



# Non-Professional Services

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**Policy Number:** *AP-4101*

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## ADDITIONAL DETAILS

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History

**Effective:** *February 2010*

**Last Updated:** *February 2010*

**Responsible Department/Division:**  
*Department of General Services /  
Procurement Division*

## Policy Statement

This Administrative Policy sets forth City policies that apply to contracting for Non-Professional Services and supplements requirements set forth in the Sacramento City Charter and City Code Chapter 3.56.

### Special Situations

Not Applicable

### Exclusions

Not Applicable

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## Purpose

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

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## Forms/Instructions

- Non-Professional Services Agreement (see intranet)

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## Procedures

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## Contacts

Department of General Services, Procurement Division

Office of the City Clerk

Office of the City Attorney

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## Definitions

### **Addendum**

An amendment to an invitation for bid (IFB) or request for proposals (RFP)

### **Bid specifications**

Complete directions, provisions and requirements for the performance of non-professional services. Bid specifications shall be included with the IFB.

### **City-wide Contract**

A contract administered by the Procurement Services Division to procure non-professional services for multiple Departments.

### **Competitive Bidding**

The process of soliciting bids and awarding a contract to the lowest responsive and responsible bidder.

### **Contract**

Any binding contract document, regardless of what it is called, for the procurement of supplies. 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 Director to administer the contracting process for non-professional services on behalf of the Department. A Contracts Manager is not authorized to execute non-professional service contracts on behalf of the City unless such signature authority has been delegated by the City Manager in accordance with applicable provisions of the City Code.

**Contractor**

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

**Emergency Contract**

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

**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.

**Invitation for Bid (IFB)**

A written notice issued to potential bidders that includes bid specifications and specifies, among other things, the procedures for bid submittal and place, date and time of bid opening.

**Lowest Responsible Bidder**

The lowest responsible bidder determined in accordance with the criteria specified in City Code Section 3.56.020, that includes a bid evaluation deduction for local bidders subject to the City's local sales or use tax.

**Master Services Contract**

A contract for on call services for a specified term.

**Non-professional service**

A service of a non-professional character of any type, description or variety such as: tree trimming services, janitorial services, appliance repair, pest control, window washing, canvas awning repairs, street/parking lot sweepers, pressure washing, carpet cleaning, repair services for office machines and equipment or automotive vehicles, landscape maintenance services, and work performed by a licensed contractor that does not constitute "public project" work under City Code Chapter 3.60, such as sidewalk maintenance and repair.

**Payment Voucher**

A document that records the accounting, distribution and payment of the invoice.

**Procurement**

The term is intended to include all functions that pertain to obtaining the service or work, including the preparation of specifications and requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

### **Procurement 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 Administrative Policy Instructions (APIs).

### **Project Manager**

The employee designated as the project manager responsible for administering the performance of a contract for non-professional services. A Project Manager is not authorized to execute non-professional service contracts on behalf of the City unless such signature authority has been delegated by the City Manager in accordance with applicable provisions of the City Code.

### **Purchase Order**

A written authorization for a contractor to supply goods or services at a specified price and over a specified period of time. Acceptance of the purchase order constitutes a binding contract.

### **Request for Proposals (RFP)**

A written request for proposals to provide non-professional services if permitted under Section 4 (Request for Proposal) below.

### **Responsive Bidder**

A bidder whose bid meets all of the bidding requirements in the IFB.

### **Supplemental Agreement**

An amendment to the terms of a contract for non-professional services that must be approved in accordance with the provisions of Article VI of Chapter 3.56 of the City Code.

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## **Appendices**

- City Charter-Article XIV Public Contracts and Supplies
- City Code 3.56

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## **Frequently Asked Questions**

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## **Related Information**

- City Charter-Article XIV Public Contracts and Supplies
- City Code 3.56
- Resolution No. 2010-084
- Administrative Policy (Signing Authority # 22)
- Procurement Guidelines
- Procurement Ethics and Standards of Conduct

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## Document History

**Amended:** NA  
**Supersedes:** API # 1 – Procurement of Supplies and Non-Professional Services  
**Effective:** February 2010

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## Policy

### 1. SOLICITATION THRESHOLDS AND REQUIREMENTS

#### 1.1 GENERAL REQUIREMENTS APPLICABLE TO ALL NON-PROFESSIONAL SERVICES

- (a) The City Code prohibits splitting or separating into smaller units any requirement for non-professional services for the purpose of evading the requirements for competitive bidding and City Council award that apply to contracts of \$100,000 or more. The City Code defines this prohibited practice as reducing the amount of non-professional services to be furnished under circumstances where there is a reasonable knowledge that the same services will be required within the same budgetary term, that there are funds available for such additional services, and the purpose is to knowingly avoid formal competitive bidding.
- (b) To the extent practical, (1) the Contracts Manager shall use master services contracts or City-wide contracts for various routine, recurring or on-call services, and (2) Departments and the Procurement Services Division shall work together to plan annual requirements for non-professional services to maximize economic efficiencies. Information about master services contracts can be found on the Procurement website ([www.cityofsacramento.org/pss](http://www.cityofsacramento.org/pss)).
- (c) The solicitation and award procedures specified in this Policy for non-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 procurement amount 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 services), or
  2. When a City-wide contract is used, the procurement amount is the total amount of the contract, or
  3. When a master services contract or City-wide contract is not used, the procurement amount for a specific contract is the sum of (i) the amount of the contract and (ii) the total amount that the Department will pay for the same services in the same fiscal year under any other existing contract within that Department (excluding existing contracts that have been awarded or approved by the City Council).
  4. The determination of what constitutes the “same services” under subsection 1 and 3 above, shall be made by the Procurement Services Division Manager or his/her authorized designee, based on criteria specified in the Procurement Guidelines Manual.
- (d) Contracts less than \$100,000 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 API # 22 (Signing Authority).
- (e) For services of any amount, the contract amount shall be calculated based on the full cost of any term extensions provided for in the contract (e.g., the amount for a two-year contract in the amount of \$40,000 per year, with an optional extension for year 3, shall be based on the total three year term, for a contract amount of \$120,000).

## **1.2 NON-PROFESSIONAL SERVICES OF \$5,000 OR LESS**

- (a) The procurement of non-professional services at a cost of \$5,000 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.
- (b) Price quotations shall be written. All prospective contractors contacted must be given the same information and allowed adequate time to respond.

### **1.3 NON-PROFESSIONAL SERVICES OF MORE THAN \$5,000 UP TO \$25,000**

- (a) The Project Manager shall be responsible for soliciting at least three prospective bidders, unless the Contracts Manager documents that the non-professional services are not reasonably available from at least three bidders.
- (b) Price quotations shall be written. All prospective bidders contacted must be given the same information and the same amount of time to respond.
- (c) Award shall be made to the lowest responsive and responsible bidder and shall be approved by the Contracts Manager.
- (d) Exceptions to the above requirements are provided for in Section 2 (When Competitive Bidding is Not Required) of this Policy.

### **1.4 NON-PROFESSIONAL SERVICES OF MORE THAN \$25,000 AND LESS THAN \$100,000**

- (a) The issuance of an Invitation for Bids (IFB) and advertising on the City's web site for Contracting Opportunities are required.
- (c) Bids must be obtained in writing, and all prospective bidders must be given the same information.
- (d) The minimum time required for advertising bids on the City's web site for Contracting Opportunities is ten calendar days. Advertisement of IFBs should be appropriate to the industry standards for the particular services, to achieve the maximum practical public notice and competition.
- (e) Bids shall be received and opened by the Contracts Manager.
- (f) Contract award shall be made to the lowest responsive and responsible bidder.
- (g) Exceptions to the above requirements are provided for in Section 2 (When Competitive Bidding is Not Required) of this Policy.
- (h) Notice of contractor selection shall be provided to all bidders as soon as reasonably practical.

### **1.5 NON-PROFESSIONAL SERVICES OF \$100,000 OR MORE**

- (a) Advertising through the City Clerk's office and formal competitive bidding is required for non-professional service contracts with a cost of \$100,000 or more.
- (b) All bids shall be advertised on the City's web site for Contracting Opportunities for a minimum of ten calendar days prior to the date set for receiving bids.

- (c) Bidding shall be conducted in accordance with the requirements of City Code, Chapter 3.56, including public opening of bids by the City Clerk's office.
- (d) Circumstances under which the City Code does not require competitive bidding for contracts of \$100,000 or more are summarized in Section 2 (When Competitive Bidding is Not Required) of this Policy.
- (e) Staff recommendations for awarding contracts of \$100,000 or more must be presented to the City Council for approval.
- (f) Award is made to the lowest responsive and responsible bidder, unless a different action is taken by the City Council pursuant to the City Code.
- (g) Notice of contractor selection shall be provided to all bidders as soon as reasonably practical.

## **2. WHEN COMPETITIVE BIDDING IS NOT REQUIRED**

### **2.1 NON-PROFESSIONAL SERVICES OF MORE THAN \$5,000 AND LESS THAN \$100,000**

- (a) The bidding requirements specified in Section 1( Solicitation Thresholds and Requirements), above, 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 resulting from a City bid fails to enter into 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 of this policy.
  - 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 Director and Procurement Services Division Manager, in accordance with applicable provisions of the Procurement Guidelines. Examples of alternative procurement methods are:
    - (i) Competitive negotiation: The Project Manager negotiates with two or more service providers to obtain a contract for the lowest price. Documentation shall be maintained of all negotiation discussions, terms, and offers.



- (ii) Sole source procurement: After conducting a good faith review of available sources, the Project Manager determines there is only one reasonable and practicable source for the required non-professional services. A requirement for a particular proprietary service does not justify sole source procurement if more than one potential provider for that service is reasonably and practicably available. 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.
- (iii) Use of RFP process: A RFP process is used consistent with the provisions of the Procurement Guidelines.
- (iv) Emergency contracts: When emergency conditions render competitive bidding impractical, and the determination of an emergency is approved by the Department Director.
- (v) Cooperative service agreements: A competitively bid cooperative service agreement of another governmental jurisdiction or public agency may be used, when supported by a market analysis showing that the prices and terms for the services to be performed are below or meet market rates.

## 2.2 NON-PROFESSIONAL SERVICES OF \$100,000 OR MORE

- (a) Under City Code Section 3.56.230, competitive bidding is not required for contracts of \$100,000 or more under the following circumstances:
  - 1. After advertising for bids as required, no valid bids are received. If this occurs, a different procurement method may be used, provided the use of such method is approved by the City Council consistent with applicable provisions of the City Code.
  - 2. 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 a RFP process and/or selecting a contractor based on factors other than or in addition to price.
    - (ii) *Competitive negotiation*: The Project Manager negotiates with two or more service providers to obtain a contract for the lowest price. Documentation shall be maintained of all negotiation discussions, terms, and offers.

- (iii) *Sole source procurement:* After conducting a good faith review of available sources, the Department determines there is only one reasonable and practicable source for the required non-professional service. 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.
  - (iv) 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 interests of the City. Questions concerning the applicability of competitive bidding requirements should be directed to the City Attorney's Office.
- (b) Cooperative purchase agreements: City Code section 3.56.240 provides that, where advantageous to the City, the City Manager or authorized designee may obtain non-professional services through cooperative purchasing agreements of other governmental jurisdictions or public agencies that are approved by the City Council, without separate competitive bidding by the City.

### **3. INVITATION FOR BID (IFB)**

- (a) IFBs must be used for the procurement of non-professional services costing more than \$25,000, except as otherwise provided in Section 2 (When Competitive Bidding is Not Required). This does not preclude the use of IFBs for procurements below this threshold.
- (b) The Project Manager shall bear the overall responsibility for the preparation of bid specifications, utilizing a standardized IFB format, as provided in the Procurement Guidelines.
- (c) The bid specifications shall contain a complete scope of work for the non-professional services to be performed.

### **4. REQUEST FOR PROPOSAL (RFP)**

- (a) RFPs are used to solicit professional services, but generally are not used to solicit non-professional services. However, a RFP may be used where appropriate and practical as authorized under Section 2 (When Competitive Bidding is Not Required) in this policy.
- (b) RFPs shall comply with applicable provisions of the Procurement Guidelines.

## **5. AMENDING OR CANCELING AN IFB OR RFP**

- (a) An addendum shall be used to modify or cancel an IFB or RFP, and shall be issued not less than three working days before the deadline specified for receipt of bids or proposals. 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 should be published using the same media used to advertise the IFB or RFP, including the City website. Addendums shall be sent to all prospective bidders/proposers known to have received an IFB or RFP.

## **6. PUBLIC DISCLOSURE**

- (a) IFBs and RFPs for non-professional services of \$25,000 or more shall be available for public inspection at the office of the Contracts Manager and shall be posted on the City website for Contracting Opportunities.
- (b) After bid opening, bids shall be made available in response to an official request for public inspection, in accordance with the California Public Records Act.
- (c) Proposals submitted in response to a RFP shall be made available in response to an official request for public inspection after the proposal evaluation process is complete, in accordance with the California Public Records Act.
- (e) 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.

## **7. ACCEPTANCE AND EVALUATION OR REJECTION OF BIDS OR PROPOSALS**

### **7.1 LATE BIDS OR PROPOSALS**

- (a) A bid or proposal is late if it is received at the location designated in the IFB or RFP after the deadline specified in the IFB or RFP.
- (b) A late bid or proposal shall be rejected and not considered, regardless of the reason for lateness, including circumstances beyond the control of the bidder.

- (c) A late bid or proposal shall not be opened, except (if necessary), for identification purposes. Delivery and return of late bids or proposals shall be handled in the following manner:
  - 1. If delivered in person, a late bid or proposal shall be rejected and returned to the person delivering it;
  - 2. If not delivered in person, a late bid or proposal shall be returned by certified mail;
  - 3. Bidders or proposers submitting late bids or proposals that will not be considered for award shall be notified as soon as practicable.

## **7.2 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 bid document and/or the City Code.. A bid or proposal may be withdrawn only if so authorized in the Procurement Guidelines or under State law.
- (b) Only the City Council has the authority to waive minor irregularities for bids or proposals of \$100,000 or more.
- (c) No criteria may be used in bid or proposal evaluations that are not referenced in the bid specifications or RFP or in applicable provisions of the City Code or other applicable laws or regulations.
- (d) When a 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.

## **7.3 DETERMINATION OF LOWEST BID**

- (a) For an IFB, 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, quality and service, and both meet all the requirements and criteria set forth in the IFB, then award, if made, shall be made by a drawing of lots.

## 7.4 REJECTION OF BIDS

- (a) For contracts less than \$100,000, the Department Director or the Contracts Manager shall have the authority to reject bids.
- (b) For contracts of \$100,000 or more, only the City Council has the authority to reject bids.

## 7.5 CONTRACT FORM AND DOCUMENTATION

- (a) The current standard non-professional services contract form, as approved by the City Attorney's office, shall be executed prior to starting any services. Approved forms are available on the City intranet ([www.cityofsacramento.org/pss](http://www.cityofsacramento.org/pss)).
- (b) For contracts of \$100,000 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.**
- (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.

## 8. BID SECURITY/BONDS AND INSURANCE

### 8.1 BID SECURITY

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

### 8.2 PERFORMANCE BONDS

- (a) The Contracts Manager shall determine whether to require a performance bond, consistent with the level of risk associated with the non-professional services.
- (b) Performance bond requirements shall be described in the IFB or RFP, and shall conform to applicable provisions of the Procurement Guidelines.

- (c) Performance bonds shall be accepted only from sureties admitted and duly authorized to transact business in the State of California, and shall be approved as to form by the City Attorney's office.
- (d) Failure to submit the required bond within the time specified in the notice of award may be just cause for annulment of the award and forfeiture of the bidder's bid security.

### **8.3 INSURANCE**

- (a) All insurance requirements specified in the current standard contract form must be satisfied prior to award/approval/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 award/approval/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 award/approval/execution by the City.

## **9. BID PROTEST**

### **9.1 CONTRACTS OF MORE THAN \$5000 AND LESS THAN \$100,000**

- (a) A bidder on a contract may file a bid protest (1) claiming that one or more bidders on the contract should be disqualified or rejected for any reason, or (2) contesting a City staff recommendation to award the contract to a particular bidder, or (3) contesting a City staff recommendation to disqualify or reject one or more bidders on the contract. Only a bidder may file a bid protest on a contract.
- (b) The bid protest shall be in writing and shall be filed with the Contracts Manager not later than five working days after City staff provides notice of the recommended contract award to the bidders. The bid protest shall provide the name, address, telephone and telecopier numbers of the protesting bidder, shall identify the contract to which the bid protest pertains, including the contract number and date that bids for such contract were received by the City, and shall identify the City department or division requesting bids. The bid protest shall identify and explain the factual and legal grounds for the protest, and shall include and attach any written materials that the protesting bidder wishes to have considered in determining the protest.

- (c) At the time a bid protest is filed, the protesting bidder also shall make payment to the Contracts Manager of a bid protest fee in the amount established by resolution of the City Council, which fee shall be used to pay the City's costs of processing the protest as provided herein.
- (d) Any bid protest that is received by the Contracts Manager after the time period specified above, or that is not accompanied by the bid protest fee, shall be untimely and invalid, and shall not be considered.
- (e) The protesting bidder and any other bidder(s) potentially affected by the bid protest shall be provided written notice of an informal hearing to be held not less than five working days after receipt of the bid protest. The hearing shall be conducted by the Director of the Department requesting bids or his or her authorized designee. The protesting bidder and any other bidder on the contract shall promptly provide any information requested by City staff prior to the informal hearing.
- (f) As soon as practicable after the informal hearing, the Department Director or authorized designee shall issue a written response to the bid protest, including an explanation of the reason or reasons for the decision made. The written response shall be provided to the protesting bidder and any other bidder(s) potentially affected by the bid protest.
- (g) Any bid protest, notice or bid protest response provided by or to the City shall be provided by registered or certified mail (return receipt requested), by telecopy, by personal delivery or by any other method that provides reliable evidence of the date of receipt. Written notice provided by telecopy shall be deemed received on the date that it is transmitted and transmission is confirmed by the transmitting machine. Written notice provided by personal delivery shall be deemed received on the date of delivery.

## **9.2 CONTRACTS OF \$100,000 OR MORE**

- (a) The bid protest procedures specified in subsection 9.1, above, also shall apply to contracts of \$100,000 or more, provided that nothing specified in this section shall limit or otherwise affect the City Council's discretionary authority to accept, reject or modify the bid protest response issued by the Department Director or authorized designee or take any other action authorized under the City Charter or City Code.
- (b) Subsection 9.2 (a) shall not apply in cases where the Invitation for Bids provides that bid protests shall be filed in accordance with the provisions of Article X of Chapter 3.60 of the Sacramento City Code (commencing with City Code Section 3.60.460).

## **10. 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 \$100,000 (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 \$100,000 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 \$100,000 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.

## **11. ESBE PARTICIPATION AND REPORTING REQUIREMENTS**

- (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.

**12. 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 API 53.

**13. LIVING WAGE ORDINANCE/PREVAILING WAGES**

- (a) Departments that administer non-professional services contracts shall be responsible for compliance with applicable provisions of the City's Living Wage Ordinance (LWO) codified at Chapter 3.58 of the City Code.
- (b) All solicitations for non-professional services shall inform prospective bidders or proposers of the City's standard LWO Requirements.
- (c) All contracts for non-professional services to which the LWO applies shall contain an executed LWO Declaration of Compliance.
- (d) City Council reports that request approval for non-professional service contracts shall include a discussion on whether the LWO provisions are applicable in the Policy Considerations section of the report.
- (e) Contracts for laundry, window washing and janitorial services are not subject to the LWO, because these contracts are subject to the prevailing wage requirements specified in City Code Section 3.56.070.

**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 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.

## **15. SUPPLEMENTAL AGREEMENTS**

- (a) Supplemental agreements may be approved by the City Manager or authorized designee, within the limits of approval authority specified in Article VI of City Code Chapter 3.56. Supplemental agreements exceeding these limits must be approved by the City Council.
- (b) Delegations of the City Manager's approval authority are specified in API #22.
- (c) Any supplemental agreement extending the term of a contract must be approved by the appropriate approval authority prior to expiration of the unextended term.

## **16. PAYMENT METHODS AND PAYMENT TERMS**

### **16.1 PAYMENT METHODS**

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

### **16.2 PAYMENT TERMS**

- (a) Contractor invoices must contain all information required by the contract.
- (b) Payment terms are NET 30 days unless the contractor offers a prompt payment discount that is accepted by the City.
- (c) All payment discounts shall be computed from the date of completion and acceptance of services, or from the date an invoice is received, whichever occurs later.
- (d) The Finance Department, Accounting Division must approve payment terms that are inconsistent with this policy.

## **17. TRANSACTION NUMBER LOG**

- (a) Each Department shall establish and maintain a transaction number log for all Department solicitations for which an IFB or RFP 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 IFB or RFP, 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 IFB or RFP 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.

**18. EMPLOYEE CONFLICT OF INTEREST/ETHICS**

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

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