

ADMINISTRATIVE ORDER NUMBER 6-28

SUBJECT: Nonprofessional Service Contracts

Responsible Department: City Manager

Date Issued: February 11, 2016

Approved: *Signature on File*

Purpose

To establish a uniform policy and procedure for awarding nonprofessional service contracts.

Procedures

(a) Definitions

(1) "Nonprofessional services" means and includes services of a nonprofessional character of any type, description or variety including, but not limited to, providing waste removal and recycling services, tree trimming services, janitorial services, repair services for office machines and equipment, automotive vehicles, but shall not include contracts for public works of improvement, professional services, or legal services as provided in this Code.

(2) Other terms shall be defined by Section 4-603 of the Fresno Municipal Code.

(b) Contracts for nonprofessional services involving an expenditure of City funds in excess of the amount as provided in Charter section 1208(a) (\$100,000, as adjusted for inflation) shall be subject to this Administrative Order. If a contract includes provision of both goods and services, the contract shall be subject to the provisions of this policy if the dollar value of the services portion of the contract is greater than fifty percent of the total contract amount, and that amount for services is in excess of the amount as provided in Charter section 1208(a).

(c) Contracts subject to this policy shall be effective only when approved by Council and City Attorney approval as to form.

(d) Unless directed otherwise by the City Manager, contracts subject to this policy shall be procured through a request for proposals (RFP) process, as follows:

(1) An independent third party (not a City official or employee) may be used to oversee the process, including the preparation of the request for proposals, who shall be thoroughly trained in the specific field of interest and has demonstrated a thorough understanding of best practices needed to support

the development of a comprehensive and detailed scope of work, subject to a confidentiality agreement and a mandatory reporting requirement in the case of improper bidder behavior or a potential conflict of interest. An independent third party shall not be required for routine contracts for services with a term of less than two (2) years, including any potential extensions, and a total contract amount less than \$250,000.

- (2) An evaluation committee, to be selected prior to publication of the RFP, shall interview proposers, review and rank all proposals based on a predetermined set of criteria as set forth in the RFP, and make recommendations for approval or rejection of proposals. The committee, at a minimum, shall consist of two (2) employees from the affected department, as well as at least two (2) employees and/or members of the public. The composition of the committee shall be at the discretion of the City Manager. Information provided to and prepared by the committee shall not be deemed a public record until such time as a contract shall be placed on the agenda for Council consideration.
- (3) Once an RFP has been finalized, RFP packets will be mailed to all known potential proposers, and Purchasing shall advertise the Notice Inviting Proposals in a local newspaper of general circulation. At this point all communications, requests for clarifications, etc., are limited to the Purchasing Manager or designee. Any direct communications with City staff or City Councilmembers could result in a proposer being disqualified from the RFP process.
- (4) For any applicable contracts that provide for services throughout the City, the RFP shall request proposals to include a price or value for a contract involving 100 percent of the services and/or for a percentage of services being provided. In all cases, the RFP shall state that Council retains the discretion to award a contract to one or more proposers.
- (5) Service contracts are determined on a "best value" basis, not solely price. In determining best value, the factors to be considered may include, without limitation: price; community benefits; record of business with the City and others; credit record; local employment; experience; qualifications; local tax contribution; and any other legal factor the Council expressly finds is applicable to performance of the service contract.
- (6) Requests for clarifications shall be submitted to Purchasing personnel, and all responses shall be disseminated by issuing addenda and provided to committee members.
- (7) Proposer meetings shall take place prior to committee meetings to provide clarifications, answer questions, and update any changes to the RFP.

- (8) After proposals are tendered, the full text of all proposals shall be made available to the committee. The committee shall convene, when applicable, and interview no fewer than the top three ranked proposers, request a proposer's "Last, Best and Final Offer" based on information and/or clarification provided during the interview, which will be used to support a recommendation to the Council which proposer(s) should be awarded the contract, or to reject all proposals, including rankings of the top three proposers, along with a written explanation for the rankings and/or rejection of the proposals.
- (9) All documents, ranking criteria, and scores provided to the committee shall be made available to all Councilmembers no later than the time to contract is placed on the agenda for Council consideration.
- (10) When the award for the contract is being considered by Council, the Council shall have the following options:
 - i. Award the contract to the most responsive and responsible proposer(s);
 - ii. Reject all proposals, with direction to modify the original scope of work as deemed appropriate by Council and to initiate a new RFP process based on the amended criteria; or
 - iii. Continue the matter to obtain additional information.
- (e) RFPs for services are awarded for the best value to the City, as determined by the City. Accordingly, Resolution 2003-129 establishing an appeals process for the competitive process is not applicable to award of service contracts. Proposers may bring concerns to the Council at the time of consideration of an award.
- (f) This policy shall not alter provisions concerning procurement of services in an emergency or exigent circumstances, nor when findings are made that only one service provider is uniquely qualified pursuant to Section 4-107(h) of the Fresno Municipal Code. This policy shall not apply to contracts with other government entities.
- (g) For contracts for nonprofessional services involving an expenditure of City funds less than the amount as provided in Charter Section 1208(a) (\$100,000 as adjusted for inflation), the affected City Department shall select a service provider that provides the best value to the City.