

# Public Projects

**Scope:** CITYWIDE

**Policy Contact:**

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**Table of Contents**

I.	Policy Statement .....	3
II.	Purpose .....	3
III.	Definitions .....	3
IV.	Policy .....	5
1.	General Requirements Applicable To All Public Project Work.....	5
2.	Solicitation Thresholds and Requirements .....	7
2.1	Public Project Work Of \$10,000 Or Less (Micropurchasing).....	7
2.2	Public Project Work of More Than \$10,000 Up To and Including \$100,000 (Informal Bidding).....	7
2.3	Public Project Work of More Than \$100,000 and Less Than \$250,000 (Formal Competitive Bidding).....	8
2.4	Public Project Work of \$250,000 or More (Formal Competitive Bidding).....	9
3.	When Competitive Bidding Is Not Required .....	10
3.1	Public Project Work of More Than \$10,000 and Less Than \$250,000.....	10
3.2	Public Project Work of \$250,000 or More .....	12
4.	Solicitation Methods .....	14
4.1	Invitation For Bids (IFB)/Requests For Bids (RFB).....	14
4.2	Other Procurement Methods (When Competitive Bidding Is Waived).....	15
5.	Items Requiring Review Prior To A Solicitation .....	15
6.	Amending or Cancelling A Solicitation.....	16
7.	Public Disclosure .....	16
8.	Acceptance and Evaluation or Rejection of Bids Or Proposals.....	17
8.1	Late Bids or Proposals .....	17
8.2	General Requirements For Acceptance And Evaluation .....	17

8.3	Determination Of Lowest Bid .....	18
8.4	Additive Or Deductive Bid Items .....	18
8.5	Rejection Of Bids Or Proposals .....	18
8.6	Notice Of Intent To Award .....	18
8.7	Contract Form And Documentation .....	19
9.	Bid Security, Bonds, and Insurance .....	19
9.1	Bid Security .....	19
9.2	Performance a nd Payment Bonds .....	19
9.3	Insurance .....	20
10.	Bid Protest .....	20
11.	Small and/or Disadvantaged Business Participation and Reporting Requirements .....	20
12.	City Ordinances .....	21
13.	Prevailing Wages; Use Of Apprentices.....	21
14.	Special Requirements For Contractors Who Are Sole Proprietors (Individuals) .....	22
15.	Change Orders and Contract Amendments.....	22
16.	Payment Methods And Payment Terms .....	23
16.1	Payment Methods.....	23
16.2	Payment Terms.....	23
17.	Transaction Number Log.....	23
18.	Employee Conflict of Interest/Ethics .....	24
	Charter Officer Review and Acknowledgement .....	25

**Regulatory References:**

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

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

[Signing Authority Policy](#)

**Supersedes:**

Resolution 2010-084 (02/2010)

Contracts for Public Projects (API #48) (02/2010)

Public Projects (AP #4002) (3/13/2020)

**Reviewed/Effective:**

02/10/2025

## I. Policy Statement

This policy sets forth City of Sacramento (City) policies that apply to contracting for public project work and supplements requirements set forth in the [City Charter](#) and City Code, including City Code Chapter [3.56](#) and [3.60](#).

## 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 contracting process, and to ensure fairness, open competition, and competitive pricing.

## III. Definitions

- **Addendum** – An amendment to a solicitation.
- **Bid Specifications** – Complete directions, provisions, requirements, plans, and specifications for the performance of a public project. Bid specifications shall be included with the solicitation.
- **Bidder** – Any person that submits a bid in response to a solicitation for a contract to be awarded to the lowest responsible bidder.
- **Change Order** – An amendment to a contract for construction of a public project that must be approved in accordance with the provisions of [City Code § 3.04.020](#).
- **Competitive Bidding** – The process of soliciting bids and awarding a contract to the lowest responsible and responsive bidder.
- **Contract** – Any binding document, regardless of what it is called, for the procurement of public projects. References to a “contract” shall be deemed to include all documents attached to or incorporated in the contract.
- **Contracts Manager** – A position or employee authorized by the department head to administer the contracting process for public projects on behalf of that department. A Contracts Manager is not authorized to execute public project contracts or change orders 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 public project work.
- **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 action, repair, or replacement 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 to select a contractor.
- **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](#).
- **On-Call Contract** – A contract for on-call work for a specified term.
- **Piggybacking** – Relying on a solicitation process conducted by another public agency, if permitted by the other public agency.
- **Procurement** – This term is intended to include all functions that pertain to obtaining the 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** – A position or employee authorized by the department head to administer a public project on behalf of the applicable department. A Project Manager is not authorized to execute public project contracts or change orders 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.
- **Purchase Order** – A written authorization for a contractor to perform work at a specified price and over a specified period of time. In the absence of a contract executed by the City and contractor, acceptance of the purchase order shall constitute a binding agreement. The use of a purchase order instead of a fully executed contract is subject to approval of Procurement, the City Attorney’s Office, and Risk Management.
- **Public Project** – (1) A project for the erection, improvement, and remodeling of

public buildings or other public improvements; (2) street, sewer, and water work (except maintenance or repair)\*; and (3) furnishing goods or materials for such projects. Maintenance and repair of public facilities, other than street, sewer, or water facilities, constitutes public project work.

\*The terms “maintenance” and “repair” are defined in [City Code § 3.56.010](#).

- **Request for Proposals (RFP)** – A written request for proposals to perform specified public work 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 perform specified public project work. RFQs are used to identify contractors with adequate qualifications to perform the specified work.
- **Responsive Bidder** – A bidder whose bid meets all of the bidding requirements in the solicitation.
- **Statement of Qualification (SOQ)** – The written document submitted in response to an RFQ.
- **Standard Specifications** – The City’s current Standard Specifications for Public Construction, which constitute one of the contract documents.
- All definitions set forth in [City Code Chapter 3.56](#) shall also apply.

## IV. Policy

### 1. General Requirements Applicable To All Public Project Work

- A. The City Code prohibits splitting or separating into smaller units any requirement for public project work 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 size of the public project under circumstances where there is a reasonable knowledge that the remaining work after such reduction will be additionally required within the same budgetary term, that there are funds available for that project, and the purpose is to knowingly avoid formal competitive bidding. For emergency contracts, work requirements may be split into separate contracts of \$250,000 or less, provided the requirements of [City Code Section 3.56.260](#) are met.
- B. To the extent practical, departments shall use on-call contracts for routine, recurring work to maximize economic efficiencies.
- C. The solicitation and award procedures specified in this policy for public project work vary depending on the amount of the procurement. For purposes of determining which solicitation and award procedures apply:

1. When an on-call contract is used, the amount of the procurement is the total amount to be spent over the potential life of the on-call contract or contracts (if multiple on-call contracts are being awarded to multiple contractors for the same scope of work); or
  2. When an on-call contract is not used, the amount of the procurement is the amount of the contract for a specific project and does 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. The Contracts Manager shall be responsible for maintaining all bid documentation including analysis of bids, contractor notifications, and contract award correspondence in accordance with the City's [Records Management Policy](#). This shall include the responsibility for compiling and reporting data that will assist with ascertaining the utility of City community workforce training programs associated with the procurement process, such as the City's equal benefits, disadvantaged business enterprise, and any applicable emerging/small business enterprise requirements. The Contracts Manager shall use standardized solicitation templates, as provided by Procurement or another solicitation form approved by City Attorney's Office.
- E. City contracts must be executed prior to the performance of any work and must be "approved as to form" by the City Attorney. The contractor shall be required to meet the City's standard insurance requirements, obtain a City Business Operations Tax Certificate, and any other requirements specified in applicable Procurement procedures.
- F. 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 designee. Delegations of approval authority are specified in [Signing Authority Policy](#). In the event of a declared emergency pursuant to [City Code Chapter 2.116](#), the City Manager or 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.
- G. For the performance of work in 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 three, shall be based on the total three-year term, for a contract amount of \$120,000).
- H. 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, 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 Public Project Work Of \$10,000 Or Less (Micropurchasing)**

- A. Micropurchasing (the procurement of public project work 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. If price quotations are requested from more than one (1) prospective contractor (even though they are not required), all prospective contractors contacted must be given the same information and they must be allowed adequate time to respond.
- E. The City's LBE Program requirements do not apply to micropurchases, but contracting with a local business is encouraged.

### **2.2 Public Project Work of More Than \$10,000 Up To and Including \$100,000 (Informal Bidding)**

- A. The Project Manager shall be responsible for soliciting bids from at least three (3) prospective contractors, unless the Project Manager documents that the nature of the work is such that at least three (3) bidders are not reasonably available to bid on the work.
- B. In addition to the application of the application of the 5% LBE Preference, as described in the City's LBE Program,<sup>2</sup> at least one (1) of the bids solicited must be from a local business unless the Project Manager documents that the nature of the work cannot be provided by a local business or that a local business does not exist at the 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.

<sup>2</sup> While the City's LBE Program does not apply to federally funded contracts, the requirement to solicit at least one (1) 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."

of the solicitation.

- C. Bids 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. Contract award shall be made to the lowest responsive and responsible bidder as recommended by the Contracts Manager.
- E. Exceptions to the above requirements are provided for in Section 3, When Competitive Bidding Is Not Required, of this policy.

**2.3 Public Project Work of More Than \$100,000 and Less Than \$250,000 (Formal Competitive Bidding)**

- A. The issuance of a formal Invitation for Bids (IFB) or Request for Bids (RFB) and advertising on the City's [bid portal](#) is required.<sup>4</sup>
- B. Bids must be obtained in writing and all prospective bidders must be given the same information and the same time to respond.
- C. All such bids shall be advertised on the City's [bid portal](#) for a minimum of ten (10) calendar days prior to the date set for receiving bids. The length of the advertisement period should be appropriate to the industry standards for the particular work, to achieve the maximum public notice and competition and may be longer if necessary to satisfy requirements imposed by law or regulations, or applicable funding requirements.
- D. Bids shall be received and opened by the Contracts Manager.
- E. Contract award shall be made to the lowest responsive and responsive bidder.
- F. Notice of the contract award shall be provided in writing to all bidders as soon as reasonably practical to start the protest period. Notice may be provided by any form of media used by those participating in the bid process.
- G. Exceptions to the above requirements are provided for in Section 3, When Competitive Bidding Is Not Required.

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

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



## 2.4 Public Project Work of \$250,000 or More<sup>5</sup> (Formal Competitive Bidding)

- A. The issuance of a formal IFB or RFB and advertising on the City's [bid portal](#) is required.<sup>6</sup>
- B. Bids must be obtained in writing, and all prospective bidders must be given the same information and the same time to respond.
- C. The minimum time required for advertising solicitations on the [bid portal](#) is fifteen (15) calendar days. The length of the advertisement period should be appropriate to the industry standards for the project to achieve maximum practical notice and competition, and may be longer if necessary to satisfy requirements imposed by law or regulations, or applicable funding requirements.
- D. A public bid opening by the City Clerk or designee shall be conducted.
- E. Contracts of \$250,000 or more must be awarded by the City Council.
- F. A notice of intent to award shall be provided in writing to all bidders as soon as reasonably practical to start the bid protest period.
- G. Award will be made to the lowest responsible and responsive bidder, unless a different action is taken by the City Council pursuant to the City Code.
- H. Exceptions to the above requirements are provided for in Section 3, When Competitive Bidding Is Not Required.

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<sup>5</sup> For construction projects exceeding \$1,000,000, based on the engineer's estimate or actual contract price, the City must comply with its Community Workforce Training Agreement (CWTA) and Local Hire program. Documents to include in bid documents, as well as internal implementation procedures for staff use can be found on the [Procurement intranet page](#). For projects that are subject to the CWTA and Local Hire program, staff should contact the City Attorney's Office with questions.

<sup>6</sup> A formal IFB or RFB issued by another City department may satisfy this requirement.

### 3. When Competitive Bidding Is Not Required

#### 3.1 Public Project Work 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, Solicitations Thresholds and Requirements, do not apply if any of the following conditions are met:
  1. After advertising for bids as required, no bids are received, or all bids 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, if there is one, shall be awarded the contract, if such bidder's price is acceptable. If there is no such bidder, 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 prospective contractors 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 public project

work.

- (1) The following are other examples of circumstances that could necessitate a sole source procurement:
  - When public project work is only available from a sole or single source based on that source's unique capability or intellectual property rights. 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.
  - When, in the case of a follow-on contract for highly specialized project, it is likely that award to another contractor will result in: (1) substantial duplication costs; 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 work or service will be suitable or acceptable to meet the need. Documentation shall be maintained of all negotiation discussions, terms, and offers.
- (iii) *Prequalification:* A Two-Step RFQ/RFP process can be used to limit participation in the bidding process that follows to only those persons or firms determined to be qualified in accordance with the provisions of the preceding RFQ process. This can be done for a single project, or for multiple projects, as would be the case for approval of an on-call list of contractors by trade or specialty to be used on specified projects. An RFQ/RFP process must be consistent with requirements of Section 4, Solicitation Methods.
- (iv) Use of One-Step RFP process: An RFP process is used to allow the award of the contract on a best value or

other basis (not to the lowest bidder) due to the need to take into account other factors in addition to price, consistent with the requirements of Section 4, Solicitation Methods.

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 agreements or piggybacking: A competitively procured cooperative purchasing agreement of other public agencies' competitive contracts without separate competitive bidding by the City. Cooperative purchasing or piggybacking shall comply with applicable Procurement procedures.
6. Federal or state law requires other selection procedures to be utilized.
7. Maintenance, remodel, or repair work is performed by City employees.

### **3.2 Public Project Work of \$250,000 or More**

- A. The exceptions in this subsection may not be valid if certain state or federal funds are used.
- B. The exceptions in this subsection do not affect the requirement for City Council to approve 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 Section 3.56.230](#), competitive bidding is not required for contracts of \$250,000 or more under the following circumstances:
  1. After advertising for bids as required, no bids are received, or all bids 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, if there is one, shall be awarded the contract, if such bidder's price is acceptable. If there is no such bidder, 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 interests of the City to suspend competitive bidding. The suspension of competitive bidding can be recommended for various reasons, including:
  - (i) *Other competitive methods*: Alternative methods for contractor selection, such as using an RFP process to allow the award of the contract on a best value or other basis (not to the lowest bidder) due to the need to take into account other factors in addition to price, a design-build or design-assist process, and/or selecting a contractor based on factors other than or in addition to price, may be utilized for contracts of \$250,000 or more if the City Council determines prior to conducting such alternative process (on a **2/3 vote**) that it is in the City's best interests to suspend competitive bidding for this purpose. Any RFP process must be consistent with requirements of Section 4, Solicitation Methods.
  - (ii) *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 service.
    - (1) The following are 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 capability or intellectual property rights. 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.

- When, in the case of a follow-on contract for services, it is likely that 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 costs 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 work or service will be suitable or acceptable to meet the need. Documentation shall be maintained of all negotiation discussions, terms, and offers.

(iii) *Prequalification*: An RFQ process can be used to limit participation in the bidding process that follows to only those persons or firms determined to be qualified in accordance with the provisions of the preceding RFQ process. This can be done for a single project, or for multiple projects, as would be the case for approval of a master list of contractors by trade or specialty to be used on specified projects. An RFQ/RFP process must be consistent with requirements of Section 4, Solicitation Methods.

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 agreements or piggybacking: Services may be obtained through a competitively bid cooperative purchasing agreement or piggybacking of other public agencies' contracts. Cooperative purchasing or piggybacking shall comply with applicable Procurement procedures.
6. Maintenance, remodel, or repair work is performed by City employees.

#### **4. Solicitation Methods**

##### **4.1 Invitation For Bids (IFB)/Requests For Bids (RFB)**

- A. IFBs or RFBs must be used for the procurement of public project

work costing more than \$100,000, except as otherwise provided in Section 3, When Competitive Bidding Is Not Required. 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 or otherwise approved by the City Attorney's Office.
- C. The bid specifications shall contain a complete scope of work for the construction work to be performed and shall conform to the City's Standard Specifications.

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

- A. Alternative procurement methods to IFB or RFB should only be used where appropriate and practical, and as authorized under Section 3, When Competitive Bidding Is Not Required.
- B. A one-step RFP or RFQ must meet the requirements set forth in the [Professional Services Policy](#) and applicable Procurement procedures, unless an alternative to the standard RFP or RFQ process is specifically approved pursuant to Section 3, When Competitive Bidding Is Not Required.
- C. A two-step RFP/RFQ must meet the requirements set forth in the [Professional Services Policy](#) and applicable Procurement procedures, unless an alternative to the standard RFP/RFQ process is specifically approved pursuant to Section 3, When Competitive Bidding Is Not Required.

#### **5. Items Requiring Review Prior To A Solicitation**

- A. Public project contracts that will include the provision of materials or equipment to be installed, configured, or maintained 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 a solicitation is required in the following situations by the departments or divisions 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 Department of Public Works, Facilities and Real Property Management.
3. Installations at facilities or sites that require new construction, remodeling, modifications, electrical, mechanical, plumbing, or structural changes in 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 Department of Public Works, Facilities and Real Property Management.

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

- A. An addendum shall be used to amend 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's [bid portal](#). Addendums shall be sent to all prospective bidders/proposers known to have received a solicitation.

## **7. Public Disclosure**

- A. Solicitations for public project work of \$100,000 or more shall be available for public inspection at the office of the Contracts Manager and 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 ([Government Code § 7920.000 et seq.](#)).
- 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 ([Government Code § 7920.000 et seq.](#)).
- D. If the bidder or proposer designates any portion of its 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 should 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 should 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 specifications and/or the City Code. A bid or proposal may be withdrawn only if authorized in the solicitation specifications or under State law.
- B. For bids or proposals of \$250,000 or more, only Council has the authority to waive minor irregularities. For bids or proposals valued at less than \$250,000, the City Manager or 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, other applicable laws or regulations or contract documents.
- D. When an RFP process is used, if authorized instead of an IFB, as noted

above, 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**

- A. For an IFB or RFB, the contract shall be awarded to the lowest responsive and responsible bidder.
- B. If a bidder that otherwise would have been the lowest responsible bidder 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 it may request a hearing on the matter, and shall send such determination to the bidder by certified mail.
- C. If there are two or more low responsive bids from responsible bidders that are identical in price, 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 Additive Or Deductive Bid Items**

The evaluation of bids for public projects containing additive or deductive items shall comply with [California Public Contract Code § 20103.8](#).

### **8.5 Rejection Of Bids Or Proposals**

- A. For contracts less than \$250,000, the department head or the Contracts Manager shall have the authority to reject a bid or proposal, 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 or proposal. The department director 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.

### **8.6 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.

## **8.7 Contract Form And Documentation**

- A. A current 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 work. Current Citywide approved forms are available on the [Procurement page](#) on the City's intranet. The contractor must meet the City's standard insurance requirements and any other requirements and obtain a Business Operations Tax Certificate number, as specified in the Procurement procedures.
- 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. Bids require bid security (such as a bid bond or cashier's check) unless this requirement is waived as specified in the Standard Specifications. Bid security shall be provided in a standardized format specified in Standard Specifications and of 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 the Standard Specifications.

### **9.2 Performance and Payment Bonds**

- A. Performance and payment bonds are required for public project contracts exceeding \$25,000, as provided in the Standard Specifications and as required by state law (for payment bonds).
- B. The bond requirements shall be described in the solicitation and shall conform to applicable Procurement procedures.
- C. 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 bonds within the time specified in the notice of award shall 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 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. Additional insurance requirements may apply depending on the project being contracted. 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 reviewed by Risk Management and approved by the department head prior to contract approval and execution by the City.

## **10. Bid Protest**

Bidders or proposers who respond to a solicitation on a contract may file a bid protest in accordance with procedures adopted by the City Manager's office and posted on the City's website.

## **11. 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 bid or proposal evaluation. Upon adoption of any such ordinance or program, the following will 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.

## 12. City Ordinances

Various City Ordinances may apply to solicitations for Public Projects. 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 be applicable:

- A. **Equal Benefits Ordinance (EBO):** Contracts exceeding thresholds set in [City Code Chapter 3.54](#) are subject to all applicable provisions of said City Code chapter (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. **Drug Free Workplace:** All contractors for public projects comply with the City's drug-free workplace requirements as outlined in the City Council Resolution 90-498.
- C. **Ban the Box:** Contracts exceeding thresholds set in City Code Chapter 3.62 are subject to the provisions of the City's Ban the Box Ordinance and the Contracts Manager must include ordinance requirements and declarations as applicable.
- D. **Local Business Enterprise Preference:** Contractors qualifying as a local business as defined in the City's LBE Program may receive an evaluation preference as outlined in the Requirements for the LBE Program.
- E. **Local Business Enterprise Participation Requirement:** Contracts meeting thresholds set in the City's LBE Program may be required to be performed by contractors who qualify as Local Businesses per the City's LBE Program, or whom are subcontracting with a percentage of subcontractors qualifying as Local Businesses as outline in the Requirements for the LBE Program.
- F. Other state or local requirements as applicable.
- 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, City ordinances may not apply.

## 13. Prevailing Wages; Use Of Apprentices

- A. The City Code requires that public project contracts for construction originally awarded in an amount exceeding \$25,000 require the payment of prevailing wages, as determined by the Director of the Department of Industrial Relations pursuant to [California Labor Code § 1773](#). "Construction" includes work performed during the design and other preconstruction phases, including, but not limited to, land surveying and

materials testing, as well as postconstruction phases including, but not limited to, inspection services.

- B. The City Code also requires that contracts for alteration, demolition, repair, or maintenance work in an amount exceeding \$15,000 require the payment of prevailing wages, as determined by the Director of the Department of Industrial Relations pursuant to [California Labor Code § 1773](#).
- C. Bid specifications for public projects for construction exceeding \$25,000 shall include prevailing wage requirements.
- D. Bid specifications for public projects for alteration, demolition, repair, or maintenance work in an amount exceeding \$15,000 shall include prevailing wage requirements.
- E. More specific requirements relating to prevailing wages for public projects are specified in [City Code § 3.60.040](#).
- F. Apprentices are required on all public project contracts originally awarded in an amount exceeding \$30,000. More specific requirements relating to the use of apprentices are specified in [City Code § 3.60.050](#).
- G. The City Manager may approve adjustments to the thresholds above for prevailing wage and apprentice requirements to maintain consistency with State law.

#### **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 commence, whichever occurs first.
- B. This includes any City contract with a contractor who is a sole proprietor.

#### **15. Change Orders and Contract Amendments**

- A. Change orders and contract amendments for public projects may be approved by the City Manager or designee, within the limits of approval authority specified in [City Code § 3.04.020](#). Change orders or amendments exceeding these limits must be approved by the City Council.
- B. Delegations of approval authority are specified in the [Signing Authority Policy](#). Any change order or amendment extending the term of a contract must be approved prior to expiration of the contract term.

## **16. Payment Methods And Payment Terms**

### **16.1 Payment Methods**

- A. Original invoices are required for payment of all contracts.
- B. Payments for contracts over \$25,000 must include an approved Pay Request Application and Schedule of Values.
- C. More specific requirements are set forth in the contract documents and Procurement Procedures.

### **16.2 Payment Terms**

- A. Progress payments and project retention, as applicable, may be reduced by any deduction or withholding authorized under the contract, and shall be reduced by the amount of any stop notice until a verified release of stop notice is provided on a City-approved form or a release bond is accepted by the City.
- B. Time limits for progress payments and the release of retention shall be set forth in the contract documents.
- C. A Notice of Completion must be filed with the Sacramento County Recorder's Office within ten (10) days after the date that the City accepts the work as complete.

## **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 website for Contracting Opportunities, if applicable.
- D. Transaction numbers shall be created in accordance with Procurement Procedures

## 18. Employee Conflict of Interest/Ethics

- A. Pursuant to 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 purchase 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, 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

### PUBLIC PROJECTS POLICY

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



Howard Chan (Dec 20, 2024 11:25 PST)

City Manager

12/20/2024

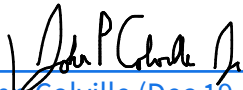
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City Attorney



City Clerk

01/10/2025



John Colville (Dec 19, 2024 13:14 PST)

City Treasurer

12/19/2024



City Auditor

02/06/2025