
Chapter 6 – PLANNING PHASE

Procedure 6.4 –CONSULTANT CONTRACT

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Date:

PURPOSE

This procedure provides guidelines for the negotiation and procurement process leading to the execution of a professional services contract between the City and a Consultant. The section addresses the process to negotiate and complete a professional services contract assuming that a Project Specific contract is being negotiated for a capital improvement project. In addition, this section provides guidelines for understanding the two types of compensation in contracts used for Consultant services.

The last section of this procedure provides guidelines for the Pre-Qualified On-Call (PQ OC) Consultant contracts and addresses the utilization of Pre-Qualified On-Call contracts that are already in place.

RESPONSIBILITIES

Project Manager (PM): The PM is responsible for conducting the negotiations with the Consultant and involving the appropriate City staff in reviewing the proposed scope and cost. This should be done in close communications with the Division Manager.

Division Manager: The Division Manager is responsible for reviewing the final negotiated contract and making recommendations to the Deputy Director and the City Engineer for approval and submit to Council for final award if Council approval has not been obtained.

CEDA Deputy Director: The Deputy Director is responsible for reviewing and concurring with Division Manager's recommendation for City Engineer's approval.

City Engineer: The City Engineer has the overall management responsibility ensuring that DCSD follows guidelines and adheres to City requirements.

Department of Contracting & Purchasing (DC&P): DC&P representative is responsible for performing review of the proposed contract for compliance with City mandated programs and, working with the PM, prepare and complete the professional services agreement with all required attachments.

DC&P is responsible for getting the City Attorney's "Approval as to Form" signature on the final negotiated contract, execute the final agreement, and issue the letter of Authorization to Proceed.

Office of the City Attorney (OCA): OCA is responsible for reviewing the contract language and provide support to the PM and DC&P in the form of the agreement.

PROCEDURE

Consulting contracts are characterized by the City as being professional services contracts. This title is meant to differentiate them from *construction contracts* (contracts to build something—usually publicly bid and awarded) and *procurement contracts* (contracts to purchase goods and recurring services. This chapter deals with consulting contracts. Consulting contracts are generally described as being either one of two types regarding compensation: Cost-Reimbursement Contracts or Lump Sum Contracts. Their differences, and the most appropriate use of each type, are described in the procedure below. The PM should choose the type of contract most appropriate to the scope and nature of the work. Each type is described below, along with when it is most applicable. The PM should contact DC&P for the most current version of the contract format.

6.4.1 Lump Sum Contracts

Lump Sum contracts compensate the Consultant a fixed amount for the performance of the work. The City most often uses this type of contract. The amount is negotiated with the Consultants and stated in the contract. Typically, the fee is determined from consultant's detailed cost proposal providing level of efforts by the consultant and sub-consultant disciplines for each phase of the project. The fee needs to be sufficiently detailed for the PM to review and assess the fairness of the proposal, see sample fee proposal format in Attachment _____. (Add sample fee proposal format) It is typically paid out at various milestones during the life of the contract and is most often associated with a deliverable from the Consultant. The specific milestones and the amounts to be paid for each deliverable are also negotiated and stated in the contract.

When To Use Lump Sum Contracts: Lump Sum contracts are most often used when the specific scope of work of the project is well defined and understood by both parties. This contract is less risky for both the City and the Consultant. A Lump Sum contract "locks in" the cost of the service, which aids in holding a project within budget. It is the most commonly used form of contract for architectural services. The nature of that work, i.e., a certain square footage of a facility to be built for a construction cost of a not-to-exceed amount, lends itself well to this type of contract.

6.4.2 Cost-Reimbursement Contracts

Cost-Reimbursement contracts compensate the consulting firm based upon the actual number of hours worked and Other Direct Costs. The contracts always contain a cost ceiling. This type of contract is seldom used by the City. Invoices are generally submitted each month and they list each person who charged to the project, the number of hours they charged and how much the firm should be compensated for this work. The hourly compensation rate is based on one of two different types:

1. Hourly Billing Rate for each “classification” of person charging to the project; i.e., Senior Engineer = \$140/hr, Engineer = \$110/hr, CAD Operator = \$85/hr. The Hourly Billing Rate is an all-inclusive rate, including the person’s salary, overhead, and profit.
- OR,**
2. Overhead or Multiplier Rate – Billing Salary Rate + Overhead % + Profit % for each person charging to the project. It is based on a formula that adds a percentage for overhead and a percentage for profit to a person’s actual hourly salary as paid by the consulting firm. The overhead and profit percentages are negotiated and stated in the contract. Once negotiated, the overhead rate is fixed in the contract and is neither provisional nor variable. Sometimes overhead and profit are combined into a single percentage value and it is called “markup” or “multiplier”.

Example: In an overhead type contract, it would require, that for each hour worked on the project, the firm be compensated for each individual employee’s actual hourly salary plus 120% of direct salary for overhead and 10% of the sum of direct salary and overhead for profit. If an employee’s Billing Salary Rate is \$100 per hour, overhead would be \$120 per hour and 10% profit would be \$22 per hour (10% of \$220). The Consultant would be compensated at (\$100 + \$120 + \$22) = \$242 per hour. In this example, the firm would be compensated for each individual employee’s actual hourly salary plus a “markup” of 142% or a contract with a “multiplier” of 2.42. ($\$100 \times 2.42 = \242 per hour).

When to Use Cost-Reimbursement Contracts: Cost-Reimbursement contracts are most appropriate when the specific level of effort that will be needed to perform the tasks is very difficult to ascertain at the beginning of the contract. Examples where this could be the case would be when the initial Work is to perform feasibility study which will allow the City to determine the final scope of the project, or the scope is very likely to change during the life of the contract. This type of contract requires the City’s PM to closely monitor the activities, costs and progress of the Consultant.

6.4.3 General Goals

The PM's primary goals in negotiating the contract should include:

- 1) Appropriately defining the scope of services
- 2) Rapid finalization of the negotiation
- 3) Making minimal changes to the Standard Form contract
- 4) Developing a schedule for deliverables that meets the overall project schedule
- 5) Completion of an LBE/SLBE plan for the contract
- 6) Negotiating a reasonable price for the contract (lump sum, hourly billing rates or overhead, profit and subcontractor markup percentages) that is both fair to the consulting firm and remains within budget
- 7) Ensuring that unnecessary constraints are not inadvertently included in the contract, which will limit the ability of the PM and the Consultant to respond to unanticipated situations

6.4.4 Beginning the Negotiations

Negotiations should begin with the PM and Consulting Firm discussing the appropriate Standard Professional Contract (*see Reference Documents*), which was attached to the RFP/RFQ. It is to be used as the basis for the contract. The Consultant should be asked to review it closely to see if they have any problems with any of the standard clauses contained in it. If they do, the OCA should be consulted.

Finally, the PM and the Consultant should also set a tentative schedule for the negotiations and be somewhat aggressive about the schedule and follow up quickly to resolve issues. The targeted negotiation period is 21 calendar days. Often, the negotiation process can drag on and take longer than necessary.

6.4.5 Project Description

If the services to be provided are related to a specific project, that project must be described. The History and Background related to the specified project is usually included in the project description. All details of the project that are known should be included in the description, including reference and inclusion of studies and available documents. If they are not known at the time of negotiating the contract, then a general description should be included as well as a statement to the effect that the City's PM will provide a more specific and final project description to the Consultant once it has been determined.

6.4.6 Scope of Services

The first major item to resolve in the negotiations is the Scope of Services, sometimes referred to as Scope of Work.

6.4.6.1 Consistency with RFP/RFQ: The Scope negotiated in the contract, as well as the Project Description, must be consistent with what was contained in the RFP/RFQ. The RFP/RFQ is typically more broadly stated than the scope contained in the contract. However the contract's scope must be encompassed within the more broadly stated scope in the RFP/RFQ. As an analogy, the RFP/RFQ should be considered as being an umbrella in its description of the project and/or the services that are being procured. Then the scope and definition of the project contained in the contract must fit underneath the umbrella.

It is important to note that while the consulting firm was selected based on their response to a specific statement regarding scope or project definition in the RFP/RFQ, the final contract may very likely require a different Scope of Service or Project Definition. As described above, it must fit within the broad range of Project Definition and Scope of Services contained in the RFP/RFQ. The project or the required scope of the Consultant's services may have changed from the time the RFP/RFQ were prepared. Or, in some instances, the RFP/RFQ asks the Consultants to respond or propose on a very specifically defined project or list of services that are theoretical in nature. The RFP/RFQ should clearly identify the Scope of Services. This approach is often utilized when the details of the project aren't known at that time but the objective is to consider "apples to apples" proposals from the firms. For whatever the reason, the scope in the negotiated contract does not have to be the same as it was in the RFP/RFQ, as long as it "fits under the umbrella".

6.4.6.2 Level of Detail Contained in the Scope:

The Scope will probably take one of two general courses depending on how much specific information is known about the project or required services at the time of negotiation.

1) **Highly Detailed Scope** - If the full and complete nature of the project is clearly understood, it is generally desirable to have a highly detailed Scope. For example, if the project is the design of a new building, of a known size on a known lot with a known type of use, the contract will likely be a Lump Sum contract. The Scope in this instance must clearly define what the project is and what services the consultant is to provide. Deliverables should also be identified. Sample Scopes of Services are available from past projects.

2) **General Scope** - If the details of the project or the detailed services that are required are not known, then the Scope should be general in



nature. If this is the situation, the contract should be a cost reimbursement contract. The Scope must be written in such a way as to authorize the consultant to perform the services that the PM needs during the term of the contract despite the fact that all of those services or the level of effort needed to perform them are not definable at the time of negotiation. This is done by using clauses of the following types:

“Provide the necessary design services to produce a fully biddable set of plans and specifications for new Community Center building to be located in the Fruitvale area. It is anticipated that the building size will be between 15,000 and 20,000 square feet costing less than \$6 million.”

Or

“Determine the level of Environmental Documentation required and then provide the necessary Environmental Documentation preparation services for the proposed Fruitvale District Community Center. The City’s Project Manager will inform the consultant of specific project details once they have been determined.”

Or

“Provide the necessary design assistance services as may be requested by the City’s Project Manager to assist City staff in designing the proposed Fruitvale Community Center.”

It is important to understand that while the Consultant was selected based on the City providing an anticipated scope and the Consultant may have provided a pricing proposal for performing that scope, the PM is not bound at all by either of those items. The negotiation process, not the RFP/RFQ nor the Consultant’s proposal or submittal, will define the specific scope and the pricing for the contract. The final agreed upon scope and pricing may be notably different.

6.4.7 Compensation - Cost of the Contract

After agreeing on the description of the project and the Scope of Services, compensation is to be negotiated. The nature of the negotiations will be governed by the type of compensation to be used in the contract — Lump-Sum or Cost-Reimbursement Contract.

6.4.7.1 Lump Sum Contracts: The Lump Sum amount of money to be paid the consultant for performing the Services, as well as when those amounts are to be paid, is to be negotiated and defined in the Compensation Clause of the contract. There is no simple formula to use to derive what an appropriate cost should be. The process should begin with requesting a cost proposal from the Consultant that includes an

estimate of Level of Effort by Task in the contract. Then the PM must consider numerous elements in arriving at the negotiated Lump Sum amount.

1) **Level of Effort and Unit Cost** - How many work hours are needed for the tasks? What level of expertise is needed for the tasks? What is the Consultant's hourly billing rate for this level of expertise? Estimate the efforts required to complete the design. How many drawings are expected for a project of the particular project?

2) **Level of Risk** - Is there a high degree of financial risk to the Consultant in this project?

3) **Special, Unusual Services** - Is it required, or is it likely, that special services will be needed and considered to be a part of the negotiated Lump Sum? Or will the City compensate "Special Service" separately, and define how that will be paid in the contract?

4) **Past Practice** - Was a Fee Schedule or "payment formula" for similar services previously established? Is there a history of fee information for consultant services of this type, such as Engineering News data compilation? Has there been inflation since that time?

5) **Comparison With City Costs** - If City staff performs the services, what would its estimated level of effort (hours or workdays) and fully burdened costs be?

6) **The Business Climate** - Is there currently great (or little) demand in the general economy for the type of services requested and therefore, might they be more expensive (or cheaper) than "normal"?

7) **Budget** - What is the project's budget for these services?

Lump-Sum Amount - After reviewing the Consultant's pricing proposal and understanding the proposed level of effort for the various tasks and what level of expertise and unit cost is proposed, each of these items is open to negotiation. While it is the City's aim to secure the required professional services from the selected Consultant at the lowest price possible, it is best if the Consultant can complete the negotiations feeling that they will be fairly compensated for the work. Their cooperation and good will are important to the success of the work. A negotiation which concludes with them agreeing to a Lump Sum amount which they believe is much too low will often result in disagreements about scope, level of effort and adequacy of their work during the contract.

Deliverables must then be negotiated after which payments will be due. The Lump Sum amount is apportioned to the various project deliverables and that amount is paid after the deliverable is received and approved. In general, the payments should approximate the level of effort necessary to reach the accepted deliverables. The sum of all of the

deliverable payments equals the Lump Sum amount of the contract. Deliverables are typically defined as follows. Anticipated milestone may be added tying into completion of the deliverables. Deliverables may be added/deleted based on size and complexity of project and project specifics. The list below provides a general guidance for a typical project:

- Preliminary/Planning/Pre-Design Services
- Concept Design
- Schematic Design
- Design Development
- Construction Document
- Bid and Award Support
- Construction Administration/Support Services
- Project Close out

“Additional Services or Services Not Included in the Agreement” and how it will be handled must be covered by a clause in the contract. This will define the conditions under which the City will pay an amount above and beyond the Lump Sum and the contract will include the maximum amount of money that can be paid under this clause. Usually this work is compensated for based on hours worked and hourly billing rates that are identified in the contract for this purpose.

"Reimbursable Expenses" must also be dealt with. Sample types of expenditures are listed in the clause and a contract limit amount of money is identified for this purpose. This is above and beyond the Lump Sum amount.

When the term **"amount of the contract"** is used, it is defined as the sum of the three elements:

Amount of Contract = Lump Sum + Additional Services Allocation + Reimbursable Expense Allocation.

6.4.7.2 Cost Reimbursement Contracts

The negotiation of a Cost-Reimbursement contract differs from the Lump Sum contract in that the City isn't fixing the actual cost of the work in the contract. Rather, the contract defines how the Consultant will be reimbursed during the work and a maximum cost ceiling of the contract. At the conclusion of negotiations, the PM doesn't yet know what the final cost will ultimately be, but has established a maximum cost. This fact changes some of the aspects of the negotiation.

The process should begin with requesting a cost proposal from the Consultant that additionally includes an estimate of Level of Effort by Task in the contract and hourly billing rates (or salaries, overhead and proposed

profit). Then the PM must consider numerous elements in arriving at the cost ceiling amount.

1) **Level of Effort and Unit Cost** - How many work hours are needed for the tasks? What level of expertise is needed for the tasks? What is the consultant's hourly billing rate for this level of expertise? If the cost reimbursement formula that is used is actual hourly salary plus overhead, profit, and subconsultant markup, then those proposed values are needed and overhead, profit and markup are subject to negotiation.

2) **Past Practice** - Was a past practice of paying for similar services established at some level? Has there been inflation since that time?

3) **Comparison With City Costs** - If City staff performs the services, what would its estimated level of effort (hours or workdays) and fully burdened costs be?

4) **The Business Climate** - Is there currently great (or little) demand in the general economy for the type of services requested and therefore, might they be more expensive (or cheaper) than "normal"?

5) **Budget** - What is the project's budget for these services?

6) **Level of Effort** - The number of hours of work, as proposed by the consultant to perform each task, should be considered and negotiated if necessary. This is important not only because it directly impacts the contract ceiling, but it also helps the PM and the consultant reach a better understanding on the level of detail expected for each task. For example, if the PM thinks that the structural design element of a wastewater pumping plant is a 200-hour activity and the consultant thinks it is a 20-hour activity, there is clearly a misunderstanding about the facility to be designed. During negotiations is the time to resolve any misunderstandings.

7) **Level of Expertise** - The level of expertise proposed by the Consultant for the various tasks not only directly impacts the contract ceiling, but also the "quality" of the work product. For example, senior- or executive-level engineers or architects performing the majority of the work in plan production will be very costly. On the other hand, Architectural or Engineering Assistants performing Value Engineering will probably not yield the quality of results the City is seeking. Again, finding these points of misunderstanding during negotiations is best.

8) **Unit Cost** - If the compensation is to be based on an hourly billing rate for each individual or for their job classification, then this must be considered, negotiated if necessary, and defined in the contract. This would typically be done through the listing of job classifications and their billing rates. For example:

- Sr. Env. Specialist 2 - \$135/hr
- Sr. Env. Specialist 1 - \$115/hr
- Assoc. Engr. - \$ 90/hr

On smaller, short term contracts, the actual individual's name is sometimes used in lieu of the job title.

If the compensation is based on the person's actual salary plus a percentage for overhead plus a percentage for profit, then the overhead and profit percentages need to be negotiated and specifically listed in the contract. The overhead and profit rates that Consultants propose can be negotiated downward. It is applicable in cases where the City will be utilizing people, nearly full time, for a long period of time, thereby benefiting the Consulting firm by booking 100% of their employee's time. This eliminates a significant negative drain on their overhead—un-billable time.

6.4.8 Consultant Objections to Standard Form Contract Clauses - City Attorney Approval as to Form

Early in this Procedure, in the section titled, "*Beginning the Negotiations*," it was mentioned that the Consultant needed to review and understand the many "standard" clauses in the contract. Consultants usually object to one or more of the contract clauses. When this happens, the PM must review the matter with the OCA as well as with the Division Manager. In some cases, it is necessary to involve the City's Risk Manager when addressing issues of insurance coverage level, waiver of certain insurances, etc. The OCA must approve substantive changes in the agreement.

The entire contract must be approved and signed "As to Form" by the City Attorney when negotiations are complete. The City Attorney's representative who works as the Attorney for Capital Project contracts is the person who will sign the contract "As to Form" for the City Attorney. DC&P will secure the City Attorney's approval as a part of the process in executing the agreement as long as the PM has worked through the agreement language during negotiation.

6.4.9 Negotiation of Pre-Qualified On-Call Contracts

Two separate negotiations are needed for a Consultant to be able to begin work under a Pre-Qualified On-Call contract: The negotiation of the base Pre-Qualified On-Call contract, (PQ OC) and subsequently, the negotiation of a Work Order containing the specific scope, tasks and cost of the Work Order

6.4.9.1 Contract Negotiations - These negotiations lead to the execution of a "standby" contract that contains all of the standard clauses, except for a specific project description, scope of services for that project and the cost. A Standard Form Professional Services Contract for Pre-Qualified



consultants has been created and is maintained by Project Delivery Division in the shared drive. The contract describes the addition of items, by Work Order(s) issued by the PM, at a later time. Therefore, the bulk of effort in negotiating the contract will go into resolving any potential objections that the Consultant might have with the standard contract and the hourly rates or overhead and profit that will be used in the contract. The PM putting these contracts in place attempts to keep Consultant specific revisions to an absolute minimum because the intent is to have identical standby contracts ready for use when needed. Changes from the standard must be approved by the OCA.

6.4.9.2 Work Order Negotiations - All of the items discussed in the earlier parts of this procedure regarding project description, scope of services and compensation apply during the negotiations phase for the Work Order. The difference is that the PM is authorized to execute the Work Order whereas only the City Administrator may execute the Contract itself. A Work Order Log for each on-call consultant is located in DCSD's share drive. The log lists the work order in chronological order, the specific projects assigned to each work order, and the amount of each Work order. Sample Work Orders are available from the shared drive.

The following is a summary of the procedure to be followed when using a PQ OC Consultant.

1. Determine which consultant will be used for the proposed project. The determination should be made in consultation with respective supervisor and the responsible Project Manager who oversees the contract to determine contract availability and the suitable on-call consultant.
2. Prepare a Work Order Request-for-Proposal letter. Brief supervisor and the Division Manager on the scope and the anticipated amount of the Work Order (See share drive for samples and format.)
3. Solicit the appropriate PQ OC by sending the WORFP to the selected Consultant.
4. The submitted proposal is evaluated, scope/cost negotiated, and a Work Order is awarded. Depending upon how PQ OC Consultants were solicited, the intent is to utilize PQ OC consultants on an equitable basis as much as possible to allow each firm a fair opportunity to be utilized.

6.4.10 Record of Selection

After completion of the negotiation process, the PM is to prepare a Record of Selection which will remain as a permanent record of the process. It should contain, at a minimum, the following items:

- RFP/RFQ or Pre-Qualification On-Call Consultant
- List of Firms Submitting Proposals or Statements of Qualifications
- Submittals from all firms
- Selection Criteria
- Summary of Scoring Sheets
- Individual Scoring Sheets
- Non-Collusion Affidavits, if appropriate
- Brief memo on the Record of Negotiations summarizing the negotiation process and what the Consultant may have proposed

Copies of the Record of Selection are to be retained in the Program's official central files. The Record of Selection is to be completed prior to processing the contract approval Board Report.

6.4.11 Professional Services Fee Structure

In negotiating professional services contract, the PM needs to understand the level of efforts required in preparing the design services, the sub-consulting disciplines required, and the complexity of the project to determine if proposed fees are fair and reasonable. Prior to beginning negotiation, the PM should attempt to develop an independent cost estimate taking into consideration the scope of the project. General guidelines for fee structures are available from professional associations and technical trend studies (such as ENR magazine).

6.4.12 Standard Professional Services Contract

Before the PM begins negotiation (*see Procedure 6.5*), obtain a copy of the most up-to-date, appropriate Standard Form Contract from the DC&P. Sample contracts are available on the share drive. It is important that the PM is familiarized with the various requirements of the contract and, if the requirements are not clear, discusses the matter with DC&P or the Division Manager. The PM

is expected to understand and see to it that all the terms of the contract are enforced.

The PM should determine whether there have been any changes in the standard form contract since a copy was attached to the RFP/RFQ. If there have been any, they must be pointed out to the Consulting Firm.

Standard Contract Articles and Exhibits

As of the date of printing, the Table of Contents of the Standard Form Contracts lists the following Articles and Exhibits (Critical Articles and Exhibits shown as **bold**):

ARTICLES:

- ARTICLE 1 - SECTION HEADINGS
- ARTICLE 2 - DEFINITIONS
- ARTICLE 3 - **PROJECT DESCRIPTION**
- ARTICLE 4 - **RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY THE CONSULTANT**
- ARTICLE 5 - **KEY CONSULTANT PERSONNEL**
- ARTICLE 6 - RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY THE CITY
- ARTICLE 7 - **TERM OF AGREEMENT**
- ARTICLE 8 - TERMINATION
- ARTICLE 9 - SUBCONTRACT APPROVAL
- ARTICLE 10 - **COMPENSATION, INVOICING AND PAYMENT**
- ARTICLE 11 - AMENDMENTS, CHANGES OR MODIFICATIONS
- ARTICLE 12 - INDEMNIFICATION AND INSURANCE
- ARTICLE 13 - INDEPENDENT CONTRACTORS
- ARTICLE 14 - WARRANTY AND RESPONSIBILITY OF CONSULTANT
- ARTICLE 15 - OWNERSHIP OF DATA
- ARTICLE 16 - NONDISCRIMINATION AND AFFIRMATIVE ACTION
- ARTICLE 17 - **MINORITY, WOMEN AND OTHER BUSINESS ENTERPRISE SUBCONTRACTOR OUTREACH PROGRAM**
- ARTICLE 18 - SUCCESSORS AND ASSIGNS
- ARTICLE 19 - CONTACT PERSONS - PROPER ADDRESSES - NOTIFICATION
- ARTICLE 20 - FORCE MAJEURE
- ARTICLE 21 - SEVERABILITY
- ARTICLE 22 - DISPUTES
- ARTICLE 23 - ENTIRE AGREEMENT
- ARTICLE 24 - APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT
- ARTICLE 25 - LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED
- ARTICLE 26 - BONDS



- ARTICLE 27 - CHILD SUPPORT ASSIGNMENT ORDERS
- ARTICLE 28 - COMPLIANCE WITH YEAR 2000
- ARTICLE 29 - SERVICE CONTRACTOR WORKER RETENTION ORDINANCE AND LIVING WAGE ORDINANCE
- ARTICLE 30 - AMERICANS WITH DISABILITIES ACT
- ARTICLE 31 - EQUAL BENEFITS ORDINANCE
- ARTICLE 32 - WAIVER
- ARTICLE 33 - PROHIBITION AGAINST ASSIGNMENT OR DELEGATION
- ARTICLE 34 - PERMITS
- ARTICLE 35 - CLAIMS FOR LABOR AND MATERIALS
- ARTICLE 36 - DISCOUNTS
- ARTICLE 37 - CONTRACTOR RESPONSIBILITY ORDINANCE

EXHIBITS

- EXHIBIT A - **PROJECT SERVICES/SCOPE OF WORK (SAMPLE BAR CHART)**
- EXHIBIT B - **PROJECT SERVICES FEE**
- EXHIBIT C - **PROJECT SCHEDULE**

SCHEDULES

- SCHEDULE C-1 DECLARATION OF COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT
- SCHEDULE D OWNERSHIP, ETHNICITY AND GENDER OF PRIME AND EMPLOYEES
- SCHEDULE E PROJECT CONSULTANT TEAM
- SCHEDULE F LOCAL AND SMALL LOCAL BUSINESS ENTERPRISE EXIT REPORT AND AFFIDAVIT
- SCHEDULE G PROGRESS PAYMENT FORM
- SCHEDULE M INDEPENDENT CONSULTANT QUESTIONNAIRE – PART A
- SCHEDULE N DECLARATION OF COMPLIANCE LIVING WAGE ORDINANCE
- SCHEDULE N-1 EQUAL BENEFITS DECLARATION OF NON-DISCRIMINATION
- SCHEDULE O CAMPAIGN CONTRIBUTION LIMITS
- SCHEDULE P NUCLEAR FREE ZONE DISCLOSURE
- SCHEDULE U COMPLIANCE COMMITMENT AGREEMENT
- SCHEDULE V AFFIDAVIT OF NON-DISCIPLINARY OR INVESTIGATORY ACTION

Certain Key Items

The Contract Articles require that the PM must see to it that the Consultants do certain things under the terms of their contracts with the City. Certain key items are listed below.

Article 9, Subcontractor Approval: Substitution of listed subconsultants requires City's approval through DC&P.

Article 10, Compensation, Invoicing and Payment: City must review and approve salary or billing rate increases and employee changes. Billing rates can change only once per year. The summation of the increases in hourly rate compensation for all consultant employees working on the contract should not exceed what similar positions in the City have recently received. Exceptions must be approved by the City Engineer. Reallocation of funds between tasks in Cost-Reimbursement contracts must be approved by the PM. Invoices must be reviewed and any exceptions noted by the PM within 5 days of submittal by the Consultant.

Article 17, Minority, Women and Other Business Enterprise Subcontractor Outreach Program: Consultant is to provide an expenditure plan including MBE/WBE/OBE usage at the start of the contract as Exhibit C (MBE/WBE/OBE Utilization Profile).

Article 25, Current Los Angeles City Business Tax Registration Certificate Required: Consultant must have a current LA Business Tax Registration Certificate during the term of the contract.

Article 27, Child Support Assignment Orders: Consultant must file a Certification of Compliance with Child Support Obligations as an attachment to the contract.

Article 29, Service Contractor Worker Retention Ordinance and Living Wage Ordinance: Consultant must file a Certification as required by the Ordinances as an attachment to the contract.

Article 30, Americans with Disabilities Act: Consultant must file a Certification as required by the City's policy as an attachment to the contract.

Article 29, Contractor Worker Retention Ordinance and Living Wage Ordinance: Consultant must file a Certification as required by the Ordinances as an attachment to the contract.

Article 37, Contractor Responsibility Ordinance: Project Manager, along with the Bureau of Contract Administration, is to file an Evaluation of the Consultant's Performance to the CAO upon completion of the contract (see Procedure 6.11 – Evaluating Performance).



Changing the Standard Form Contract

The language of the Standard Form contract shall not be changed without the approval of the Office of City Attorney.

REFERENCES

- City of Oakland Municipal & Planning Code Chapter 2.04
- City of Oakland Administrative Instruction 150, dated August 1, 2000.
- Sample Requests for Proposals (RFP) and Requests for Qualifications (RFQ)
- Sample Project Work Order Exhibit
- Standard Forms RFP's and RFQ's are available on DCSD share drive.
- Pre-Qualified On-Call (PQ OC) Consultant Lists and Work Order Table are available on the DCSD shared drive
- Copies of existing professional services agreement are available from DC&P

ATTACHMENTS