

Professional Services

Policy Scope: Citywide
Version: 3
Effective Date: 4/10/2020

Policy Contact

Department of Finance – Procurement Division
Finance Director

Attachments

None

Regulatory References

Sacramento City Charter-Article XIV Public Contracts and Supplies
Sacramento City Code 3.64
Signing Authority Policy

Policy History

Policy Originally Created: API #47 – 3/2005
Major Revision Dates: AP 4102 – 2/2010; 4/2020

Policy Review

Review Cycle: 2 year
Next Scheduled Review Date: 1/2021
All policies are updated as needed and on a set review cycle.

Policy Statement

This Administrative Policy sets forth City policies that apply to contracting for professional services and supplements requirements set forth in the Sacramento City Charter and City Code. 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 contracting process, and to ensure fairness, open competition, and competitive pricing.

1. Solicitation Thresholds and Requirements

1.1 General Requirements Applicable to All Professional Services

- (a) Departments shall not split or separate into smaller units any requirement for professional services for the purpose of evading the contract solicitation and approval requirements specified herein.
- (b) To the extent practical, (1) the Contracts Manager shall use master services contracts or City-wide contracts for various routine or recurring services, and (2) Departments and the Procurement Services Division shall work together to plan annual requirements for Citywide professional services, in order to maximize economic efficiencies and to avoid impermissible contract splitting. Information about master services contracts can be found on the procurement page of the City's website.
- (c) The solicitation and award procedures specified in this policy for professional services vary depending on the amount of the procurement. For purposes of determining which solicitation and award procedures apply:
 - 1) When a master services contract is used, the amount of the procurement is the total amount of the master services contract or contracts (if multiple master services contracts are being let to multiple contractors for the same scope of services).
 - 2) When a master services contract is not used, the amount of the procurement is the amount of the contract for a specific project and shall not include any payments made under other contracts with the same contractor for different projects, subject to the requirements specified in subsection (a) above.
- (d) Departments shall monitor contracts let by the Department on a fiscal year basis in accordance with applicable provisions of the Procurement Guidelines.
- (e) The Contracts Manager shall be responsible for maintaining all documentation of the procurement process, including analysis of proposals, contractor notifications and contract approval correspondence in accordance with the City's record retention policy. This shall include the responsibility for compiling and reporting data that will assist with ascertaining the utility of City programs associated with the procurement process, such as the City's equal benefits,

disadvantaged business enterprise and emerging/small business enterprise requirements. The contracts Manager shall use standardized RFP formats, as provided in the Procurement Guidelines.

- (f) The purchase of materials or equipment that is incidental to the performance of professional services may be included in the procurement of the professional services contract pursuant to the provisions of this policy without performing a separate procurement process for the materials or equipment pursuant to the Procurement of Supplies Policy. (Example: The procurement of a professional services contract with an information technology provider may include the purchase of materials incidental to performance of the professional services, such as the purchase of software and/or hardware to be installed, configured or maintained by the professional service provider.)
- (g) Standard City contracts must be executed prior to the performance of any services.
- (h) 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 any City employee to whom the City Manager has delegated such approval authority. Delegations of approval authority are specified in the currently approved Signing Authority Policy.
- (i) 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. (Example: the amount for a two-year contract in the amount of \$40,000 per year, with an optional extension for year three, shall be based on the total three-year term, for a contract amount of \$120,000.)

1.2 Professional Services of \$5,000 or Less

- (a) 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 Project Manager provided that the Contracts Manager shall approve the procurement process. See “Additional Requirements for Architectural and Engineering Services,” section 1.2 (b) of this policy.
- (b) Additional Requirements for Architectural and Engineering Services.
 - 1) In accordance with State law, contracts for architectural, landscape architectural, environmental, engineering, land surveying and construction project management services (collectively referred to in this policy as “architectural and engineering services”) are subject to the following requirements:
 - (i) 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
 - (ii) 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.

- 2) These additional requirements apply to contracting for architectural and engineering services in any amount and are not subject to any exceptions.
 - 3) In some cases, contracts for architectural and engineering services may also require the payment of prevailing wages, such as may be the case for land surveying and construction project management services.
- (c) 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.

1.3 Professional Services of More than \$5,000 up to \$25,000

- (a) The issuance of a RFQ or RFP is not required, but if a RFQ or RFP is not used, the Project Manager shall be responsible for soliciting at least three prospective professional service providers, unless the Contracts Manager documents that the professional services are not reasonably available from at least three providers.
- (b) The Project Manager 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.
- (c) The Project Manager or proposal/qualifications evaluators, as applicable, shall select the contractor based on uniform criteria. The selection of a contractor to perform architectural and engineering services shall comply with the Additional Requirements for Architectural and Engineering Services specified in section 1.2(b)(1) of this policy.
- (d) Exceptions to the above requirements are provided for in Section 2 (When Competitive Selection Requirements Do Not Apply) of this policy.

1.4 Professional Services of More Than \$25,000 and Less Than \$250,000

- (a) The issuance of an RFQ or RFP and advertising on the City's web site for Contracting Opportunities are required.
- (b) Proposals or SOQs must be obtained in writing, and all prospective professional service providers must be given the same information.
- (c) The minimum time required for advertising on the City's web site for Contracting Opportunities is ten calendar days. Advertisement of RFPs and RFQs shall be appropriate to the industry standards for the particular services, to achieve the maximum practical public notice and competition.
- (d) Proposals and SOQs shall be received and opened by the Contracts Manager.
- (e) The Project Manager or proposal/qualifications evaluators, as applicable, shall select the contractor based on the criteria specified in the RFP or RFQ. The

selection of a contractor to perform architectural and engineering services shall comply with the Additional Requirements for Architectural and Engineering Services specified in section 1.2(b) (1) of this policy.

- (f) Exceptions to the above requirements are provided for in Section 2 (When Competitive Selection Requirements Do Not Apply) of this policy.
- (g) Notice of contractor selection shall be provided to all proposers as soon as reasonably practical.

1.5 Professional Services of \$250,000 or More

- (a) The issuance of an RFP or RFQ and advertising on the City's web site for Contracting Opportunities are required.
- (b) Proposals or SOQs must be obtained in writing, and all prospective professional service providers must be given the same information.
- (c) The minimum time required for advertising on the City's web site for Contracting Opportunities is ten calendar days. Advertisement of RFPs and RFQs shall be appropriate to the industry standards for the particular services, to achieve the maximum practical public notice and competition.
- (d) The contractor to be recommended for contract approval by the City Council shall be selected based on the criteria specified in the RFP or RFQ. The selection of a contractor to perform architectural and engineering services shall comply with the Additional Requirements for Architectural and Engineering Services specified in section 1.2(b)(1), of this policy.
- (e) Exceptions to the requirements are provided for in Section 2 (When Competitive Selection Requirements Do Not Apply) of this policy.
- (f) Notice of contractor selection shall be provided to all proposers as soon as reasonably practical.
- (g) Staff recommendations for the approval of contracts of \$250,000 or more must be presented to the City Council for approval.
- (h) Contracts must be approved as to form by the City Attorney's office prior to City Council approval.

2. When Competitive Selection Requirements Do Not Apply

2.1 Professional Services of More Than \$5,000

- (a) The competitive selection requirements specified in Section 1 (Solicitation Thresholds and Requirements), above, do not apply if any of the following conditions are met:
 - 1) After the proposals or qualifications for professional services are requested, if no responsive valid responses are received, a different procurement method may be used, provided the use of such method is documented and approved as provided below in subsection 3.
 - 2) Federal or state law requires other selection procedures to be utilized.
 - 3) When 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 Director in accordance with applicable provisions of the Procurement Guidelines. Examples of alternative procurement methods are:

- (i) 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 professional services. A requirement for a particular proprietary service does not justify a sole source procurement if more than one potential provider for that service is reasonably and practicably available. All requests for this restrictive method of procurement shall be accompanied by an explanation as to why no other source of service will be suitable or acceptable to meet the need. Documentation shall be maintained of all negotiation discussions, terms, and offers. **This exception does not apply to contracts for architectural and engineering services, as noted in Section 1.2(b), of this policy.**
 - (ii) Emergency contracts: When emergency conditions render competitive selection impractical, and the determination of an emergency is approved by the Department Director.
 - (iii) Cooperative service agreements: Professional services may be obtained through competitively solicited cooperative service agreements of other governmental jurisdictions or public agencies, when supported by a written justification showing that the selected contractor is qualified and that the services will be obtained at a fair and reasonable price.
- (b) The exceptions do not affect the requirement for City Council approval of all contracts for \$250,000 or more.
 - (c) Council reports and resolutions prepared for a recommendation to approve a professional service contract of \$250,000 or more shall describe the selection process used, including documentation for using one of the above exceptions if applicable.

3. Requirements for RFPs And RFQs

3.1 RFP Requirements

- (a) RFPs are used to communicate the City's requirements to prospective professional service providers and to solicit proposals.
- (b) The Project Manager shall bear the overall responsibility for the preparation of an RFP, utilizing a standardized RFP format, and including the required minimum RFP components as provided in the Procurement Guidelines.

3.2 RFQ Requirements

- (a) RFQs are used to solicit SOQs from prospective service providers. A RFQ process may be used simply to identify or prequalify contractors with adequate qualifications to perform the specified services, or may be used to select one or more contractors to perform the specified services (as an alternative to using a RFP process for this purpose.)
- (b) The Project Manager shall bear the overall responsibility for the preparation of an RFQ, utilizing a standardized RFQ format, and including the required minimum RFQ components as provided in the Procurement Guidelines.

3.3 Items Requiring Review Prior to a Request for Professional Services

- (a) Professional service contracts that will include the provision of materials or equipment to be installed, configured or maintained by the professional service provider may require a materials or equipment review by other City departments or divisions before the selection process is initiated. Such reviews are intended to ensure consistency and conformity with City standards and building codes. These reviews are required regardless of the contract amount.
- (b) Materials or equipment review prior to issuance of an RFQ or RFP is required in the following situations by the Department or division indicated below:
 - 1) Installed computer-related equipment such as UPS, energy management, fiber connections, SCADA and other information technology items or services — review by Department of Information Technology.
 - 2) Green Building Rating System™ LEED (Leadership in Energy and Environmental Design) materials or equipment — review by the Facility and Real Property Management Division (Department of Public Works).
 - 3) Installations at facilities or sites that require new construction, remodeling, modifications, electrical, mechanical, plumbing, or structural changes to City facilities, as well as the installation of systems furniture or interior design work (except facilities or sites within the street right of way) — review by the Facilities and Real Property Management Division (Department of Public Works) in consultation with the Department in which the facility resides.

3.4 Contract Form

- (a) The applicable current contract form with all exhibits shall be included as part of all RFPs, and as part of all RFQs if the SOQs will be used to select a contractor.

3.5 Maximum Practicable Competition

- (a) All RFP and RFQ requirements shall seek to promote overall economic efficiency for the purpose intended, encourage fair and open competition in satisfying the City's needs, and not be unnecessarily restrictive.

3.6 Federal and State Requirements

- (a) RFPs and RFQs shall conform to the requirements of any Federal or State funding source when required. Federal project participation requirements such as DBE and M/WBE shall supersede City ESBE requirements.

3.7 Conservation / Environmentally Preferred Products (EPP)

- (a) To the extent applicable and practicable, RFP and RFQ requirements shall promote the use of recycled content, EPP, reduced energy consumption and other conservation methods.

3.8 Prequalification

- (a) When prequalification is conducted prior to the issuance of an RFP, through a preceding RFQ process, the City may limit participation in the RFP process that follows to only those persons or firms determined to be qualified in accordance with the provisions of the preceding RFQ process.

4. Amending or Cancelling an RFP or RFQ

- (a) An addendum shall be used to amend or cancel an RFP or RFQ and shall be issued not less than three working days before the deadline specified for receipt of proposals or SOQs. Addendums extending the deadline may be issued less than three working days before such date if necessary.
- (b) The minimum components required for addendums are identified in the Procurement Guidelines.
- (c) The addendum shall be published using the same media used to advertise the RFP or RFQ, including the City website. Addendums shall be sent to all prospective bidders/proposers known to have received an IFB or RFP.

5. Public Disclosure

- (a) RFPs and RFQs for professional services of \$25,000 or more shall be made available for public inspection at the office of the Contracts Manager and shall be posted on the City's website for Contracting Opportunities.
- (b) Proposals and SOQs submitted in response to an RFP or RFQ shall be made available in response to an official request for public inspection after the proposal or SOQ evaluation process is complete, in accordance with the California Public Records Act and City's Records Management Policy.
- (c) If the proposer designates any portion of its proposal 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.

6. Acceptance and Evaluation of Rejection of Proposals and SOQs

6.1 Late Proposals / SOQs

- (a) A proposal or SOQ is late if it is received at the location designated in the RFP or RFQ after the deadline specified in the RFP or RFQ.
- (b) A late proposal or SOQ shall be rejected and not considered, regardless of the reason for lateness, including circumstances beyond the control of the person or entity submitting the proposal or SOQ.
- (c) A late proposal or SOQ shall not be opened, except (if necessary), for identification purposes. Delivery and return of late proposals and SOQs shall be handled in the following manner:
 - 1) If delivered in person, a late proposal or SOQ shall be rejected and returned to the person delivering it;
 - 2) If not delivered in person, a late proposal or SOQ shall be returned by certified mail;
 - 3) A person or entity submitting a late proposal or SOQ that will not be considered shall be notified as soon as practicable.

6.2 General Requirements for Acceptance and Evaluation

- (a) Proposals and SOQs shall not be altered after opening.
- (b) No criteria may be used in proposal or SOQ evaluations that are not specified in the RFP or RFQ or in applicable provisions of the City Code or other applicable laws or regulations.

6.3 The Evaluation/Selection Process

- (a) No discussions may be conducted for any purpose other than administrative clarification with persons and entities submitting proposals or SOQs after submission of proposals or SOQs, except during the presentation phase, if any.
- (b) The selection of a contractor to perform architectural and engineering services shall comply with the Additional Requirements for Architectural and Engineering Services specified in Section 1.2(b) above.

6.4 Rejection of Proposals

The Department Director shall have the authority to reject proposals that are not responsive to the requirements of the RFP.

6.5 Contract Form and Documentation

- (a) The current standard professional services contract form that applies to the category of professional services being performed, as approved by the City Attorney's office, shall be executed prior to starting any services for all contracts. 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, and submitted to the City Clerk, prior

to City Council award of the contract for inclusion in the related council staff report.

- (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.

7. Insurance

- (a) All insurance requirements specified in the current standard contract form must be satisfied prior to approval and execution of the contract by the City, unless otherwise approved by Risk Management.
- (b) All changes to contractual provisions proposed by contractors must be approved by the City Attorney's Office and the Department Director prior to contract approval and execution by the City.
- (c) All changes to insurance requirements proposed by contractors must be reviewed by Risk Management and approved by the Department Director prior to contract approval and execution by the City.

8. 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 the City Manager's 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 and must occur prior to expiration of the contract term to be valid.
- (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 be determined including 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 businesses.

9. Emerging and Small Business Enterprise (ESBE) Participation

- (a) Emerging and Small Business Enterprise (ESBE) requirements shall be met for all contracts as specified in the Procurement Guidelines, unless these requirements are reduced or waived by the Office of Small Business Development (OSBD), or an external funding source requires the use of other business enterprise requirements.
- (b) Any modification or waiver of an ESBE requirement must be requested in writing and approved by the OSBD prior to any advertisement or posting to the City's website for Contracting Opportunities.
- (c) Departments shall be responsible for meeting annual ESBE participation goals on a Department-wide basis.
- (d) The OSBD shall compile data relative to ESBE expenditures and utilization and submit periodic reports to the City Manager detailing contract amounts and ESBE participation rates.

10. Equal Benefits Ordinance

- (a) Contracts exceeding \$25,000 are subject to applicable provisions of the City's Non-Discrimination in Employee Benefits Code, codified at Chapter 3.54 of the City Code (commonly referred to as the Equal Benefits Ordinance, or EBO).
- (b) All solicitations shall contain the City's standard EBO Requirements.
- (c) All contracts to which the EBO applies shall contain an executed EBO Declaration of Compliance.
- (d) More detailed information concerning the EBO requirements is set forth in the Non-Discrimination in Employee Benefits By City Contractors Policy.

11. Disclosure Requirements

- (a) Contractors shall comply with all applicable disclosure requirements as required by the Political Reform Act and the City's Conflict of Interest Code. These requirements are summarized in the City's Professional Service Agreement form.

12. 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 working days after execution of a contract, or ten 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.

13. Supplemental Agreements

- (a) Supplemental agreements for professional service contracts may be approved by the City Manager or authorized designee, within the limits of approval authority specified in the City Code. Supplemental agreements 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 supplemental agreement extending the term of a contract must be approved by the appropriate approval authority prior to expiration of the un-extended term.

14. Payment Methods and Payment Terms

14.1 Payment Methods

- (a) Original invoices shall be required for all payments.
- (b) No advance payments are allowed, unless approved by the Finance Department.

14.2 Payment Terms

- (a) Contractor invoices must contain all information required by the contract.
- (b) Payment terms are specified in the City’s professional service agreement forms.
- (c) The Finance Department, Accounting Division must approve payment terms that are inconsistent with this policy.

15. Transaction Number Log

- (a) Each Department shall establish and maintain a transaction number log for all Department solicitations for which an RFP or RFQ 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 RFP or RFQ 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 RFP or RFQ and on the City's web site for Contracting Opportunities (if applicable).
- (d) Transaction numbers shall be created in accordance with procedures established by the Procurement Services Division Manager or authorized designee.

16. Employee Conflict of Interest/Ethics

All procurement activities shall be performed in compliance with the provisions of the Procurement Ethics and Standards of Conduct.

17. Definitions

Addendum

An amendment to a request for qualifications (RFQ) or proposals (RFP).

Architectural and Engineering Services

This term includes architectural, landscape architectural, environmental, engineering, land surveying and construction project management services.

Contract

Any binding contract document, regardless of what it is called, for the procurement of professional services or work of any nature. References to a “contract” shall be deemed to include all documents attached to or incorporated in the contract. A contract is required for all professional services in any amount. See the Procurement Guidelines for the appropriate contract form.

Contracts Manager

A position or employee authorized by the Department Director to administer the contracting process for professional services on behalf of the Department. A Contracts Manager is not authorized to execute professional service contracts or supplemental agreements 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.

Contractor

A person, firm or other entity that contracts with the City to perform professional services.

Emergency Contract

A contract initiated when the public interest and necessity demand immediate procurement of professional services to safeguard life, health, or property, to permit the continued conduct of City operations or services, or to mitigate further damage.

Emerging and Small Business Enterprise (ESBE) Requirements

The procurement requirements and procedures imposed pursuant to the program established by the City Council to promote and provide incentives for the participation of emerging and small business enterprises in City contracts.

Master Services Contract

A contract for on call services for a specified term.

Procurement

This term is intended to include all functions that pertain to obtaining professional services 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 Guidelines

Written guidelines developed by City staff and approved by the City Manager that

specify more detailed operational requirements for City procurement, consistent with applicable provisions of the City Charter, City Code and City Policies.

Professional Service

A service of a professional character of any type, description or variety including, but not limited to, services rendered by:

Actuaries Archaeologist Architects

- Attorneys Auditors
- Construction project managers Economic Analysts
- Engineers Environmental analysts
- Historic and cultural resource consultants Information technology providers
- Investment advisers
- Land Surveyors Landscape Architects Lobbyists
- Planners
- Scientists (biologists, chemists) Transportation analysts

Project Manager

The employee designated as the project manager responsible for administering the performance of a contract for professional services. A Project Manager is not authorized to execute professional service contracts or supplemental agreements 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

The written document submitted in response to an RFP.

Request for Proposals (RFP)

A written request for proposals to provide specified professional services.

Request for Qualifications (RFQ)

A written request for the submission of qualifications to provide specified professional services.

Statement of Qualification (SOQ)

The written document submitted in response to an RFQ.

Supplemental Agreement

An amendment to a professional services contract, that must be approved in accordance with the provisions of article II of Chapter 3.64 of the City Code.

Charter Officer Review and Acknowledgement

City Attorney

City Auditor

City Clerk

City Manager

City Treasurer
