract. Contracts Managers must consult with the City Attorney's Office to determine what additional or different terms may apply based on the funding source prior to issuing a solicitation.

## **2. Solicitation Thresholds and Requirements**

### **2.1 Non-Professional Services of \$10,000 or Less (Micropurchasing)**

- A. Micropurchasing (Procurement of non-professional services at a cost of \$10,000 or less) does not require competitive bidding and the contractor may be selected at the discretion of the Project Manager, provided that the Contracts Manager shall approve the procurement process. No minimum number of price quotations is required.
- B. The City Manager may approve adjustments to the threshold for micropurchasing, but may not exceed the Micropurchase Threshold.
- C. Price quotations must be written.<sup>1</sup>
- D. Although not required, if price quotations are requested from more than one prospective contractor the same information must be provided to all contractors and they must be allowed adequate time

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<sup>1</sup> If quotes are obtained over the phone, the Contracts Manager must document the information received. Procurement has a standard form available for this purpose.

to respond.

- E. The City's LBE Program requirements do not apply to micropurchases, but contracting with local businesses is encouraged.

## **2.2 Non-Professional Services of More Than \$10,000 Up To and Including \$100,000 (Informal Solicitations)**

- A. The Project Manager shall be responsible for soliciting at least three prospective contractors, unless the Contracts Manager documents that the non-professional services are not reasonably available from at least three contractors.
- B. In addition to the application of the five percent (5%) LBE Preference as described in the City's LBE Program,<sup>2</sup> at least one of the bids solicited must be from a local business unless the Project Manager documents that the service(s) cannot be reasonably performed by a local business or that a local business does not exist at the time of the solicitation.
- C. Responses must be written.<sup>3</sup> All prospective contractors contacted must be given the same information and the same amount of time to respond.
- D. Award based on informal solicitations must be made to the contractor scoring the highest on evaluation criteria established in the original request, or to the lowest responsible and responsive bidder. Award must be made on the basis indicated in the informal solicitation.
- E. Exceptions to the above requirements are provided for in Section 3, When Competitive Solicitation Is Not Required, of this policy.

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<sup>2</sup> While the City's LBE program does not apply to federally funded contracts, the requirement to solicit at least one bid from a local business as part of the informal bidding process does apply to federally funded contracts as it is not a prohibited "preference."

<sup>3</sup> If bid information is obtained over the phone, the Contracts Manager must document the information received. Procurement has a standard form available for this purpose.



### **2.3 Non-Professional Services Of More Than \$100,000 and Less Than \$250,000 (Formal Competitive Solicitations)**

- A. The issuance of a formal solicitation and advertising on the City's [bid portal](#) is required.<sup>4</sup>
- B. Responses must be obtained in writing, and all prospective contractors must be given the same information and the same time to respond.
- C. The minimum time required for advertising solicitations on the City's [bid portal](#) is ten (10) calendar days. The length of the advertisement period should be appropriate to the industry standards for the particular services to achieve the maximum practical public notice and competition, though may be longer if necessary to satisfy requirements imposed by law, regulations, or applicable funding requirements.
- D. Responses shall be received and opened by the Contracts Manager.
- E. Contract awards resulting from IFBs/RFBs shall be made to the lowest responsible and responsive bidder.
- F. Contract awards resulting from RFPs shall be made to the proposer scoring highest on the evaluation criteria established within the RFP as outlined in Section 4, Solicitation Methods.
- G. Contract awards resulting from RFQs shall be made as outlined in Section 4, Solicitation Methods.
- H. Notice of contractor selection shall be provided to all bidders/proposers in writing as soon as reasonably practical to start the protest period.
- I. Exceptions to the above requirements are provided for in Section 3, When Competitive Solicitation Is Not Required.

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<sup>4</sup> A formal IFB or RFB issued by another department may satisfy this requirement.

## **2.4 Non-Professional Services of \$250,000 or More (Formal Competitive Solicitations)**

- A. The issuance of a formal solicitation and advertising on the City's [bid portal](#) is required.<sup>5</sup>
- B. Responses must be obtained in writing and all prospective contractors must be given the same information and the same time to respond.
- C. The minimum time required for advertising solicitations on the City's [bid portal](#) is ten (10) calendar days. The length of the advertisement period should be appropriate to the industry standards for the particular services to achieve the maximum practical notice and competition, though may be longer if necessary to satisfy requirements imposed by law, regulations, or applicable funding requirements.
- D. When an IFB or RFB is used, a public bid opening by the City Clerk's Office or authorized designee shall be conducted.
- E. Contracts of \$250,000 or more must be awarded by the City Council.
- F. Contract awards resulting from IFBs/RFBs shall be made to the lowest responsible and responsive bidder, unless a different action is taken by the City Council pursuant to the City Code.
- G. Contract awards resulting from an RFP shall be made to the proposer scoring highest on the evaluation criteria established in the RFP, unless a different action is taken by the City Council pursuant to the City Code.
- H. Contract awards resulting from RFQs shall be made as outlined in Section 4, Solicitation Methods.
- I. Notice of contractor selection shall be provided to all bidders/proposers in writing as soon as reasonably practical to start the protest period.
- J. Exceptions to the above requirements are provided for in Section 3, When Competitive Solicitations Is Not Required.

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<sup>5</sup> A formal IFB or RFB issued by another department may satisfy this requirement.

### **3. When Competitive Solicitation Is Not Required**

#### **3.1 Non-Professional Services Of More Than \$10,000 And Less Than \$250,000**

- A. The exceptions in this subsection may not be valid if certain state or federal funds are used. Consult with the City Attorney's Office if using non-City funds.
- B. The bidding requirements specified in Section 2, Solicitation Thresholds and Requirements, above, do not apply if any of the following conditions are met:
  - 1. After advertising for bids, proposals, or qualifications as required, no responses are received, or all responses received are rejected because they are invalid or nonresponsive. If this occurs, a different procurement method may be used, provided the use of such method is documented and approved as provided in subsection 3, below.
  - 2. The contractor awarded a contract fails to enter into the contract. If this occurs, the next lowest bidder (for IFBs/RFBs) or second highest scoring potential contractor (for RFPs and RFQs), if there is one, shall be awarded the contract, if such bidder/proposer's price is acceptable. If there is no such bidder/proposer, a different procurement method may be used, provided the use of such method is documented and approved as provided in subsection 3, below.
  - 3. It is in the City's best interest to use a different procurement method. This justification must be documented by the Project Manager, and the request to use a different procurement method must be approved by the department head and Procurement Manager, in accordance with applicable Procurement procedures. Examples of alternative procurement methods include:
    - i. Competitive negotiation: The Project Manager negotiates with two or more service providers to obtain a contract for the lowest price. Documentation shall be maintained of all negotiation discussions, terms, and offers.
    - ii. Sole source procurement: After conducting a good-faith review of available sources, the Project Manager determines there is only one reasonable and

practicable source for the required non- professional services.

(1) The following are other examples of circumstances that could necessitate a sole source procurement:

- When the services are only available from a sole or single source based on that source's unique capabilities. A requirement for a particular proprietary service does not justify sole source procurement if more than one potential provider for that service is reasonably and practicably available.
- When, in the case of a follow-on contract for highly specialized services, it is likely that an award to another contractor will result in: (1) substantial duplication costs that are not expected to be recovered through competition; or (2) unacceptable delays where the cost will exceed the costs expected to be recovered through competition.

(2) All requests for this restrictive method of procurement shall be accompanied by an explanation as to why no other source of supply will be suitable or acceptable to meet the need. Documentation shall be maintained of all negotiation discussions, terms, and offers.

4. Emergency contracts: When emergency conditions render competitive bidding impractical, and the determination of an emergency is approved by the department head.
5. Cooperative purchasing or piggybacking: The Contracts Manager may obtain services through competitively procured cooperative purchasing agreements or by piggybacking off of other public agencies' competitive contracts without separate competitive bidding by the City. Cooperative purchasing or piggybacking shall comply with applicable

Procurement procedures.

### 3.2 Non-Professional Services of \$250,000 or More

- A. The exceptions in this subsection may not be valid if certain state or federal funds are used. Consult with the City Attorney's Office if non-City funding will be used.
- B. The exceptions in this subsection do not affect the requirement for City Council to approve of all contracts for \$250,000 or more.
- C. Council reports and resolutions prepared for a recommendation to suspend competitive bidding must set forth factual justification to support a finding that such action is in the best interest of the City. Questions concerning the applicability of competitive bidding requirements should be directed to the City Attorney's Office.
- D. Under [City Code § 3.56.230](#), competitive solicitation is not required for contracts of \$250,000 or more under the following circumstances:
  - 1. After advertising for bids, proposals, or qualifications as required, no responses are received or all responses received are rejected because they are invalid or nonresponsive. If this occurs, a different procurement method may be used, provided the use of such method is documented and approved as provided in subsection 3, below.
  - 2. The contractor awarded a contract fails to enter into the contract. If this occurs, the next lowest bidder (for IFBs/RFBs) or second highest scoring proposer (for RFPs and RFQs), if there is one, shall be awarded the contract, if such bidder's or proposer's price is acceptable. If there is no such bidder or proposer, a different procurement method may be used, provided the use of such method is documented and approved as provided in subsection 3, below.
  - 3. The City Council determines on a **2/3 vote** that it is in the best interest of the City to use an alternative method to competitive solicitation. The suspension of the competitive solicitation requirement can be recommended for a variety of reasons, including:
    - (i) Other competitive methods: Alternative competitive methods for contractor selection are recommended

due to special circumstances.

- (ii) Competitive negotiation: The Project Manager negotiates with two or more service providers to obtain a contract for the lowest price. Documentation shall be maintained of all negotiation discussions, terms, and offers.
- (iii) Sole source procurement: After conducting a good-faith review of available sources, the Department determines there is only one reasonable and practicable source for the required non- professional service.

(1) The following are other examples of circumstances that could necessitate a sole source procurement:

- When the services are only available from a sole or single source based on that source's unique capabilities. A requirement for a particular proprietary service does not justify sole source procurement if more than one potential provider for that service is reasonably and practicably available.
- When, in the case of a follow-on contract for highly specialized services, it is likely that an award to another contractor will result in: (1) substantial duplication costs that are not expected to be recovered through competition; or (2) unacceptable delays where the cost will exceed the costs expected to be recovered through competition.

(2) All requests for this restrictive method of procurement shall be accompanied by an explanation as to why no other source of supply will be suitable or acceptable to meet the need. Documentation shall be maintained of all negotiation discussions, terms, and offers.

4. Emergency contracts: When emergency conditions render competitive bidding impractical and the determination of an emergency is approved by the department head.
5. Cooperative purchasing or piggybacking: The Contracts Manager may obtain services through competitively procured cooperative purchasing agreements or piggybacking off of other public agencies' competitive contracts without separate competitive bidding by the City. Cooperative purchasing or piggybacking shall comply with applicable Procurement procedures.

## **4. Solicitation Methods**

### **4.1 Invitation For Bid (IFB) or Request For Bid (RFB)**

- A. IFBs or RFBs may be used for the procurement of non-professional services costing more than \$100,000. This does not preclude the use of IFBs or RFBs for procurements below this threshold.
- B. The Project Manager shall bear the overall responsibility for the preparation of bid specifications, utilizing a standardized IFB/RFB format, as provided by Procurement or otherwise approved by the City Attorney's Office.
- C. The bid specifications shall contain a complete scope of work for the non- professional services to be performed.

### **4.2 Request For Proposal (RFP)**

A one-step RFP method may be used for project-specific contracts when the scope of work is well-defined or for multi-phased contracts where the defined scope of work is divided into phases. Prior to issuing an RFP for a multi-phase project, the Project Manager should consult with the City Attorney's Office to discuss options to prevent the selected contractor for an early phase of work from being disqualified from bidding on a later phase due to a conflict of interest.

- A. RFPs are used to communicate the City's requirements to prospective contractors and to solicit proposals.
- B. The Project Manager shall bear the overall responsibility for the preparation of an RFP, utilizing a standard RFP format or template otherwise approved by the City Attorney's Office, and including the required minimum RFP components per Procurement procedures.

- C. RFPs shall include a clear, accurate, detailed scope of work, technical requirements, qualifications, including deliverables to be provided, and method of payment (e.g., specific rate of compensation, cost-plus fixed fee, cost per unit of work, lump-sum payment), and method, criteria, and weights for selection.

#### **4.3 Request For Qualifications (RFQ) and RFP**

A two-step RFQ/RFP method may be used to procure on-call contracts through a single solicitation for a specific category of work or area of expertise (e.g., an on-call list) or when the scope of work is not clearly known, is very complex, or unusual.

- A. An RFQ may be used to evaluate and rank consultants based on their qualifications to pre-qualify a list of consultants. The RFQ should include a general description of the services or type or project(s), scope of work, technical requirements, qualifications, method of payment (e.g., specific rate of compensation, cost-plus fixed fee, cost per unit of work, lump-sum payment), and method, criteria, and weights for selection.
- B. An RFP must then be issued to the pre-qualified consultants for a specific project, task, or service to evaluate a consultant's specific technical approach, special qualifications for the specific project, and price estimate.
- C. The requirement for a subsequent RFP can be waived by the department head or Assistant City Manager consistent with the [Signing Authority Policy](#) for urgent projects or projects that do not exceed \$250,000.

### **5. Other Procurement Methods (When Competitive Bidding Is Waived)**

Alternative procurement methods to those set forth in Section 4, Solicitation Methods, should only be used where appropriate and practical, and as authorized under Section 3, When Competitive Solicitation Is Not Required.

### **6. Amending or Cancelling A Solicitation**

- A. An addendum shall be used to modify or cancel a solicitation, and shall be issued not less than three (3) calendar days, not including weekends or recognized City holidays, before the deadline specified for receipt of bids or proposals.
- B. If an addendum is needed for extending the deadline or cancelling the solicitation it may be issued less than three (3) calendar days, not including



weekends or recognized City holidays, before such date, if necessary.

- C. The minimum components required for addendums are identified in applicable Procurement procedures.
- D. The addendum should be published using the same media used to advertise the original solicitation, including the City website. Addendums shall be sent to all prospective bidders/proposers known to have received a solicitation.

## **7. Public Disclosure**

- A. Solicitations for non-professional services of \$100,000 or more shall be posted on the City's [bid portal](#).
- B. After bid opening, bids shall be made available in response to an official request for public inspection, in accordance with the California Public Records Act.
- C. Proposals submitted in response to an RFP shall be made available in response to an official request for public inspection after the solicitation process is complete, in accordance with the California Public Records Act.
- D. If the bidder or proposer designates any portion of the bid as proprietary or confidential, or any other public disclosure issues are presented, the Contracts Manager shall consult with the City Attorney's Office prior to any response or disclosure.

## **8. Acceptance and Evaluation or Rejection of Bids or Proposals**

### **8.1 Late Bids or Proposals**

- A. A bid or proposal is late if it is received at the location designated in the solicitation after the deadline specified in the solicitation.
- B. A late bid or proposal shall be rejected and not considered, regardless of the reason for lateness, including circumstances beyond the control of the bidder.
- C. A late bid or proposal shall not be opened, except (if necessary), for identification purposes. Delivery and return of late bids or proposals shall be handled in the following manner:
  - 1. If delivered in person, a late bid or proposal shall be rejected and returned to the person delivering it. Failure to reject it at the time of delivery does not constitute acceptance.

2. If not delivered in person, a late bid or proposal shall be returned by certified mail.
3. Bidders or proposers submitting late bids or proposals that will not be considered for award shall be notified as soon as practicable.

## **8.2 General Requirements For Acceptance and Evaluation**

- A. Bids or proposals shall not be altered or corrected after opening, except for minor irregularities as specified in the solicitation document and/or the City Code. A bid or proposal may be withdrawn only if authorized in the solicitation or under State law.
- B. Only the City Council has the authority to waive minor irregularities for bids or proposals of \$250,000 or more. For bids or proposals valued at less than \$250,000, the City Manager or authorized designee has the authority to waive minor irregularities.
- C. No criteria may be used in bid or proposal evaluations that are not referenced in the solicitation or in applicable provisions of the City Code or other applicable laws or regulations.
- D. When an RFP process is used, no discussions for any purpose other than administrative clarification may be conducted with proposers after submission of proposals, except during the presentation phase, if any.

## **8.3 Determination of Lowest Bid or Best Value**

- A. For an IFB or RFB, the contract shall be awarded to the lowest responsible and responsive bidder.
- B. For an RFP, the contract shall be awarded to the proposer scoring the highest on the evaluation criteria established in the RFP.
- C. For an RFQ, the contract shall be awarded as outlined in Section 4, Solicitation Methods.
- D. If a potential contractor that otherwise would have been the lowest responsible bidder or highest scoring proposer is determined to be non-responsible, after consulting with the City Attorney's Office, the Contracts Manager shall prepare a written determination of non-responsibility, setting forth the basis of the finding of non-responsibility and advising the bidder that they may request a

hearing on the matter, and shall send such determination to the bidder by certified mail.

- E. If there are two or more low responsive bids from responsible bidders that are identical in price, quality, and service, and both meet all the requirements and criteria set forth in the IFB or RFB, then award, if made, shall be made by a drawing of lots. During a drawing of lots, the Contracts Manager shall utilize a deck of cards (with the face cards removed). Representatives for each tied bidder will draw a card. The bidder with the low card will be awarded the contract.

#### **8.4 Rejection of Bids, Proposals, or Qualifications**

- A. For contracts less than \$250,000, the department head or the Contracts Manager shall have the authority to reject a bid, proposal, or statement of qualifications after consulting with the City Attorney's Office.
- B. For contracts of \$250,000 or more, only the City Council has the authority to reject any valid bid, proposal, or statement of qualifications.
- C. The department head or the Contracts Manager shall have the authority to determine that a bid is not responsive, or the bidder is not responsible, after consulting with the City Attorney's Office.

#### **8.5 Notice of Intent To Award**

A notice of intent to award shall be provided for all published solicitations as soon as reasonably practical to start the protest period. The [Bid Protest Procedure](#) approved by the City Manager may also apply to informal solicitations.

#### **8.6 Contract Form and Documentation**

- A. A current non-professional services contract form, as approved by the City Attorney's Office, or other appropriate contract form as approved by the City Attorney's Office, shall be executed prior to starting any services. Current Citywide approved forms are available on the [Procurement page](#) on the City's intranet.
- B. For contracts of \$250,000 or more, the contract must be signed by the contractor and the City Attorney's Office, **prior to City Council award of the contract.**

- C. For all levels of contract award, contract documents must be fully executed (obtain all signatures and provide any required contract documents) prior to performance of the contract.

## **9. Bid Security/Bonds and Insurance**

### **9.1 Bid Security**

- A. The Contracts Manager shall determine whether to require bid security, consistent with the level of risk associated with the non-professional services, and the requirement shall be specified in the solicitation.
- B. Bids received without the required security shall be considered non-responsive and will be rejected.
- C. Bid security shall be returned to unsuccessful bidders after a successful bidder is selected and awarded the contract.
- D. Bid security may be forfeited and applied as specified in [City Code § 3.56.150](#).

### **9.2 Performance Bonds**

- A. The Contracts Manager shall determine whether to require a performance bond, consistent with the level of risk associated with the non-professional services.
- B. Performance bond requirements shall be described in the solicitation and shall conform to applicable Procurement procedures.
- C. Performance bonds shall be accepted only from sureties admitted and duly authorized to transact business in the State of California, and shall be “approved as to form” by the City Attorney’s Office.
- D. Failure to submit the required bond within the time specified in the notice of award may be just cause for annulment of the award and forfeiture of the bidder’s bid security.

### **9.3 Insurance**

- A. All insurance requirements specified in the standard contract form must be satisfied prior to award/approval/execution of the contract by the City, unless otherwise approved by Risk Management.
- B. Additional insurance requirements may apply depending upon the

type of services being provided. Departments must consult with Risk Management on any additional insurance requirements to be added to solicitations and/or contracts.

- C. All changes to contractual provisions including insurance requirements must be approved by the City Attorney's Office and the department head prior to contract approval and execution by the City.

## **10. Bid Protest Procedures**

Potential contractors who respond to a solicitation on a contract may file a bid protest in accordance with policies adopted by the City Manager's Office and posted on the City's website.

## **11. Multi-Year Contracts**

- A. No contract term shall extend beyond a total term, including extensions and renewals, of five years, provided that:
  - 1. For contracts less than \$250,000 (in total including extensions), a longer term may be approved if the department head or authorized designee determines that special circumstances require a total term of more than five years, and the City Manager or authorized designee approves such extended term.
  - 2. For contracts of \$250,000 or more, a longer term may be approved by the City Council.
  - 3. The total contract amount shall be determined based on the compensation paid during the total term, including any extensions or renewals authorized by the contract.
- B. An extension or renewal of a contract must be authorized in the contract.
- C. Contracts must be authorized by the City Council when the total price of the contract, including any extended or renewed term(s) authorized by the contract terms, will be \$250,000 or more.
- D. The contract price shall include the cost to the City of tax, shipping, and any other applicable charge.
- E. All multi-year contracts and contract extensions or renewals shall serve the best interest of the City. The decision whether to approve contract extensions or renewals shall consider factors such as market price adjustments, product and service availability, impact on City operations, and

the utilization of small and local businesses.

## **12. Small and/or Disadvantaged Business Participation and Reporting Requirements**

The City may adopt an ordinance or program which allows departments to give preference to small and/or disadvantaged businesses during proposal evaluation. Upon adoption of any such ordinance or program, the following shall apply:

- A. Program requirements shall be met for all contracts as specified in Procurement procedures, unless these requirements are reduced or waived by the department head, or an external funding source prohibits the use of such preferences or requires the use of other business enterprise requirements.
- B. Any modification or waiver of applicable requirements must be requested in writing and approved by the department head prior to any advertisement or posting to the City's [bid portal](#).
- C. Departments shall be responsible for meeting any related participation goals on a department-wide basis.

## **13. City Ordinances**

Various City Ordinances may apply to solicitations for non-professional services. Solicitations for which such ordinances apply shall contain ordinance requirements and standard forms and declarations as available. The Contracts Manager is responsible for reviewing required forms and declarations and applying preferences as required during the evaluation process. The following ordinances may apply:

- A. Equal Benefits Ordinance: Contracts exceeding thresholds set in [City Code Chapter 3.54](#) are subject to all applicable provisions of said Code section (commonly referred to as the Equal Benefits Ordinance, or EBO) and as outlined in the [Non-Discrimination in Employee Benefits By City Contractors Policy](#).
- B. Living Wage Ordinance (LWO): Departments that administer non-professional services contracts shall be responsible for compliance with applicable provisions of the City's LWO codified in [City Code Chapter 3.58](#), including ensuring all applicable solicitations and contracts include LWO requirements and executed Declarations of Compliance as outlined in City Code and the City's LWO requirements.
  - 1. City Council reports that request approval for non-professional service contracts shall include a discussion on whether the LWO

provisions are applicable in the Policy Considerations section of the report.

2. Contracts for laundry, window washing, and janitorial services are not subject to the LWO, because these contracts are subject to the prevailing wage requirements specified in [City Code § 3.60.040](#).
- C. Ban the Box Ordinance: Contracts exceeding thresholds set in [City Code Chapter 3.62](#) are subject to the provisions of the City's Ban the Box Ordinance and Contracts Managers must include ordinance requirements and declarations as applicable.
- D. Local Business Enterprise Preference: Contractors qualifying as a local business as defined in City's LBE Program may receive an evaluation preference as outlined in the Requirements for the LBE Program.
- E. Local Business Enterprise Requirement: Contracts meeting thresholds set in the City's LBE Program may be required to be performed by contractors who qualify as a local business per the City's LBE Program, or who are subcontracting with a percentage of subcontractors qualifying as a local business as outlined in the Requirements for the LBE Program.
- F. Sustainable Purchasing Policy Preference: Buyers must apply this preference as outlined in the [Sustainable Purchasing Policy](#), as applicable.
- G. Reporting Requirements: Contracts for the purchase of recovered organic waste products as defined in [California Code of Regulations, Title 14, § 17869](#) shall be subject to additional reporting as outlined in the bill. Contracts Managers are responsible for including reporting requirements in applicable solicitations and contracts.
- H. Other state or local requirements as applicable.
- I. When purchases utilize non-city funding (e.g., federal, state, or local grant funds or other outside funding sources), purchasing must be completed in accordance with all requirements imposed by the funding entity and applicable laws and regulations. As a result, City ordinances may not apply.

#### **14. Special Requirements For Contractors Who Are Sole Proprietors (Individuals)**

- A. When the contractor is not a business entity such as a corporation, partnership, etc. and utilizes a personal social security number as their Federal or State tax identification number, all transactions with such individuals must be entered into the City's financial system within ten (10)

working days after execution of a contract, or ten (10) working days after the date services are commenced, whichever occurs first.

- B. This includes any City contract with a contractor who is a sole proprietor.

## **15. Contract Amendments**

- A. Contract amendments may be approved by the City Manager or authorized designee, within the limits of approval authority specified in [City Code § 3.04.020](#) and this policy. Amendments exceeding these limits must be approved by the City Council.
- B. Delegations of the City Manager's approval authority are specified in the Signing Authority Policy.
- C. Any amendment extending the term of a contract must be approved by the appropriate approval authority prior to expiration of the unextended term, and shall not exceed the term advertised in the solicitation document.

## **16. Payment Methods and Payment Terms**

### **16.1 Payment Methods**

- A. Original invoices shall be required for all payments.
- B. No advance payments are allowed, unless approved by the Finance Department.

### **16.2 Payment Terms**

- A. Contractor invoices must contain all information required by the contract.
- B. Payment terms are NET thirty (30) days unless the contractor offers a prompt payment discount that is accepted by the City.
- C. All payment discounts shall be computed from the date of completion and acceptance of services, or from the date an invoice is received, whichever occurs later.
- D. The Finance Department, Accounting Division must approve payment terms that are inconsistent with this policy.
- E. For state or federally funded contracts, restrictions may apply to the method of payment.



## 17. Transaction Number Log

- A. Each department shall establish and maintain a transaction number log for all department solicitations for which a formal solicitation is issued. The transaction number log shall be organized based on solicitations initiated within each department.
- B. A transaction number shall be assigned to each published solicitation and will be used to identify and track all related activity through requisition and payment, if applicable.
- C. Transaction numbers will be prominently displayed on the published solicitation and on the City's [bid portal](#) (if applicable).
- D. Transaction numbers shall be created in accordance with Procurement procedures.

## 18. Employee Conflict of Interest/Ethics

- A. Pursuant to the [City Code Chapter 2.16, Conflict of Interest](#), no employee, officer, or agent of the City may participate in the solicitation, award, or administration of a contract (including purchases made through other means such as P-Cards or purchase orders) if they have a real or apparent conflict of interest. A real or apparent conflict of interest would arise if any prospective or existing consultant or contractor (or any subcontractor) considered for an award is:
  - 1. An employee, officer, or agent of the City.
  - 2. A member of an employee's, officer's, or agent's immediate family.
  - 3. A business partner of any employee, officer, or agent of the City.
  - 4. An organization that employs any of the persons identified above, or with which any of the persons listed above has a financial or other interest, including an arrangement concerning prospective employment.
- B. No employee, officer, or agent of the City who participates in the solicitation, award, or administration of a contract shall have, directly or indirectly, any other financial or personal interest in any contract made or influenced by the employee, officer, or agent in their official capacity.
- C. No employee, officer, or agent of the City shall solicit or accept gratuities, favors, or anything of monetary value from potential or existing consultants, contractors, or parties to subcontracts, except as permitted by the Political

Reform Act ([California Government Code, § 81000 et seq.](#)) and its implementing regulations. Any gifts received shall be reported consistent with the Fair Political Practices Commission's requirements.

- D. Violations of these standards may result in sanctions, or other forms of discipline up to and including termination as necessary, consistent with applicable [labor agreements](#) and the [Rules and Regulations of the Civil Service Board](#).

In addition, the City's Conflict of Interest Code provides that employees may be subject to any form of discipline that is statutorily available for those participating in the selection, award, or administration of a contract if a conflict of interest exists, as set forth in California Government Code §§ [81000-91014](#).



## Charter Officer Review and Acknowledgement

### NON-PROFESSIONAL SERVICES POLICY

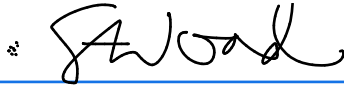
(Signature by all Charter Officers is not a requirement for policy adoption)



Howard Chan (Dec 20, 2024 11:21 PST)

City Manager

12/20/2024



Susana Alcala Wood (Mar 14, 2025 11:19 PDT)

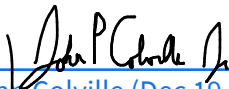
City Attorney

03/14/2025



City Clerk

04/14/2025



John P. Colville Jr. (Dec 19, 2024 15:19 PST)

City Treasurer

12/19/2024



City Auditor

03/26/2025