

CITY OF SUGAR LAND
INTER-DEPARTMENTAL POLICY AND PROCEDURE

POLICY NUMBER: PU-109
Effective Date: 3/16/2010
Sunset Date: 3/16/2015

PROCUREMENT OF PROFESSIONAL SERVICES AND CONSULTING

PURPOSE

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

BACKGROUND

Texas law specifically exempts contracts for personal services from the competitive bidding requirements. Personal services are services performed personally by an individual contracted to perform them and the compensation in the contract should mainly pay for the labor of the individual providing the service. This policy and procedure shall apply to all purchases involving the use of outside professional services including but not limited to:

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

POLICY

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

Providers of professional services and consulting shall be selected on the basis of demonstrated competence and qualifications to perform the services; and for a fair and reasonable price.

Additionally, for "Public Works" professional services, the requesting department must make the initial selection of vendors from a list of prequalified vendors maintained by the Engineering Department.

A. PREQUALIFICATION PROCEDURES FOR "PUBLIC WORKS" PROFESSIONAL SERVICES

Only firms that have made a formal presentation of their capabilities to the Engineering Department and provide an updated Statement of Qualifications will be permitted to participate in the City's process of contracting for professional services and consulting for Public Works Projects; this shall include all prime consultants and all sub-consulting firms employed by prime contractors.

1. The Engineering Department shall prequalify vendors through a Request for Qualifications process at least once every 3 years to establish an updated data base of qualified professional service firms and consultants.
2. The Engineering Department will allow for monthly firm qualification updates.
3. The Engineering Department will maintain a list of pre-qualified vendors for professional services and consulting services strictly for public works projects as defined by this policy.

B. PROCUREMENT PROCEDURES FOR ALL CHAPTER 2254 PROFESSIONAL SERVICES

1. **Define the Scope of Services:** The requesting department shall prepare a Statement of Work (SOW) / Project Charter that completely describes the contractual work requirement. A clear and concise SOW / Charter is essential to establish performance standards, provide contractors with a basis of estimate and to communicate effectively. For instructions for SOW preparation, see Attachment G, Statement of Work.
2. **Determine Contractor Insurance Requirements:** The requesting department shall refer to Inter-Departmental Policy PU-112 *Contractor Insurance Requirements* and determine if there are any insurance requirements for the service being purchased. If it is determined that there are contractor insurance requirements, the department is to include them in all solicitations and as an attachment document to the contract.
3. **Develop SOQ / RFQ:** The requesting department shall prepare an appropriate formal solicitation document which shall include, at a minimum, the criteria set forth below and a formal time, date and location for receipt of proposals by the

City. Evaluation criteria must be reviewed and approved by Purchasing prior to the SOQ / RFQ being published.

- a) Demonstrated experience of the firm to perform work of a similar nature and, if applicable, knowledge of the area;
 - b) Minimum of three (3) current references;
 - c) Resumes of the firm's team that will be actively involved in the project;
 - d) A brief history and description of the firm including manpower commitments, current workload, etc;
 - e) If applicable, work previously performed by the firm on behalf of the City;
 - f) Location of the firm and principle office from which the work will be performed;
4. **Evaluation:** Upon receipt of proposals, an established evaluation committee coordinated by Purchasing will rank the firms based on the weighted criteria the SOQ / RFQ (See Attachments I – K). (Note: If needed information is not readily available through the database maintained by the Engineering Department, the requesting department shall work with Engineering to request it from the vendors.)
- a) Presentations and/or interviews may be requested of the top rated firms. (normally top three, and this step is optional but encouraged)
 - b) References shall be checked of the top firms as necessary prior to final award.

C. VENDOR SELECTION PROCESS FOR CHAPTER 2254 PROFESSIONAL SERVICES

1. **Public Works Project Vendor Selection:** The Engineering Department and a representative from the initiating department will work together during the selection process.
 - a) **Amounts up to \$50,000**

- i. The Engineering and the initiating department will select a qualified firm from the City's list of pre-qualified consultants, as maintained by the Engineering Department.

b) Amounts \$50,001 - \$250,000

- i. The initiating department will select a minimum of three (3) firms from the list of pre-qualified providers of professional services and/or consultants.

c) Amounts More than \$250,000

- i. "Public Works" professional services costing more than \$250,000 shall require a formal Statement of Qualifications (SOQ) or Request for Qualifications (RFQ) process.
- ii. Firms invited to respond to solicitations must be pre-qualified using the list maintained by the Engineering Department.

2. **"Other" Professional Services Vendor Selection:** The RFQ / SOQ process will include the development of a written request that either focuses on the qualifications of the firm to perform work similar to that identified in the initiating department's Scope of Work or requests details of how a firm will approach a specific project. In either case, the criteria for evaluating proposals should be expansive and quantifiable enough for the evaluation committee to clearly determine which firm is the most capable.
3. **Exceptions:** Requesting departments may, at their option, initiate a formal RFQ / SOQ process for any project regardless of value. Conversely, there may be instances where the fee for a contract may exceed \$250,000 and it is not in the city's best interests in terms of cost, time or other factors, to proceed with a formal solicitation process. In any event, departments that desire to be exempted from any of the contracting processes set forth in this policy will be required to have the approval of Purchasing in advance of initiating any contract negotiations. If the requesting department is not in agreement with the decision made by Purchasing, they may appeal to their Executive Team Member.

D. CONTRACT AWARD PROCESS FOR ALL CHAPTER 2254 PROFESSIONAL SERVICES

1. The department will attempt to negotiate a contract with the highest rated firm. If negotiations are successful, the department will proceed to the approval phase.
2. If a satisfactory contract cannot be negotiated with the most highly qualified provider of the services, the department will notify Purchasing who shall formally end negotiations with that provider by issuing a letter. The department

will then select the next most highly qualified provider, and attempt to negotiate a contract with that provider at a fair and reasonable price.

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

E. CONTRACT APPROVAL FOR ALL PROFESSIONAL SERVICES

1. All professional services require a contract and are to be approved and routed in accordance with Inter-Departmental Policy AD-113 (Operational Authority Limits) and PU-115, Contracting Routing and Processing.
2. Several standard contracts have been developed by the City and may be used for professional services:
 - a) General Services Contract
 - b) Standard Contract for Engineering Services
 - c) Standard Contract for Architectural Services

F. PROFESSIONAL SERVICES NOT LISTED UNDER CHAPTER 2254

1. The Attorney General's Office has determined that a municipality has discretion to determine whether services are "professional services" if they are not specifically included under Section 2254.002(2).
 - a) To determine if a service is considered a professional service, the following test should be conducted on a case-by-case basis:
 - i. Do the services require a high level of knowledge, experience and skill consistent with standards of professionalism?
 - ii. Are the services predominately mental or intellectual rather than physical or manual?
 - iii. Is the knowledge of the service providers' generally acquired through years of advanced schooling?
 - iv. Are the service providers licensed by the state?
 - v. Is the majority of work produced by professional rather than lower level staff?
2. Departments may request that Purchasing consider classifying other services not specifically listed under Section 2254.002(2), Government Code as professional services.

3. The requesting department is to submit a memo to Purchasing justifying their request for consideration by Purchasing. Purchasing will evaluate the memo and make a determination; if the requesting department is not in agreement with the decision, they may appeal to their Executive Team Member for the final decision.

4. If approved as a professional service, the department may determine the method of procurement that is best. These approved professional services are not covered by Chapter 2254 and as such may choose the best method for identifying and contracting with the most qualified vendor.

FORMS

None

ACCOUNTABILITY

Purchasing Office is responsible for the review and revision of this policy. Review and revision shall take place, at a minimum, every two years after the Legislative Session ends and upon notification of any changes that may affect the City's daily operations.

Department Heads and Program Managers are responsible for ensuring that this policy is adhered to. The Purchasing Office is responsible for monitoring and enforcement.

SIGNATURES



INITIATING
 DEPARTMENT: PURCHASING DATE: 3/16/2010

DEPARTMENT HEAD: *Lendi Symons* DATE: 3/30/10

EXECUTIVEDIRECTOR/
 ASSISTANT CITY MANAGER: *[Signature]* DATE: 4-5-2010

CITY MANAGER: *[Signature]* DATE: 4-6-10