



**CONTRACTING FOR  
PROFESSIONAL,  
TECHNICAL  
AND EXPERT SERVICES**

**A Manual for City of Portland Employees**

**Prepared by the  
Office of Management and Finance  
Bureau of Purchases**

**Sue Klobertanz, Director**

**City of Portland, Oregon**

**Mayor Vera Katz**

**July 2003**



# CITY OF PORTLAND, OREGON

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July 1, 2003

TO: City of Portland  
PTE Manual Holders

SUBJECT: Update of the Professional, Technical and Expert (PTE) Services Manual

The Bureau of Purchases is pleased to provide you with the July 2003 PTE manual for your use. As you know, the City Council passed an ordinance on January 22, 2003 that required adherence to the processes and procedures identified within this manual. Provisions within the manual specifically address the Council's commitment to increased M/W/ESB opportunities, consistency in the contracting procedures and processes, accessibility to a one-stop information site for all consultants and potential PTE contracting opportunities, and providing for better tracking, monitoring data input and compliance.

This manual is published to assist City staff in developing and managing successful PTE procurements while maintaining the public procurement tenets of open competition and fairness to those we serve. PTE contracting continues to be the general responsibility of the individual City bureaus and offices. However, depending upon the amount, review of the solicitations as well as signing of the resulting contracts will be required and accomplished by the Purchasing Agent. The format has been changed slightly to include sections for references, definitions, a Let's Get Started section that addresses the over-arching requirements that effect all procurement methods, and a separate stand alone section for each method of procurement. The checklists continue to be included for each solicitation method.

For the bureaus ease of use, we have provided the following standard forms and templates which are available on the Bureau of Purchases website at [www.portlandonline.com/omf/purchasing](http://www.portlandonline.com/omf/purchasing):

informal request for proposal (IRFP)	qualification based selection (QBS)
request for qualifications, a two-step solicitation (RFQ)	formal request for proposal (RFP)
evaluators conflict of interest statement	contract amendment
final payment form	first tier disclosure form
monthly utilization report	notice of intent to award
PTE worksheet	sole source request form

By providing standardized checklists and outlining step-by-step solicitation methods, we are working to assure that PTE procurements are performed in a fair, consistent, effective and efficient manner as well as obtaining the necessary data required for M/W/ESB utilization. Additionally, potential consultants will be better able to quickly access information required for the various projects, respond to the various solicitations, and understand the rules and processes.

Sue Klobertanz  
Director

***Fair, Efficient, Effective, Accountable.***



## CHAPTER 1

# INTRODUCTION

***Mission: The City of Portland seeks to create a procurement system that is fair, efficient, effective and accountable to all citizens, while embracing the values and achieving the vision, goals, strategic outcomes and objectives of the Fair Contracting and Employment Strategy.***

**IT HAS OFTEN BEEN SAID ...** that a procurement resulting from the selection of the best-qualified consultant or most suitable product does not in itself guarantee a successful project; BUT, the selection of an unqualified consultant or unsuitable product is a guarantee of failure. With the proceeding in mind, the Bureau of Purchases set out to incorporate the audit recommendations along with those of the Mayor's Forum and Contract Coordinating Committee (C3 Committee) within this manual.

The underlying tenets of the procurement process is the premise that the public is best served and public funding is best spent wisely only after being subjected to an open and competitive process. Purchases of professional, technical and expert (PTE) services by City bureaus are made in accordance with State law, City Ordinances and established policies. This manual is intended to assist City employees in carrying out this responsibility and to provide procedures for all types of PTE services. While there may be more than one method to procure the desired services, City employees are encouraged to work with the staff of the Bureau of Purchases to collaboratively determine the best method for any procurement. The Purchasing Agent has the authority to waive minor irregularities and discrepancies that will not effect the competitiveness or fairness of the solicitation and selection process.

**PROFESSIONAL, TECHNICAL AND EXPERT SERVICES ARE ...** “[a]ny individual or group, excluding regular City employees, who, for a fee, provide services or give professional advice regarding matters in the field of their special knowledge or training, to include but not limited to: planners, architects, engineers, lawyers, accountants, doctors, dentists, ministers; and counselors in investments, insurance, advertising, graphics, training, public relations, communications, data processing and management systems. City Code §5.68.010.”

- PTE services are frequently (but not always) services that are to be performed by certified or licensed professionals.
- There are a variety of solicitation methods available for completion of the PTE solicitation process, therefore the Bureau of Purchases staff will need to be consulted if other than the RFP, RFQ or RFSS methods are used.
- Types of services not listed here may also be considered PTE and the Purchasing Agent will make such determinations on a case-by-case basis.
- Individual City bureaus and offices may handle certain aspects of the PTE procurement solicitation process; however, the Bureau of Purchases and the City Attorney's Office can assist you in various points along the way.
- If the work proposed for your project does not appear to be PTE services and is over \$5,000, then you will need to work with the Bureau of Purchases to produce a regular services contract. procurement of non-PTE services is governed by City Code 5.33, ORS Chapter 279 and is under the authority of the Purchasing Agent.



## CHAPTER II

# RESOURCES, REFERENCES AND DEFINITIONS



**WEBSITE RESOURCES:**

Bureau of Purchases Intranet address

[www.purchasing.city/intra/pte.htm](http://www.purchasing.city/intra/pte.htm)

Professional, Technical and Expert Services (PTE) manual, and forms contained in this manual

[www.portlandonline.com/omf/index.cfm?&a=10545&c=27572](http://www.portlandonline.com/omf/index.cfm?&a=10545&c=27572)

Equal Employment Opportunity information and certification

[www.portlandonline.com/omf/index.cfm?&a=8516&c=27353](http://www.portlandonline.com/omf/index.cfm?&a=8516&c=27353)

Minority-owned, woman-owned and emerging small business (M/W/ESB) information, search for qualified vendors, check status of a vendor

[www.cbs.state.or.us/external/omwesb](http://www.cbs.state.or.us/external/omwesb)

City Code 5.68

<http://bpcnet.com/codes/portland.htm>

Current formal amount for formal bids, set annually by City Auditor

[www.portlandonline.com/omf/index.cfm?&a=10545&c=27572](http://www.portlandonline.com/omf/index.cfm?&a=10545&c=27572)

***The following people are available to help as bureau personnel work through the PTE process:***

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# DEFINITIONS AND ABBREVIATIONS

<b>acts of God</b>	An Act of God is a phenomenon of nature of catastrophic proportions or intensity such as an earthquake, flood, cloudburst, tornado, hurricane or other.
<b>Addenda</b>	Additions or deletions to, material changes in, or general interest explanations of the City's solicitation document.
<b>advertisement</b>	The public announcement inviting proposals or qualifications for work to be performed or materials to be furnished.
<b>agent</b>	One who is authorized to act for or in place of another; a representative.
<b>amend</b>	To make right; to correct or rectify; to change the wording of; to alter formally by adding or deleting a provision or by modifying the wording.
<b>assignment of rights</b>	The transfer of rights from a party to a contract to a third party.
<b>attachment</b>	The act of affixing or connecting; something (i.e., a document) that is affixed or connected to something else.
<b>audit</b>	<p>A formal examination of an individual's or organization's accounting records, financial situation, or compliance with some other set of standards:</p> <p><u>compliance audit</u> ... an audit conducted by a regulatory agency, an organization, or a third party to assess compliance with one or more sets of laws and regulations.</p> <p><u>independent audit</u> ... an audit conducted by an outside person or firm not connected with the person or organization being audited.</p>
<b>award</b>	The decision of the City to execute a contract with a particular proposer.
<b>cancel</b>	To terminate a promise, obligation, right, or solicitation
<b>cancellation clause</b>	A contractual provision allowing one or both parties to annul their obligations under certain conditions.
<b>certificate of insurance</b>	A certificate submitted by the consultant verifying that the consultant's insurance complies with the insurance requirements stated in the proposal and contract documents
<b>city</b>	The City of Portland, Oregon or designee.
<b>closing</b>	The date and time announced in the City's solicitation document as the deadline for submitting proposals or qualifications.
<b>competitive negotiation</b>	A method of contracting in which proposal evaluation and contract award result from an open and competitive procedure, typically through the request for proposal process, in which evaluation criteria in addition to price are considered in contractor selection.
<b>competition</b>	An open process where at least three (3) or more proposers are given the opportunity to provide proposals or qualifications in response to the

	bureau's request for proposals, request for information or request for qualifications.
<b>competitive range</b>	The number of proposers or number range in which the City will either negotiate, interview or require presentations from in accordance with PCC 5.68.
<b>conflict of interest</b>	An actual or potential situation in which the personal interest of a vendor, employee, or public official are, or appear to be, in conflict with the best interest of the jurisdiction.
<b>consideration</b>	Something of value received by a promisor from a promisee; consideration is necessary for an agreement to be enforceable.
<b>consultant</b>	An individual, firm, organization, group, association, partnership, joint venture, corporation or any combination thereof which have been determined to be capable of providing professional, technical or expert services.
<b>contract</b>	The written agreement resulting from the solicitation document that sets forth the rights and obligations of the parties.
<b>contract administration</b>	Actions taken to assure compliance with the terms of the contract after the award of the contract.
<b>contract amendment</b>	A mutually agreed addition to, deletion from, correction or modification of a contract.
<b>contract amount</b>	The total of the awarded proposal amount, including any approved alternates, and any fully executed change orders or amendments.
<b>contract execution</b>	Contract execution occurs when the contract is signed by any mark, work, or symbol, in ink, with the intent to be bound, by an authorized representative of a bidder or proposer and the City.
<b>contract number</b>	The number assigned by the City Auditor's Office to all executed contracts.
<b>copyright</b>	A property right in an original work of authorship (i.e., literary, musical, artistic, photographic, film work) fixed in any tangible medium of expression, giving the holder the exclusive right to reproduce, adapt, distribute, perform, and display the work.
<b>day</b>	Calendar day.
<b>deliverable(s)</b>	Materials or work products to be received from the consultant during the course of the contract; may include such items as reports, data, evaluations, recommendations, analysis, estimates, specifications, drawings, maps, training, facilitation of meetings with resulting reports, documentation and other reports.
<b>descriptive literature</b>	Informational materials concerning available products or services submitted by proposers in response to the City's solicitation document.



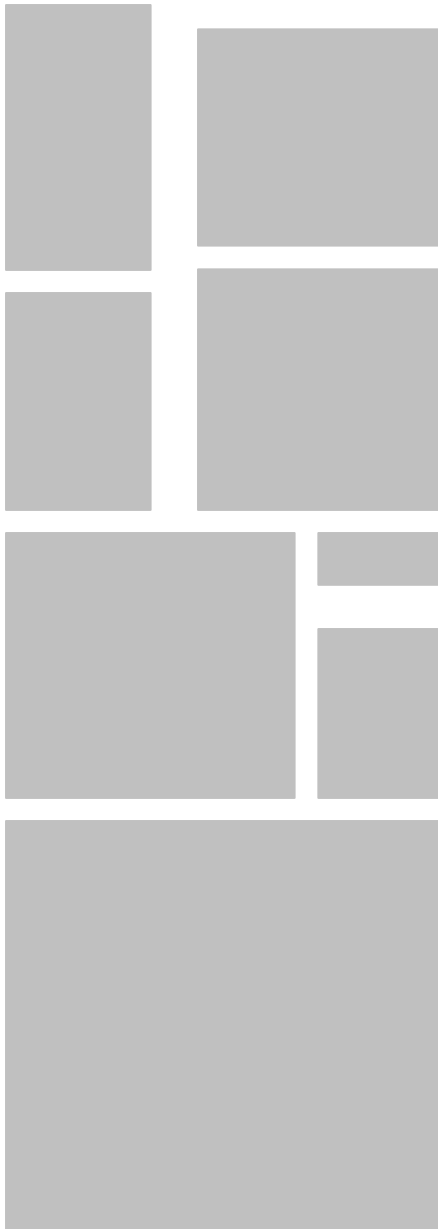
<b>debriefing</b>	A meeting held with unsuccessful proposers to review their standing in the proposal process which is used to identify how they may improve upon their future presentations.
<b>emerging small business</b>	For purposes of this document, this includes only those firms certified as an ESB by the State Office of Minority, Women and Emerging Small Business (OMWESB). Current program participation is restricted to Oregon-based firms with 19 or fewer employees, with average annual gross receipts over the last three years not exceeding \$1 million for construction firms and \$300,000 for non-construction-related firms. An ESB must be properly licensed, legally registered, and independently owned Oregon firm.
<b>equal employment opportunity (EEO)</b>	Policies and procedures of the organization to ensure non-discrimination for all employees, especially women, minorities, and persons with disabilities. All contract provisions require non-discrimination in employment by contractors and sub-consultants.
<b>evaluation committee</b>	The body appointed by the City to perform the evaluation of proposals or qualifications.
<b>evaluation criteria</b>	Evaluative criteria and weighting as identified in a request for proposal, , request for qualifications, or request for standard services against which responses will be evaluated.
<b>evaluation form(s)</b>	Form used by the proposal selection committee to evaluate submitted proposals. The forms will include the evaluation criteria and corresponding weights as identified in the proposal and will be completed by each committee member as they evaluate the submitted proposals.
<b>exhibit</b>	A document attached to and made part of a pleading, motion, contract, solicitation document or other instrument.
<b>exigency</b>	A demand for immediate action or performance arising from a circumstance or condition.
<b>force-majeure clause</b>	A contractual provision allocating the risk if performance becomes impossible or impracticable as a result of an event or effect that the parties could not have anticipated or controlled.
<b>hold-harmless</b>	To absolve another party from any responsibility for damage or other liability arising from the transaction.
<b>indemnification</b>	To reimburse another for a loss suffered because of a third party's act or default; to give another party security against a loss.
<b>Insurance</b>	Coverage by contract whereby one party undertakes to indemnify or guarantee another against loss by a specified contingency or peril.
<b>intergovernmental agreement (IGA)</b>	A contractual agreement binding two or more public agencies.
<b>liability</b>	The quality or state of being legally obligated or accountable; legal responsibility to another or to society, enforceable by civil remedy or criminal punishment for injuries caused by negligence; a financial or pecuniary obligation.

<b>M/W/ESB</b>	Minority-owned, woman-owned, and emerging small businesses certified as such by the State of Oregon Office of Minority, Women and Emerging Small Business.
<b>minority owned business</b>	For purposes of this document, this includes only those firms certified as a minority owned business by the State Office of Minority, Women and Emerging Small Business (OMWESB). A minority is defined to include African American, Hispanic American, Native American, Asian Pacific American, and Asian Indian American. The minority representative must own at least 51% of the firm and must have control of the management and daily operations of the firm. The firm must not be inextricably associated with a non-minority owned firm.
<b>negotiation</b>	A consensual bargaining process in which the parties attempt to reach agreement on a matter; to confer with a proposer in order to come to terms or reach agreement. Usually determined to be a discussion between proposer and the City regarding scope of work, technical, delivery schedule and contract price in order to finalize contractual documents.
<b>notice of award</b>	A written notification from the City to the successful proposer or offeror stating that there is an award of a contract in accordance with the solicitation document or proposal previously submitted, and that effective with receipt of the notice of award, the contractor shall proceed with obtaining the necessary insurance, documentation, etc.
<b>offer</b>	A proposal.
<b>offeror</b>	Person, corporation, firm, or partnership who chooses to submit a proposal.
<b>ordinance</b>	An authoritative law or decree (i.e., municipal regulation); municipal governments pass ordinances on matters that the state government has identified to be allowable and regulated at the local level.
<b>overhead</b>	The regular operating expenses of a business. Costs that cannot be allocated, either properly or accurately, to a specific task, but is necessary for the overall operation of the business.
<b>PCC</b>	Portland City Code; the Code of the City of Portland, Oregon.
<b>party</b>	One who takes part in a transaction (i.e., <i>party of the first part</i> is the party named first in a contract - usually the owner or seller; <i>party of the second part</i> is the party named second in a contract - usually the buyer).
<b>principal</b>	One who authorizes another to act on his/her behalf as an agent.
<b>professional</b>	A person who belongs to a learned profession or whose occupation requires a high level of education, training and proficiency.
<b>project manager</b>	The authorized representative of the City assigned to administer the contract for each project.
<b>proposer</b>	A person who submits a proposal in response to the City's request for proposals.

<b>proposal</b>	A competitive offer, binding on the proposer and submitted in response to a Request for Proposals.
<b>proprietary</b>	Of or relating to a business owner; license rights.
<b>protest</b>	A formal statement or action expressing dissent or disapproval; a formal statement, usually in writing, disputing the legal of procedure or process.
<b>Purchasing Agent</b>	That person designated by the Portland City Council to act as the City's Purchasing Agent or the Purchasing Agent's designee.
<b>qualification</b>	The possession of qualities, capabilities, competencies or properties (i.e., fitness or capacity) inherently or legally necessary to perform a duty or function.
<b>qualification based selection (QBS)</b>	Competitive proposal process used for engineers, architects and land surveyors for work estimated in excess of \$400,000 with 35%+ state highway funding. Selection of the most qualified consultant will result in an opportunity to negotiate the scope of work, schedule and cost for the project.
<b>reasonable; reasonableness</b>	Fair, proper, or moderate under the circumstances; according to reason; having the faculty of reason.
<b>recuse</b>	To remove oneself (i.e., as a judge or evaluation committee member) in a particular case because of prejudice or conflict of interest
<b>request for proposal (RFP)</b>	A solicitation document calling for proposals.
<b>request for qualifications (RFQ)</b>	All documents, including those attached or incorporated by reference, used for soliciting qualifications. A written solicitation sent to prospective proposers seeking statements of qualifications in response to an identified project. Emphasis of the RFQ is on the expectations and evaluation portion of the proposal. Only qualified firms will be placed on a "short list" and invited to submit a proposal. In the case of the RFQ being used for the QBS process, the most qualified proposer will be invited back to further negotiate a contract.
<b>responsible offeror</b>	An offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services or items of tangible personal property described in the proposal.
<b>responsive proposal</b>	A proposal that substantially complies with applicable solicitation procedures and requirements and the solicitation document.
<b>scope of work</b>	A definitive explanation of the work proposed for the project; usually a precise 2-3 sentence narrative which will specifically state what is expected of the consultant.
<b>short list</b>	A listing of a specified number of proposers who have been determined to be qualified under the evaluation criteria and weighting of the proposal

solicitation; those offerors on the short list will be invited to move to the next level and submit a proposal.

<b>sole source</b>	Contract awarded by means other than the normal prescribed competitive process and is only available from one source.
<b>solicitation</b>	Any document that requests submission of a proposal, qualifications or other offer to the City to enter into a contract; all documents referenced by the solicitation document are included in the solicitation document.
<b>subcontract</b>	A contract made by a party to another contract for carrying out the other contract, or a part of it.
<b>sub-consultant</b>	One who is awarded a portion of an existing contract by a contractor; any individual, partnership, joint venture or corporation, other than the prime contracting party, who supplies services under a City of Portland contract or a subcontract entered into in connection with such a contract.
<b>terminate</b>	The act of putting an end to or bringing to an end; to conclude.
<b>vague</b>	Imprecise; not sharply outlined; indistinct; not clearly or concretely expressed; uncertain; haziness of thought.
<b>value engineering</b>	An independent analysis of the separate functions or tasks of a project, program, service, product, building, etc. as proposed by a consultant which is directed at improving performance, quality, safety, price, life-cycle costs, outcome or reliability.
<b>venue</b>	The proper or possible place for the trial of a lawsuit usually the place has some connection with the events that have precipitated the lawsuit; the city, county or state over which a trial court has jurisdiction.
<b>warranty</b>	An express or implied promise that something in furtherance of the contract is guaranteed by one of the contracting parties.
<b>weighted ranking</b>	Evaluative criteria, when assigned numbers that reflect their relative importance to the project, used as a way of more objectively ranking and positioning responding proposers.
<b>women owned business</b>	For purposes of this document, this includes only those firms certified as women-owned businesses by the State Office of Minority, Women and Emerging Small Business (OMWESB). The woman representative must own at least 51% of the firm and must have control of the management and daily operations of the firm. The firm must not be inextricably associated with a non-woman owned firm.



## **CHAPTER III**

# **LET'S GET STARTED**

## **GENERAL**

There are three (3) general categories of PTE contracts, each with different requirements; each category is based on the estimated dollar amount of the contract. For each type of acquisition method the three categories are:

\$0 - \$5,000	Small
\$5,001 - \$20,835	Informal
\$20,836 +	Formal

Additionally, there are six (6) different acquisition methods used to acquire the professional, technical and expert services required by City bureaus. These acquisition methods are:

**REQUEST FOR PROPOSAL**  
**TWO-STEP PROCESS – request for qualifications/request for proposals**  
**QUALIFICATION BASED SELECTION**  
**REQUEST FOR STANDARD SERVICES**  
**SOLE SOURCE**  
**EMERGENCY**

This manual is an overview of the procedures and requirements for each method and begins by helping the bureau determine what is needful, how to get started with the process and provides a step-by-step checklist to ensure that all expectations are met and time is not lost retracing steps. Each solicitation method is placed in a separate section within this manual and is able to “stand alone” and provide the step-by-step procedures required for the uniqueness of each method.

## **DETERMINING A NEED**

When a bureau determines that a specific professional, expert or technical service is required in order to resolve a problem that can best be accomplished by an outside consultant, the competitive solicitation is normally used. The competitive solicitation process begins by estimating the cost of the project, identifying what the final outcome will be and determining the best solicitation method. Each bureau may have specific internal approvals, review, and authorization procedures to follow and this manual does not include those as part of the process. Staff members are encouraged to consult the appropriate manager or other personnel within the bureau to find the proper internal procedure required (if any) to initiate a competitive solicitation for professional, technical or expert services.

## **ESTIMATE COSTS**

The bureau must estimate the project costs in order to determine the solicitation method and efforts. If the estimated project cost is less than the formal amount, the small (less than \$5,000) or informal (less than \$20,835) process will be followed. City Code requires that all professional, expert and technical services be obtained through competitive solicitation. At the small or informal levels, at least three (3) firms must be contacted and given the opportunity to submit a proposal. Although formal solicitations (more than \$20,835) must be advertised on the Bureau of Purchases website and for three (3) consecutive days in a newspaper with statewide circulation (currently the *Daily Journal of Commerce* is used), this does not preclude informal requests from also being advertised in the same manner. The Purchasing Agent may also provide a waiver from the advertising requirements as deemed appropriate for the individual solicitation.

## **WHAT “TOOL” TO USE**

The Request for Proposal (RFP), Request for Qualifications (RFQ) , Qualification Based Selection (QBS) and Request for Standard Services processes are all competitive solicitation methods or “tools” used to procure professional, technical or expert services.

Identifying the general category is one way to determine how a project will be handled, but understanding the appropriateness of each method in relation to the desired outcome of the project will be a greater contributor to the project’s success and final outcome. The Request for Proposal method is optimal for those projects that require the best possible solution to a situation, evaluation of the consultant based upon their qualifications, and the firm’s expertise, experience and cost. Proposers will be evaluated based upon their previous experience, qualifications and work history, understanding of the scope of work and ability to resolve the issue or problem identified within the document while providing a quantified cost for completing the work.

The Request for Qualifications (RFQ) method is a two-step process that is best used to reduce the number of proposals from a large pool of potential respondents or minimize extensive responses and work required by all the proposers. The first phase of the RFQ specifically focuses on the qualifications of the firm as a whole as well as those of the individuals, their collective expertise, experience, education and development of project understanding. Following selection of a short listing of qualified respondents, this process continues to a second phase, that of a Request for Proposal which will result in a final cost for the project, the consultants understanding of the project and selection of the most qualified respondent.

The Qualification Based Selection (QBS) process is required for those projects exceeding \$400,000, requiring a licensed architect, engineer or land surveyor and funded with 35% or more from State Highway Funds and from the State of Oregon (ref. ORS 279.057). With the approval of the Purchasing Agent, this process may also be used for other projects. The Qualification Based Selection process is similar to the RFQ in that respondents are evaluated based upon their previous experience, qualifications and work history, but the processes are dissimilar in that the QBS allows for negotiating of the scope of work, schedule and cost with the most qualified respondent. A negotiated contract will result.

The Request for Standard Services was developed by the Bureau of Purchases and utilizes a modified Request for Proposal format that will specify the project outcome as standard services. The intent of such a solicitation will be to put a number of consultants under contract for a specific period of time for projects that are either not anticipated or have been known to occur periodically throughout the year. The solicitation generally includes projects that are similar in scope or qualifications and once under contract, the bureau will be able to call a consultant who is on the list when work comes up. This process can be used to rotate smaller, repetitive projects amongst a list of contractors who have responded to the solicitation. The intent is to eliminate solicitations for smaller, repetitive projects and be assured of a relatively rapid turn-around. These projects have demonstrated savings of both City time and effort.

All of these methods are used when: competitive bidding is not practicable or advantageous, actual work processes are unclear, task levels are undefined, service or problem resolution cannot be resolved by City personnel, or a private firm is the best alternative to provide these services. Regardless of the method of solicitation, the professional, technical or expert services are intended to be used in place of the low bid process because:

- price alone is not the sole determining factor;
- sufficient staffing or expertise is not available within the bureau to perform the service;
- other qualified public resources are not available to perform the service.

Although considered acquisition methods, both emergency and sole source acquisitions are not subject to an open and competitive solicitation process and as such move counter to the normal competitive strategies. These acquisitions must be judiciously used and carefully documented.

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The following sections within this chapter are considered “over-arching”, that is, they are common to each method of procurement:

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**DIVERSITY IN EMPLOYMENT AND CONTRACTING REQUIREMENTS**

**DIVERSITY/EMERGING SMALL BUSINESS PREFERENCE**

The City of Portland seeks to extend contracting opportunities to Minority Business Enterprises, Women Business Enterprises and Emerging Small Businesses (M/W/ESBs) in order to promote their economic growth and to provide additional competition for City contracts. Therefore, the City has established an overall 20% utilization goal in awarding PTE contracts to ESBs. No goal is set for the use of M/WBE firms, but the City is committed to ensuring that such firms receive opportunities and equal consideration to be awarded City PTE contracts. To achieve the 20% utilization goal and provide opportunities to M/WBE firms, the following evaluation criteria will be used in the selection of all professional, expert and technical services:

**Bureau will select and insert ONE that applies to your project ...  
... this MUST BE 15%+ of the total evaluation criteria**

[\*\*\*\*\* CHOICE #1 \*\*\*\*\*]

**PTE CONTRACTS UNDER \$100,000**

The City values diversity in its workforce and in the workforce of those who contract with the City and as such has assigned at least 15% of the total points available on this solicitation and will be used to determine the award of this contract. The City encourages and supports the utilization of Minority, Women, and Emerging Small Businesses (M/W/ESB) at both a prime and subconsulting level. All proposers shall respond to the following factors in their proposal:

1. Identify your current diversity of workforce:
  - Number of employees
  - Describe and identify the number of minorities and women within your current workforce. Identify any underutilization of minorities or women within your workforce.
  - Describe the process you use to recruit minorities and women
2. Have you ever subcontracted or partnered with certified Minority-owned, Women-owned and Emerging Small Businesses (M/W/ESB) on any project within the last 24-months? If so, please describe the history of the firm’s subconsulting and partnering with certified Minority-owned, Women-owned and Emerging Small Businesses (M/W/ESB).
3. Are you subcontracting any element of your proposal? If yes, what efforts were made relating to outreach and recruitment of M/W/ESB firms on this project? What were the actual results of such efforts?

The City will review and enforce all EEO/Diversity and M/W/ESB commitments submitted by the successful proposer.



**PTE CONTRACTS OVER \$100,000**

The City values diversity in its workforce and in the workforce of those who contract with the City and as such has assigned at least 15% of the total points available on this solicitation and will be used to determine the award of this contract. The City encourages and supports the utilization of Minority, Women, and Emerging Small Businesses (M/W/ESB) at both a prime and subconsulting level. In order to score the responses in this area, the City recognizes that some proposers may focus on internal workforce Equal Employment Opportunity, technical training and mentoring. Others may wish to emphasize the ways this project will provide developmental opportunities for them as a certified M/W/ESB. Still others may be able to point to a long-term history of relationships with M/W/ESBs that will also be utilized on this project, whereas some may decide to place a particular emphasis on a project-specific outreach and recruitment program for M/W/ESBs. The City expects thoughtful consideration of which EEO/Diversity and M/W/ESB and program components make sense to individual proposers on this particular project.

1. Identification of probable subconsulting opportunities by type of work, potential size of subcontract, etc.,
2. Advertisement in the *Daily Journal of Commerce, Skanner, Oregonian, Observer, El Hispanic News, Just Out, Asian Reporter*, and/or other trade publications to notify potential M/W/ESBs and other diverse groups of contracting opportunities;
3. Utilization of certified M/W/ESB firms from the State of Oregon certification list, or other source, as a basis for direct outreach in likely subconsulting areas.
4. Specific meetings with potential M/W/ESB subconsultants in order to encourage collaboration and partnering.
5. Documentation of proposals received from M/W/ESB firms, reasons for rejection of such proposals, if such proposals are rejected.
6. Utilization of mentoring, technical or other business development services to M/W/ESB team members.
7. Other efforts as might be useful for this particular project.

All proposers shall address the following factors:

**I. ESB Goals**

The City has set a goal of awarding 20% of its PTE contract dollars to State certified ESBs. If your response to this solicitation does not achieve this percentage of ESB participation, describe the outreach efforts used to encourage ESBs on this project and the percentage of ESB involvement. Outreach efforts should be similar to those outlined for MBE and WBE firms in Section IV below.

**II EEO & Workforce Diversity**

Describe how your firm is currently utilizing minorities and women in your workforce. Describe whether and how your firm has historically provided opportunities for minorities and women to receive training and work within the firm. If your company currently has under representation of minorities or women, describe how you might propose to remedy the underutilization over time. Discuss any project specific opportunities for technical training and/or employment of underrepresented groups you would commit to. Is there other outreach (through local schools or community-based organizations) that you consider to be viable in light of the size and scope of this project? What resources might your firm address to such needs?

### III. Relationships with M/W/ESBs

Indicate if your firm is currently certified as a MBE, WBE or ESB. Provide a narrative description of the company's experience in promoting participation on the part of Minority-owned, Women-owned and Emerging Small Business (M/W/ESB) enterprises as partners, consultants or suppliers on previous projects. Points cannot be awarded based on certification as a MBE or WBE, but can be awarded for ESB certification status. Discuss any innovative or particularly successful measures that your firm has undertaken to work with M/W/ESBs. Include a list of those certified M/W/ESB firms with which the firm has had a contractual relationship during the last 12 months. If applicable, describe any plans to provide innovative mentoring, technical or other business development services to M/W/ESB team members needing or requesting such service

### IV. Project-Specific M/W/ESB Outreach Plan

If you are not utilizing existing relationships as described in Section III above or if your firm is able to undertake additional outreach to improve opportunities for minority, women, and emerging small business, describe your outreach program or plan for obtaining maximum utilization of M/W/ESB firms on this project. Proposers not drawing on existing relationships with M/W/ESB firms should describe how outreach efforts would be made in order to make contracting opportunities available to M/W/ESBs.

**Proposers should describe whether they will use the following outreach efforts, or other more effective efforts to make subconsulting opportunities available to M/W/ESBs:**

### V. M/W/ESB COMPLIANCE AND REPORTING - FIRST TIER SUBCONSULTANT DISCLOSURE

If your company will be utilizing M/W/ESB subconsultants on the proposed project, please list those firms and detail their role within the present proposal. The City will enforce all EEO/Diversity and M/W/ESB commitments submitted by the successful proposer. All proposers shall submit **Form 1 - First Tier Subconsultant Disclosure Form**, which requires the proposer to identify the following:

- The name of all subconsultants on the project in any amount that exceeds \$10,000
- The names of all MBE, WBE and ESB firms. If firms have more than one certification (ESB and MBE) note that on the form so that proper credit can be given for the ESB goal and for making MBE and WBE contracting opportunities available.
- The proposed scope or category of work for each subconsultant

If the proposer will not be using any subcontractors that are subject to the above disclosure requirements, the proposer is required to indicate "**NONE**" on the accompanying form.

Please note: The successful proposer will be required to submit a monthly subconsultant utilization form documenting all payments to subconsultants.

### **EEO CERTIFICATION**

City Code requires all proposers be certified as an Equal Employment Opportunity (EEO) employer as prescribed by Chapter 3.100 of the Code of the City of Portland prior to submission of the proposal and not later than the contract execution (reference EEO Certification Statement as found in Exhibit A, Request for Proposal). It specifically requires any employer who supplies goods and/or services to the City in excess of \$2,500 in any fiscal year (July 1 through June 30) must be certified as an EEO Affirmative Action Employer. If there are any questions regarding this requirement, they can be answered by the Bureau of Purchases.

## **ETHICS**

“Ethics” having to do with principles of conduct, means right or good behavior. Chapter 1.03 of the City Code clearly indicates the purpose of City government is to serve the public and all City officials must treat their office and position as one of public trust, thereby ensuring public respect by avoiding any appearance of impropriety. When contracting for goods or services on behalf of the City, ethical behavior is paramount in preserving the public trust and governmental integrity. All vendors will be treated fairly, equally, without bias or favoritism; City employees or any of their representatives working on behalf of the City will not receive personal benefit or gain from their position and their activities involved in the contracting process. Prior to commencing any contracting process, City personnel must become familiar with City Code, Chapter 1.03 and following which can be found at:

[www.portlandonline.com/auditor](http://www.portlandonline.com/auditor)

In order to avoid the appearance of impropriety, acceptance of gifts from vendors should not be considered; Chapter 1.03.020.7 of City Code indicates that “...no amount is too small to be ethically questionable. Even small promotional gifts such as imprinted pens, or T-shirts from profit-making entities should not be used on the job because they can create the impression that the vendor is regarded with particular favor by the official...” By accepting gifts or agreeing to accept gifts with company logos on them (i.e., pens, scratch paper, caps, jackets, sweatshirts, etc.), the City employee is tacitly indicating to all in view that the company has the City’s support and any appearance of neutrality or objectivity is nonexistent. Additionally, any larger, albeit intangible gifting such as golf games, dinners, athletic or concert events, etc. are also considered improper, regardless whether the activity is performed on the employee’s personal time or during work hours.

By remaining free from any conflict of interest, City officials are able to be independent, objective and base their decisions solely on the merits of the issue.

## **EVALUATION COMMITTEE**

There is a direct connection between the type of services required and the make-up of the Evaluation Committee; due to the uniqueness of each project the resulting evaluation committee will be tailor-made for the project.

### **SELECTION OF THE COMMITTEE MEMBERS**

Evaluation committee members perform a service not only to the project manager and bureau but to the general public as well. They should be chosen with care, their knowledge of the subject matter, marketplace, City regulations, and understanding of a portion or all of the project, and their ability to fulfill their time commitments and obligations as a member of the committee. All evaluation committees must have one member of the committee from an organization outside of City government (i.e., county, private industry, etc.); this requirement may be waived by the bureaus’ Commissioner-in-Charge if deemed in the best interest of the bureau. Ideally, some of the evaluation committee members should have participated or in some way, be associated with the development of the solicitation document or in pre-solicitation activities. It has been found that committee members who participate in developing the project and scope of work, identifying technical requirements or deliverables, or reviewing the draft proposals will often be some of the evaluation committee’s best members. The internal policies of some bureaus may have specific parameters for the make-up of a committee; that is, one or two of the members may come from a specific division or have certain skills, licenses or certifications.

The committee must be formed no later than the pre-submittal conference but the best time is just prior to the issuance and advertisement of the document. Five (5) voting members have been found to be the best number with which to work. Three (3) members is the minimum while seven (7) is normally the absolute maximum; on occasion, more members have been used, but the coordination and effort required

to keep the members involved becomes more difficult as the committee grows. An uneven number is necessary in order to avoid "tie" vote situations.

The evaluation process, from review through interview or negotiation must be completed by each of the committee members. If a member determines that he is unable to complete the evaluation due to time or scheduling commitments, it would be best to replace that member.

### **COMMITTEE ACTIVITIES**

Following the formulation of the evaluation committee, the project manager should identify the approximate amount of time required for the effort and will also provide members with a tentative schedule of events and meetings required for the project. Evaluation Committee members are expected to read all responses, review the information provided in relation to that requested in the solicitation and evaluates them in relation to the stated criteria. Committee members are required to take on the evaluation review in addition to their regular work assignments; it is, therefore, imperative that an appropriate and reasonable amount of time be allocated under which the committee members are allowed to discharge their duties. Committee members cannot be placed in a position where they are required to hurriedly glance through all the submittal documents and turn in an objective and thorough evaluation. If rushed, the evaluation criteria and weighting process will become a moot point and each committee member will be evaluating based upon their own criteria in order to hurriedly complete their review of the responses; this could result in the entire process being called into question. The committee members must be able to review the submittals in an orderly and unhurried fashion to be assured that objectivity and impartiality are an integral part of the evaluation process.

The first meeting of the evaluation committee can occur between the release of the solicitation document and the pre-submittal meeting. The project manager should "talk through" the project, discuss any concerns about the project, review evaluation criteria and weighting, and discuss questions or concerns being raised or issues presented. During the course of the solicitation process, should an addendum be prepared that will extend the solicitation due date, this information must also be forwarded to the evaluation committee members as their schedule will also be impacted.

The names of the evaluation committee members are normally not released in the solicitation document nor verbally conveyed to prospective proposers. Should it be the desire of the bureau to identify the make-up of the evaluation committee, there should be a stipulation in the solicitation document that the members are not to be contacted by any of the respondents during or following the solicitation process prior to award.

As the respondents submittals are provided to each of the Evaluation Committee members, they will also receive their copy of The Evaluator's Conflict of Interest Statement form (NOTE: the form provided on the Bureau of Purchases website is the only authorized statement for the City of Portland). Each evaluator will be required to sign the statement for each project in which they are involved. The same Statement cannot be used unilaterally for more than one project nor can it be signed by one person on behalf of the entire committee. However, one Evaluator's Conflict of Interest Statement may serve the project by having each evaluation committee member sign the document on separate signature lines.

The evaluation form clearly addresses the fact that committee members cannot expect nor demand economic benefit or an offer of employment in connection with the decision before of the committee. By signing, each committee member is acknowledging the importance of confidentiality during the PTE process, affirming they will not divulge any information concerning the procurement, and have no conflict of interest in relation to any of the submittals under review by the committee. Any committee member, who cannot faithfully execute the statement, will be asked to recuse themselves as a member of the committee.

During the course of the evaluation, evaluators shall use caution and not disclose information from the responses such as: consideration proposed, content information and materials, individual scoring and ranking of the respondents, interview questions, and etc. Upon completion of the review, The Evaluator's Conflict of Interest Statement form, evaluation sheets and consultants responses will be forwarded to the project manager within the established deadline.

In the case of a solicitation process utilizing an interview, it is possible and correct to utilize one committee for the evaluation of the submitted material and an entirely different committee for the interview. It will be the bureau's determination to decide which process would work best for them and the outcome of their project. The bureau must identify how the written responses and interview evaluations will be evaluated and totaled as well as how they will each be conducted.

### ***EVALUATING THE RESPONSES***

Evaluation is the process of comparing the offeror or proposer's response to the evaluation criteria as identified within the solicitation document. Each response is evaluated using the same criteria. Responses are NOT directly compared to each other; they are always compared to the criteria. In this way, the process can be defended and the evaluations are objective. The work of the evaluation committee is to rank or score each response based upon what is written in the solicitation document. The process for assigning scores is based on well-defined, measurable factors that provide for more objectivity and fairness.

Only those firms providing complete information in conformity with the solicitation document requirements will be considered by the evaluation committee. As each evaluation committee member begins to read the responses, the member should have in hand the evaluation criteria and weighting as it was presented in the solicitation document. Committee members will be required to assimilate a great deal of technical and detailed information that could seem like a daunting job. The evaluation committee members must read and evaluate all responses for their completeness and quality of content, review the information provided in relation to that requested by the solicitation document, and evaluate the responses in relation to the evaluation criteria. Each committee member will evaluate all responses independent of the other committee members; if a committee member(s) choose to evaluate only some of the responses, the entire process can be considered suspect and could be challenged as being a departure from standard procedures. Therefore, if an evaluation committee member evaluates only some of the responses, the evaluations completed by this committee member will be thrown out in order to eliminate any skewing of the weighting.

Some portions of the evaluation process will be subjective; that is, each reviewer may have different opinions regarding the relative strengths and weaknesses in any given response and those opinions are scored and quantified. The evaluation criteria and weighting described in the solicitation document as the basis of award in any project, will be the only criteria the evaluation committee will use to judge the merits of the respective offerors. Therefore, any distractions in presentation packages may hamper the work of the evaluation committee or create problems for the committee as they review the responses and committee members must work to overlook those anomalies.

Any proposals below the cut off will be removed from further consideration by the evaluation committee and the file so documented. Summary scoring sheets of the committee's decision will be kept with the contract file for future reference and a copy will be filed with the Bureau of Purchases.

### **PROJECT MANAGER'S RESPONSIBILITIES**

Having been immersed in the day-to-day development of the project, the project manager will begin to draft and develop the initial requirements of the project by clearly defining project issues, expectations, scope of work, and technical requirements. The project manager shall develop a scope of work for services that will not result in an employee relationship with the potential consultant. The project manager is an integral part of the project development phase and will be the catalyst that moves the project from one benchmark to another.

### ***SOLICITATION PHASE***

As the project becomes a solicitation document, the project manager is normally identified as the contact person for any background, technical or project related questions or clarifications. Should the Bureau of Purchases be charged with the responsibility for the solicitation, then the contact will be personnel from the Bureau of Purchases. Following a decision between the Bureau of Purchases and the project manager, a determination will be

made regarding any pre-submittal meetings, where they will be held and whether they will be mandatory or non-mandatory. The project manager must know the project well, identify and develop a clear understanding of expectations, be available for questions and be responsive to potential offerors by returning telephone calls, mail or e-mails promptly.

The pre-submittal meetings will be facilitated by either the project manager or personnel from the Bureau of Purchases at which time the project manager will develop an agenda and ensure that all the necessary people are included in the meeting [NOTE: the Cue Sheet for Pre-Submittal Meeting Agenda as found on the Bureau of Purchases website] and all necessary agenda items are covered.

The project manager will select the members of the project evaluation committee as indicated in **EVALUATION COMMITTEE** above. Normally, the project manager is a voting member of the committee but for whatever reason, the project manager may wish to not be a voting member and facilitate the process. While it does not matter which way the project manager determines to go, the main concern is that the process remain consistent throughout the solicitation and evaluation of the project responses. The project manager should draft a memo to all evaluation committee members indicating the tentative project schedule as well as provide copies of the solicitation documents. Occasionally, the project manager may draft the evaluation criteria and weighting for the evaluation committees use or may request their input regarding these requirements.

The project manager should convene the first meeting of the evaluation committee sometime between the release of the solicitation and prior to the pre-submittal meeting. This meeting will enable the project manager to 'talk through' the project with the evaluation committee members, discuss any concerns about the project, develop or review the evaluation criteria and weighting and discuss any concerns or issues surrounding the project. While it is not unheard of, evaluation committee members may be asked by the project manager to attend the pre-submittal meeting, although this is usually a very rare occasion.

### **EVALUATION PHASE**

Upon receipt of all responses, the project manager will convene a meeting of the evaluation committee members to again review the schedule, evaluation process, procedures for addressing any questions that may arise and the deadline for completing the evaluations. Additionally, the project manager will assure that all evaluation committee members have the necessary submittals, evaluation sheets, solicitation documents, any addendums and a copy of the Evaluator's Conflict of Interest Statement form. Should the evaluation committee members identify any questions or clarifications needed, the project manager will take the lead in obtaining the answers. As the answers flow to the project manager, they will be forwarded to the evaluation committee members.

Once the evaluations have been received from all committee members, the project manager will tabulate the scores and with the help of the committee determine if one respondent stands out or if a shortlist of respondents will be identified. The committee will also determine if an interview or negotiation session would be in the best interest of the City and the project.

### **INTERVIEW**

If the evaluation committee determines an interview would be the best way to proceed, the project manager will arrange for the necessary room and equipment. With the help of the evaluation committee, the project manager will develop an agenda as well as a listing of questions to be asked of each firm. The project manager will facilitate the interview. Each firm will be allowed the same amount of time to make a presentation in accordance with established evaluation criteria and answer any questions posed by the evaluation committee. The project manager will see that all evaluations are appropriately awarded in accordance with those stated in the solicitation documents. It may be beneficial for the project manager to convene the committee members in order to make a final determination for award. This would also a good time to collect all documents, signed copies of the Evaluator's Conflict of Interest Statement, identify any proprietary information, and clarify for the members when the information on which they have been working will become open and public record.

### **CONTRACT AWARD**

The project manager will be responsible for following all bureau procedures and will be responsible for obtaining all the necessary signatures, preparing the contract documents and consulting with the Bureau of Purchases or City Attorney's Office as necessary. The project manager will have a minimum of three (3) copies prepared for signature by the consultant, obtain the City Attorney's approval, write and file the ordinance if one is required, and ensure the necessary contractual signatures are obtained. The project manager will notify consultant of the City's intent to award and copies of the intent to award will also be forwarded to all respondents of record. As all respondents have put forth considerable time and effort in order to respond, it is important that each receive a response from the project manager on behalf of the evaluation committee. With this notification, they will have seven (7) calendar days to file a protest and it is the project manager's responsibility to monitor activities during this period. The project manager will complete a PTE Worksheet, including all pertinent information and forward it as required.

### **CONTRACT ADMINISTRATION**

Contract administration is a critical function in the PTE contracting process, one in which attention to detail is required and is the responsibility of the contracting bureau. The City needs to ensure that the services are of the specified quality, the contracted services are in fact being received and at the rate and schedule as specified within the contract; in short, the bureau needs to make sure they are getting what they are paying for. It is the responsibility of the designated project manager to not only monitor the work progress of the consultant and ensure that the work is being completed on schedule but to provide technical assistance and represent the interests of the City regarding the project. During the course of the contract, the project manager must be familiar with and understand the contractual requirements and will be responsible for maintaining all contractual documents on behalf of the bureau. For extended contracts, these specific documents must be kept current and will include, but not be limited to:

- Legal contractual documents
- Insurance
- Independent Contractor's Statement
- Workers' Compensation
- MW/ESB certifications (ref. [www.cbs.state.or.us/external/omwesb/index.html](http://www.cbs.state.or.us/external/omwesb/index.html))
- Equal Employment Opportunity (EEO) certifications (reference: City of Portland website:

[www.portlandonline.com/omf/index.cfm?&a=8516&&c=27353](http://www.portlandonline.com/omf/index.cfm?&a=8516&&c=27353)

- Contract correspondence

On-going administration of the contract is a very important part of the project manager's position. The project manager works on behalf of the City bureau by reviewing, monitoring and evaluating the work progress of the consultant, maintaining direct and open communication, and ensuring the work is on schedule, timely payments are made and problems are addressed or resolved as expeditiously as possible. The project manager assists the consultant in interpreting the contract requirements, verifies receipt of reports and other deliverables, documents any concerns or deviations and initiates any correspondence relating to the project manager. By monitoring the consultant's progress, resolving day-to-day problems, reviewing invoices, reporting any contractual discrepancies, and dealing proactively with any problems or issues that arise, the project manager can be a positive force to ensure the project has quality built in, performs within the scope of the work, expectations are being met, and work is progressing satisfactorily, on time and on budget. The project manager, by monitoring the consultant's progress and dealing proactively with any problems or issues that arise, can help ensure the project is completed on time and on budget. Should unforeseen issues arise, it is the project manager who will determine if the scope of work has been impacted and must be modified, the project manager will be the point person to properly initiate any changes to the contract via an amendment. Throughout the contract, the project manager may perform work that will include but not be limited to:

- review the consultant's work to assure compliance with the contract terms and conditions;
- assure that the scope of work is being applied correctly;
- attend project meetings;

- perform or have performed, any inspections necessary for the acceptance of deliverables identified within the contract;
- require that any deficiencies be corrected by the consultant;
- maintain positive communications and a good project management/consultant relationship throughout the contract period;
- resolve any day-to-day matters with the consultant;
- evaluate any contract amendment requests;
- review the deliverables and reports as provided by the consultant;
- monitor invoices for relationship of work performed/invoiced amount;
- review all progress schedules;
- maintain files of correspondence, data, etc.

Since the project manager was responsible for developing the initial scope of work for the project, the project manager will ensure that language and the scope of work contained in the amendment does not conflict with that of the original contract document, duplication of work does not occur, work performance is maintained at the appropriate level and deliverables and their corresponding timelines are maintained.

The project manager will make sure that timely payments are being made to the consultant, and that no problems have arisen that will require changes to the Scope of Work, dollar amount, or contract length. As a rule, payments to the consultant are made in increments based on the amount of work completed, as described in the Scope of Work and Technical Requirements section of the contract. The amount paid on a contract should be roughly equivalent to the amount of work completed to date, so if the bureau is invoiced for 50% of the contract amount, the consultant's work should be about half completed.

Upon closeout of the project, the project manager will prepare all correspondence, drawings, data and final project documents.

## **CONTRACT AMENDMENTS**

If unforeseen issues arise, the project manager must be in a position to proactively develop a course of action that is the most cost effective for the City, the least evasive to the project and properly initiate changes to the contract through an amendment process. Any change beyond what is allowed by the contract's original scope of work requires an amendment to the contract and approval by either the Purchasing Agent or by ordinance. If the contract requires changing at some point to include additional work, less work, change in expectations, Technical Requirements or Deliverables, it is important that the scope of work and work requirements be amended in such a way that it identifies where departure from the scope of work is occurring, clarifies what services were changed and corresponds and/or correlates to the description provided in the original scope of work. The Contract Amendment Form as found on the Bureau of Purchases website is available for bureau use. Bureaus must work with the City Attorney's Office in order to draft the final language for the document. Contracts under \$5,000 and completed via a purchase order, cannot be amended.

The project manager is responsible for ensuring that language contained in the amendment does not conflict with that of the original contract, duplication of work does not occur, work performance is on schedule, quality is maintained at the appropriate level, deliverables are received and all corresponding timelines are maintained. For the most part, all contractual parties signing the original contract are expected to sign the amendment.

Original contracts under \$100,000 with an amendment under 125% may be signed by the Purchasing Agent; amendments over 125% of the original contract amount may not be signed by the Purchasing Agent but must be approved by City Council. Non-financial amendments such as time extensions, scope of work changes, etc. will be signed by the Purchasing Agent. Original contracts over \$100,000 with an amendment under 125% may be signed by the Purchasing Agent; Council must approve each amendment that exceeds 125% and all subsequent amendments, regardless of the amount.



## **DEFAULT OF CONSULTANT**

Based upon the work between the consultant and the project manager, the project manager will be the first one to identify that a consultant has failed to perform or has not fulfilled an obligation under the contract. The project manager will be responsible for referring to the original contract documents as well as consulting with the City Attorney's Office before initiating any action against the consultant.

## **CONTRACT TERMINATION**

There are usually two separate reasons for contract termination: (1) for convenience in whole or in part; and (2) due to contractor default. Contract terminations can be complex issues and be very costly to the City. Therefore, these actions must be reviewed with the City Attorney prior to proceeding.

### ***TERMINATION FOR CONVENIENCE***

Often the reason for this type of action is a direct result of budgetary constraints or other factors which are not always due to any fault of the contractor. Contracts may be terminated by mutual written agreement of both parties. The Contract for PTE Services gives clear guidance regarding the remedies in such an instance and the project manager is responsible for referring to the original contract documents as well as consulting with the City Attorney's Office prior to initiating any action. As written notice must be provided to the contractor indicating the type of termination and whether the termination will be considered in whole or in part. Payment is often provided to the contractor for work performed in accordance with the contract.

### ***TERMINATION FOR DEFAULT***

In the event the contractor fails to perform in some way, this may be considered a breach of the contract and although the City may terminate the contract this is considered a serious action. The project manager will be responsible for referring to the original contract documents as well as consulting with the City Attorney's Office before initiating any action against the consultant.

Regardless of the type of termination, all of the contractor's work product shall become and remain the property of the City of Portland.

## **CONTRACT COMPLETION**

The Purchasing Agent will approve final payment of all professional, technical and expert services contracts that are within the following criteria:

- The final contract amount does not exceed 125% of the original contract award;
- The contract is not an emergency as defined within this manual;

Final payments for PTE contracts exceeding 125% of the original contract award and emergency contracts as defined above, must still be approved by City Council.

Bureaus will utilize the Final Payment Authorization form as found on the Bureau of Purchases website. When the document has been properly signed and all required attachments have been included, it will be forwarded to the Bureau of Purchases. The Bureau of Purchases will review the documentation and confirm that subcontractors have been paid, and will take the appropriate action if this or other issues require the attention of the project manager, City Attorney or Auditor's Office. Once the review has been completed, the Purchasing Agent will sign the document and the package will be forwarded to the Auditor's Office for processing. A signed copy of the Final Payment Authorization form will be forwarded to the project manager.

Barring any unforeseen problems, the above noted process is intended to take approximately 3-4 workdays. Until that time, the final payment approvals will be held.

## **FREQUENTLY ASKED QUESTIONS**

1. **Who can authorize non-financial amendments (e.g., project manager wants to extend a contractual deadline, etc. with no change in the dollar amount)?**

*The Purchasing Agent will sign all contracts in the \$0-\$100,000 range as well as any amendments up to 25% of the original contract amount, hence all non-financial amendments will be signed by the Purchasing Agent.*

2. **If the original contract amount is \$7,000 and the bureau needs to add \$2,100 to it, must it go to Council or can the Purchase Agent sign it since the total contract amount is under \$100,000?**

**What if the original contract amount is \$500,000 and the amendment is \$122,000, will the Purchasing Agent sign the amendment?**

*The Purchasing Agent has the authority to sign original contracts up to \$100,000 and contract amendments up to 25% of the original contract amount. Therefore, the \$2,100 amendment is 30% over the original contract amount and must be approved by City Council.*

*Conversely, the \$500,000 original contract amount will require Council approval and the Purchasing Agent may sign the \$122,000 amendment (under 25% of the original contract amount).*

3. **Can we use number or alpha in the place of the evaluator's names?**

*Yes, either means are viable options when trying to maintain the confidentiality of the evaluation committee members, but the names of the evaluation committee members and their resulting scores will become public following award.*

4. **Is EEO certification required for grant or pass-through funding projects?**

*Yes, EEO certification is required for any project that requires the City to disperse funds in excess of \$2,500 in any fiscal year, regardless whether its grant funding, pass-through accounts or City funding.*

5. **It's hard to keep up with all the changes to the forms. Could the bureau of Purchases send out a notice whenever they change any forms?**

*The Bureau of Purchases strives to keep all forms used by City personnel current with any changes brought about by City Council, State of Oregon and regulatory agencies as well as incorporating best practices and will continue to update the forms and have them available to all at [www.portlandonline.com/omf/index.cfm?&a=10545&c=27572](http://www.portlandonline.com/omf/index.cfm?&a=10545&c=27572) . Whenever a bureau has a need for a standard form, rather than pulling documents from the intranet and placing them in personal computer drives, the most current form must be obtained directly from the Bureau of Purchases website.*

6. **Is a City business License required for all consultants? When are they required?**

A City of Portland business license is required for all consultants who have total gross receipts worldwide of \$25,000 or more annually and if any amount of that is performed within the city of Portland. The license fee is calculated at a rate of 2.2% of net income subject to fee: there is a \$100 minimum fee. More information and application materials can be obtained by contracting the Bureau of Licensing at [www.pdxbl.org](http://www.pdxbl.org).

**7. Where do I go to identify potential M/W/ESB firms?**

You may go directly to [www.cbs.state.or.us/external/omwesb/index.html](http://www.cbs.state.or.us/external/omwesb/index.html) or the Bureau of Purchases intranet site has a link to the State's Office of Minority, Women and Emerging Small Business.

**8. What authority does the project manager have in making modifications or signing contract amendments? Please define for the existing contracts and for future contracts.**

The project manager will be responsible for identifying the need for a contract amendment, writing the amendment document and reviewing the on-going process, but will no longer be signing any amendments, non-financial or otherwise. Existing contracts may be amended if the authority to do so was delegated to the bureau director in the ordinance.

**9. What is the best method to use when identifying the evaluation weighting: numbers, alphabetical or numerical ranges?**

The evaluation weighting is usually identified by the highest possible number of points, rarely are alphabetical (much like the grades given in public school) or numerical ranges used as they are less exact and leave too much to the individual evaluators interpretation. Following award, the less desirable scoring mechanisms can be very confusing to those consultants who wish to review the file following award, are not considered self-explanatory and are therefore, deemed to be less desirable.

**10. Please discuss the evaluation weighting when the project manager over-weights one consultant over all the others, thereby skewing the process.**

Usually, the motive for this kind of scoring is to skew the award in favor of a particular consultant. While the individual scores of the evaluation committee members cannot be protested, it raises a number of questions regarding the process used to select the consultant. The expectation of the PTE process is that a fair and impartial evaluation will be conducted. Therefore it is far better for the evaluation committee members to judiciously score the consultant's responses than to consider any negative tactic which could taint not only the award of the contract but the overall PTE process. By expanding the number of evaluation committee members, this kind of tactic can be somewhat neutralized and an equal evaluation process brought into play.

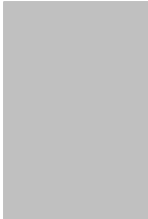
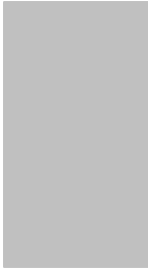
**11. Can the Project Managers place their own advertisements in the DJC regardless of the dollar amount of the proposed project or does the Bureau of Purchases need to place the ad on their behalf?**

Yes, the project managers can place their own advertisements in the DJC. If the project manager or bureau wish to have the Bureau of Purchases place the advertisement; they may do so by requesting it. However, the placement of advertisements for formal projects is a legal requirement and will be the responsibility of the project manager for making sure this requirement is met.

**12. Will the final payment form be used for all contracts or only those over \$100,000? What about the monthly utilization report?**

*The final payment form will be used for ALL contracts except those initiated via purchase order.*

*The monthly utilization reports (MUR) will be completed by the prime consultants and submitted to the Bureau of Purchases compliance staff on all projects over \$100,000.*



## **CHAPTER IV**

# **SMALL REQUEST FOR PROPOSAL**

# **PROCEDURES FOR THE SMALL REQUEST FOR PROPOSAL**

*[\$5,000 and less]*

A large number of the City's contracts fall within this dollar range and category. It is, therefore, essential the small proposals process receive some distinct care and concern during the acquisition process. At the "small" contract level, use of any formal or informal written request for proposal is not required although keeping a record of the requirements of the contract, proposal information received and a copy of the successful firm's response is important. The bureau is encouraged to document and provide as much written information to the prospective proposers as possible in order for them to prepare a concise, complete responsive proposal. As a basis for initiating the process, the bureau is encouraged to review or utilize the Informal Request for Proposal, which may be found on the Bureau of Purchases website. If the bureau chooses not to use the Informal Request for Proposal format, some of the elements common to both must be used in order to complete any small RFP, some of these may include:

## **SCOPE OF WORK**

Each project is usually undertaken to address a specific issue, solve a distinct situation, provide licensed or certified staffing or develop an innovative problem resolution. Therefore, the scope of work is considered the "project in a nutshell" and is the most important information provided to the proposers regarding the project. While rarely more than two to three sentences, a carefully prepared scope of work is an easy to follow description of the project requirements, expectations and the timeline necessary to meet the requirements.

Proposers will find it helpful and an aid to understanding if the same phrases and terms are consistently used throughout the proposal. Even with small proposals, the failure to adequately define these phrases, keywords, or clearly identifying required tasks will often result in confusion, misunderstandings, frustration, delays and increased costs in achieving the project objectives. By using conflicting or differing definitions or inconsistent phrasing, the proposers will be unable to adequately define the work or provide a reasonable project estimate.

## **PERIOD OF PERFORMANCE**

The period of performance is considered the actual term of the contract - NOT the length of the scope of work. The period of performance is usually longer than the scope of work. The period of performance is usually expressed as the time period following contract award, not a specific date. The bureaus must use care when determining the period of performance as a too-tight contract schedule tends to lower the quality of the overall contract as contractors cut corners in order to meet the deadline; the period of performance must be realistic and attainable.

## **DIVERSITY IN EMPLOYMENT AND CONTRACTING REQUIREMENTS**

To achieve greater economic and social equity in our community, the City of Portland has established a 20% utilization goal in obtaining professional, technical and expert services from certified Emerging Small Business (ESB) firms, Minority Business Enterprise (MBE), Women Business Enterprise (WBE), or Emerging Small Business (ESB). To be considered, the firm must be certified as an MBE, WBE or ESB by the State Office of Minority, Women and Emerging Small business. If a M/W/ESB business is not or cannot be contacted, an explanation must be so noted on the PTE Worksheet when submitted to the Auditor's Office and Bureau of Purchases.

## **CONSIDERATION**

Consideration or the not-to-exceed cost for the proposed services is required for every professional, technical and expert service contract. The total contract amount identified will include the cost of the consultant's team and any billables such as copying, transportation, postage, faxing and other services required during the performance of their work.

## **OBTAIN PROPOSALS**

It is the policy of the State of Oregon and the City of Portland is to encourage open and fair competition within the PTE contracting process regardless of the estimated project amount. In the small contracting process, offers are solicited from at least three (3) or more firms, at least one of which must be an M/W/ESB firm, although more may be included. The firms may be contacted in writing, phone, e-mail or fax and may respond via phone, fax, e-mail or mail. To be considered, the State Office of Minority, Women and Emerging Small Business must certify a firm as an MBE, WBE or ESB. The City of Portland does not conduct its own certification process but utilizes the firms certified by the State Office of Minority, Women and Emerging Small Business. Individual firms or specific categories of listed certified firms may contact the Bureau of Purchases for assistance or access the State Internet site:

<http://www.cbs.state.or.us/external/omwesb/index.html>

Each firm must be given the same information and allowed the same amount of time to respond. If a M/W/ESB business is not or cannot be contacted, an explanation must be provided on the PTE Worksheet when submitted to the Auditor's Office or Bureau of Purchases. Purchases cannot process a PTE contract without this information.

## **RECEIPT OF PROPOSALS**

It is important that proposals be received at the appointed time and location as noted on the proposal documents. Following receipt of the proposals, a listing of proposal respondents will be made available to anyone requesting the information. Each firm's proposal shall be kept confidential until the most advantageous consultant has been selected. The practice of "shopping" quotes on projects, or providing one firm's proposal information to a second firm and asking the second to better the proposal of the first, is unethical and illegal.

If a late proposal is delivered by common carrier it should be accepted. Should this occur, the bureau will record the name of the company, time the proposal was received and name of the company representative or commercial carrier attempting to deliver the proposal. This proposal should not be evaluated.

## **EVALUATE PROPOSALS**

Small (under \$5,000) professional, technical and expert service proposals will be compared and award based upon the most qualified respondent considering cost. Once the bureau has determined the consultant for the project, it is always a good idea to have a written proposal from the selected consultant. This final memo should be on the consultant's letterhead and include their understanding of scope of work, any technical requirements and deliverables, schedule, cost and the consultant's signature.

## **PURCHASE ORDER/CONTRACT DEVELOPMENT**

For small PTE procurements, the PTE Purchase Order form #7530-999-007 is used as the contract document and is issued and encumbered through the Bureau of Purchases. At the bureau's discretion, the Contract for PTE Services may be used in lieu of the purchase order, but the request for payment must still be processed through the IBIS system, thereby requiring the bureau to initiate a requisition and purchase order number. The contract number of the terms and conditions of the PTE Purchase Order are used as the contract. Limited Purchase Orders (LPO's) CANNOT be used for PTE services. Accompanying the purchase order will be some, or all, of the following documents and information as provided within this manual:

- Workers Compensation Insurance Certificate **OR** complete Exhibit B, Section C (“Independent Contractor Certification Statement”) of the Contract for Professional, Technical or Expert Services
- EEO Certification
- General, Auto, Professional Liability Insurance certificate(s)
- Business License
- PTE Worksheet – completed by the project manager/signed by bureau director (NOTE: the worksheet form on the Bureau of Purchases website is the only acceptable version) and forwarded to the City Auditor and Purchasing Agent.

Should a project under \$5,000 be finalized as a purchase order, the scope of work will be referenced in the purchase order document as the project definition document (i.e., an attached letter describing the services).

If an M/W/ESB business is not or cannot be contacted, an explanation must be provided on the PTE Worksheet when submitted to the Auditor's Office and the Bureau of Purchases. Purchases cannot process a PTE contract without this information. PTE contracts under the formal amount will be approved by the Purchasing Agent or may be approved by the Bureau Director if authority has been delegated to them. The Purchasing Agent will sign all small contracts (under \$5,000).

### **POST- AWARD ACTIVITIES**

Information and suggestions relating to post-contract award activities may be found in the LET’S GET STARTED section of this manual.



## CHECKLIST: SMALL CONTRACTS

[\$5,000 and under, process via purchase order]

1. DETERMINE NEED, OBTAIN BUREAU APPROVAL(S) \_\_\_\_\_
2. ESTIMATE COSTS \_\_\_\_\_
3. DRAFT AND SOLICIT PROPOSAL(S) \_\_\_\_\_  
Contact at least three (3) potential contractors  
[including a MBE/WBE/ESB, if available]  
Proposal to include:
  - Identify scope of work in writing
  - Period of performance
  - Diversity in contracting
  - Consideration
  - Verbally discuss any requirements – should clarification be necessary, provide information to all who were contacted
  - Receive simple, written cost proposal by mail, e-mail or fax
4. COMPARE PROPOSALS AND SELECT CONSULTANT \_\_\_\_\_
5. CONFIRM EEO CERTIFICATION, INSURANCE CERTIFICATION REQUIREMENTS AND VENDOR NUMBER OF THE CONSULTANT \_\_\_\_\_
  - Check with Bureau of Purchases to verify or obtain EEO certification [vendor number is in IBIS through accounts payable – EEO and insurance may be checked at <http://www.portlandonline.com/omf/index.cfm?a=8516&&c=27353>]
  - Work with the contractor to meet requirements
  - Submit Vendor Master Update form to Accounts Payable if vendor number is needed
6. OBTAIN BUREAU DIRECTOR'S/COMMISSIONER'S APPROVAL, AS NECESSARY \_\_\_\_\_
7. PREPARE PURCHASE REQUISITION AND SUBMIT TO BUREAU OF PURCHASES \_\_\_\_\_
8. PREPARE OTHER DOCUMENTS: \_\_\_\_\_

~ATTACHMENTS REQUIRED~

### PTE Worksheet

- Identify other consultants considered, or explain why this is sole source \_\_\_\_\_
- Include M/W/ESB information
- If contracted with this firm before, explain reasons why this firm was selected again
- Obtain signature of Bureau director or Commissioner and forward to Bureau of Purchases
- (NOTE: the worksheet form provided on the Bureau of Purchases website is the only acceptable version)

### Workers Compensation Insurance Certificate

- Showing current dates of coverage, compliance with Oregon law and consultant signs certification in the Contract for PTE Services (reference Section A at top of Exhibit B) \_\_\_\_\_

~ OR (if no commercial insurance coverage) ~

- Contractor certifies that he/she meets independent contractor standards by marking at least four of the criteria in the Contract for PTE Services (reference Section C at bottom of Exhibit) \_\_\_\_\_

B - Independent Contractor Certification)

~ AND ~

- City project manager reads and signs as applicable Section B (Standards) of the Contract for PTE Services \_\_\_\_\_

INSURANCE REQUIREMENTS (unless waived by the City Attorney\*):

General Liability Insurance Certificate \_\_\_\_\_

- Must include valid effective and expiration dates
- Limits of coverage in accordance with the contract
- Endorsement naming City as additional insured
- 30-day cancellation notice
- City listed as certificate holder

Auto Liability Insurance \_\_\_\_\_

- Most important when operation of a motorized vehicle is specifically required within the scope of work

Professional Liability Insurance \_\_\_\_\_

- Coverage amount in accordance with contract
- 30-60 day cancellation notice
- City listed as certificate holder

9. NOTIFY CONSULTANT TO BEGIN WORK AFTER PURCHASE ORDER HAS BEEN ISSUED \_\_\_\_\_

\* On a case-by-case basis and upon discussion with the project manager, the City Attorney's Office may waive particular insurance requirements based upon special circumstances, limited risk exposure, and other factors. Conversely, situations and projects may present themselves that increased requirements be appropriate.

## **FREQUENTLY ASKED QUESTIONS**

1. **We have a small project for a designer and anticipate the project will be no more than \$2,000. Do I still need to obtain three proposals?**

*Yes, PTE contracts of \$5,000 or less still require at least three competitive proposals of which one must be from an MW/ESB firm. It is not necessary to send out a formal request, but for professional services. It is always a good idea to have a written proposal from the selected consultant. This final memo should be on the firm's letterhead and include their understanding of scope of work, any technical requirements, deliverables, cost and the consultant's signature.*

2. **Our bureau needs to contract for professional services with a State University Engineering Department. Do I need to send out an RFP and execute a PTE contract?**

*No. Contracts between public agencies are to be executed as Inter-Governmental Agreements (IGA), and as such, are not subject to competitive bidding requirements. However, all IGA's must be approved as to form by the City Attorney and authorized by ordinance regardless of the contract amount.*

3. **Can we use a Limited Purchase Order (LPO) to pay for PTE services?**

*No. LPO's cannot be used to pay PTE invoices. Bureau approval is required for all PTE expenditures prior to contract or PO execution. A clear and concise statement of expectations and scope of work is required for such a contract and since an LPO is normally processed after receipt of goods or services, it is not appropriate.*

4. **Is any insurance necessary for the small PTE contracts? If so, which ones?**

*General, auto, and professional liability are required unless waived by the City Attorney.*

**Workers Compensation** is always required. If a consultant does not have commercial coverage (or is not self-insured), then they must be legally exempt from the requirement, which is determined through their certification in Exhibit B (Independent Contractor Certification Statement) of the Contract for PTE Services. Workers Compensation coverage must comply with Oregon Revised Statutes 656.017.

**General Liability** provides coverage for lawsuits/claims asserted by third parties in regards to the consultant's work/matters arising from that work. The limits of coverage required are spelled out in the contract specifications. The insurance must name the City as an additional insured, and that endorsement must be on a proper form. The certificate must provide 30 days notice of cancellation to the City.

**Auto Liability** is appropriate if the consultant must operate a motorized vehicle or use motor vehicles as part of the contract work. There are many different types of coverage. Check with City Attorney or Bureau of Purchases for more information.

**Professional Liability** covers misconduct, negligence, errors or omissions in professional services, and lack of ordinary skill. Generally, if a state certification or license is required (i.e., engineers, architects, teachers, etc.) this insurance is appropriate.

*The City Attorney may waive general, auto, or professional liability if those types of insurance are not required. On a case-by-case basis and upon discussion with the project manager, the City Attorney may waive particular insurance requirements based upon special circumstances, limited*

risk exposure, and other factors. Conversely, situations and projects may present themselves that increased requirements be appropriate.

**5. For small proposals, do we need to contact only one consultant? Please clarify contacting M/W/ESB consultants?**

*For small proposals (\$5,000 or less), bureaus need to contact and obtain responses back from a minimum of three proposers and a minimum of one of those responses needs to be from an M/W/ESB firm. Please remember: these are minimums, you are always encouraged to obtain more if they are available. Additionally, this is the area where we have the best chance of meeting and obtaining our 20% utilization goals.*

**6. Aren't contracts less than \$20,835 intended to be sole source (i.e., trainers, etc.)?**

*No, all contracts for professional, technical and expert services are to be competitively solicited as described within the PTE Manual. All City bureaus are expected to obtain as much competition as is reasonable and possible. Sole source is a departure from the competitive solicitation norm. With a declaration of a sole source, the bureau is only eliminating the solicitation requirements; all other contracting requirements remain in place. Sole source contracts must be fully justified and complete documentation provided.*

**7. On RFP's for small contracts (less than \$5,000), do we have to receive three (3) responses? Is a verbal "no, I'm too busy" okay?**

*Three responses/proposals are required and one of which must be an M/W/ESB firm. While a 'no response' is technically a response, it does not really provide you with the information you need with which to evaluate proposals. Bureaus are encouraged to not only document the lack of a response, but to obtain viable responses/proposals from a minimum of three (3) respondents.*

**8. Can we post small/informal PTE solicitations on the Bureau of Purchases website and meet the M/W/ESB requirements?**

*No, the intent of the Bureau of Purchases website is for formal solicitations. Bureaus are responsible for meeting the M/W/ESB goals and requirements for the small and informal solicitations by seeking out those consultants.*

**9. Will the final payment form be used for all contracts or only those over \$100,000? What about the monthly utilization report?**

*The final payment form will be used for ALL contracts except those initiated via purchase order.*

*The monthly utilization reports (MUR) will be completed by the prime consultants and submitted to the Bureau of Purchases compliance staff on all projects over \$100,000.*



**CHAPTER V**  
**INFORMAL REQUISITION  
FOR PROPOSAL**

# **PROCEDURES FOR THE INFORMAL REQUEST FOR PROPOSAL**

*[over \$5,000 up to amount set annually by City Auditor (currently \$20,835)]*

Since the greatest number of the City's contracts fall within this dollar range and category, it is, therefore, inherent that the informal proposals receive the same care and concern as those within the formal category.

At the "informal" level, use of the standard informal written request for proposal is required. The Informal Request for Proposal must contain all the information needed for prospective proposers to prepare a concise, complete proposal. The most current and acceptable format of the Informal Request for Proposal is found on the Bureau of Purchases website. Some of the elements necessary in order to complete any Informal RFP include:

## **SCOPE OF WORK**

Each proposal is initiated to address a specific issue, solve a distinct situation, and provide licensed or certified staffing or innovative problem resolution. The scope of work has a direct bearing on the outcome of the project, has the farthest reaching impact on the solution provided, and therefore, should be given comprehensive attention, regardless of the estimated project cost. Therefore, the scope of work is the most important information provided in the document and must describe the project in a way that promotes full and open competition. No amount of crafted writing can make up for a weak scope of work. While rarely more than two to three sentences, a carefully prepared scope of work is an easy to follow description of the project requirements, expectations and a timeline necessary to meet the requirements. It will describe the overall project, clearly set forth the boundaries within which the consultant will perform, set clear expectations, and identify a timeline necessary to meet the requirements.

Because it takes longer to solve a problem than it does to avoid one – it makes sense to take the time to do it right the first time and an informal contract is no exception. Proposers will find it helpful and an aid to understanding if the same phrases and terms are consistently used throughout the proposal. Even with informal proposals, failure to adequately define these phrases, keywords, or clearly identifying required tasks will often result in confusion, misunderstandings, frustration, delays and increased costs in achieving the project objectives.

## **PERIOD OF PERFORMANCE**

The period of performance is considered the actual term of the contract - NOT the length of the scope of work or work effort. The period of performance is usually longer than the scope of work. The bureau must make sure the period of performance is compatible with the requirements identified within the proposal and that deliverables are received prior to or as part of the contract completion. The period of performance is usually expressed as the time period following contract award, not a specific date.

The period of performance must be realistic and attainable. Bureaus must use care when determining the period of performance as a too-tight contract schedule tends to lower the quality of the overall contract as the consultants may have to cut corners in order to meet the deadline.

## **EXPERIENCE/CAPABILITIES**

Depending upon the requirements identified in the proposal, complexity of the project and its cost, the Experience/Capabilities section requires information from the proposers relating to the firm's experience, capabilities and resources in relation to the project. The proposers should describe such things as: experience with similar projects; resources available to support the project; internal procedures and/or policies relating to work quality, cost

control and organizational management. While there are a number of possible items that could be evaluated, the following are the more obvious and are provided for the bureau's consideration and use:

Consultant's Capabilities: are the firm's capabilities and resources as they relate to the proposed project. This section should describe such things as similar projects; resources available; internal procedures and/or policies relating to work quality, cost control, management and organizational capabilities.

Management Approach: will require the proposers provide a detailed description of their approach to overall management and integration of all activities required by the scope of work, including the management objectives and techniques that demonstrate how the work requirements will be met.

Key Personnel: requires the respondent identify personnel proposed to be assigned to the project, their educational background, directly relevant work experience, professional development and demonstrated performance record of the proposer's key personnel.

Specific Requirements: the bureau may request organizational charts, information regarding lines of authority and responsibility, statements regarding how the consultant firm is prepared to respond promptly to problems, program changes or requests other information that would be necessary in order for the bureau to evaluate the respondent's proposal.

### **CONSIDERATION**

Consideration is the not-to-exceed cost for the services and is required for every professional, technical and expert service contract. The total contract amount will include the cost of the contractor's management team, any billables such as copying, transportation, postage, faxing, and other services required by the consultant during the performance of their work. As part of the RFP response, all costs must be identified and included as part of the evaluation process. It is advisable to request not only the hours/cost per hour but also the not-to-exceed cost.

### **DIVERSITY IN EMPLOYMENT AND CONTRACTING REQUIREMENTS**

The City of Portland seeks to extend contracting opportunities to Minority Business Enterprises, Women Business Enterprises and Emerging Small Businesses (M/W/ESBs) in order to promote their economic growth and to provide additional competition for City contracts. Therefore, the City has established an overall 20% utilization goal in awarding PTE contracts to ESBs. No goal is set for the use of M/WBE firms, but the City is committed to ensuring that such firms receive opportunities and equal consideration to be awarded City PTE contracts.

### **PROPOSAL SUBMITTAL**

The bureau must determine and state very clearly the process they will use to accept the proposals. If proposals are to be forwarded by mail, fax or e-mail, clearly indicate the fax number, e-mail or physical address but also the name of the bureau and project manager or person to whom the proposal is to be addressed.

### **EVALUATION**

Evaluation criteria will briefly explain to the proposers how the bureau plans to evaluate the proposals and the weighting each evaluation criteria will receive. For the less complex proposals, a clearly identifiable set of three criteria will suffice (experience, compensation and diversity). Each of the evaluation criteria contained in the informal RFP requires a precise definition in narrative form to describe the standard, how it will be used and the performance criterion for each. Evaluation criteria for Diversity in Employment and Contracting shall be no less than 15% of the total evaluation criteria weighting. All businesses will be encouraged to subcontract with M/W/ESB if sub-consulting is necessary. Any pre-submittal meetings with potential proposers will also be used as forums to reinforce the City's position with regard to M/W/ESB participation in City contracting.

While there are a variety of evaluation criteria and many possible combinations, the following is a listing of some of the criteria used in the RFP process and information on weighting the evaluation criteria.

Additional criteria and weighting may be added and identified in the proposal as part of the evaluation process. Items identified with a "X" are required for the less-complex informal proposals, although the bureau may include other criteria as they see fit. The following three (3) criteria will be used in all informal RFP's:

**X Experience/Capabilities**

The experience of the firm on similar projects is a valuable yardstick for their future performance. Is the experience recent or in the distant past? How similar in size and complexity were the projects to the one presently proposed? References must be requested and checked with care. However, talented and resourceful firms with less relevant or different experience may bring a fresh, new approach. The bureau must be careful when requiring a specific amount or number of years of experience. Requiring numerous years of experience may reduce the number of responses, preclude qualified, experienced consultants with lesser years of experience but potentially more direct experience, or may even be a false indicator of the bureau willingness to pay higher hourly costs.

**X Compensation Requirements**

Compensation requirements must be used as one of the criteria in evaluating the Request for Proposal. However, compensation need not be the primary criterion. Unlike public improvement projects, which are usually awarded to the lowest bidder who meets the specifications, professional service contracting selection must include an examination of the relative estimated cost of the project against the other evaluation factors.

By requiring information on compensation the evaluators are able to determine if a particular approach proposed by the offeror is too costly, and if firms with comparable experience are also price competitive. Since the contract must have a fixed limit, the final, not-to-exceed contract amount will be negotiated with the successful proposer.

**X Diversity in Employment and Contracting**

To help promote diversity in the City's PTE contracts, and in accordance with the City's Fair Contracting and Employment Strategy for PTE contracts, all requests for proposals distributed by City bureaus and offices must contain evaluation criteria for Diversity in Employment and Contracting which shall be no less than 15% of the total evaluation criteria.

\*\*\*\*\*

***Depending upon the complexity, estimated contract amount and duration of the project, the bureau might require additional evaluation criteria. The following are suggestions that may be added to the above three- (3) criteria. Given the size of the project or project parameters, some or all of the suggestions may neither be required nor always appropriate, but are provided for informational purposes only:***

\*\*\*\*\*

**• Expertise**

Expertise differs from experience in that it refers to the qualifications of the individuals to be used on the project proposed. Have their education and training prepared them to adequately perform the required tasks? Is the proposer supplying adequate personnel to fully complete the project within the required time period? It is a good practice to request the names, qualifications and background of any people who will be assigned to the project.

**• Project Approach**

How well does the proposer understand your requirements, scope of work, or expectations? Have they clearly stated their methodology for achieving the goals, objectives, expectations and timelines indicated in the proposal? Can the firm meet your time requirements? The project approach should be an important evaluation criterion with any project. A firm that does not address all the issues clearly in their proposal may not be the best candidate for award.



- **Capacity**

Does the firm have the necessary personnel, equipment, insurance, bonding, capital, etc. to successfully complete the project? Does the firm currently have their staff and resources extended to the point they cannot devote adequate time or resources to the project being proposed? If part of the work will be subcontracted, to whom? It is important to have this information prior to contract award.

- **Years in Business**

Unless this has a direct bearing on the overall project, as an evaluation criterion this may not provide the information the bureau needs and be very misleading. A new partnership of experienced personnel may be highly qualified to do the task although they may have just "hung their shingle." It may be more advantageous to request information regarding experience on projects of the same scope, magnitude or difficulty.

- **Certification**

Does the work require the use of certified or licensed personnel? Is this required by law or for the success of the proposed project? Are the personnel certified to perform the work within the State of Oregon? In other words, will engineers be doing the engineering, etc? Will they be utilizing less experienced personnel in relation to the cost of certified personnel? This may also be incorporated into expertise above.

**EVALUATION CRITERIA – WEIGHTING**

The following minimum evaluation criteria and corresponding weighting is provided for informational purposes only. If the bureau determines that additional criteria and weighting values need to be added, the bureau may do so.

CRITERIA	POINT VALUE
Experience	40
Compensation	25
Diversity (fill in as needed)	15 (minimum point value) —
<b>TOTAL</b>	<b>100 (maximum point value)</b>

If the bureau wishes to interview the highest ranking proposers as a part of the evaluation process, the RFP document must indicate that fact and also state the criteria with which the bureau will use to advance the proposers to the interview process. Additionally, the proposal must state how the interview will be used in the overall scoring process and indicate if the proposers are required to include specific staff members, personnel holding specific positions or any sub-contractors as part of their participation in the interview process.

\*\*\*\*\*

**OPTIONAL: Depending upon the complexity, amount and time duration of the proposed project, the bureau may want to either insert or substitute the following requirements for those previously noted for inclusion within the Informal Request for Proposal:**

\*\*\*\*\*

**DEVELOPING  
TECHNICAL REQUIREMENTS**

This section applies only to the consultant's work performed following the award of the contract. The Technical Requirements section describes the work requirements of the project and includes the technical details relating to the work

proposed. The bureau will describe the work required, clearly outline the boundaries within which the consultant will perform, set clear expectations for the project, identify the resultant end products and include any concerns, constraints or special considerations. Some of these considerations might include special permitting, work to be performed by others, identify conformance of the project and deliverables to specific standards (i.e., state, federal, local, etc.), provisions for specially trained personnel, support services, etc.

Another important aspect of the Technical Requirements is a collective description of the expected deliverables. Deliverables are considered anything that can be physically delivered and often signals the end of a specific task within the project as a whole. Additionally, deliverables are an on-going aid to the project manager as a means of evaluating the consultant's performance. Deliverables may include such items as contract work products, training, technical meetings and submission of reports, documents and data that will be expected during the course of the contract. If there's a reason to receive a deliverable in a specific format, this must be so stated within the proposal.

Regardless of the estimated cost of the project or where the bureau is in the development of the proposal, bureau personnel are encouraged to consult the Bureau of Purchases or the City Attorney's Office for assistance. These offices can assist bureau personnel in expressing their needs in a clear, concise manner that will be understood by all parties and further aid in establishing contractual requirements and expectations. The information provided in the Technical Requirements section must be clear and definitive enough for the proposer to provide technical, management and pricing proposals.

#### ***DELIVERABLES***

A deliverable may be anything relating to work products resulting from the scope of work and may include such items as reports, draft documents, test data, interim findings, drawings, schematics, training, meeting presentations, or final reports. They can be described as anything that can be physically delivered. Meetings and training sessions may be described as a deliverable and while attendance at the meeting or training session is not a deliverable, a report summarizing the meeting or a synopsis of the training session can be considered the deliverable. Should specific deliverables be required, the bureau must indicate how they are to be delivered and when delivery should take place.

#### ***PUBLIC SAFETY***

In this time of heightened awareness, building security, public safety, security information, and access control may be important. Include such information regarding physical access to buildings, property or computer and communication equipment owned or occupied and provided by the City. Public safety may require limiting access to public work sites, facilities and offices with or without advance notice. When developing the RFP, be prepared to identify any public safety, security issues or requirements. It is possible that inclusive within some projects, the successful consultant's personnel may be required to undergo background checks, fingerprinting, photos, ID badges, security clearances and other security prerequisites which can be a time, scheduling and cost consideration to the proposer.

#### ***PRE-PROPOSAL MEETINGS***

Depending upon the complexity of the project, the bureau will need to determine if a pre-submittal meeting would be beneficial to the proposers. The pre-submittal meetings are held with prospective proposers prior to receipt of the proposals. The meetings may be either mandatory or non-mandatory and will be so identified within the proposal documents. Regardless of the estimated project cost, the pre-submittal meetings will be consistently administered. The meetings are utilized to acquaint the proposers with the scope of work, project location, technical aspects, restrictions, specific site conditions and deliverables. Additionally, a pre-submittal meeting allows proposers to ask questions, clear up any ambiguities and helps to ensure that all proposers have the same basis of understanding regarding the proposed project.

**Mandatory** pre-submittal meetings require that all proposers attend if they plan to submit a proposal. All proposers will sign in and from this time forward, only those who attended the pre-submittal meeting will be considered for the project award. Since only those who are present at the mandatory meeting will be submitting proposals that will be considered for review, the project manager will be allowed to answer

questions posed during the meeting. It is suggested that the pre-submittal meeting form as found on the Bureau of Purchases website be used. Any clarifications or questions will be forwarded to the proposers as an addendum [ref. Bureau of Purchases website]. By forwarding an addendum to those in attendance, the bureau is acknowledging who was in attendance, putting the questions in writing thereby assuring that no questions were missed or misunderstood, and providing the clarification requested by the proposers.

**Non-mandatory** pre-submittal meetings will be considered an 'optional' meeting for the proposers. The proposer's failure to attend this meeting will not cause their proposal to be rejected. Any questions posed during the meeting will be collected and responses provided in the form of an addendum in order to assure that all proposers of record receive the same information [ref. Bureau of Purchases website].

During the pre-submittal meeting, statements made by City representatives about the solicitation, project or proposal, including statements made at the pre-submittal meeting are not to be considered binding on the City and shall not change the solicitation document unless the City confirms the statements, specifically states the changes or clarifies portions of the proposal by way of an addendum to all prospective bidders or proposers by way of a written addendum to the proposal document.

### ***PROPOSAL CLARIFICATION***

For any project clarification or questions regarding the informal RFP, the bureau must identify in the proposal where and to whom any questions are to be directed. Provide the name of the person, format in which the questions are to be forwarded (i.e., telephone, e-mail, fax or in writing) and the pertinent address, e-mail, fax and phone numbers. The contract person must be responsive to the proposers by returning phone calls and e-mails, documenting the questions, answering and determining whether an addendum is appropriate. As with any proposal, a written addendum will be issued to all record holders of the RFP if a substantive clarification is deemed appropriate by the bureau.

### ***WRITTEN PROPOSAL SUBMITTAL***

For the more complex informal projects that may exceed ninety (90) days or may be more costly, bureaus may request that proposals be either hand carried or delivered via mail to the designated address. In this case, the bureau will provide the bureau address, the project manager or person to whom the proposal is to be addressed and the packaging and packing that will be required in order for proposals to be considered responsive. The City's sustainability approach must be stated as proposers returning unnecessarily large documents with needless indexes, glossy pages, spiral bindings, covers, tab sheets or extraneous attachments that do not contribute to the evaluation process nor are they conducive to the City's sustainability requirements. Sorting through all the additional paper and information can take considerable staff time and be detrimental to the overall schedule and award.

### **SOLICITATION EFFORTS**

It is the policy of the State of Oregon and the City of Portland to encourage open and fair competition within the PTE contracting process regardless of the estimated project amount. In the informal process, written offers are solicited from at least three (3) firms, at least one of which must be an M/W/ESB firm, although more may be included. The firms may be contacted in writing, phone, e-mail or fax and may respond by providing a written cost proposal via fax, e-mail or mail. If more time is available, bureaus are welcome to advertise on the Bureau of Purchases website in much the same manner as the formal request for proposal.

The City of Portland does not conduct its own certification process but utilizes the firms certified by the State Office of Minority, Women and Emerging Small Business. To be considered, a firm must be certified as an MBE, WBE or ESB by the State Office of Minority, Women and Emerging Small Business. Individual firms or specific categories of listed certified firms may contact the Bureau of Purchases for assistance or access the State Internet site:

**<http://www.cbs.state.or.us/external/omwesb/index.html>**

Each firm must be given the same written information and allowed the same amount of time to respond. If a M/W/ESB business is not or cannot be contacted, an explanation must be provided on the PTE Worksheet when submitted to the Auditor's Office or Bureau of Purchases. Purchases cannot process a PTE contract without this information.

### ***ADDENDUMS***

Changes to the proposal documents shall be made only by written addenda. Addenda shall be identified as such and distributed to all prospective proposers known to have obtained the solicitation documents or to have attended any mandatory pre-submittal conference. The City shall make a reasonable effort to notify proposers of the addenda. However, it is the responsibility of the proposers to ascertain the issuance of and be responsive to all addenda. Addenda shall be issued no later than seventy-two (72) hours before the proposal closing date and time. The bureau may extend the proposal closing date and time in order to allow prospective proposers time to analyze and adjust to the changes identified in the addenda. The City shall notify prospective proposers of the new closing date and time either by way of the addenda or in an attachment accompanying the addenda. Notification by the City shall be complete upon mailing of the addenda or writing by the City.

***RECEIPT OF PROPOSALS*** It is important that proposals be received no later than the appointed time and location as noted on the proposal documents. Each firm's proposal shall be kept secure and remain confidential until the most advantageous consultant has been selected. The practice of "shopping" quotes on projects, or providing one firm's proposal information to a second firm and asking the second to better the proposal of the first, is unethical and illegal. Following receipt and opening of the proposals, a listing of proposal respondents will be made available to anyone requesting the information.

If a late proposal is delivered by common carrier it should be accepted and the bureau will record the name of the company, the time the proposal was received and the name of the company representative or commercial carrier attempting to deliver the proposal.

### **EVALUATE PROPOSALS**

Informal professional, technical and expert services proposals are evaluated and awarded based on at least three key factors: experience, compensation, and diversity. These factors as well as the weighting for each are determined during the preparation of the informal RFP and must be clearly identified in the RFP. It is important to have a well-established scope of work, project expectations and objectives identified within the proposal document. By providing this information, the proposals serve as a "yardstick" that minimizes arbitrary decisions and can be evaluated on an equal basis, yet helps provide an objective determination of the proposer most qualified to handle the project.

When evaluating the proposals, the criteria stated in the RFP must be used as well as the weighted score identified for each criterion. From receipt of proposals through award, all proposal evaluation documents and deliberations are considered confidential and will not be divulged to the public until an award determination has been made. The proposal scoring must be documented and maintained as part of the contract file.

### **AWARD CLARIFICATIONS AND PROTESTS**

Proposers not awarded a contract may seek clarification or ask to review the proposals, selection procedures and scoring. They should courteously be given the opportunity to come in and review the other proposal responses that were submitted, as well as the final score sheet showing points awarded on the various evaluation criteria in the solicitation and the interviews. All proposal documents are considered public record and may be viewed by anyone after the determination has been made. Any proprietary information so designated by the proposer as a trade secret and meeting the requirements of

ORS 192.410 do not become public record. Allowing the unsuccessful firms to review successful proposals helps them to better understand the process, consider how other proposals are presented and identify what they can do to improve their future submittals.

Occasionally, unsuccessful proposers may believe they have been adversely affected or are an aggrieved proposer on a PTE selection process and may decide to protest the City's award decision. Protests are not considered valid for proposals solicited under the informal process.

Regardless whether the Bureau of Purchases was involved in the initial RFP process or not, the Bureau of Purchases is available to serve as a resource and support to the bureaus for any questions or concerns regarding the RFP process. The PTE Program Coordinator in the Bureau of Purchases is experienced in handling procurement protests.

## **CONTRACT DEVELOPMENT**

The Contract for PTE Services form is required for informal PTE projects. Most Contracts for PTE Services are given a "not-to-exceed" dollar amount, are normally based upon the consultant's proposal and include all of the costs the City expects to incur within the contract.

If an M/W/ESB business is not or cannot be contacted during the solicitation process, an explanation must be provided on the PTE Worksheet when submitted to the Auditor's Office and the Bureau of Purchases. Purchases cannot process a PTE contract without this information. PTE contracts under the formal amount are approved by the Purchasing Agent or the Bureau Director if authority has been delegated to them. The contract and PTE Worksheet must be completed, approved as to form by the City Attorney's Office, and authorized with the Purchasing Agent's or Bureau Director signature prior to submittal to the Auditor's Office. Depending upon the requirements of the contract, the attachments and exhibits to the Contract for PTE Services will include some or all of the following documents and information:

- (1) Workers Compensation Insurance Certificate **OR** complete Exhibit B, Section C ("Independent Contractor Certification Statement") of the Contract for Professional, Technical, or Expert Services,
- (2) General, Auto, Professional Liability insurance certificate(s)
- (3) EEO Certification
- (3) Business License
- (4) PTE Worksheet - filled out by project manager/signed by bureau director (NOTE: the Worksheet form provided on the Bureau of Purchases website is the only acceptable version).

Three copies of the contract will be forwarded to the City Auditor's Office along with the required insurance certificates (approved as to form) and the PTE Worksheet. Once a contract is awarded, the City Auditor will issue a contract number for tracking purposes. The Bureau of Purchases and the City Attorney's Office are both available to help the bureau with drafting the contractor documents or the City Council ordinance as needed. A copy of the final contract and PTE worksheets will be forwarded to the City Auditor's Office for filing.

The City of Portland does not conduct its own certification process but utilizes the firms certified by the State Office of Minority, Women and Emerging Small Business. Individual firms or specific categories of listed certified firms may be accessed at the State Internet site:

<http://www.cbs.state.or.us/external/omwesb/index.html>.

Bureau personnel may contact the Bureau of Purchases for assistance. If a M/W/ESB business is not or cannot be contacted, an explanation must be so noted on the PTE Worksheet when submitted to the Auditor's Office or Bureau of Purchases. Purchases cannot process a PTE contract without this information.

## **POST- AWARD ACTIVITIES**

Information and suggestions relating to post-contract award activities may be found in the LET'S GET STARTED section of this manual.

# CHECKLIST: INFORMAL REQUEST FOR PROPOSAL

[Over \$5,000, but under formal amount set annually by City Auditor – current amount can be found at [www.portlandonline.com/omf/index.cfm?&a=10545&c=27572](http://www.portlandonline.com/omf/index.cfm?&a=10545&c=27572) ]

1. DETERMINE NEED, OBTAIN BUREAU APPROVAL(S) \_\_\_\_\_
2. ESTIMATE COSTS \_\_\_\_\_
3. WRITE REQUEST FOR PROPOSAL \_\_\_\_\_  
Use of the standard RFP form required [may be downloaded from [www.portlandonline.com/omf/index.cfm?&a=10545&c=27572](http://www.portlandonline.com/omf/index.cfm?&a=10545&c=27572) ]

*RFP will include the following elements:*

- Scope of Work \_\_\_\_\_
- Period of Performance \_\_\_\_\_
- Diversity in Employment \_\_\_\_\_
- Consideration \_\_\_\_\_
- Experience/Capabilities \_\_\_\_\_
- Proposal Submittal \_\_\_\_\_
- Evaluation \_\_\_\_\_
- General \_\_\_\_\_

*Depending upon the complexity, amount and time duration of the project, the bureau may want to include one or all of the following:*

- Technical Requirements \_\_\_\_\_
- Public Safety \_\_\_\_\_
- Pre-Submittal Meeting (mandatory or non-mandatory) \_\_\_\_\_
- Proposal Clarification \_\_\_\_\_
- Written Proposal Submittal \_\_\_\_\_

4. SOLICIT AND OBTAIN PROPOSALS \_\_\_\_\_  
Bureau must contact a minimum of three (3) firms. At least one (1) firm must be a State certified minority-owned, woman-owned or emerging small business [certification information may be reviewed on the Internet at [www.cbs.state.or.us/external/omwesb](http://www.cbs.state.or.us/external/omwesb)]
5. EVALUATE PROPOSALS RECEIVED \_\_\_\_\_
6. SELECT MOST ADVANTAGEOUS PROPOSAL TO THE CITY;  
NOTIFY ALL CANDIDATES OF AWARD DECISION \_\_\_\_\_
7. CONFIRM EEO CERTIFICATION, INSURANCE CERTIFICATION  
REQUIREMENTS AND VENDOR NUMBER WITH CONSULTANT \_\_\_\_\_  
[ref. <http://www.portlandonline.com/omf/index.cfm?&a=8516&c=27353> ]

~ OR ~

- Check with Bureau of Purchases to verify or obtain certification \_\_\_\_\_
  - Work with contractor to meet requirements \_\_\_\_\_
  - Submit Vendor Master Update form to A/P if vendor number needed \_\_\_\_\_
8. NEGOTIATE TOTAL NOT-TO-EXCEED COST WITH CONTRACTOR \_\_\_\_\_
  9. OBTAIN BUREAU DIRECTOR'S/COMMISSIONER'S APPROVAL AS NECESSARY \_\_\_\_\_
  10. PREPARE CONTRACT DOCUMENTS: \_\_\_\_\_  
CONSULT WITH BUREAU OF PURCHASES OR CITY ATTORNEY'S OFFICE REGARDING CONTRACT DRAFT AS APPROPRIATE
    - Contract for PTE Services [may be downloaded from [www.portlandonline.com/omf/index.cfm?&a=10545&c=27572](http://www.portlandonline.com/omf/index.cfm?&a=10545&c=27572) ]

- Select optional provisions [ref. page 4 of the Contract for PTE Services] —
- Fill out Contractor's Scope of Work and Payment schedule [ref, instructions with Contract for PTE Services for suggestions] —

~ATTACHMENTS REQUIRED~

PTE Worksheet —

- Identify other consultants considered or document why this is sole source
- Include M/W/ESB information
- If contracted with this firm before, explain why this firm was selected again without any competition
- Obtain signature of Bureau director or Commissioner and forward to the Purchasing Agent along with the contract and insurance documents [NOTE: Worksheet form found on the Bureau of Purchases website is the only acceptable version]

Workers Compensation Insurance Certificate —

- Showing current dates of coverage, compliance with Oregon law and consultant signs certification in Exhibit B, Section A of the Contract for PTE Services

~ OR ~

- Contractor certifies that he/she meets independent contractor standards by marking at least four (4) criteria in Exhibit B, Section C of the Contract for PTE Services —

~ AND ~

- City project manager reads and signs as applicable Exhibit B, Section B<sub>1</sub> of the Contract for PTE Services —

INSURANCE REQUIREMENTS [unless waived by the City Attorney\*]:

General Liability Insurance Certificate —

- Must include valid and effective expiration dates
- Limits of coverage in accordance with the contract
- Additional insured endorsement naming City
- 30-day cancellation notice
- City listed as certificate holder

Auto Liability Insurance —

- Most important when operation of a motorized vehicles is specifically required within the scope of work.

Professional Liability Insurance —

- Coverage amount in accordance with contract
- 30 or 60-day cancellation notice
- City listed as certificate holder

11. PREPARE 3 CONTRACT COPIES; FORWARD TO CONSULTANT FOR SIGNATURE ON FINAL CONTRACT —

\* On a case-by-case basis and upon discussion with the project manager, the City Attorney's Office may waive particular insurance requirements based upon special circumstances, limited risk exposure, and other factors. Conversely, situations and projects may present themselves that increased requirements be appropriate.



12. OBTAIN CITY ATTORNEY'S APPROVAL ON FINAL CONTRACT \_\_\_\_\_
  
13. OBTAIN THE PURCHASING AGENT'S SIGNATURE PRIOR TO FILING WITH AUDITOR \_\_\_\_\_
  - Purchasing Agent and City Auditor must also receive a copy of the completed PTE Worksheet, contract, and insurance documents \_\_\_\_\_  
(NOTE: the PTE Worksheet form on the Bureau of Purchases web site is the only acceptable version).
  
14. NOTIFY CONSULTANT TO BEGIN WORK AFTER CONTRACT HAS BEEN ISSUED OR CONTRACT PROCESSING IS COMPLETE \_\_\_\_\_

## **FREQUENTLY ASKED QUESTIONS**

- 1. Our bureau has a requirement for a designer and estimated it to be only about \$6,000 for their services. Do I still need to obtain three proposals?**

*Yes, PTE contracts between \$5,000 and formal limit as established by the City Auditor's Office (currently \$20,835) require competitive proposals and pricing. An informal request for proposals has been provided and must be either mailed or faxed to at least three prospective consultants, of which at least one must be an M/W/ESB. The informal request for proposal format is designed to be returned to the bureau with the proposer's information and cost proposals.*

- 2. I am drafting an RFP to hire a sign maker for some building signs. The sign maker will both design and install the signs, based upon our ideas. Since there is design work involved in the project, does this require a PTE contract?**

*Although some design services might be involved, the primary focus of the project is the purchase of goods (signs) and not technical expertise. The Bureau of Purchases can assist you. The primary focus of a PTE contract is the use of the provider's expertise, design ideas and innovation. The deliverables such as reports, test results, drawings, etc. although a tangible part of the project are considered an end result of the technical requirements. In this instance, the end result from your project will be the sign not its unique design.*

- 3. Can we use a Limited Purchase Order (LPO) to pay for PTE services?**

*No, LPO's cannot be used to pay PTE invoices. A clear and concise statement of expectations and scope of work is required for such a contract and since an LPO is normally processed after receipt of goods or services, it is not appropriate.*

- 4. When is an ordinance necessary?**

*An ordinance is required for all PTE contracts over \$100,000 and on all Inter-Governmental Agreements (IGA), regardless of the amount. The ordinance should be filed with the Council office after the consultant has signed the contract and it has been approved as to form by the City Attorney.*

- 5. What types of insurance are necessary?**

*General, auto, and professional liability are required unless waived by the City Attorney.*

**Workers Compensation** is always required. If a consultant does not have commercial coverage (or is not self-insured), then they must be legally exempt from the requirement, which is determined through their certification in Exhibit B (Independent Contractor Certification Statement) of the Contract for PTE Services. Workers Compensation coverage must comply with Oregon Revised Statutes 656.017.

**General Liability** provides coverage for lawsuits/claims asserted by third parties in regards to the consultant's work/matters arising from that work. The limits of coverage required are spelled out in the contract specifications. The insurance must name the City as an additional insured, and that endorsement must be on a proper form. The certificate must provide 30 days notice of cancellation to the City.

**Auto Liability** is appropriate if the consultant must operate a motorized vehicle or use motor vehicles as part of the contract work. There are many different types of coverage. Check with City Attorney or Bureau of Purchases for more information.

**Professional Liability** covers misconduct, negligence, errors or omissions in professional services, and lack of ordinary skill. Generally, if a state certification or license is required (i.e., engineers, architects, teachers, etc.) this insurance is appropriate.

The City Attorney may waive general, auto, or professional liability if those types of insurance are not required. On a case-by-case basis and upon discussion with the project manager, the City Attorney may waive particular insurance requirements based upon special circumstances, limited risk exposure, and other factors. Conversely, situations and projects may present themselves that increased requirements be appropriate.

**6. Is a contract really necessary with such a small dollar amount in the informal proposal?**

Yes, the Contract for PTE Services as found on the Bureau of Purchases website is the only contract form authorized by the City of Portland.

**7. When does a bureau use an evaluation committee? Under \$5,000? Under \$20,835, Over \$20,835?**

The bureaus are required to utilize an evaluation committee for all projects within the informal and formal ranges (i.e., \$5,001+).

**8. Do we disclose the names of the evaluation committee members?**

Normally, during the solicitation process, the names of the evaluation committee members are not divulged and if in some way, the names become public, the respondents are further cautioned not to contact the evaluation committee members. Following contract award, the names of the evaluation committee members may become public.

**9. Aren't contracts less than \$20,835 intended to be sole source (i.e., trainers, etc.)?**

No, all contracts for professional, technical and expert services are to be competitively solicited as described with the PTE Manual. All City bureaus are expected to obtain as much competition as is reasonable and possible. Sole source is a departure from the competitive solicitation norm. With a declaration of a sole source, the bureau is only eliminating the solicitation requirements; all other contracting requirements remain in place. Sole source contracts must be fully justified and complete documentation provided.

**10. Can we post small/informal PTE solicitations on the Bureau of Purchases website and meet the M/W/ESB requirements?**

No, the intent of the Bureau of Purchases website is for formal solicitations. Bureaus are responsible for meeting the M/W/ESB goals and requirements for the small and informal solicitations by seeking out those consultants.

**11. Will the final payment form be used for all contracts or only those over \$100,000? What about the monthly utilization report?**

The final payment form will be used for ALL contracts except those initiated via purchase order.

*The monthly utilization reports (MUR) will be completed by the prime consultants and submitted to the Bureau of Purchases compliance staff on all projects over \$100,000.*



**CHAPTER VI**  
**FORMAL REQUEST  
FOR PROPOSAL**

# **PROCEDURES FOR THE FORMAL REQUEST FOR PROPOSAL**

*[over amount set annually by City Auditor (currently over \$ 20,835)]*

The Formal Request for Proposal method is best utilized for those projects that require evaluation of the consultant based upon multiple criteria. Some of the criteria may be: the firm's expertise, education, experience, diversity in employment, licenses or certification, work history, understanding of the scope of work and ability to resolve the issue or problem identified within the document while providing a quantified cost for completing the work.

At the formal PTE level (over \$20,835), the Request for Proposal must contain all the information needed for the prospective proposers to prepare a concise, complete proposal. In order to provide consistency and reliability for the contracting community, the Request for Proposal (RFP) format as found on the Bureau of Purchases website is the only acceptable format. Given enough clear, concise information about the background and project issues, expectations of the consultant and the desired outcome, the responding proposers will have the opportunity to showcase their creativity and expertise within their proposals. Some of the elements common to any complete RFP are as follows:

## **INTRODUCTION**

The introduction need not be lengthy, but will provide a general description of the bureau, its mission as it relates to the project at hand and an overview of how the bureau views the purpose of the project. This is the first place to identify the issue or problem that has been identified.

## **PROJECT BACKGROUND**

The Project Background section must provide historical information needed by the proposer in order to understand current requirements. The background information does not need to involve an extensive history of the City of Portland or the bureau unless it adds information needed to adequately respond to the request for proposal. The background is simply to provide the consultant with a clear understanding, purpose and extent of the requirements of the project, how it relates to the overall project, and how the project may have occurred (i.e., natural phenomenon, act of god, previous tenant/owner, geographic location of the project, etc.). The Project Background will help the prospective proposer understand the organization for which they will work, area surrounding the project location (if applicable), environmental situations, or locality of the project, and why or how the project became necessary.

Often the project background can be used to identify any related research, studies or other efforts that will contribute to the contractor's understanding of the project; this section will easily segue into the Issue Statement. The Project Background is a general statement that can help the proposer arrive at a more complete understanding of the scope of work and needs to be no more than two to three paragraphs. Do not include specific work-related requirements in this section.

## **ISSUE STATEMENT**

Most proposals are initiated to address a specific issue, problem or areas of concern, this section is included to specifically identify what those problems or areas of concern are. While not required, the "issue statement" can be used to clearly identify the situation or problematic issue(s) as the bureau sees them and for which the project is intended to correct, mitigate or modify. The project introduction, background and issue statements, while each fairly concise will be natural precursors to the scope of work and will provide the proposers with good information about the project, project issues or concerns and the bureau itself.

## **DEVELOPING A**

## **SCOPE OF WORK**

The scope of work is a written description of the contractual requirements of the project and is the single most important declaration within the document. The scope of work must be described in a manner that promotes full and open competition to the maximum extent possible. The project manager shall develop a scope of work for services that will not result in an employee relationship with the potential consultant. When writing a Request for Proposal, all previous statements lead up to the scope of work and are expanded upon throughout the remainder of the document. It has the most bearing on the outcome of the project, the farthest reaching impact on the work actually performed, and should therefore, be given careful and comprehensive attention. While rarely more than two to three sentences, the scope of work is often called the "project in a nutshell". It will describe the overall project purpose, clearly set forth the boundaries within which the consultant will perform and set clear expectations for the project. A carefully prepared scope of work is a short, easy to follow description of the project requirements, expectations and a timeline necessary to meet the requirements.

The breakdown or failure of many professional, technical or expert service contracts can be readily pointed to a poor scope of work. The scope of work must adequately define the required tasks; being devoid of that will often result in confusion, misunderstandings, frustration, delays and increased costs in achieving the project objectives. Although a clear and concise description of the work does not guarantee that the contract will be successful, it does significantly reduce the likelihood that problems will arise. At any point in the development of a scope of work, bureau personnel are encouraged to consult the Bureau of Purchases or the City Attorney's Office for assistance. These offices can assist bureau personnel in expressing project needs in a clear, concise manner that will be understood by all parties and will specifically establish all contractual requirements and expectations.

The scope of work is important before award as it establishes a uniform base for which the proposers provide project costs and for which the evaluation committee reviews the proposal responses and prices. Following award, the contractor must clearly understand the scope of work in order to perform the work properly. Since the scope of work is written into a contract, the contractor is required to do only what is written into the contract, therefore it is imperative that it accurately describe the work to be performed. A poorly written scope of work could create the need for changes in the contract and could have a negative effect on both the contract amount and project scheduling. The scope of work will serve as a basis for on-going communications throughout the course of the project.

Failure to adequately define phrases, acronyms, keywords or clearly identifying required tasks would often result in confusion, misunderstandings, frustration, delays and increased costs in achieving the project objectives. Proposers will find it helpful and an aid to understanding if the same phrases and terms are consistently used throughout the proposal.

## **DEVELOPING TECHNICAL REQUIREMENTS**

The Technical Requirements section of the RFP document further defines the scope of work, describes action, identifies specific work products and includes any technical details relating to the work proposed. The information provided in this section must be explanatory and definitive enough for the proposer to respond with information that will include technical and innovative information, management, staffing, qualifications, expertise and pricing proposals. This section applies only to work performed following the award of the contract; these are the mandatory requirements of the work.

The Technical Requirements identified herein must be unrestricted enough to refrain from defining how the project will be accomplished, delineating specific personnel, doing any problem solving or identifying the final work product while still identifying definitive work requirements. The more restrictive the requirements, the less innovation can be expected from the responding proposers. Therefore, if the bureau truly wants an innovative solution to their problem, they would be wise to keep the number of mandatory requirements to a minimum.

Some considerations for technical requirements may include: special permitting; identification of work required to conform to specific state or federal guidelines or standards; and work to be performed by

others under or as part of the consultant's contract (i.e., sub-contractors, other governmental entities, railroad, ports, PUD, etc). Additionally, if the consultant is required to provide a specific outcome following the completion of their services, such as: facilitate bidding, expedite alternate construction methods; specific support during the next phase(s) of the project; or any special provisions for support services and project interfaces. All third-party interfaces should be identified under **WORK PERFORMED BY THE CITY/OTHERS** section as follows.

The bureau may find it helpful to divide the work into tasks or task groups in order to provide the proposers with clear and consistent information. Providing the task or task groups in sequential order is always helpful. If the successful contractor will be required to provide specific testing or reporting, state exactly what the tests or reports will be required, by what medium they will be submitted and when they are to be provided to the project manager.

The more information the proposer is given with regard to the City's requirements and expectations, the better the proposer can respond to the City's needs. Conversely, the more complete information provided in the proposals, the better the final project outcome.

### **WORK PERFORMED BY THE CITY/OTHERS**

The City's responsibilities must be identified within the proposal as well as any work performed by other third-party contractors. This information may include approvals, testing, reviews, etc. along with any estimated turn-around time required to provide the information or materials to the successful contractor. Interfaces are instances when a third party will affect the contract performance of the proposer, their work and project timing, therefore, it must be described in order for the proposers to adequately prepare their proposals and include the time required for the interfacing party.

This will also be the section to describe any City furnished equipment, furniture, computers, property, communication equipment, reports, drawings, maps, and personnel. Any City furnished equipment must clearly indicate it will be made available for the successful contractor's use and returned in good condition at the conclusion of the project. It is incumbent on City staff to adequately account for all City equipment released for the contractor's use and upon return following project completion. Be sure to identify any items that will affect contract performance and their impact on the schedule (i.e., data being collected by the bureau, reports generated for the benefit of the contractor, etc.).

Bureaus are cautioned to provide appropriate schedules and dates in the proposal document and to carefully consider the impact of these schedules as the responsibility for any City provided equipment or materials can become a liability and have a detrimental impact on the overall schedule of the project. The potential impact on the delivery schedule and project cost cannot be underestimated.

### **DELIVERABLES AND SCHEDULE**

This section is intended to separate the description of the physical characteristics and the delivery schedule for interim and end products from the description of the technical requirements. The actual work requirements are identified in the Technical Requirements section while the end product of the work requirements and the deliverable schedules are included in the Deliverables section. Deliverables are important as they provide the project manager with one means of evaluating the consultant's performance. The deliverables may be considered anything relating to work products or by-products of the services performed under the contract that can be physically delivered such as: reports, draft documents and data, interim findings, drawings, schematics, training, final drawings or reports. Additionally, if training, technical meetings, meeting presentations, and written meeting minutes are expected during the course of the contract they may be considered as deliverables if the consultant provides a written report recording the event.

The transfer of a deliverable is often considered a signal that the end of a specific task or benchmark within the project has been completed. Therefore, the bureau may find it prudent to provide for periodic or a final report by identifying the delivery time based upon schedule – not dates. The bureau may also find



it helpful to define within the proposal what formats (i.e., written, diskette, written with diskette, etc.), quantities, or specific order the reports are to be submitted, along with whether the contractor is to provide the reports with or without an executive summary.

It is important to note in the request for proposal documents that all deliverables resulting from the contract will become the property of the City of Portland.

**PLACE OF PERFORMANCE**

While most consultant's perform their work at their office or at the work site, some consultants may be required to visit or perform most of their work at the City's facility or a combination thereof. By defining the place of performance, the City is intrinsically indicating its preference and consequently no other location will be suggested by the proposers. Depending upon the requirements of the project, the City may need to identify the location, a specific address does not need to be included in the proposal document unless there is a third-party or off-site location requirement. Also, if this may be a point of final negotiation, this section may be deleted.

**PERIOD OF PERFORMANCE**

The period of performance is considered to be the term of the entire contract. That is, how long the contract will actually be in effect, not the length of the scope of work or work effort. The period of performance is usually longer than just the scope of work. When determining the period of performance, make sure the schedules for all technical requirements and deliverables are taken into consideration as well as the scope of work. Unless timing is critical, do not intentionally pin the contractors' back to the wall with an unnecessarily aggressive completion date. The result of a tight contract schedule could be lower work quality, as the contractors may have to cut corners or deliver late. The period of performance must be realistic, but depending upon the project, may also be a point of final negotiation.

The period of performance is usually expressed as the time period following contract award, not a specific date. The bureaus are cautioned to not use specific dates unless the completion date is due to special budgetary considerations or funding expirations (i.e., end of the fiscal or calendar year, end of preceding contract, etc.). Be sure to identify when the special funding will expire. If there are special on-site conditions, considerations that demand that time is of the essence or particular obligations and deadlines (i.e., in-water window, hazardous material clean-up deadline, etc.), the bureau would be wise to identify those conditions here.

**PUBLIC SAFETY**

In this time of heightened awareness, building security, public safety, security information, access control, and other safety requirements relating to physical safety, access and data information may be important and will need to be included in proposals. This may include a discussion by the City regarding physical access to buildings, property, computer and/or communication equipment owned, occupied or provided by the City. Public safety may require limiting access to public work sites, facilities and offices with or without advance notice. When developing the request for proposal, be prepared to identify any public safety, security issues or requirements. It is possible that inherent in some projects will be the necessity that some or all of the consultant's personnel undergo background checks, fingerprinting, photos, ID badges, security clearances and other security prerequisites which can be a time, scheduling and cost consideration to the proposer. Additionally, some work sites may require the consultant's personnel obtain a visitor badge or provide identification during the time of their work all of which may take extra time and must be factored into the consultant's proposal.

**INSURANCE**

The successful consultant will be required to maintain continuous, uninterrupted coverage of all insurance as required by the City, unless waived by the City Attorney's Office for the specific project. The consultant will be required to provide a minimum of 30-day written notice should any cancellation, material change, and reduction of limits or intent not to renew the insurance coverage(s). The project manager will contact the City Attorney's Office should they wish to in any way alter the insurance requirements identified within the City's PTE Contract.

### **ATTACHMENTS – INDEX**

Any attachments, exhibits, reference materials, memos, letters, or supporting documents the proposers will require for the preparation of their proposals must be identified within this section. Bureaus should use caution when including any attachments. This information must be necessary for the proposers understanding of the project or future clarification – but never include conflicting information unless it is well defined. It is important to identify how the proposer is to use the attachment information: provided merely as background and antidotal information or as a contractual requirement. All such materials will be identified as an exhibit, marked in alphabetical order and included with the proposal. Exhibit A in this section may be a reference to the City's Internet where a copy of the Professional, Technical and Expert Services Contract may be found or a copy of the applicable contract intended to be used to consummate this process may be attached.

### **ATTACHMENTS – PROJECT DATA**

Proposals may also reference any background or project drawings, maps, photos, permits, plat maps, descriptive data, reports or certificates pertinent to the project that will provide additional information with which the proposers would require for the preparation of their proposals. Bureaus should use caution when including any attachments. This information must be necessary for the proposers understanding of the project or future clarification – but never include conflicting information unless it is well defined. It is important to identify how the proposer is to use the attachment information: provided merely as background and antidotal information or as a contractual requirement. These reference materials are generally attached to and made a part of each proposal.

On occasion, only a minimal number of copies are available or originals are required to be retained by the bureau and may be made available for the proposer's review on a limited basis as a resource document. The proposal must identify what resource materials and items are available for review and may not be removed from the location. If an appointment is required due to security requirements, spatial constraints or control of the data, the following information must be included in the RFP document: the name of the person and phone number to call in order to make the appointment, the location of the data, and the dates and times the materials will be made available for review. An index of all the available documents will be included within the **ATTACHMENTS – PROJECT DATA** section of the RFP, all documents will be clearly identified, referenced in ascending numerical order and marked as a "reference" document.

### **PRE-PROPOSAL MEETINGS**

Depending upon the complexity of the project, the bureau will need to determine if a pre-submittal meeting would be beneficial to the proposers in order to acquaint the proposers with the proposed scope of work, project parameters, location, technical aspects, restrictions and deliverables. Pre-submittal meetings are held with prospective proposers prior to their return of the proposals and will be designated as being either mandatory or non-mandatory and must be so identified within the RFP documents. The meetings are utilized to acquaint the proposers with such things as the scope of work, project location, technical aspects, restrictions, specific site conditions and deliverables. Additionally, a pre-submittal meeting allows proposers to ask questions, clear up any ambiguities and ensure that all proposers have the same basis of understanding regarding the proposed project.

**Mandatory** pre-submittal meetings require that all proposers attend if they plan to submit a proposal. From this point on, only those who were present at the mandatory meeting will be allowed to submit proposals that will be considered for review. The project manager and/or personnel from the Bureau of Purchases will be allowed to answer questions posed during the meeting. The general Pre-Submittal Meeting Agenda form as found on the Bureau of Purchases website will be used as a guideline for developing a pre-submittal meeting agenda.

**Non-mandatory** pre-submittal meetings are considered 'optional' meetings for the proposers. The proposer's failure to attend this meeting will NOT cause their proposal to be rejected. Any questions posed during the meeting will be collected and responses provided in the form of an addendum in order to assure that all proposers of record receive the same information [ref. Bureau of Purchases website] in accordance with the procedures within this manual.

**PROPOSAL CLARIFICATION**

As clear and succinct as the bureau has intended the proposal document and pre-submittal meeting to be, there may still be questions and clarifications that arise from the proposers requiring the project manager's review, documentation and response. The proposal must identify where the questions are to be directed, providing the name of the person, address and in what format the questions are to be forwarded (i.e., telephone, e-mail, fax or in writing). Questions must be addressed only to the person and in the manner indicated on the RFP (e.g., project manager or procurement official). It is important that the person to whom questions or clarifications are referred is responsive and knowledgeable about the project. Sufficient time must be provided prior to the proposal deadline in order to receive and address the questions, make any necessary comments or corrections and inform all potential proposers. The person to whom questions are forwarded will be responsible for maintaining a communication log that will include the date, firm, person calling or writing, their question and the resulting response. The RFP must also contain a statement defining the time period during which questions will be accepted (usually seven (7) but no less than five (5) working days prior to proposal deadline).

**PROPOSAL SUBMISSION**

The main direction for proposal preparation and submission is to ensure the proposals address the areas of interest identified in the scope of work. The proposer has every right to respond to the solicitation in any manner he/she sees fit. The submission instructions are furnished to help them work through the various project tasks in order and provide a proposal within a structure that can be easily and readily reviewed by the evaluation committee. The requirements will initially call for each respondent's proposal to be clear, succinct and address the items identified within the proposal. All proposals will ultimately provide the foundation for evaluation based upon the information included within the proposal and if all are followed, this will allow the initial screening to be performed in an objective fashion. The proposal submission instructions are used as indicated below:

1. Ensure that proposers address the areas of interest as expressed by the RFP. Each proposer should structure their proposal in the same order of importance as indicated in the evaluation criteria. The instructions will identify the specific elements the bureau deems necessary to evaluate proposals, therefore, instructions should be as explicit as possible. The evaluation team's job is to evaluate the proposer's technical expertise and experience – not their writing skills or glitzy brochures.
2. Standardize the proposal submission to facilitate the evaluation process. Standardizing the proposal submission is beneficial for two (2) reasons: (a) all proposers are on a level playing field as only the proposal information is reviewed and evaluated and (b) it makes the evaluation process easier as evaluators will not need to search through differing formats in order to find the information they need.

The City's sustainability requirements are included as a part of the submission section and will include such statements as:

- the number of copies to be submitted (original and copies);
  - unnecessarily elaborate or lengthy proposals are not desired;
  - encourages double-sided copying; and
  - discourages spiral or other bindings, plastic or glossy covers, dividers, tabs, and table of contents
3. Require the submission of specific information as appropriate. By requiring specific information to be forwarded, the evaluation committee will be able to review the information within the context of the proposed project. This requirement may include a discussion regarding a specific work requirement, performance issues as identified within the proposal, propose the content and format of any management reports, how they propose to manage the project, and proposed work

plan. This will be an expanded topic and will allow the proposer to further explain their stand regarding the topic.

On occasion, the City may wish to reimburse a specific number of respondents either for information or designs provided as part of their response. These responses may require submittal of preliminary designs or draft work plans that will then be reviewed and scored by the evaluation committee. Because of the amount of effort and the uniqueness of the project design competitions, innovative issue resolution and design and development of copyrighted designs, it may be important that the shortlisted respondents be reimbursed for their time and efforts put forth in responding to the solicitation. The requirement for designs or work plans will be at the City's discretion and will be so noted within the original solicitation document.

If a few of the highest ranking respondents are to be interviewed, the RFP solicitation document must so state the criteria with which the bureau will use to advance the respondents to the interview process and how the interview will be used in the overall scoring process. That is, will the interview scores be added to those of the original response, or will they be evaluated separately? It is acceptable to indicate within the solicitation document that depending upon the responses, the evaluation committee "may invite respondents in for interviews and presentations". Additionally, the RFP documents must indicate if specific staff members, proposed positions (i.e., project manager, etc.) or respondents' personnel will be required to participate in the interview.

### **PROJECT TEAM**

The project team will be the consultant's key personnel working directly with City staff and having the most impact on the project. The predominant information required here will be the consultant's or individual team member's name, qualifications and experience as they relate to the proposed project, individual expertise as it relates to all phases of the project, understanding of the project, staffing and management approach, integration of all activities required by the scope of work, key personnel to be assigned to the project and their education, background, experience and performance records.

If there are specific concerns or requirements that the bureau needs to have the proposers address or if unique information is required on the part of the proposer, this is the section in which to make these requirements known. Often this section is used to allow the proposers to respond to the situation described within the proposal document and request information from them on how they would solve the problem or how they have previously solved a like issue. For more information, bureau personnel should review the Request for Proposal cues as found in the RFP form on the Bureau of Purchases website.

Thirdly, understand that if you are requesting information regarding the consultant's key personnel only, you will probably receive more general information relating to a project principal, project manager and key staff members and possibly sub-consultants. If the bureau requires information about the entire team or sub-consultants, be sure to stipulate those requirements. Should the bureau request information about the key personnel by name and title, they may also elect to add a clause indicating that substitution of key personnel may be made only (1) after advance notification to project manager and (2) when a determination by the project manager that the substitution meets the required qualifications. If this clause is used, the qualifications of the key personnel must be identified in the RFP. Bureaus are cautioned to use this requirement sparingly as each identified position carries with it an administrative burden on the part of the project manager; that of reviewing personnel changes for the life of the contract. If the bureau determines to require the key personnel clause, whenever possible request only the top few managerial and technical positions. Identify other positions as key personnel only if a specific level of expertise or experience is required for the project.

When describing the qualifications for key positions, the bureau must specify the level of expertise, educational or background experience required for the project. When the bureau specifies the level of expertise, educational or background experience, they must understand the proposer may not be able to meet each expectation and must be allowed to identify its key personnel and demonstrate how they individually and/or collectively meet the required qualifications. Permit the proposers to provide, document and explain education or experience levels that are either equivalent or a substitute for those

specified. Although the bureaus are not required to accept the proposer's equivalency statements by doing so, the bureaus may find experience and expertise of which they were previously not aware and could readily be used to the benefit of the project.

If helpful, the bureau may require information regarding the proposers personnel and request the percentage of time that their key personnel would be expected to devote to the work under the contract.

### **CONSULTANT'S CAPABILITIES**

The consultant's capabilities are the skills, abilities, expertise and experiences of the combined team members and the resources available to them in relation to the proposed project. The proposal must ask the appropriate questions and request clarifying information in order to understand what the proposer's capabilities and resources are. Proposals may request information regarding similar projects performed within the last three (3) to five (5) years which have the same characteristics as the one being proposed or ask which past project(s) best characterize the capabilities, work quality and cost control of the proposer. Due to the uniqueness of working with and for a governmental agency, the bureau may request information regarding other projects the proposer has undertaken for governmental agencies. The bureau may specifically request information about the firm's quality assurance/quality control program or procedures; means they use to control costs and budget; level of effort to perform the work or problem solving process.

This section may require information from the proposers regarding the resources available to them for the duration of the project, question whether they have any other on-going projects that will drain resources away from the one being proposed; seek to understand any internal controls the proposer may have that are associated or related to work quality assurance, cost control, management and organizational capabilities. With the work required for the proposed project it may be of interest to the bureau to understand which of the positions will be required and which the sub-consultants will provide.

### **PROJECT UNDERSTANDING AND PROJECT APPROACH**

As the proposal seeks to identify the proposer most qualified to address the stated issue or problem previously outlined, this section is an important aspect of the Request for Proposal response. The bureau does not want, nor does it require, a reiteration of the scope of work, but does need to know that the consultant has a clear, concise understanding of the project. Therefore, the proposers must provide their understanding of the project, clarify any major issues based upon existing information and describe such things as: the methodology their firm would use to accomplish the tasks; which team members will work on which task; a description of the products that will result from each task or activity; identify and/or clarify points of input and review with staff; and the time frame estimated to complete each task.

### **DIVERSITY IN EMPLOYMENT AND CONTRACTING REQUIREMENTS**

The City of Portland seeks to extend contracting opportunities to Minority Business Enterprises, Women Business Enterprises and Emerging Small Businesses (M/W/ESBs) in order to promote their economic growth and to provide additional competition for City contracts. Therefore, the City has established an overall 20% utilization goal in awarding PTE contracts to ESBs. No goal is set for the use of M/WBE firms, but the City is committed to ensuring that such firms receive opportunities and equal consideration to be awarded City PTE contracts.

### **LETTER OF INTEREST**

The number of proposal copies and letters of interest will be specifically stated. The proposal cover letter or letter of interest must be on the proposer's letterhead and clearly indicate their acceptance of all terms and conditions contained within the Request for Proposal and attached PTE Services Contract. Additionally, the letter of interest must state the name(s) of the person(s) authorized to represent them in any negotiations and the name(s) of the person(s) authorized to bind the successful firm in contractual matters and sign any contract or other

legal document that may result from a possible award. It is important that the letter of interest be signed by one of the designated parties or officers of the firm.

Suggestions for non-substantive modifications to the PTE Services Contract may be so noted by the proposer in the letter of interest and they may even be considered, but acceptance of these changes shall be at the sole discretion of the City. Acceptance of the terms and conditions of the Contract cannot be conditioned upon the firm's notation of such modifications.

### **PROPOSED COST**

Each RFP document will incorporate a variety of evaluation criteria, one of which will be cost. The project cost is usually not the most important of the criteria nor does it have the highest weighting. In order to provide the required information, the consultant must provide the estimated number of person-hours associated with each task identified within the project and it is equally important to have the number of hours each staff member will work on each task and their hourly cost. At the time of proposal submittal, the respondents must include their true estimated cost to perform the work regardless of the City's budgeted or anticipated cost.

It is not necessary that a firm, not-to-exceed price be presented in the proposer's response, particularly true if the project is complex, extends over a long period of time, or if some of the tasks are not yet clearly defined. The request for compensation requirements is included to enable evaluators to determine if a particular approach proposed by the offeror is too costly, and if firms with comparable experience are also price competitive. Since the contract must have a fixed limit, the final, not-to-exceed contract amount will be negotiated with the most advantageous proposer.

### **SUPPORTING INFORMATION**

The requirement of supporting information is an optional clause that will allow the bureau to request and obtain additional references, documentation or pertinent information that pertains in some specific way to the project and the proposal. Bureau personnel are cautioned to limit the use of this statement and potential response in order to not only be in compliance with the City's sustainability requirements but also minimize the time required for review by the Evaluation Committee. It is a difficult balance when minimizing the amount of time and effort expended by the proposers when responding to the proposal, attempting to obtain the necessary information with which to evaluate the proposers all the while trying to maximize the time necessary for evaluation by the committee members. If additional information is required, it should be clearly specified but limited by quantity.

### **PROPOSAL EVALUATION CRITERIA**

All Request for Proposals for professional, technical and expert services are evaluated and awarded based on multiple factors. The bureau must develop a standardized method for evaluation of all proposers. This method takes into account all criteria and the corresponding weighting factors. The evaluation criteria are determined during the preparation of the RFP document and will be clearly described within the RFP document along with the weighting of each of the criteria. This process allows the proposals to be evaluated on an equal basis, provides a "yardstick" that minimizes arbitrary decisions and helps provide an objective determination of the proposer most qualified to handle the project. Projects greater than the current informal limit shall have a well defined set of evaluation criteria, a precise definition in narrative form to describe the standard indications regarding how the standards will be applied and the performance criterion along with the corresponding weighting for each criteria.

The weighting each of the criteria receives will be an important factor in the final outcome of the award and the ultimate project outcome. The factors most likely to have the greatest impact on successful project completion must be given the most value; therefore, if the project needs a unique approach to solve a particular problem, then "project approach" should carry the most weight. If the approach is not as important as the fact that the professionals carrying out the tasks are very experienced in this endeavor, then "project team expertise" may be valued most. Wherever the most weighting occurs, this is where the proposers must assume the bureau has put the most importance and the proposers will in turn spend the most time in developing their responses.

The step-by-step evaluation and scoring procedures will be identified in the proposal request and will be followed in order to assure objectivity and thoroughness in comparative analysis of the proposals (reference the RFP format as found on the Bureau of Purchases website). The RFP document will describe the point value or weight given to each of the criteria. A scale will be developed to help the evaluation committee members assign point values to each of the criteria for each proposal submitted. In order to minimize omission of any responses or failure of the proposers to respond to one or more questions, it is important that questions posed to the consultants be located in one place on the RFP and proposers be required to respond in the same order. This allows the respondents to tailor their proposals according to the importance and weighting given to each evaluation criteria (NOTE: If the score values are not identified, they must all be assumed to be of equal value and the committee must rank them as such).

If a few of the highest ranking proposers are to be interviewed, the RFP document must so state the criteria with which the bureau will use to advance the proposers to the interview process and how the interview will be used in the overall scoring process, that is, will the interview scores be added to those of the proposal, or will this process be evaluated separately? Additionally, the RFP documents must indicate if specific staff members, proposed positions (i.e., project manager, etc.) or proposer's personnel will be required to participate in the interview.

While there are a wide variety of potential evaluation criteria available, the following is a listing of some of the most commonly used criteria and information on weighting the evaluation criteria. Items identified with a "X" are required for each RFP solicitation document, and all other items may be considered as optional criteria to be used in evaluating professional, technical and expert service proposals:

### **X Compensation Requirements**

Compensation requirements must be used as one of the criteria in the evaluation process. However, compensation cannot be the primary criterion and in fact is often determined to be less than any of the other criterion. Unlike projects for public improvements, which are awarded to the lowest responsive bidder, professional service contracting selection must include an examination of the relative estimated cost of the project against the other evaluation factors.

### **X Experience**

The experience of the firm on similar projects may be a valuable yardstick for their future performance. Is the experience recent or in the distant past? How similar in type, size and complexity were the projects to the one presently proposed? References should be requested and checked with care. However, talented and resourceful firms with little relevant experience may bring a fresh new approach to the proposed project. Be careful when requiring a specific amount of experience by designating numerous years of experience as the result may be the bureau reducing the number of responses, precluding qualified, experienced consultants with lesser years of experience but potentially more direct experience, or even providing a false indicator of higher hourly costs.

### **X Expertise**

Expertise differs from experience in that it refers to the qualifications of the individuals proposed for the project tasks. Have their education and training prepared them to adequately perform the required tasks? Is the proposer supplying adequate personnel to fully complete the project within the proposed contract period? It is a good practice to request the names, qualifications and background of any people who will be assigned to the project.

### **X Project Approach**

How well does the proposer understand the bureau's requirements, scope of work, technical requirements or expectations? Have they clearly stated their methodology for achieving the goals, objectives, expectations and timelines indicated in the request for proposal? Can the firm meet the bureau's time requirements? The project approach should be an important evaluation criterion with any project. A firm that does not address all the issues clearly in their proposal may not be the best candidate for award.

**X Diversity in Employment and Contracting**

To help promote diversity in the City’s PTE contracts, and in accordance with the City’s Fair Contracting and Employment Strategy for PTE contracts, all requests for proposals distributed by City bureaus and offices must contain evaluation criteria for Diversity in Employment and Contracting which shall be no less than 15% of the total evaluation criteria.

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**NOTE: The following criteria as often used and are provided herein as informational items only. Use of any of the following criteria is at the bureau’s discretion:**

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**• Capacity**

Does the firm have the necessary personnel, equipment, insurance, bonding, capital, etc. to successfully complete the tasks as proposed under the project? Does the firm currently have staff and resources available to adequately devote to this project or are they extended to the point they cannot devote the appropriate amount of time or resources to the project being proposed? If part of the work will be subcontracted, to whom? It is important to have this information prior to contract award.

**• Years in Business**

Unless this has a direct bearing on the overall project, the number of years in business as an evaluation criterion may not provide the results anticipated and the requested information may be very misleading. A new partnership of experienced personnel may be highly qualified to do the project although they may have just "hung their shingle." It may be more advantageous to request information regarding experience on projects of the same scope, magnitude or difficulty, than to require considerable years in business with the same firm.

**• Certification**

Is special licensing or certification required by law or for the success of the proposed project? Are the firm’s proposed key personnel performing the work required to be certified within the State of Oregon (i.e., will engineers be doing the engineering, etc.)? Will they be utilizing less experienced personnel in relation to the cost of certified personnel? This may be a pass/fail evaluation and weighting section and may also be incorporated as part of the expertise section as stated previously.

Should bureau personnel require assistance with establishing evaluation criteria on a specific project, developing a standardized method for evaluation and scoring, or help in weighting of the criterion, please contact the Bureau of Purchases.

**REVIEW OF DRAFT RFP BY THE PURCHASING AGENT**

For proposals more than formal limit as established by the City Auditor’s Office (currently \$20,835) and less than \$100,000, the bureaus will process the proposal and submit the document to the Bureau of Purchases for posting on the Bureau of Purchases website. The document will be reviewed for conformance to the required formats.

For proposals estimated to exceed \$100,000, the bureaus will forward the draft Request for Proposal information and documents to the City Attorney and Bureau of Purchases for review and comment. Once all changes have been made and approved by the City Attorney and Purchasing Agent, the document will be advertised on the Bureau of Purchases website.



## **SOLICITATION EFFORTS**

It is important to allow sufficient time for the proposers to prepare a complete response to the RFP; depending upon the complexity of the project and response requirements of the proposal, two to three weeks is usually adequate. However, requests for particularly complex proposals or proposals requiring detailed responses on the part of the proposers, may require a response time of a month or more.

For the formal request for proposal process, written responses are required. Proposals are advertised on the Bureau of Purchases website and for three (3) consecutive days in the City's official paper of record (currently the *Daily Journal of Commerce*) or as deemed appropriate by the Purchasing Agent. The Purchasing Agent may provide a waiver from the advertising requirements as deemed appropriate. Project announcements may also be placed in other publications, such as *The Skanner, Observer, El Hispanic News, Just Out, or Asian Reporter*, in order to provide outreach to minority firms wishing to submit proposals on City projects. These advertisements or those placed in industry trade journals are placed at the discretion of the individual project manager or bureau director depending upon project budget constraints. For all projects estimated over formal amount established by the City Auditor's Office (currently \$20,835), the project manager will be responsible for forwarding their advertisements to the official paper of record and the Bureau of Purchases.

In order to minimize the tracking of multiple plan holders lists, bureaus will utilize the Bureau of Purchases website. The Bureau is able to maintain an up-to-date mailing list and honor additional requests for proposal copies. Should bureau personnel wish to notify firms of the opportunity or known to have an interest in the project, they may do so via mail simply referencing the Bureau of Purchases website. Most importantly, by posting the advertisement on the Bureau of Purchases website, any required addendums will automatically be sent to all RFP holders.

### **ESTABLISH EVALUATION COMMITTEE**

Reference LET'S GET STARTED, Evaluation Committee section of this manual for more information about the selection and workings of the evaluation committee.

### **PRE-SUBMITTAL MEETING**

The pre-submittal meeting may be either mandatory or non-mandatory and this requirement must be identified within the RFP solicitation document. The pre-submittal meeting is held with all prospective proposers prior to receipt of the proposals and is intended to acquaint the proposers with the scope of work, project and project location, technical aspects, restrictions, and deliverables. If used wisely, the pre-submittal meeting can be a valuable and important part of the proposal process. A pre-submittal meeting provides an opportunity for the proposers to ask questions, clear up any ambiguities, and ensure that all proposers have the same basis of understanding regarding the proposed project. The Bureau of Purchases "Cue Sheet for Pre-Submittal Meeting Agenda" as found on the Bureau of Purchases website is to be used as an aid in planning and organizing such a meeting.

Statements made by City representatives about the solicitation, project or proposal, including statements made at the pre-submittal meeting are not to be considered binding on the City nor a responsibility of the proposers. The solicitation document shall not change unless the City confirms the statements, clarifications or changes to all prospective proposers by way of a written addendum [reference the Bureau of Purchases website].

Mandatory pre-submittal meetings require that all proposers attend if they plan to submit a proposal. Therefore, prior to a mandatory pre-submittal meeting, all proposers will sign in and from this time forward, only those who signed in and attended the pre-submittal meeting will be considered for the project and be eligible to have their proposals reviewed. Since only those who were present at the pre-submittal meeting will be submitting proposals, the project manager is able to answer the questions asked during the meeting and confirm those via addendum to all proposers. Additionally, it is highly recommended the questions and resulting responses from the pre-submittal meeting be recorded and

provided to all plan holders as an addendum. It is important to note which items are changes or modifications to the original RFP document.

Non-mandatory pre-submittal meetings will be considered an 'optional' meeting for the proposers. The proposer's failure to attend this meeting will NOT cause their proposal to be rejected. While proposers may ask questions and request clarification, the answers will be withheld and provided in writing by way of an addendum to all proposers of record.

Whether mandatory or non-mandatory, the pre-submittal meeting for projects less than \$100,000 will normally be facilitated by the project manager; for those proposals exceeding \$100,000 the pre-submitting will be facilitated either by the project manager and/or personnel from the Bureau of Purchases. Self-introductions will include the bureau staff, personnel from the Bureau of Purchases and all proposers in attendance. The facilitator will identify the type of pre-submittal meeting (i.e., mandatory/non-mandatory) and will either discuss or have the appropriate staff address the following information:

- sign-in requirements,
- a further explanation of the competitive process,
- identify the submittal due date,
- procedures for clarifications and questions,
- outline the protest procedures,
- provide instructions regarding EEO certification and Diversity in Employment and Contracting, outline when addendums will most likely be sent out,
- discuss any proprietary requirements for submittal of the documents, and
- explain the requirements for submitting the proposal response.

The project manager will be prepared to outline the project background, issues relating to the project, challenges or requirement inherent to the project, and scope of work. Additionally, the project manager or other project member will provide such information regarding:

- certifications or permitting required,
- project exceptions, constraints, challenges, restrictions, etc. without telling them how the work is to be performed,
- evaluation criteria and weighting
- visit the project site, and
- estimated due date and time of when selection of consultant will be made public (following written notification of award or contract award letter).

Clarifications or questions resulting from the pre-submittal meeting will be forwarded to the proposers in the form of an addendum (NOTE: the addendum form found on the Bureau of Purchases website is the only acceptable form). Any questions or clarifications that cannot be addressed at the pre-submittal meeting or by the time of the first addendum is scheduled to be sent, will be identified and so noted on the addendum: "research underway, response forthcoming". By so noting the unanswered questions in such a way, the proposers will understand that it was neither ignored nor forgotten and it continues to be an open item. As the answer becomes available or clarification has been determined, the information will be provided to all proposers of record by way of a subsequent addendum.

Changes to the proposal documents shall be made only by written addenda. Addenda shall be labeled as such and distributed to all prospective proposers known to have obtained the solicitation documents or to have attended any mandatory pre-submittal conference. The City shall make a reasonable effort to notify proposers of the addenda. However, it is the responsibility of the proposers to ascertain the issuance of and be responsive to all addenda. Addenda shall be issued no later than seventy-two (72) hours before the proposal closing date and time. The Purchasing Agent may extend the proposal closing date and time in order to allow prospective proposers time to analyze and adjust to the changes identified in the addenda. The City shall notify prospective proposers of the new closing date and time either by way of the addenda or in a writing accompanying the addenda. Notification by the City shall be complete upon writing and mailing of the addenda by the City.

**PROPOSAL CLARIFICATION**

Regardless how clear and self-explanatory the bureaus intend the proposals to be and in spite of the efforts expended during the pre-submittal meeting, there may still be questions or requests for clarifications that arise that require review by either the project manager or the Bureau of Purchases. It is important that the person to whom questions or clarifications are referred is responsive and knowledgeable about the project. This person will be responsible for maintaining a communication log that will include the date, firm, person calling or writing, their question and response. The proposal must identify where and to whom the questions are to be directed, providing both the name of the person, address, phone or fax number and e-mail address, and in what format the questions are to be forwarded (i.e., telephone, e-mail, fax or in writing). The RFP must also contain a statement defining the time period during which questions will be accepted (usually no less than five (5) working days prior to proposal deadline).

Questions from potential proposers will be carefully evaluated to determine if the question(s) asked and any responses or information provided has direct bearing on or will effect the responses of other proposals. If so, an addendum will be prepared and forwarded to all proposers of record to assure that they received the same information [reference the addendum form found on the Bureau of Purchases website is the only acceptable form].

As with any proposal, an addendum will be issued to all record holders of the RFP if a substantive clarification is deemed appropriate. Addendums will be identified by proposal number and kept in order by consecutive addendum number. Any questions or clarifications that cannot be addressed at the time of the addendum will be so noted on the addendum as being under review. When the answer is available, the information will be provided to all proposers of record by way of a second addendum. Addendums must be sent in time to reach potential proposers prior to the proposal deadline. If the information has bearing on the quality and content of the proposers responses, the proposal due date will be so adjusted to allow the proposers time to assimilate the information provided in the addendum.

The contract person must be responsive to all potential proposers by returning phone calls and e-mails, documenting the questions and determining whether an addendum is appropriate. It is important that the person to whom questions or clarifications are referred is responsive and knowledgeable about the project. For proposals exceeding \$100,000 the project manager or personnel from the Bureau of Purchases may serve as the contact person and will receive and be responsible for coordination, writing and sending any responses in the form of addendums. The contact person must clearly understand that: under no circumstances will information be provided to one proposer that could be construed as giving him preferred status; nor will information purposefully be withheld from to one or more proposers, thereby giving an advantage to one or more proposers; nor will the project manager or other bureau personnel provide unauthorized documents to one or more proposers without officially documenting it or providing it to all proposers via an addendum. It is imperative that all potential proposers receive the same information and that it is released at the same time.

Proposers may request a clarification to a specification, documentation requirement, evaluation criteria, type of backup information requested, or process identified for award. Clarifications may be requested throughout the pre-award process, but in order to provide responses, they must be received by the designated City staff five (5) days prior to the proposal due date.

**CLARIFICATION OR PROTESTS**

On occasion, proposers may not agree with information provided in the RFP document or an addendum and may protest the process. The Purchasing Agent shall have the authority to settle or resolve a written protest of a solicitation document. No protest shall be considered after the deadline established for submitting questions or information and shall be considered only for the formal acquisition methods only. The bureau shall forward a copy of any protest to the Purchasing Agent and will cease all solicitation or award activities until the protest has been resolved. All protests will be handled in accordance with the procedures identified in **AWARD CLARIFICATIONS AND PROTESTS** section of this chapter following. The Purchasing Agent shall be the sole respondent for the City and shall notify the applicable proposer if the City entirely rejects the

protest, agrees with the protest in whole or in part and shall issue an addendum reflecting the change or cancel the solicitation.

It is important that City staff carefully adheres to all procedures and provides full and complete documentation in the RFP file in order for the Purchasing Agent to review and uphold the process. Lacking this, the Purchasing Agent will have no recourse than to declare the process void and require the proposal be redeveloped.

## **RECEIPT OF PROPOSALS**

It is vital that proposals be received at the appointed time and location noted on the proposal documents and that all proposals are time stamped and recorded. There will be a designated secure storage area in which to place proposals as they arrive. Proposals received prior to the designated date and time must NOT be opened and the contents must remain secure until the appropriate date and time.

Upon receipt of the proposals, each firm's proposal shall be kept secure and remain confidential until the most advantageous consultant has been selected. Following receipt and opening of the proposals, a listing of proposal respondents will be made available to anyone requesting the information. The practice of "shopping" quotes on projects, or providing one firm's proposal information to a second firm and asking the second to better the proposal of the first, is unethical and illegal.

If a late proposal is delivered by common carrier it should be accepted and the bureau will record the name of the company, the time the proposal was received and the name of the company representative or commercial carrier attempting to deliver the proposal.

## **EVALUATING RESPONSES**

### **REVIEW FOR RESPONSIVENESS**

Prior to providing qualification response copies to the committee members for scoring, the responses must first be examined to determine whether they meet the minimum requirements stated in the RFQ. The evaluation of these minimum requirements will be undertaken at the location where the proposals are received and may include: were the proposals received by the filing deadline? Was there a mandatory pre-submittal meeting? Did someone from the firm attend the pre-submittal meeting? Was a letter of interest required, included with the response and signed? Offerors who fail to meet minimum requirements will be considered non-responsive and will be disqualified from further consideration. It is important, however, to determine if a submission failure is "material" or "immaterial" to the evaluation (e.g., if a pre-submittal meeting was held, important information provided and the firm did not attend, their response could in some way be compromised and should be disqualified). By conducting this preliminary evaluation, it could be suggested that it is a measure of the potential contractor's responsiveness to instructions. Their inability to not only follow primary directions could also be declaration regarding their attention to detail, responsiveness to the City's directions and intent, as well as their willingness to provide a certain level of customer service.

Any responses set aside due to their lack of responsiveness or non-conformity to the mandatory requirements will be removed from further consideration by the evaluation committee and the file so documented.

### **NOTIFICATION OF THOSE REMOVED FROM CONSIDERATION**

The bureau will provide a written notice by mail to all proposers removed as part of the initial review for responsiveness. The proposers removed from consideration as part of the review of responsiveness will be thereby notified of their exclusion and shall have seven (7) days from the date of notice to file a protest. If no protest is received, the process will continue. Should a protest be received, the bureau will follow the **AWARD CLARIFICATIONS AND PROTESTS** procedures as herein provided.

### **EVALUATE PROPOSALS**

Reference the *LET'S GET STARTED*, Evaluation Committee: Evaluating the Responses sub-section, of this manual for more information regarding the evaluation of formal proposals.

### **CLARIFICATION OF PROPOSAL RESPONSE**

During the evaluation process, clarification of certain points in a proposal may be necessary. The project manager or a designated member of the evaluation committee should be the only person to contact the proposer for clarification. In order to minimize confusion and assure all clarification statements are posed in the same manner, no other people either from the evaluation committee or bureau will contact the proposer or request information from the proposer. All contact with the proposer(s) must be from the one designated individual. Questions posed as well as responses received from this communication will be documented and filed with the proposal documents. While clarification is being requested, no other changes or substitutions will be allowed to the proposals. It is advisable to retain all documents and information provided for clarification. All records become public information after contract award and are subject to public review. All members of the Evaluation Committee will be advised regarding the proposer's responses to the questions and clarifications.

### **REFERENCE CHECKS**

Once a shortlist or single proposer has been identified, the bureau must be checking references. While most RFP documents require the proposers provide references and such supporting documentation as previous work history, projects that are similar to the one proposed, and the name and phone number of a contact person, these references will be checked as outlined in the solicitation document. It is important that the evaluation committee develop a standard listing of questions that will be posed to each reference identified by the proposer(s). Some sample questions may include:

- Describe the projects they've worked on for you.
- Would you hire them again?
- Was there a frequency and rationale for change orders?
- Were their preliminary estimates accurate throughout the project?
- Did they provide any special services?
- Did they provide all the closeout documents?
- Did they include the 11<sup>th</sup> month walk-through?

The project manager or designee shall contact each reference, asking the same questions of each and noting the responses, documenting them for use by the evaluation committee. It should be noted that City staff is not restricted to using only those references provided by the proposers, but may also check other references as they become available. Comments and information provided by the reference checks will be documented, shared with the evaluation committee members and become a part of the permanent proposal file.

### **CONDUCTING INTERVIEWS**

Based upon the evaluation scores, the respondents receiving the highest score(s) may be selected for further review. If interviews are to be utilized, the solicitation document must so indicate that fact and also outline how the evaluation committee will utilize these interviews in the evaluation process.

Each firm will be allowed an equal amount of time for their interviews or presentations. In order to facilitate this process, an agenda will be developed as well as a listing of the questions to be addressed by the bureau. It is helpful for committee members to have a list of questions prepared beforehand, or at least an outline of areas to be covered in the interviewing process. The project manager can prepare all the questions in advance by dividing them into two categories: evaluation committee questions about specific portions or responses from a proposer's response, and general questions to be asked of all

offerors. This will not only maximize the time available for this process, but presents the project in an organized fashion, makes sure all offerors are asked the same questions and no questions are forgotten. These interviews are not “dog and pony” shows but a structured and controlled presentation. It is often helpful to divide the presentation into two phases: oral and questions and answers; it is wise to have the oral presentation first.

A pre-interview meeting with the evaluation committee will be held in order to familiarize the committee with the final few proposals, develop formal questions for the interview, discuss the results of the reference checks, review the scoring procedures, identify the allocation of interview time and go over the interview agenda. Some suggestions in arranging the interview or presentation process include:

- arrange for a room that is large enough to accommodate the evaluation committee and consultant’s team and their presentation materials;
- try to give one to two weeks advance notice with time, place and specific length of the presentation and total interview time allotted;
- allow a minimum of one hour for an interview or presentation and at least ½ hour for set-up and take-down of their equipment and materials;
- provide a listing of formal questions;
- allow at least 20 minutes for questions and answers;

During the interviews, each proposer is generally allowed a specified period of time to deliver an oral presentation of their proposal and introduce any key personnel prior to any questions or comments from the evaluation committee. All evaluation committee members will participate in and evaluate all interviews and apply the evaluation criteria/weighting as previously identified. The project manager or personnel from the Bureau of Purchases may facilitate the interviews. Some suggestions regarding the interview:

- Be on time
- Make sure all introductions are made for both the consultants team and the evaluation committee
- Be fair and impartial to all consultants
- Follow the predetermined agenda and schedule
- Rate and score each consultant team immediately following the interview

It is the facilitator’s responsibility to ensure the offeror follows the agenda and completes the presentation in the allotted time. The scoring method identified within the proposal will be utilized by the evaluation committee as they proceed to score the presentation or interview. Interviews are generally scored similarly to the written proposals, with the interview scores either starting anew or being added to the scores of the original proposal. After deliberation on the part of the evaluation committee, a single proposer is selected as the most qualified candidate to perform the work.

#### **NOTIFICATION OF AWARD**

In order to provide a response, the proposers have made a substantial investment in both time and resources; therefore both the successful and non-selected offerors will be notified regarding the outcome of the award. The bureau will prepare and distribute a Notice of Intent to Award to all proposers on the project. The City will provide a written notice of intent to award that will be mailed by regular mail to ALL proposers. The proposers removed from consideration as part of this process will be thereby notified of their exclusion and shall have seven (7) days from the date of notice to file a protest.

If there is no protest, the award will be prepared for approvals. Should a protest be received, the bureau will follow *the AWARD CLARIFICATIONS AND PROTESTS* procedures as herein provided.

#### **AWARD CLARIFICATIONS AND PROTESTS**

## **CLARIFICATIONS**

Following the Notice of Intent to Award, the public may view proposal documents. However, any proprietary information so designated by the proposer as a trade secret and meeting the requirements of ORS 192.410 does not become public record. Proposers not awarded the contract may seek additional clarification or debriefing, request time to review the selection procedures or discuss the scoring methods utilized by the evaluation committee. They should courteously be given the opportunity to come in and review the proposal documents as submitted and the final score sheet showing points awarded on the various evaluation criteria in response to the solicitation and the interviews. Allowing the unsuccessful firms to view successful proposals helps them to better understand the process, gather information about how other proposals are presented, recognize the positive contribution of each proposal and identify what they can do to improve on their future submittals.

In some circumstances, proposers will ask to debrief the project with either the project manager or Procurement representative. It is wise to have staff review the file prior to the proposer's arrival, recap the information required by the original proposal in relation to what was provided by the proposer, identify areas where information responsiveness could be improved, and identify what information or documentation might have been missing or incomplete. City staff should be careful not to compare the information provided by various respondents, but instead, focus on the information and presentation by the proposer seeking clarification. This direction will concentrate the attention and efforts on the respondent's proposal.

## **PROTESTS**

Protests may be submitted to the Purchasing Agent only for contracts in excess of the formal limit established by the City Auditor (currently \$20,835), and only from those proposers who would receive the contract if their protest was successful.

The protest must be received by the Purchasing Agent within seven (7) calendar days following the date the City's Notice of Intent to Award was issued. The protest must specifically state the reason for the protest and show how its proposal or the winning proposal was miss-scored or show how the selection process deviated from that described in the solicitation document. The firm protesting the award must include all legal and factual information regarding its protest, and a statement of the form of relief requested. Protests received later than specified or from other than respondent who would receive the contract if the protest was successful will not be considered. The exercise of judgment used by the evaluators in scoring the proposals is not grounds for appeal, unless the protester can show a clear inconsistency in the way proposals were evaluated.

Depending upon the estimated project amount, protests will be processed as follows:

For those projects estimated to be between the formal limit (currently \$20,835) and \$100,000, the protest process will include review and response by the Purchasing Agent. If a timely protest is received from a person qualified to submit a protest, the contract award process will be put on hold until the protest has been resolved. If it is determined that proper procedures have not been followed, the Purchasing Agent may: waive any procedural irregularities that had no material affect on the selection of the proposed consultant, determine the proposed award invalid, amend the award decision, request that the evaluation committee re-evaluate any solicitation or require the bureau to cancel the solicitation and begin again to solicit new proposals. In the event that the matter is returned to the evaluation committee, the Purchasing Agent shall issue a notice canceling the Notice of Intent to Award and the award process shall begin again.

For those projects over \$100,000, timely protests must be received from a respondent who would receive the contract if the protest was successful. The contract award process will be put on hold until the protest has been resolved. If it is determined that proper procedures have not been followed, the Purchasing Agent may waive any procedural irregularities that had no material affect on the selection of the proposed contract, invalidate the proposed award, amend the award decision, request the evaluation committee re-evaluate any proposal or require the bureau to cancel the solicitation and begin again to solicit new proposals. In the event that the matter is returned to the evaluation committee, the Purchasing Agent shall issue a Notice canceling the Notice of Intent to Award and the award process shall begin again.

Only for those projects estimated to exceed \$100,000 and received from the respondent who would receive the contract if the protest was successful and is not satisfied with the decision of the Purchasing Agent may file a written request for hearing by the Purchasing Board of Appeals only if the respondent has fully complied with the requirements of protest submittal as identified above. Any request for hearing by the Board shall be received by the Purchasing Agent no later than seven (7) calendar days from the date of the Purchasing Agent's decision. The request shall be delivered to the Purchasing Agent and shall be marked "Request for Hearing by the Purchasing Board of Appeals."

The Purchasing Board of Appeals, under the authority given it by the City Council, shall hear and resolve protests and appeals arising from City decisions about solicitation or contract provisions pursuant to PCC 5.68. The Board shall include three (3) members consisting of a representative from the public purchasing sector, the City Engineer or designee, and a member of the general public with affiliation to the purchasing industry. The request for hearing must describe the specific reason for the appeal request and is limited only to those matters that were raised in the original protest letter. The Board will hear the protest and issue a written decision. If the protesting firm is satisfied with the Board's decision, the award process will continue.

If the proposer is not satisfied with the Board's decision, it may ask that its protest be considered by City Council. A request by the aggrieved proposer must be made within three (3) calendar days from the date of the Board's written decision is issued and the award will not proceed until a determination has been made. At this time, the City Council may decide to hear the appeal or adopt the decision of the Purchasing Board of Appeals. Should the Council decide to hear the appeal, the proposer may be heard at a regularly scheduled Council meeting as scheduled by the Council Clerk. Any decision made by the City Council regarding the matter is final.

Regardless whether the Bureau of Purchases was involved in the initial selection process or not, the Bureau of Purchases will be the central agency for receipt of protest notifications for all PTE contracts over the formal limit and will take the lead on investigating, preparing and responding to all such requests or may delegate these tasks to the bureau that is seeking contract services.

## **CONTRACT AWARD/DRAFTING ORDINANCE**

### ***DRAFTING THE CONTRACT***

The bureau will prepare the contract documents by utilizing the Contract for PTE Services (the contract form as provided on the Bureau of Purchases website is the only authorized form). By following the instructions for completing the Contract for PTE Services, the bureau will select the optional provisions as identified on page 4 of the contract, add the contractor's scope of work, payment schedule, include the necessary insurance, and provide certification that the proposer is an independent contractor. The final contract must be reviewed as to form by the City Attorney's office and include all the necessary signatures on the contract document:

For contracts over the formal amount as established by the City Auditor's Office (currently \$20,835) and under \$100,000 forward to Purchasing Agent for signature; include PTE worksheet

For contracts over \$100,000 forward with PTE Worksheet to City Auditor's Office, following Council approval. Mayor, Commissioner or City Auditor will sign the contracts or may do authorize the Purchasing Agent to sign

Three copies of the contract will be forwarded to the City Auditor's Office along with the required insurance certificates (approved as to form) and the PTE Worksheet. Once a contract is awarded, the City Auditor will issue a contract number for tracking purposes. The Bureau of Purchases and the City Attorney's Office are both available to help the bureau with drafting the contractor documents or the City Council ordinance as needed. A copy of the final contract and PTE worksheets will be forwarded to the City Auditor's Office for filing.



***DRAFTING THE ORDINANCE***

An ordinance is required for professional, technical and expert projects that exceed \$100,000. Since an ordinance carries the binding force of law, and is passed by the Council in accordance with rules or procedures as set forth by the City Charter, the information contained within the ordinance must be correct, comprehensive and must pertain to only one general subject. Since the processes, procedures and deadlines change from bureau to bureau, suffice it to say, all transmitted documents filed with the Council Clerk must be signed and initialed by the approving authorities and accompanied by all supporting materials. All Council documents must be submitted in both paper and electronic form and the standard drafting procedures are available from the City Auditor's Office. For ordinances filed for the competitive, formal request for proposal process it should be so indicated within the text and that the people authorized in the ordinance to sign the contract are the same people whose names appear on the signature block of the contract.

A copy of the final contract and PTE worksheets will be forwarded to the City Auditor's Office for filing and the contractor can then be notified to commence work. The Bureau of Purchases and the City Attorney's Office are both available to help the bureau with the drafting of the contract documents or the City Council ordinance as needed.

**POST- AWARD ACTIVITIES**

Information and suggestions relating to post-contract award activities may be found in the LET'S GET STARTED section of this manual.

## **CHECKLIST: FORMAL REQUEST FOR PROPOSAL \***

[Over formal amount set annually by City Auditor – current amount can be found at [www.portlandonline.com/omf/index.cfm?&a=10545&c=27572](http://www.portlandonline.com/omf/index.cfm?&a=10545&c=27572) ]

1. DETERMINE NEED, OBTAIN BUREAU APPROVAL(S) \_\_\_\_\_
2. ESTIMATE COSTS \_\_\_\_\_
3. WRITE REQUEST FOR PROPOSAL \_\_\_\_\_  
Use of Standard RFP required [current form may be downloaded from [www.portlandonline.com/omf/index.cfm?&a=10545&c=27572](http://www.portlandonline.com/omf/index.cfm?&a=10545&c=27572) ]

*RFP will include the following elements:*

- Announcement \_\_\_\_\_
- Introduction and background (purpose) \_\_\_\_\_
- Scope of work \_\_\_\_\_
- Technical requirements \_\_\_\_\_
- Professional services required (minimum qualifications) \_\_\_\_\_ \*\*
- Any work City will perform \_\_\_\_\_
- Project schedule expectations, deliverables, etc. \_\_\_\_\_
- Period and place of performance \_\_\_\_\_
- Submittal (proposal submission/information requirements) \_\_\_\_\_
- Proposal review and selection process (including evaluation criteria with relative weight shown) \_\_\_\_\_
- Identify how proposals and interviews will be scored \_\_\_\_\_
- Diversity in employment and contracting \_\_\_\_\_
- General terms/conditions, insurance requirements \_\_\_\_\_
- Overview of constraints, if any \_\_\_\_\_
- Establish standardized method for evaluations by members \_\_\_\_\_

*Other necessary information/documents to be included:*

- Proposal due date/time \_\_\_\_\_
- General terms/conditions \_\_\_\_\_
- Insurance requirements \_\_\_\_\_
- Contract for PTE Services (example – marked as appropriate) \_\_\_\_\_
- Establish standardized method for evaluations by committee members \_\_\_\_\_

\*\* If a Request for Qualifications (RFQ) was solicited prior to the actual RFP, qualification issues will have been determined during that process. Firms selected to receive the RFP should then be evaluated on:

- Project approach/understanding \_\_\_\_\_
- Experience and qualifications \_\_\_\_\_
- Compensation requirements \_\_\_\_\_
- Diversity in employment and contracting \_\_\_\_\_
- Supporting information \_\_\_\_\_
- Other criteria of importance to the project \_\_\_\_\_

4. FORWARD DRAFT PROPOSAL FOR REVIEW AND APPROVAL \_\_\_\_\_  
BY THE PURCHASING AGENT [only for RFP's estimated to be over \$100,000]

\* deviations and variations must be approved by the Purchasing Agent and City Attorney's Office.

- |     |   |  |  |
|-----|---|--|--|
| 5.  | SOLICIT AND OBTAIN PROPOSALS  | —  | —  |
|     | <ul style="list-style-type: none"> <li>• Advertise in <i>Daily Journal of Commerce</i> for three consecutive days and on the Bureau of Purchases website</li> <li>• Advertise in other local papers as budget permits (e.g., <i>Skanner Observer</i>, <i>El Hispanic News</i>, <i>Just Out</i>, <i>Asian Reporter</i>, etc.)</li> <li>• Mail to several firms already known to have interest in this type of work.</li> <li>• Maintain mailing list - add further requests for proposals from additions to mailing list</li> <li>• Mail to several firms already known to have interest in this type of work</li> <li>• Seek out minority-owned and woman-owned firms</li> <li>• Respond to substantive questions regarding RFP via written addendum to all RFP holders</li> <li>• Establish Evaluation Committee with a minimum of three (3) members - must include one (1) member from outside of City, unless the Commissioner waives the requirement</li> </ul> | —<br>—<br>—<br>—<br>—<br>—<br>—<br>—<br>—<br>— | —<br>—<br>—<br>—<br>—<br>—<br>—<br>—<br>—<br>— |
| 6.  | PRE-SUBMITTAL MEETING [if required]   | —  | —  |
|     | <ul style="list-style-type: none"> <li>• The pre-submittal agenda to be developed by project manager to follow Pre-Submittal Agenda as found on the bureau of Purchases website</li> <li>• Copy of agenda to be filed with contract documents</li> </ul>  | —<br>—   | —<br>—   |
| 7.  | EVALUATE PROPOSALS RECEIVED   | —  | —  |
|     | <ul style="list-style-type: none"> <li>• Based solely upon proposal criteria in RFP</li> <li>• Determine if interviews are required</li> <li>• Schedule interviews, score and evaluation</li> </ul>   | —<br>—<br>—                                    | —<br>—<br>—                                    |
| 8.  | SELECT PROPOSALS MOST ADVANTAGEOUS TO CITY;<br>NOTIFY ALL PROPOSERS ELIMINATED FROM CONSIDERATION   | —  | —  |
| 9.  | REFERENCE CHECKS (if required or specified in RFP)  | —  | —  |
|     | <ul style="list-style-type: none"> <li>• Develop listing of questions to ask all references</li> <li>• Project Manager or one designated person calls all references</li> <li>• Share information with Evaluation Committee members</li> </ul>  | —<br>—<br>—                                    | —<br>—<br>—                                    |
| 10. | CONFIRM EEO CERTIFICATION, INSURANCE CERTIFICATION REQUIREMENTS AND VENDOR NUMBER WITH CONTRACTOR   | —  | —  |
|     | <ul style="list-style-type: none"> <li>• Look up at <a href="http://www.portlandonline.com/omf/index.cfm?&amp;a=8516&amp;&amp;c=27353">www.portlandonline.com/omf/index.cfm?&amp;a=8516&amp;&amp;c=27353</a> ] or check with the Bureau of Purchases</li> <li>• Work with consultant to meet requirements</li> <li>• Submit Vendor Master Update form to A/P if vendor number is needed</li> </ul>  | —<br>—<br>—                                    | —<br>—<br>—                                    |
| 11. | NEGOTIATE TOTAL NOT-TO-EXCEED COST WITH CONTRACTOR;<br>NOTIFY ALL THOSE ELIMINATED FROM CONSIDERATION   | —  | —  |
| 12. | OBTAIN BUREAU DIRECTOR'S/COMMISSIONER'S APPROVAL AS NECESSARY AND PREPARE CONTRACT DOCUMENTS:<br>Contract for PTE Services; shall be down-loaded from <a href="http://www.portlandonline.com/omf/index.cfm?&amp;a=10545&amp;c=27572">www.portlandonline.com/omf/index.cfm?&amp;a=10545&amp;c=27572</a> ]  | —  | —  |
|     | <ul style="list-style-type: none"> <li>• Select optional provisions as identified on Page 4 of the</li> <li>• Contract for PTE Services</li> <li>• Fill out Contractor's Scope of Work and Payment Schedule (see also, Instructions for Completing Contract for PTE Services)</li> </ul>  | —<br>—<br>—                                    | —<br>—<br>—                                    |

~ATTACHMENTS REQUIRED~

PTE Worksheet \_\_\_\_\_

- Identify other consultants considered or document why it is considered a sole source
- Include M/W/ESB information
- For contracts less than \$100,000 the bureaus will obtain signature of bureau director or Commissioner and forward to the Purchasing Agent
- For contracts over \$100,000 the bureaus will obtain signature of bureau director or Commissioner and forward to the Auditor's Office with an extra copy to the Bureau of Purchases (NOTE: worksheet form found on the Bureau of Purchases website is the only acceptable version)

Evaluator's Statement of Independence and Conflict of Interest \_\_\_\_\_

- Certificates to be completed and signed by each member of the Evaluation Committee

Workers Compensation Insurance Certificate \_\_\_\_\_

- Shows current dates of coverage, compliance with Oregon law, and consultant signs Exhibit B, Section A (top) of the Contract for PTE Services

~ OR (if no commercial insurance coverage) ~

- Consultant certifies that he/she meets independent contractor standards by marking at least four (4) criteria in Exhibit B of the Contract for PTE Services, \_\_\_\_\_

~ AND ~

- City project manager reads and signs as applicable Exhibit B, Section B of the Contract for PTE Services, \_\_\_\_\_

INSURANCE REQUIREMENTS (unless waived by the City Attorney\*):

General Liability Insurance Certificate \_\_\_\_\_

- Must include valid effective and expiration dates
- Limits of coverage in accordance with the contract
- Additional insured endorsement naming City
- 30-day cancellation notice
- City listed as certificate holder

Auto Liability Insurance \_\_\_\_\_

- Most important when operating a motorized vehicle is specifically required within the scope of work

\* On a case-by-case basis and upon discussion with the project manager, the City Attorney's Office may waive particular insurance requirements based upon special circumstances, limited risk exposure, and other factors. Conversely, situations and projects may present themselves that increased requirements be appropriate.

- Professional Liability insurance —
  - Coverage amount in accordance with contract
  - 30 or 60-day cancellation notice
  - City listed as certificate holder/additional insured
  
- 13. PREPARE 3 CONTRACT COPIES; FORWARD TO CONSULTANT FOR SIGNATURE ON FINAL CONTRACT —
  
- 14. OBTAIN CITY ATTORNEY'S APPROVAL ON FINAL CONTRACT —
  
- 15. WRITE/FILE ORDINANCE FOR COUNCIL APPROVAL —
  - Purchasing Agent will sign contracts under \$100,000 —
  - After Council approval, Mayor, Commissioner or City Auditor will sign contracts over \$100,000 or may authorize the Purchasing Agent to sign —
  - Bureau of Purchasing and City Auditor must receive a copy of the PTE Worksheet, contract, and insurance documents —
  
- 16. NOTIFY CONTRACTOR TO BEGIN WORK AFTER CONTRACT PROCESSING IS COMPLETE —

## **FREQUENTLY ASKED QUESTIONS**

- 1. We are drafting an RFP for consulting services. Do I need to have as part of the evaluation criteria the consultants cost for doing the project? Do I have to specify the amount of budgeted funds in the RFP?**

*Yes. The City Code 5.68.100-120 requires that compensation requirements of a consultant shall be one of the elements evaluated in the RFP selection process (the only exception is for architects, engineers and land surveyors by utilizing the QBS process). In addition, all contracts must contain a maximum, not-to-exceed total compensation amount within the contract.*

- 2. What is the City's policy regarding protests on the outcome of RFP evaluations?**

*Following the award announcement, proposers who are not selected for a PTE contract have the right to review the selection process, and to submit a request for clarification or protest if they question the City's award. Protests from the second highest ranked proposer will be considered and reviewed, and a response issued within a reasonable time period. The Purchasing Agent will be the sole respondent to all protests received by the City.*

- 3. We wish to contract for professional services with a State University Engineering Department. Do we need to send out an RFP and execute a PTE contract?**

*No. Contracts between public agencies are to be executed as Inter-Governmental Agreements (IGA), and as such, are not subject to competitive bidding requirements. However, all IGA's must be approved as to form by the City Attorney and authorized by ordinance regardless of the contract amount.*

- 4. Our bureau must provide certain employees with medical exam services on a regular basis. Is an RFP required?**

*No. Ordinance 167191, passed 12/16/93, exempts medical exam services from the RFP process.*

- 5. Our project requires legal services in another City. What is the process?**

*City Code §5.68 requires the City Attorney's approval of all outside legal services, and can assist with the contracting process. Contact your bureau's attorney or the Legal Contracts/Documents Analyst in the City Attorney's Office.*

- 6. Can I use a Limited Purchase Order (LPO) to pay for PTE services?**

*No. LPO's cannot be used to pay PTE invoices. A clear and concise statement of expectations and scope of work is required for such a contract and since an LPO is normally processed after receipt of goods or services, it is not appropriate.*

- 7. Will projects over \$100,000 be sent to a contracts attorney for review? If so, in what order will these documents be transmitted?**

*All project solicitations exceeding \$100,000 will be reviewed by both the City attorney's Office and the Bureau of Purchases prior to advertising the project.*

The solicitation documents for projects exceeding \$100,000 will first be submitted to the bureau of Purchases for review; the Bureau of Purchases will then forward the documents to the City Attorney's Office and then back to the Bureau of Purchases to be returned to the bureau. Project Managers will be informed of any necessary changes that need to be made. Once the requested changes have been made, the solicitation documents will be forwarded for their inclusion on the Bureau of Purchases website.

**8. Who signs contracts and in what order?**

For contracts under \$100,000 for the total amount of the contract, the package is forwarded to the Purchasing Agent for signature and then forwarded to the Auditor's Office; if the total contract amount is over \$100,000 an ordinance will be filed seeking approval of the contract. Approval Council approval, the Auditor's Office then assigns a contract number and distributes copies, keeping one original on file.

If substantive changes or revisions to the Contract for PTE Services are proposed, bureaus will work with the City Attorney on such revisions prior to finalizing the contract. The order for contract signing is as follows:

1. Consultant
2. City Attorney
3. For contracts under \$100,000 – Purchasing Agent
4. For contracts over \$100,000 – City Council
5. City Auditor

**9. When is an ordinance necessary?**

An ordinance is required for all PTE contracts over the \$100,000 amount and on all Inter-Governmental Agreements (IGA), regardless of the amount. The ordinance should be filed with the Council office after the consultant has signed the contract and it has been approved as to form by the City Attorney.

**10. Who files the ordinance for contracts? For amendments?**

The individual bureaus are responsible for filing all ordinances, whether for contracts or amendments.

**11. What types of insurance are necessary?**

General, auto, and professional liability are required unless waived by the City Attorney.

**Workers Compensation** is always required. If a consultant does not have commercial coverage (or is not self-insured), then they must be legally exempt from the requirement, which is determined through their certification in Exhibit B (Independent Contractor Certification Statement) of the Contract for PTE Services. Workers Compensation coverage must comply with Oregon Revised Statutes 656.017.

**General Liability** provides coverage for lawsuits/claims asserted by third parties in regards to the consultant's work/matters arising from that work. The limits of coverage required are spelled out in the contract specifications. The insurance must name the City as an additional insured, and that endorsement must be on a proper form. The certificate must provide 30 days notice of cancellation to the City.

**Auto Liability** is appropriate if the consultant must operate a motorized vehicle or use motor vehicles as part of the contract work. There are many different types of coverage. Check with City Attorney or Bureau of Purchases for more information.

**Professional Liability** covers misconduct, negligence, errors or omissions in professional services, and lack of ordinary skill. Generally, if a state certification or license is required (i.e., engineers, architects, teachers, etc.) this insurance is appropriate.

The City Attorney may waive general, auto, or professional liability if those types of insurance are not required. On a case-by-case basis and upon discussion with the project manager, the City Attorney may waive particular insurance requirements based upon special circumstances, limited risk exposure, and other factors. Conversely, situations and projects may present themselves that increased requirements be appropriate.

- 12. Must all committee members evaluating a request for proposal sign the Evaluator's Statement of Independence and Conflict of Interest, or can the project manager sign one on behalf of the entire committee?**

Yes. Each member of the evaluation committee is required to read and sign and date their own EVALUATOR'S STATEMENT OF INDEPENDENCE AND CONFLICT OF INTEREST STATEMENT and each member's signed statement must be included as part of the RFP file and attached to the PTE worksheet for the project. No, the project manager cannot sign one blanket statement on behalf of all the evaluation committee members.

- 13. When should the Evaluation Committee be organized?**

As soon as possible. Ideally at least, some members of the evaluation committee should have participated in the pre-procurement activities. People who participate actively in some of the pre-procurement activities are ideal candidates for the evaluation committee. The committee must be designated prior to the pre-submittal conference and should be designated prior to the issuance of the RFP and they should have participated in the RFP drafting and review phases if at all possible.

- 14. What is the best number of members for the evaluation committee?**

Five voting members seem to work the best. Three is the minimum while seven is the absolute maximum, although more have been used but the coordination and effort required to keep the members involved becomes more difficult as the committee grows. An uneven number is necessary to avoid "tie" vote situations.

- 15. Do IGA's fall under these new rules?**

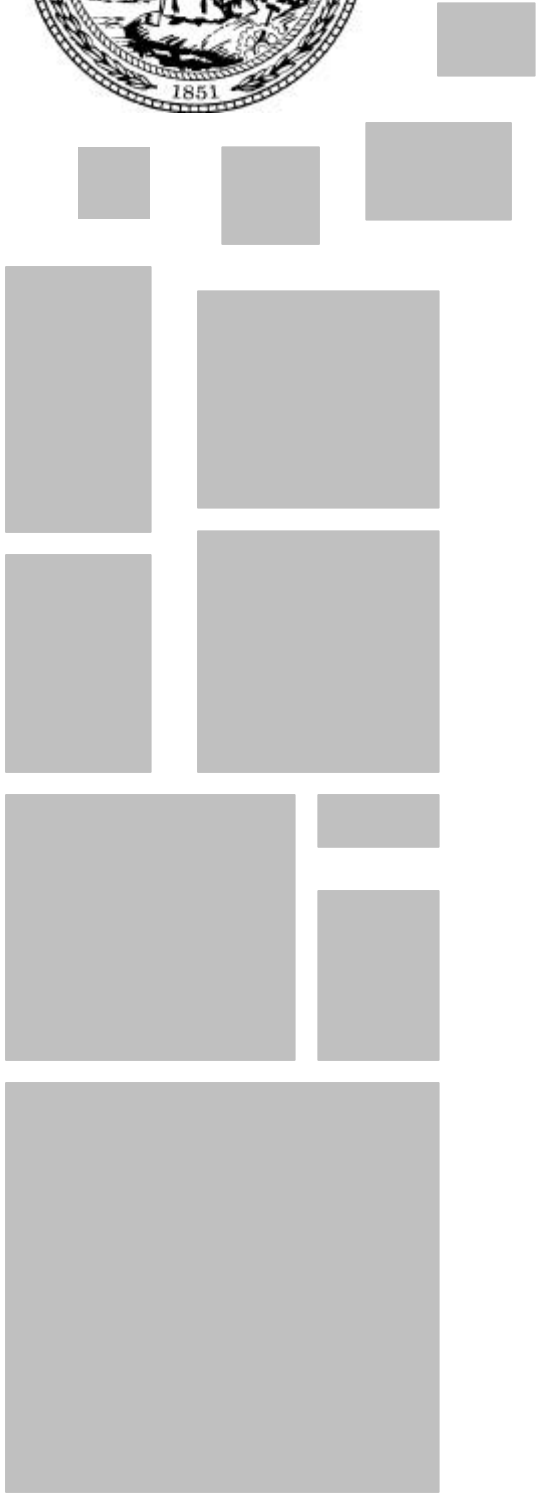
Intergovernmental Agreements (IGA's) do not fall within the PTE category, a separate contract document is used and regardless of the amount of the contract must be reviewed by the City Attorney's Office and authorized by City Council.

- 16. Will the final payment form be used for all contracts or only those over \$100,000? What about the monthly utilization report?**

The final payment form will be used for ALL contracts except those initiated via purchase order.



*The monthly utilization reports (MUR) will be completed by the prime consultants and submitted to the Bureau of Purchases compliance staff on all projects over \$100,000.*



## PART VII

### **TWO STEP PROCESS [RFQ/RFP]**

# **PROCEDURES FOR THE TWO-STEP PROCESS**

## **[REQUEST FOR QUALIFICATIONS/REQUEST FOR PROPOSALS]**

Time, effort and costs associated with responding to a City's RFQ can often be significant for the consultants while the time to review a large number of very involved responses can prove to be an overwhelming task for the evaluation committee. What to do? The Request for Qualifications (RFQ) method is best used for particularly complex projects, if the costs associated with responding to the solicitation could prove to be considerable and if there is a need to reduce a potentially large pool of respondents to a more manageable number.

### **OVERVIEW**

The RFQ is first used to focus on the qualifications of the firm as a whole as well as the individuals of the firm, their experience, education and development of project understanding. As a two-step process, the request for qualifications will depend upon the use of a modified request for proposal in order to complete the process. The first phase is often used to reduce the number of respondents to what is referred to as a "shortlist". Only those on the shortlist who met the pre-determined criteria will be invited to respond to a more complex response. This phase requires statements of qualifications be submitted, evaluated and those determined to be qualified or meeting certain levels of qualifications or ranking are then invited to submit a more detailed proposal response. As a statement of qualifications is all that is initially requested, the first phase cannot result in a contract. The second phase is a modified request for proposal and may include a negotiated scope of work and price as submitted by the most qualified respondent(s). Until Phase II is completed, there is no standing for a legal and binding contract as the cost portion of the contract would be non-existent and therefore unenforceable. The Two-step process is therefore dependent upon all phases being completed.

## **PHASE I – THE REQUEST FOR QUALIFICATIONS**

At the formal PTE level (over \$20,835), the Request for Qualifications must contain all the information needed for the respondents to prepare a concise, complete response and statement of qualifications. In order to provide consistency and reliability for the contracting community, the RFQ format on the Bureau of Purchases website is the only acceptable format. Given enough clear, concise information about the project background, technical requirements, expectations of the consultant and the desired outcome, the respondents will have the opportunity to showcase their creativity, experience, qualifications both as a firm and individually, and expertise within their response. Some of the elements common to any complete RFQ are as follows:

### **INTRODUCTION**

The introduction need not be lengthy, but will provide a general description of the bureau, it's mission as it relates to the proposed project at hand and an overview of how the bureau views the purpose of the project. This is the first place to identify the issue or problem requiring resolution.

### **PROJECT BACKGROUND**

The background section must provide historical information needed by the offeror in order to understand current requirements. The project background does not need to involve an extensive history of the City of Portland or the bureau unless it adds information needed to adequately identify the qualifications needed for the response. The background is simply to: provide the consultant with a clearer understanding of the project; purpose and extent of the requirements of the project; how the work proposed relates to the overall project; and how the issue or situation came about (i.e., natural phenomenon, previous tenant/owner, geographic location of the project, etc.). Do not include specific work-related requirements in this section.

A background statement may be used to describe the location of the project, how the present situation got to where it is today, and why the project is currently being undertaken. The project background is intended to help the respondents understand the organization, surrounding area, environmental situations, locality of the project, and why or how the project came about. This general statement can often aid the respondents understanding of the scope of work as well as the qualifications necessary for the project and need not be any more than two to three paragraphs. The project background can also identify any related research, studies or other efforts that will contribute to the contractor's understanding of the project; this section will easily segue into the Issue Statement.

### ***DEVELOPING A SCOPE OF WORK***

The scope of work is a written description of the contractual requirements and is the most important statement within the solicitation document and must be described in a manner that promotes full and open competition to the maximum extent possible. When writing a Request for Qualifications, all previous statements lead up to the scope of work and will be expanded upon throughout the remainder of the document. The scope of work has the most bearing on the outcome of the project, the farthest-reaching impact, and should be given careful and comprehensive attention. While rarely more than two to three sentences, the scope of work is the "project in a nutshell", it will describe the overall project purpose, clearly set forth the boundaries within which the consultant perform, set clear expectations for the project and identifies the timeline necessary to meet the requirements.

The scope of work provides a uniform base with which the evaluation committee is able to objectively review and evaluate the respondents qualifications and expertise and a basis for the shortlisted respondents to provide a final cost proposal. Ultimately, the scope of work will be written into the contract. The contractor is required to do only what is written into the contract; therefore it is imperative that it accurately describe the work to be performed. The scope of work will serve as a basis for on-going communication throughout the course of the project and resulting contract. A poorly written scope of work will often create the need for changes in the contract, which could have a negative effect on both the contract amount and project scheduling.

### ***DEVELOPING TECHNICAL REQUIREMENTS***

This section of the RFQ document further defines the scope of work, describes action, identifies work requirements and include any technical details relating to the work proposed and enable the respondent to articulate the firm's experience and expertise in relation to the scope of work. The Technical Requirements are the mandatory requirements of the work. This section applies only to work performed following award of the contract and must be definitive enough for them to respond effectively to the requirements with their staffing plans, qualifications, and references.

The more requirements included within the document and the more restrictive the Technical Requirements are, the less innovation can be expected from the consulting community. The Technical Requirements must then be unrestricted enough to refrain from defining exactly how the project will be accomplished, delineating specific personnel, doing any problem solving or identifying the final product. Some considerations for Technical Requirements may include: special permitting; any work required to conform to specific city, state or federal guidelines or standards; work to be performed by others under or during their contract (contractors, other governmental entities, railroad, port, etc); outcome of the services if they are required to facilitate bidding or alternate construction methods, specific support during the next phase(s) of the project, or any special provisions for support services and project interfaces.

Failure to adequately define phrases, acronyms, keywords or clearly identifying required tasks would often result in confusion, misunderstandings, frustration, delays and increased costs in achieving the project objectives. Respondents will find it helpful and an aid to understanding if the same phrases and terms are consistently used throughout the proposal.

The bureau may find it helpful to divide the work into tasks or task groups in order to provide the offerors with clear and consistent information. If the successful contractor is required to provide specific testing or

reporting, state exactly what the tests or reports will be in what medium, how they will be submitted and when they are to be provided to the project manager.

The better information provided in the RFQ's, the better the chances of obtaining the most qualified proposer. The more information the offerors are given with regard to the City's requirements and expectations, the better they can respond to the City's needs. The most important aspect is to diligently do the initial work in order to empower the evaluation committee to select the most qualified consultant for the project based upon the information provided by the offerors.

**WORK PERFORMED  
BY THE CITY/OTHERS**

The City's responsibilities must be identified as well as any work performed by others, specifically in relation to the proposed work. This information may include approvals, testing, reviews, etc. along with any estimated turn-around time required to provide the information or materials to the successful contractor. Describe in this section any City furnished equipment, furniture, computers, property, communication equipment, reports, drawings, maps, and personnel. It must clearly indicate that any City furnished equipment will be made available only for the successful contractor's use for the duration of the project and returned in good condition at the conclusion of the project. It is incumbent that City staff adequately account for all City equipment released for the contractor's use and upon return at project completion. Be sure to identify any items that will affect contract performance and their impact on the schedule (i.e., data being collected by the bureau, reports generated for the benefit of the contractor, etc.).

Clearly note any third-party interfacing required under the proposed contract. Interfaces are instances when a third party will affect the contract performance of the respondents, their work and project timing, therefore, it must be described in order for the offerors to adequately prepare their responses. Bureaus are cautioned to provide appropriate schedules and dates as the responsibility for any City provided equipment or materials can become a liability and have an impact on the overall schedule and ultimate cost of the project. The potential impact of third-party interfacing on the delivery schedule and project cost cannot be underestimated.

**DELIVERABLES  
AND SCHEDULE**

This section is intended to separate the description of the physical characteristics and the delivery schedule for interim and end products from the description of the technical requirements. The actual work requirements are identified in the Technical Requirements section while the end product of the work requirements and their deliverable schedules are included in the Deliverables section. Deliverables are important as they provide the project manager with one means of evaluating the consultant's performance. The receipt of a deliverable is often the signal that the end of a specific task or benchmark within the project has been completed, therefore, the bureau may find it prudent to provide for delivery of periodic or final reports by identifying the delivery time based upon schedule – not dates. The deliverables may be considered anything relating to work products or by-products of the services performed under the contract that can be physically delivered such as: reports, draft documents and data, interim findings, drawings, schematics, training, final drawings or reports. Additionally, if training, technical meetings, meeting presentations, and written meeting minutes are expected during the course of the contract they may be considered as deliverables if the consultant provides a written report recording the event.

It is important to note in the request for qualifications solicitation documents that all deliverables resulting from the contract will become the property of the City of Portland.

**PLACE OF PERFORMANCE**

While most consultant's perform their work at their office or work site, some consultants may be required to visit or perform most of their work at the City's facility or a combination thereof. Depending upon the requirements of the project, the City may need to identify the place of performance or location. A word of caution, by defining the place of performance, the City is intrinsically indicating its preference and as a result, no alternate location will be suggested by the respondents. A specific address does not need to be included within the proposal

document unless there is a specific third party or off-site location requirement. If this may be a point of final negotiation, this section may be deleted.

**PERIOD OF PERFORMANCE**

The period of performance is considered to be the term of the entire contract. That is, how long the contract will be in effect, not the length of the scope of work or work effort. The period of performance is usually longer than just the scope of work. When determining the period of performance, make sure the schedules for all technical requirements and deliverables are taken into consideration as well as the scope of work. Unless timing is critical, do not pin the contractor's back to the wall with an unnecessarily aggressive completion date. The result of a tight contract schedule is usually lower quality work as contractors may have to cut corners or later delivery. The period of performance must be realistic, but depending upon the project, may also be a point of final negotiation.

The period of performance is usually expressed as the time period following contract award, not a specific date. The bureaus are cautioned to not use specific dates unless the completion date is critical (i.e., end of the fiscal or calendar year, end of preceding contract, etc.). If there are special budgetary or other considerations that demand that time is of the essence, be sure to identify that condition here, identify when funding will expire or what the particular obligations and/or conditions are (i.e., in-water window, hazardous material clean-up deadline, etc.).

**PROJECT REVIEW**

The bureau will need to identify how the work of the consultant will be managed, reviewed and evaluated. Additionally, the bureau will indicate whom the successful contractor's contact on a day-to-day basis. Identify any City bureaus or other organizations that will be providing input, review, comment, oversight or approval.

**PUBLIC SAFETY**

In this time of heightened awareness, building security, public safety, security information, access control, and other safety requirements relating to physical safety, access and data information may be important and will need to be included in solicitation. This may include a discussion by the City regarding physical access to buildings, property, computer and/or communication equipment owned, occupied or provided by the City. Public safety may require limiting access to public work sites, facilities and offices with or without advance notice to the consultant. When developing the request for qualifications, be prepared to identify any security issues or requirements. It is possible that inherent in some projects will be the necessity that some or all of the consultant's personnel be required to undergo background checks, fingerprinting, photos, ID badges, security clearances and other security prerequisites which can be a time, scheduling and cost consideration to the proposer. Additionally, some work sites may require the consultant's personnel obtain a visitor badge or provide identification during the time of their work all of which may take extra time and must be factored into the consultant's proposal.

**INDEX/PROJECT DATA**

Any attachments, exhibits, reference materials, memos, letters, or supporting documents which the offerors will require for the preparation of their responses will be identified within this section. Bureaus should use caution when including any attachments. This information must be necessary for the respondent's understanding of the project or further clarification – but never include conflicting information unless it is well defined. It is important to identify how the respondents are to use the attachment information. Therefore, clearly indicate whether the information is merely to be used as background or antidotal information as a contractual requirement. All such materials will be identified as an exhibit and marked in alphabetical order as an 'exhibit'.

The Request for Qualifications solicitation document may reference any background or project drawings, maps, photos, permits, plat maps, descriptive data, reports or certificates pertinent to the project that will provide additional information with which the respondents would require for the preparation of their responses. On occasion, a minimal number of copies are available or copies are required needing to be retained by the bureau may all be made available for the respondent's review on a limited basis much like a reference document. The RFQ must identify within the RFQ document what reference materials and

items are available, the location and times the data and materials will be made available. If an appointment to review these materials is required, the name of the person to call along with the phone number for making the appointment, physical address and dates for viewing are required. This index of available documents listing will be included within this section, all documents will be clearly identified and referenced in ascending numerical order and will be marked as a 'reference' document.

### ***PRE-SUBMITTAL MEETINGS***

Depending upon the complexity of the project, the bureau will need to determine if a pre-submittal meeting would be beneficial in order to acquaint the respondents with the scope of work, project parameters, location, technical aspects, restrictions and deliverables. Pre-submittal meetings are held with prospective responders prior to receipt of their responses and will be designated as being either mandatory or non-mandatory and must be so identified within the RFQ solicitation documents. Additionally, a pre-submittal meeting allows respondents to ask questions, clear up any ambiguities and ensure that all have the same basis of understanding regarding the proposed project.

**Mandatory** pre-submittal meetings require that all respondents attend if they plan to reply to the RFQ. From this point on, only those who were present at the mandatory meeting will be allowed to submit responses that will be considered for review. The project manager and/or personnel from the Bureau of Purchases will be allowed to answer questions posed during the meeting. The general Pre-Submittal Meeting Agenda form as found on the Bureau of Purchases website will be used as a guideline for developing a pre-submittal meeting agenda.

**Non-mandatory** pre-submittal meetings are considered an 'optional' meeting for the respondents. The respondent's failure to attend this meeting will NOT cause their submittal to be rejected. Any questions posed during the meeting will be collected and responses provided in the form of an addendum in order to assure that all respondents of record receive the same information [ref. Bureau of Purchases website] in accordance with the procedures within this manual.

### ***SUBMITTAL CLARIFICATION AND ADDITIONAL QUESTIONS***

As clear and succinct as the RFQ solicitation documents are intended to be, there may still be questions and clarifications that arise from the offerors requiring the project manager's review, documentation and response. The RFQ solicitation document must identify where the questions are to be directed, providing both the name of the person, any phone or email address, and in what format the questions are to be forwarded (i.e., telephone, e-mail, fax or in writing). It is important that the person to whom questions or clarifications are referred is responsive and knowledgeable about the project. The RFQ document must also contain a statement defining the time period during which questions will be accepted (usually no less than five (5) working days prior to RFQ deadline). Questions must be addressed to the person indicated on the document (e.g., project manager or procurement official) with sufficient time prior to the RFQ deadline in order to address the issue, make any necessary corrections and inform all potential offerors.

### ***RESPONSE ORGANIZATION***

The consultants will be asked to provide qualification, experience, and expertise, reference materials and other submittals that will fully describe their firm's skills and abilities as well of those of the individuals. By requiring the information organized in sections containing specific information, the bureau will be making it considerably easier for the evaluation committee members as they read through the various responses. While there are many qualification questions and options for organizing the materials, the following are provided as an example only:

- ✓ **Description of Firm.** Describe your firm's legal structure, areas of expertise, length of time in business, number of employees, and other information that would be helpful in characterizing the firm. Provide the address of the main office (for legal purposes) and the address of the office that will manage the project. Identify any sub-consultants that you would propose to include as a part of this project; provide the same information for any sub-consultants as previously described for your firm's legal structure.

- ✓ Experience. Briefly describe other projects executed by your firm that demonstrate relevant experience. Also, list all public sector clients for whom you have performed similar work in the past five (5) years. For each project mentioned, include the name, address and phone number of a person who can be contacted regarding your performance on the project. When submitting projects for which your firm worked in an auxiliary capacity or in a joint venture or partnership, include the name of the lead firm. Please remember that any extensive descriptions of vaguely related projects are discouraged and could negatively impact the overall outcome of the evaluation.
- ✓ Personnel. Provide a professional resume for the key people proposed to be assigned to the project (including any important sub-consultants), and describe their relevant related experience. Describe key personnel's proposed roles and responsibilities on this project. Submittals must identify a proposed project manager who would be responsible for the day-to-day management of project tasks and would be the primary point of contact with your firm. Identify who the second level production person will be, provide a description of their experience as it relates to the project at hand. An organizational chart of the project team may be appropriate.

The project team will be the consultant's key personnel working directly with and having the most impact on the City's project. The predominant information required in this section will be the consultant's or individual team member's name, qualifications and experience as they relate to the proposed project, how the respondent proposes to staff the project, their individual and collective expertise will cover all phases of the project, their understanding of the project, management approach, integration of all activities required by the scope of work, key personnel to be assigned to the project and their education, background, experience and performance records. If there are specific concerns or requirements that the offerors need to address, this is the section in which to make those requirements known. For more information, Bureau personnel should review the Request for Proposal cues as found in the RFP form on the Bureau of Purchases website.

Understand that if bureaus are requesting information about key personnel only, information relating to the project principal, project manager, key staff members and possibly a few sub-consultants will probably be all that you receive. Don't assume they will volunteer any additional information. If the bureau requires information on the entire project team, be sure to stipulate that requirement. If information about key personnel by name and references are required, the bureau should indicate in the RFQ that following contract award, substitution of key personnel may be made but only: (1) after advance notification to project manager and (2) after the determination by the project manager that the substitution meets the required qualifications. The bureau determines this clause is to be used, the qualifications of the key personnel must be identified in the RFQ. Use this requirement sparingly as each identified position carries with it an administrative burden on the part of the project manager for reviewing personnel changes during the life of the contract. If the bureau determines to require the key personnel clause, whenever possible request only the top few managerial and technical positions. Identify lower level positions as key personnel only if a specific level of expertise or experience is required specifically for the project.

When describing the qualifications for key positions, the bureau must specify the level of expertise, educational or background experience required for the project all the while understanding the offeror must be allowed to identify its key personnel and demonstrate how they meet the required qualifications. Permit the offerors to provide, document and explain education or experience levels that are either equivalent or a substitute for those specified. Bureaus are not required to accept the offerors equivalency statements although by doing so, the bureaus may find experience and expertise of which they were previously not aware and may be more beneficial to the overall project.

If may be helpful and necessary as part of the project, for the offeror to provide information regarding the percentage of time that key personnel would be expected to work or devote to the contract.

- ✓ Workforce Diversity. To help promote diversity in the City's PTE contracts, and in accordance with the City's Fair Contracting and Employment Strategy for PTE contracts, all request for qualifications



distributed by City bureaus and offices must contain evaluation criteria for Diversity in Employment and Contracting which shall be no less than 15% of the total evaluation criteria.

To achieve greater economic and social equity in our community, the City of Portland has established a 20% utilization goal in obtaining professional, technical and expert services from certified Emerging Small Business (ESB) firms. Minority Business Enterprise (MBE), Women Business Enterprise (WBE), or Emerging Small Business (ESB). To be considered, the State Office of Minority, Women and Emerging Small Business must certify the firm as an MBE, WBE or ESB. If a M/W/ESB business is not or cannot be contacted, an explanation must be so noted on the PTE Worksheet when submitted to the Auditor's Office and Bureau of Purchases. In an effort to promote diversity in our PTE contracts and in accordance with the City's Fair Contracting and Employment Strategy, evaluation criteria is selected by the bureau based upon the estimated contract amount. In an effort to promote diversity in our contracts and in accordance with the City's Fair Contracting and Employment Strategy, evaluation criteria identified in **LET'S GET STARTED** section will be selected and used with each solicitation.

### **QUALIFICATIONS SUBMISSION**

The main purpose of RFQ preparation and submission instructions is to ensure the respondents address the areas of interest identified in the scope of work. The general instructions require each submission be clear, succinct and address the items identified within the solicitation document and provide for evaluation based upon the information included within the solicitation document. If all is followed the resulting qualification submittals will allow the initial screening to be performed in an objective fashion. Although the offeror has every right to respond to the solicitation in any manner he/she sees fit, these instructions are provided to help the consultant work through the various project tasks and provide a response structure that can be easily and readily reviewed and by the evaluation committee. Therefore, the submission instructions are used to:

1. Ensure that offerors address the areas of interest as expressed by the RFQ. Each offeror should structure their response in the same order of importance as the evaluation criteria. The instructions will identify specific elements the bureau deems necessary with which to evaluate responses, therefore, instructions should be as explicit as possible. The evaluation team's job is to evaluate the offerors technical expertise – not their writing skills.
2. Standardize the responses in order to facilitate the evaluation process. While the evaluators are reviewing a great deal of very specific information, they should not have to search for it. The standardized submission makes the evaluation process easier and evaluators will not need to search through differing formats in order to find the information they need. The City's sustainability requirements are included as a part of the submission section and will also include such statements as:
  - the number of copies to be submitted (original and copies);
  - unnecessarily elaborate or lengthy proposals are not desired;
  - encourages double-sided copying; and
  - discourages spiral or other bindings, plastic or glossy covers, dividers, tabs, and table of content
3. Require the submission of specific information. By requiring specific information to be forwarded, the evaluation committee will be able to review the information which may include a discussion of work requirements, performance issues as identified in the RFQ, propose the content and format of any management reports, how they propose to manage the project, and proposed work plan.

The content of all submittals will be evaluated on their completeness and quality. Only those firms providing complete information as required within the solicitation document will be considered for evaluation. The ability to follow the instructions as provided within the RFQ demonstrates their attention to detail, understanding of the service they will provide, their willingness to share information, and their attention and commitment to customer service.

On occasion, the City may wish to reimburse a specific number of respondents either for information or designs provided as part of their response. These responses may require submittal of preliminary designs or draft work plans that will then be reviewed and scored by the evaluation committee. Because of the amount of effort and the uniqueness of the project design competitions, innovative issue resolution and design and development of copyrighted designs, it may be important that the shortlisted respondents be reimbursed for their time and efforts put forth in responding to the solicitation. The requirement for designs or work plans will be at the City's discretion and will be so noted within the original solicitation document.

### **SELECTION PROCESS**

Professional, technical and expert services are evaluated and awarded based on several factors and often cost is included as part of the evaluation criteria. In the case of the request for qualifications, the shortlist of qualified respondents is based predominantly on the expertise and experience information of both the firm and individuals within the firm as provided by the respondents. The bureau must develop a standardized method for evaluation of all offerors. These evaluation criteria are determined during the preparation of the RFQ and will be clearly described within the RFQ solicitation documents along with the weighting of each criterion. This allows the responses to be evaluated on an equal basis, provides a "yardstick" that minimizes arbitrary decisions and helps provide an objective determination of the respondents most qualified to handle the project. Any projects greater than the current informal limit shall have a well defined set of evaluation criteria, a precise definition in narrative form to describe the standard, how it will be used and the performance criterion for each along with the corresponding weighting for each criteria.

The step-by-step evaluation and scoring procedures will be identified in the request for qualifications and will be followed in order to assure objectivity and thoroughness in comparative analysis of the responses (reference the RFQ as found on the Bureau of Purchases website). The RFQ will describe the point value or weight given to each criterion. A scale will be developed to help the evaluation committee members assign point values to each criterion for each response received. In order to minimize omission of any responses or failure of the offerors to respond to one or more questions, it is important that questions posed to the offerors be located in one place within the RFQ and offerors be required to respond in the same order. This allows the offerors to tailor their responses according to the importance and weighting given to each evaluation criteria (NOTE: If the score values are not identified, they must be assumed to be all of equal value and the committee must rank them as such).

The weighting each criterion receives will be an important factor in the final outcome of the award and the ultimate project outcome. The factors most likely to have the greatest impact on successful project completion must be given the most value. Therefore, if the approach is not as important as the fact that the professionals carrying out the tasks are very experienced in this endeavor, then "project team expertise" may be valued most. Wherever the most weighting occurs, this is where the respondents must assume the bureau has put the most importance and the respondents will in turn spend the most time in developing their responses.

If a few of the highest ranking respondents are to be interviewed, the RFQ solicitation document must so state the criteria with which the bureau will use to advance the respondents to the interview process and how the interview will be used in the overall scoring process, that is, will the interview scores be added to those of the original response, or will they be evaluated separately? It is acceptable to indicate within the solicitation document that depending upon the responses, the evaluation committee "may invite respondents in for interviews and presentations". Additionally, the RFQ documents must indicate if specific staff members, proposed positions (i.e., project manager, etc.) or sub-contractor's personnel will be required to participate in the interview.

While there are a variety of potential evaluation criteria available, the following is a listing of some of the most commonly used criteria and information on weighting the evaluation criteria. Items identified with a "X" are required for each RFQ, and all other items may be considered for use in evaluating the RFQ.

### **X Experience**

The experience of the firm on similar projects may be a valuable yardstick for their future performance. Is the experience recent, or in the distant past? How similar in type, size and complexity were the projects to the one presently proposed? References should be requested and checked with care. However, talented and resourceful firms with little relevant experience may bring a fresh approach. Be careful when requiring a specific amount of experience by requiring numerous years of experience the bureau may reduce the number of responses, preclude qualified, experienced consultants with lesser years of experience but potentially more direct experience, or may even be a false indicator of higher hourly costs.

### **X Expertise**

Expertise differs from experience in that it refers to the qualifications of the individuals suggested for the proposed project. Have their education and training prepared them to adequately perform the required tasks? Is the proposer supplying adequate personnel to fully complete the project in the required period? It is a good practice to request the names, qualifications and background of any people who will be assigned to the project.

### **X Relevant Project Experience**

How well does the proposer understand the bureau's requirements, scope of work, or expectations? Have they clearly stated their methodology for achieving the goals, objectives, expectations and timelines indicated in the RFQ? Can the firm meet your time requirements? The project approach should be an important evaluation criterion with any project. A firm that does not address all the issues clearly in their response may not be the best candidate for award.

### **X Diversity in Employment and Contracting**

To help promote diversity in the City's PTE contracts, and in accordance with the City's Fair Contracting and Employment Strategy for PTE contracts, all requests for qualifications distributed by City bureaus and offices must contain evaluation criteria for Diversity in Employment and Contracting which shall be no less than 15% of the total evaluation criteria.

- **Capacity**

Does the firm have the necessary personnel, equipment, insurance, bonding, capital, etc. to successfully complete the proposed project? Does the firm currently have the staff and resources extended to the point they cannot devote adequate time or resources to the project being proposed? If part of the work will be subcontracted, to whom? It is important to have this information prior to contract award.

- **Years in Business**

Unless this has a direct bearing on the overall project, as an evaluation criterion this may not provide the needed information and be very misleading. A new partnership of experienced personnel may be highly qualified to do the task although they may have just "hung their shingle." It may be more advantageous to request information regarding experience on projects of the same scope, magnitude or difficulty.

- **Certification**

Is this required by law or for the success of the proposed project? Are the firm's proposed key personnel certified to perform the work within the State of Oregon (i.e., will engineers be doing the engineering, etc.)? Will they be utilizing less experienced personnel in relation to the cost of certified personnel? This may also be incorporated into expertise, above.

Should you require assistance in weighting of the criterion, establishing evaluation criteria on a specific project or developing a standardized method for evaluation and scoring, please contact the Bureau of Purchases.

## **REVIEW OF DRAFT RFQ BY THE PURCHASING AGENT**

For RFQ projects estimated to be more than \$20,835 and less than \$100,000, the individual bureaus will process the RFQ and submit the document to the Bureau of Purchases for posting on the Bureau of Purchases website. The document will be reviewed by the Bureau of Purchases only for conformance to

required formats along with such items as: clarity of the scope of work, technical requirements, deliverables, evaluation criteria and weighting prior to posting.

For those projects estimated to exceed \$100,000, the individual bureaus will forward the draft Request for Qualifications, attached information and documents to the City Attorney and Bureau of Purchases for review and comment. Once the noted changes have been made and approved by the Purchasing Agent and City Attorney, the document will be advertised on the Bureau of Purchases website.

For projects exceeding \$100,000, the Bureau of Purchases will be available to help with any or all of PTE acquisition following the advertisement

## **SOLICITATION EFFORTS**

It is important to allow sufficient time for offerors to prepare a complete response to the RFQ; depending upon the complexity of the project and the time and resource involvement required responding to the RFQ, two to three weeks is usually adequate. However, requests for particularly complex projects or responses requiring involved responses on behalf of the proposers, may require a response time of a month or more.

With the formal request for qualification process, written responses are required. Unless otherwise exempted, notices of every advertisement will be placed on the Bureau of Purchases website and for three (3) consecutive days in the City's official paper of record (currently the *Daily Journal of Commerce*) or as deemed appropriate. The Purchasing Agent may provide a waiver from the advertising as deemed appropriate for the solicitation. Additionally, bureaus shall make every effort to utilize minority newspapers in order to foster and promote competition. Project announcements may be placed such publications as: *The Skanner, Observer, El Hispanic News, Just Out, El Latino de Hoy, or Asian Reporter*. These advertisements or those placed in industry trade journals are placed at the discretion of the individual project manager or bureau director depending upon project budget constraints.

Often bureaus forward copies of the RFQ to an initial listing of firms already known to have interest in the project and will be required to maintain multiple plan holders lists. By utilizing the Bureau of Purchases website, all interested parties are able to register and download the necessary documents within a short period of time; the Bureau of Purchases is able to maintain an up-to-date mailing list; and later, if addendums are sent, they will automatically be sent to all RFQ holders. Therefore, if bureaus wish to forward information regarding the project or notify consultants who have previously expressed interest, they may do by referencing the Bureau of Purchases website and allow the potential respondents to download the information from the website. For all projects estimated over formal amount established by the City Auditor's Office (currently \$20,835), the project manager will be responsible for forwarding their advertisements to the official paper of record and the Bureau of Purchases.

### **PRE-SUBMITTAL MEETING**

The pre-submittal meeting may be either mandatory or non-mandatory and this requirement must be identified within the RFQ. The pre-submittal meeting is held with all prospective offerors prior to receipt of their responses and is intended to acquaint the offerors with the scope of work, project and project location, technical aspects, restrictions, and deliverables. If used wisely, the pre-submittal meeting can be an important part of the RFQ process. The pre-submittal meeting provides offerors an opportunity to ask questions, clarify ambiguities, and ensure that the offerors have the same basis of understanding regarding the proposed project. The Bureau of Purchases "Cue Sheet for Pre-Submittal Meeting Agenda" as found on the Bureau of Purchases website is to be used as an aid in planning and organizing such a meeting.

Statements made by City representatives about the solicitation, project or RFQ documents, including statements made at the pre-submittal meeting are not to be considered binding on the City nor a responsibility of the offerors. The solicitation document shall not change unless the City confirms the statements and changes to all prospective respondents by way of a written addendum [reference Bureau of Purchases website].

**Mandatory** pre-submittal meetings require that all offerors attend if they plan to submit a response. Therefore, prior to a mandatory pre-submittal meeting, all offerors will sign in and from this time forward, only those who signed in and attended the pre-submittal meeting will be considered for the project and be eligible to have their responses reviewed. Since only those who were present at the pre-submittal meeting will be submitting responses, the project manager is able to answer the questions asked during the meeting and will confirm those. It is highly recommended that questions and resulting responses from the pre-submittal meeting be recorded and issued via addendum.

**Non-mandatory** pre-submittal meetings will be considered an 'optional' meeting for the offerors. The offerors failure to attend this meeting will NOT cause their response to be rejected. While offerors may ask questions and request clarification, the answers will be withheld and provided in writing by way of an addendum to all offerors of record.

Whether mandatory or non-mandatory, the pre-submittal meeting will normally be facilitated by the project manager and for those projects estimated to exceed \$100,000 will be attended and/or facilitated by personnel from the Bureau of Purchases. Self-introductions will include the, Bureau of Purchases personnel, and all offerors in attendance. The bureau staff, project manager, Bureau of Purchases personnel will identify the type of pre-submittal meeting (i.e., mandatory/non-mandatory) and the following information:

- sign-in requirements,
- a further explanation of the competitive process,
- identify the submittal due date,
- procedures for clarifications and questions,
- outline the protest procedures,
- provide instructions regarding EEO certification and Diversity in Employment and Contracting, outline when addendums will most likely be sent out,
- discuss any proprietary requirements for submittal of the documents, and
- explain the requirements for submitting the response.

The project manager will outline the project background, issues relating to the project, challenges or requirement inherent to the project, and scope of work. Additionally, the project manager or other project member will provide such information regarding:

- certifications or permitting required,
- project exceptions, constraints, challenges, restrictions, etc. without telling them how the work is to be performed,
- evaluation criteria and weighting
- visit the project site, and
- due date and time as well as an estimate of when information will be made public (following written notification of award or contract award letter).

Clarifications or questions resulting from the pre-submittal meeting will be forwarded to the offerors in the form of an addendum (NOTE: the addendum form found on the Bureau of Purchases website is the only acceptable form). Any questions or clarifications that cannot be addressed at the pre-submittal meeting or by the time of the first addendum is sent, will be identified and so noted on the addendum: "research underway, response forthcoming". By so noting the unanswered questions in such a way, the respondent will understand that it was neither ignored nor forgotten and it continues to be an open question or request for clarification. As the answer becomes available or clarification has been determined, the information will be provided to all offerors of record by way of a subsequent addendum.

Changes to the RFQ documents shall be made only by written addenda. Addenda shall be identified as such and distributed to all prospective offerors known to have obtained the solicitation documents or to have attended any mandatory pre-submittal conference. The City shall make a reasonable effort to notify offerors of the addenda. However, it is the responsibility of the offerors to ascertain the issuance of and be responsive to all addenda. Addenda shall be issued no later than seventy-two (72) hours before the

RFQ closing date and time. The Purchasing Agent may extend the request for qualifications closing date and time in order to allow prospective offerors time to analyze and adjust to the changes identified in the addenda. The City shall notify prospective offerors of the new closing date and time either by way of the addenda or in a writing accompanying the addenda. Notification by the City shall be complete upon writing and mailing of the addenda.

### **RFQ CLARIFICATION**

Regardless how clear and self-explanatory RFQ solicitation documents are intended to be and in spite of the pre-submittal meeting, there may still be questions that arise or clarifications needed from the offerors that require the project manager's review, documentation and response. The RFQ must identify where and to whom the questions are to be directed, providing both the name of the person, address, phone or fax number, e-mail address, and in what format the questions are to be forwarded (i.e., telephone, e-mail, fax or in writing). Offerors may request a clarification to a specification, documentation requirement, evaluation criteria, type of backup information requested, or process identified for award. Clarification may be requested throughout the pre-award process prior five (5) days before the RFQ due date.

Questions from the potential respondents will be carefully evaluated to determine if the question(s) and responses have a direct bearing on or will effect the responses of other offerors. If so, the addendum will be prepared and forwarded to all offerors of record to assure they receive the same information within the same time period [note: the addendum form on the Bureau of Purchases website is the only acceptable form].

As with any RFQ, an addendum will be issued to all record holders of the RFQ if a substantive clarification is deemed appropriate. Addendums will be identified by request for qualification number and kept in order by consecutive addendum number. Any questions or clarifications that cannot be addressed at the time of the addendum, will be so noted on the addendum along with an estimated timeline for a future response. When the answer is available, the information will be provided to all offerors of record by way of a second addendum. Addendums must be sent in time to reach potential offerors prior to the RFQ deadline. If the information has bearing on the quality and content of the offerors responses, the RFQ due date will be so adjusted to allow the offeror time to assimilate the information provided in the addendum.

The contract person must be responsive to all potential offerors by returning phone calls and e-mails, documenting the questions and determining whether an addendum is appropriate. It is important that the person to whom questions or clarifications are referred is responsive and knowledgeable about the project and for projects exceeding \$100,000 personnel from the Bureau of Purchases may serve as the contact person and will receive and be responsible for coordination and writing of any responses. Additionally, the contact person must clearly understand that under no circumstances will information be provided to one offeror that could be construed as giving him preferred status nor will information purposefully be withheld from one or more offerors, thereby giving an advantage to one or more offerors. Under no circumstances will the project manager or bureau personnel provide unauthorized information or documents to one or more offerors without officially documenting it. It is important that all potential respondents receive the same information and that it be sent at the same time.

### **CLARIFICATION PROTESTS**

On occasion offerors may not agree with information provided within the solicitation document or addendums and may protest the process. The Purchasing Agent shall have the authority to settle or resolve a written protest of a solicitation document. No protest shall be considered after the deadline established for submitting questions or information and shall be considered for the formal acquisition methods only. The bureau shall forward a copy of any protest to the Purchasing Agent. The Purchasing Agent shall notify the applicable offeror if the City entirely rejects the protest, agrees with the protest in whole or in part and shall issue an addendum reflecting the change or cancel the solicitation. It is imperative that all dates, processes, procedures and guidelines be adhered to and documented in order for the bureau to have a positive outcome. Lacking proper documentation may require the Purchasing Agent to remove the RFQ from advertisement and require re-writing and review.

## **RECEIPT OF RESPONSES**

It is vital that responses be received at the appointed time and location noted on the RFQ documents and that the receipt of all responses are recorded and time stamped. There should be a designated secure storage area in which to place unopened responses as they arrive. Responses received prior to the designated date and time must NOT be opened and the contents must remain secure until the appropriate date and time.

Upon receipt of the responses, each firm's response shall be kept secure and remain confidential until the most qualified consultant has been selected. Following receipt and opening of the RFQ's a listing of respondents will be made available to anyone requesting the information.

If a late proposal is delivered by common carrier it should be accepted and the bureau will record the name of the company, the time the proposal was received and the name of the company representative or commercial carrier attempting to deliver the proposal.

## **EVALUATING RESPONSES**

### **REVIEW FOR RESPONSIVENESS**

Prior to providing qualification response copies to the committee members for scoring, the responses must first be examined to determine whether they meet the minimum requirements stated in the RFQ. These minimum requirements may include: were the proposals not received by the filing deadline? Was there a mandatory pre-submittal meeting? Did someone from their firm attend? Was a letter of interest required and included with the response? Offerors who fail to meet important minimum requirements will be considered non-responsive and will be disqualified from further consideration. It is important, however, to determine if a submission failure is "material" or "immaterial" to the evaluation.

By conducting this preliminary evaluation, it could be suggested that a measure of the potential contractor to follow the instructions demonstrates their ability to not only follow primary directions but also their attention to detail, responsiveness to the City's directions, and willingness to provide a certain level of customer service. Any responses eliminated due to their lack of responsiveness or non-conformity to the mandatory requirements will be removed from further consideration by the evaluation committee and the file so documented.

### **NOTIFICATION OF THOSE REMOVED FROM CONSIDERATION**

The individual bureau will provide a written notice by mail to all proposers removed from consideration as part of the evaluation process. The proposers removed from consideration as part of this process will be thereby notified of their exclusion and shall have seven (7) days from the date of notice to file a protest. If no protest is received, the process will continue. Should a protest be received, the bureau will follow the **AWARD CLARIFICATIONS AND PROTESTS** procedures as herein provided.

### **RESPONSE CLARIFICATION**

During the evaluation process, clarification of certain points in a response may be necessary. The Project Manager or a designated member of the evaluation committee should be delegated to contact the responder for clarification. In order to minimize confusion, no other people will contact the responder or request information from the responder. All contact with the offerors must be from only designated team member; no other committee members must contact them. Responses received from this communication will be documented relevant information shared with the Evaluation Committee members and filed with the request for qualification documents. At this point, no other additions, deletions, changes or substitutions will be allowed to the responses. It is advisable to document all contacts, questions and answers and

information provided for clarification; all records become public information after contract award and are subject to public review.

**SELECT THE MOST QUALIFIED RESPONSES**

The evaluation committee will select the most qualified responses. Depending upon the number of responses received, it may be desirable to interview the most qualified candidates for award as determined by the evaluation scores. This is particularly true when more than one candidate appears qualified to carry out the project. In other cases, a single candidate may emerge as clearly the most qualified for the project. "Shortlisting" is the term used to describe the elimination of all but a few of the most qualified candidates. In most instances, it is appropriate to "shortlist" to the three (if available or other number, as appropriate) offerors most likely to meet the City's requirements.

This listing will include the names of the respondents and addresses only; information contained within the responses will be kept confidential until after the presentation/interview evaluation and final selection. The information provided within the responses along with the results of the evaluation process and summary scoring sheets of the committee's decision will be kept with the contract file for future reference and a copy will be filed with the Bureau of Purchases.

**REFERENCE CHECKS**

Most RFQ evaluation criteria includes the need for the offerors to provide references and supporting documentation regarding previous history or projects. This information should include the name of the company or firm, contact name, phone number and address. The project manager or designee shall contact each reference and ask the same questions of each. Once the evaluation committee has determined which of the offerors will be called for interviews, the project manager may begin checking references. It should be noted that City staff might also check references other than those provided by the respondent. It is important that the evaluation committee develop a standard listing of questions that will be posed to each reference identified by the respondents. Some sample questions may include:

- Describe the project they worked on for you.
- Would you hire them again?
- Was there a frequency and rationale for change orders?
- Were their preliminary estimates accurate throughout the project?
- Did they provide any special services?
- Did they provide all the closeout documents?

Comments and information provided by the reference checks will be documented, shared with the evaluation committee members and become a part of the permanent proposal file.

**CONDUCTING INTERVIEWS**

Based upon the evaluation scores, the respondents receiving the highest score(s) may be selected for further review. If interviews are to be utilized, the solicitation document must so indicate that fact and also outline how the evaluation committee will utilize these interviews in the evaluation process.

Each respondent will be allowed an equal amount of time for their presentations. In order to facilitate this process, an agenda will be developed as well as a listing of the questions to be addressed by the bureau as it is often helpful to the committee members to have a list of questions prepared beforehand, or at least an outline of areas to be covered in the interviewing process. The project manager can prepare all the questions in advance by dividing them into two categories: Evaluation Committee questions about portions of the proposer's responses and questions to be asked of the shortlisted candidates by the Committee. This will not only maximize the time available for this process, but presents the project in an organized fashion, makes sure all offerors are asked the same questions and no questions are forgotten. These interviews are not "dog and pony" shows but structured and controlled presentations. It is often



helpful to divide the presentation into two phases: oral and questions and answers; it is usually helpful to have the oral presentation first.

It is wise to hold a pre-interview meeting with the Evaluation Committee in order to review the original responses, discuss any reference checks, review interview questions and procedures, go over how the scoring of the interviews will progress, identify the allocation of interview time and interview agenda. Some suggestions for arranging the interview or presentation process include:

- arrange for a room that is large enough to accommodate the evaluation committee and consultant's team and their presentation materials;
- try to give one to two weeks advance notice with time, place and specific length of the presentation;
- allow a minimum of one hour for an interview or presentation and at least ½ hour for set-up and take-down of their equipment and materials;
- provide a listing of formal questions prior to the meeting
- allow at least 20 minutes for questions and answers;

During the interviews, each offeror is generally allowed a specified period of time to deliver an oral presentation of their response prior to any questions or comments from the evaluation committee. All evaluation committee members will participate in and evaluate all interviews and apply the evaluation criteria/weighting as previously identified. The project manager or personnel from the Bureau of Purchases will facilitate the interviews. Some additional suggestions regarding the interview:

- be on time
- make sure all introductions are made for both the consultant's team and the evaluation committee
- be fair and impartial to all consultants
- follow the predetermined agenda and schedule
- rate and score each consultant team immediately after the interview

It is the facilitator's responsibility to ensure the offeror follows the agenda and completes the presentation in the allotted time. Interviews are generally scored similarly to the written responses, with the interview scores standing alone or being added to the scores of the response documents. However the scoring method identified within the request for qualifications is normally how the evaluation committee will proceed to score the presentation or interview. After deliberation by the evaluation committee, one or more respondents will be selected as the most qualified candidate(s) to perform the work and will be asked to submit a final proposal which will include the final scope of work, cost and any other items of clarification required by the bureau.

## **PHASE II – MODIFIED REQUEST FOR PROPOSAL**

### **REQUEST MODIFIED COST PROPOSAL**

Following completion of the interview, the bureau may determine that they will provide a written, albeit modified, request for proposal to the final shortlisted firms. Information contained in this document will include a modified scope of work, technical requirements, diversity plan, deliverables and period of performance or project schedule. As the offerors need as much information as possible to enable them to respond with their key personnel, management and staffing plans and provide workforce diversity submission and adequately develop a viable cost and response, it is important that the firms are allowed a reasonable period of time. Allow at least a week or more if available.

### **EVALUATE RESPONSES**

Reference the *LET'S GET STARTED*, Evaluation Committee: Evaluating the Responses sub-section, of this manual for more information regarding the evaluation of formal proposals.

### ***NOTIFICATION OF AWARD***

The proposers have made a substantial investment in time, effort and resources in order to provide a response; therefore both the successful and non-selected offerors will be notified regarding the outcome of the award. The individual bureau will prepare and distribute a Notice of Intent to Award, which will be mailed by regular mail to ALL proposers. The proposers removed from consideration as part of this process will be thereby notified of their exclusion and shall have seven (7) calendar days from the date of notice to file a protest.

Following the Notice of Intent to Award and notification to all respondents of the award, the RFQ documents will be considered public record and may be viewed by the public. Any proprietary information so designated by the respondent as a trade secret and meeting the requirements of ORS 192.410 will not become public record.

If there is no protest following the seven (7) calendar days, the award will be prepared for approval. Should a protest be received, the bureau will follow the ***AWARD CLARIFICATIONS AND PROTESTS*** procedures as provided herein.

### ***AWARD CLARIFICATIONS AND PROTESTS***

#### ***CLARIFICATIONS***

Following the Notice of Intent to Award, proposal documents may be viewed by the public. However, any proprietary information so designated by the proposer as a trade secret and meeting the requirements of ORS 192.410 does not become public record. Proposers not awarded the contract may seek additional clarification or debriefing, request time to review the selection procedures or discuss the scoring methods utilized by the evaluation committee. They should courteously be given the opportunity to come in and review the proposal documents as submitted and the final score sheet showing points awarded on the various evaluation criteria in response to the solicitation and the interviews. Allowing the unsuccessful firms to view successful proposals helps them to better understand the process, gather information about how other proposals are presented, recognize the positive contribution of each proposal and identify what they can do to improve on their future submittals.

In some circumstances, proposers will ask to debrief the project with either the project manager or Procurement representative. It is wise to have staff review the file prior to the proposer's arrival, recap the information required by the original proposal in relation to what was provided by the proposer, identify areas where information responsiveness could be improved, and identify what information or documentation might have been missing or incomplete. City staff should be careful not to compare the information provided by various respondents, but instead, focus on the information and presentation by the proposer seeking clarification. This direction will concentrate the attention and efforts on the respondent's proposal.

#### ***PROTESTS***

Protests may be submitted to the Purchasing Agent only for contracts in excess of the formal limit established by the City Auditor (currently \$20,835), and only from those proposers who would receive the contract if their protest was successful.

The protest must be received by the Purchasing Agent within seven (7) calendar days following the date the City's Notice of Intent to Award was issued. The protest must specifically state the reason for the protest and show how its proposal or the winning proposal was mis-scored or show how the selection process deviated from that described in the solicitation document. The firm protesting the award must include all legal and factual information regarding its protest and a statement of the form of relief requested. Protests received later than specified or from other than respondent who would receive the contract if the protest was successful will not be considered. The exercise of judgment used by the evaluators in scoring the proposals is not grounds for appeal, unless the protester can show a clear inconsistency in the way proposals were evaluated.

Depending upon the estimated project amount, protests will be processed as follows:

For those projects estimated to be between the formal limit (currently \$20,835) and \$100,000, the protest process will include review and response by the Purchasing Agent. If a timely protest is received from a person qualified to submit a protest, the contract award process will be put on hold until the protest has been resolved. If it is determined that proper procedures have not been followed, the Purchasing Agent may: waive any procedural irregularities that had no material affect on the selection of the proposed consultant, determine the proposed award invalid, amend the award decision, request that the evaluation committee re-evaluate any solicitation or require the bureau to cancel the solicitation and begin again to solicit new proposals. In the event that the matter is returned to the evaluation committee, the Purchasing Agent shall issue a notice canceling the Notice of Intent to Award and the award process shall begin again.

For those projects over \$100,000, timely protests must be received from a respondent who would receive the contract if the protest was successful. The contract award process will be put on hold until the protest has been resolved. If it is determined that proper procedures have not been followed, the Purchasing Agent may waive any procedural irregularities that had no material affect on the selection of the proposed contract, invalidate the proposed award, amend the award decision, request the evaluation committee re-evaluate any proposal or require the bureau to cancel the solicitation and begin again to solicit new proposals. In the event that the matter is returned to the evaluation committee, the Purchasing Agent shall issue a Notice canceling the Notice of Intent to Award and the award process shall begin again. Only for those projects estimated to exceed \$100,000 and received from the respondent who would receive the contract if the protest was successful and is not satisfied with the decision of the Purchasing Agent may file a written request for hearing by the Purchasing Board of Appeals only if the respondent has fully complied with the requirements of protest submittal as identified above. Any request for hearing by the Board shall be received by the Purchasing Agent no later than seven (7) calendar days from the date of the Purchasing Agent's decision. The request shall be delivered to the Purchasing Agent and shall be marked "Request for Hearing by the Purchasing Board of Appeals."

The Purchasing Board of Appeals, under the authority given it by the City Council, shall hear and resolve protests and appeals arising from City decisions about solicitation or contract provisions pursuant to PCC 5.68. The Board shall include three (3) members consisting of a representative from the public purchasing sector, the City Engineer or designee, and a member of the general public with affiliation to the purchasing industry. The request for hearing must describe the specific reason for the appeal request and is limited only to those matters that were raised in the original protest letter. The Board will hear the protest and issue a written decision. If the protesting firm is satisfied with the Board's decision, the award process will continue.

If the proposer is not satisfied with the Board's decision, it may ask that its protest be considered by City Council. A request by the aggrieved proposer must be made within three (3) calendar days from the date of the Board's written decision is issued and the award will not proceed until a determination has been made. At this time, the City Council may decide to hear the appeal or adopt the decision of the Purchasing Board of Appeals. Should the Council decide to hear the appeal, the proposer may be heard at a regularly scheduled Council meeting as scheduled by the Council Clerk. Any decision made by the City Council regarding the matter is final.

Regardless whether the Bureau of Purchases was involved in the initial selection process or not, the Bureau of Purchases will be the central agency for receipt of protest notifications for all PTE contracts over the formal limit and will take the lead on investigating, preparing and responding to all such requests or may delegate these tasks to the bureau that is seeking contract services.

### **CONTRACT AWARD/DRAFTING ORDINANCE**

Prior to award, all responses, evaluation committee discussions, and committee member's documents will be kept confidential and will not be divulged to the public until an award determination has been made.

Once the committee has reached consensus on the award, the most qualified responder will be notified of the committee's decision by way of a Notice of Intent to Award. Once the award has been made the file documents become public information and available to the public.

### ***DRAFTING THE ORDINANCE***

An ordinance is required for professional, technical and expert projects that exceed \$100,000. Since an ordinance carries the binding force of law, and is passed by the Council in accordance with rules or procedures as set forth by the City Charter, the information contained within the ordinance must be correct, comprehensive and must pertain to only one general subject. Since the internal processes, procedures and deadlines change from bureau to bureau, suffice it to say, all transmitted documents filed with the Council Clerk must be signed and initialed by the approving authorities and accompanied by all supporting materials. All Council documents must be submitted in both paper and electronic form and the standard drafting procedures are available from the City Auditor's Office. Any ordinances filed as a result of the competitive, formal request for qualification process should be so indicated within the text and the people authorized in the ordinance to sign the contract must be the same people whose names appear on the signature block of the contract. The Bureau of Purchases and the City Attorney's Office are both available to help the bureau with drafting the City Council ordinance as needed.

### ***WRITING THE CONTRACT***

By following the instructions for completing the Contract for PTE Services, the bureau will proceed to: select the optional provisions as identified on page 4 of the contract, add the contractor's scope of work and payment schedule, and include the necessary insurance or certification that the contractor is an independent contractor. The final contract must be reviewed as to form by the City Attorney's office and include all the necessary signatures on the contract document:

For contracts over the formal amount as established by the City Auditor's Office (currently \$20,835) and under \$100,000 forward to Purchasing Agent for signature; include PTE worksheet

For contracts over \$100,000 forward with PTE worksheet to City Auditor's Office, following Council approval, Mayor, Commission or City Auditor will sign the contracts or may so authorize the Purchasing Agent to so sign

Three copies of the contract will be forwarded to the City Auditor's Office along with the required insurance certificates (approved as to form) and the PTE Worksheet. Once a contract is awarded, the City Auditor will issue a contract number for tracking purposes. The Bureau of Purchases and the City Attorney's Office are both available to help the bureau with drafting the contractor documents or the City Council ordinance as needed. A copy of the final contract and PTE worksheets will be forwarded to the City Auditor's Office for filing.

### **POST- AWARD ACTIVITIES**

Information and suggestions relating to post-contract award activities may be found in the LET'S GET STARTED section of this manual.

## **CHECKLIST: TWO-STEP PROCESS (RFQ/RFP)\***

[Over formal amount set annually by City Auditor - current amount can be found at [www.portlandonline.com/omf/index.cfm?&a=10545&c=27572](http://www.portlandonline.com/omf/index.cfm?&a=10545&c=27572)]

1. DETERMINE NEED, OBTAIN BUREAU APPROVAL(S) \_\_\_\_\_
  2. ESTIMATE COSTS \_\_\_\_\_
  3. WRITE REQUEST FOR QUALIFICATIONS \_\_\_\_\_  
 Use of Standard RFQ required (current form may be down loaded from City intranet at [www.portlandonline.com/omf/index.cfm?&a=10545&c=27572](http://www.portlandonline.com/omf/index.cfm?&a=10545&c=27572) ]
- RFQ will include the following elements:*
- Introduction \_\_\_\_\_
  - Project background \_\_\_\_\_
  - Scope of work \_\_\_\_\_
  - Project funding \_\_\_\_\_
  - Technical Requirements \_\_\_\_\_
  - Work performed by the City \_\_\_\_\_
  - Review responsibilities for project \_\_\_\_\_
  - Deliverables \_\_\_\_\_
  - Public Safety \_\_\_\_\_
  - Special Provisions \_\_\_\_\_
  - Place of Performance \_\_\_\_\_
  - Period of Performance \_\_\_\_\_
  - Index \_\_\_\_\_
  - Project Data \_\_\_\_\_
  - Pre-Submittal meeting \_\_\_\_\_
  - Response Organization (qualification submission, information requirements) \_\_\_\_\_
  - Qualification submission (including evaluation criterion with relative weight shown); interviews may be held if it is determined that it would benefit the process. \_\_\_\_\_
  - Qualification Deadline \_\_\_\_\_
  - Questions and Clarifications \_\_\_\_\_
  - Selection Process \_\_\_\_\_
- Other necessary information/document to be included:*
- General terms/conditions, insurance requirements \_\_\_\_\_
  - Date and time of pre-qualification meeting (if any) and determination of mandatory/non-mandatory attendance \_\_\_\_\_
  - Establish standardized method for evaluations \_\_\_\_\_
4. FORWARD DRAFT RFQ FOR REVIEW BY THE PURCHASING AGENT (only for proposals over \$100,000) \_\_\_\_\_
  5. RFQ SOLICITATION EFFORTS \_\_\_\_\_
    - Advertise in *Daily Journal of Commerce* for three consecutive days and on the Bureau of Purchases website \_\_\_\_\_
    - As budget permits, bureaus shall make every effort to utilize minority newspapers (e.g., *Skanner, Observer, El Hispanic El Latino de Hoy, Just Out, Asian Reporter, etc.*) \_\_\_\_\_
    - Mail to several firms already known to have interest in this type of work and identify website address for their downloading \_\_\_\_\_
    - Seek out minority-owned and woman-owned firms \_\_\_\_\_
    - Respond to substantive questions regarding RFQ via written addendum to all RFQ holders \_\_\_\_\_

\* deviations and variations must be approved by the Purchasing Agent and City Attorney's Office.

- |     |   |  |     |
|-----|---|--|-----|
| 6.  | ESTABLISH EVALUATION COMMITTEE  | ---  | --- |
|     | <ul style="list-style-type: none"> <li>• Use a minimum of three (3) members, one of which must be from outside of City, unless the Commissioner waives the requirement</li> <li>• Establish standardized method for evaluations</li> <li>• Provide and discuss Evaluator's Statement of Independence And Conflict of Interest Statement with Committee</li> </ul>   | <ul style="list-style-type: none"> <li>---</li> <li>---</li> <li>---</li> </ul>  |     |
| 7.  | PRE-SUBMITTAL MEETING (if required)   | ---  | --- |
|     | <ul style="list-style-type: none"> <li>• The pre-submittal agenda to be developed by project manager to follow draft agenda cues as found on the Bureau of Purchases website</li> <li>• Copy of agenda to be filed with contract documents</li> </ul>   | <ul style="list-style-type: none"> <li>---</li> <li>---</li> </ul>   |     |
| 8.  | RECEIVE RESPONSES   | ---  | --- |
|     | <ul style="list-style-type: none"> <li>• Based solely upon criteria in RFQ</li> <li>• Utilized previously established criteria (ref. D.3 above)</li> <li>• Clarify respondent information as necessary</li> <li>• Determine if interviews are required</li> <li>• Schedule interviews, score and evaluate</li> </ul>  | <ul style="list-style-type: none"> <li>---</li> <li>---</li> <li>---</li> <li>---</li> <li>---</li> </ul>  |     |
| 9.  | EVALUATE AND SELECT MOST QUALIFIED RESPONSES<br>NOTIFY THOSE RESPONDERS WHO HAVE BEEN ELIMINATED<br>FROM CONSIDERATION (observe appeal process timeline)  | ---  | --- |
|     | <ul style="list-style-type: none"> <li>• Committee will select the top few highest ranking responses</li> <li>• Summary scoring sheets will be kept with the file and a copy forwarded to the Bureau of Purchases (respondents and addresses only)</li> <li>• All other information contained within the response to be confidential until after interviews and final selection</li> <li>• All Conflict of Interest Statements must be returned to the Project Manager</li> </ul> | <ul style="list-style-type: none"> <li>---</li> <li>---</li> <li>---</li> <li>---</li> </ul>   |     |
| 10. | REFERENCE CHECKS  | ---  | --- |
|     | <ul style="list-style-type: none"> <li>• Develop listing of questions to ask all references</li> <li>• Project Manager or one designated person calls all references</li> <li>• Share information with Evaluation Committee members</li> </ul>  | <ul style="list-style-type: none"> <li>---</li> <li>---</li> <li>---</li> </ul>  |     |
| 11. | CONFIRM EEO CERTIFICATION, INSURANCE CERTIFICATION<br>REQUIREMENTS AND VENDOR NUMBER WITH CONSULTANT  | ---  | --- |
|     | <ul style="list-style-type: none"> <li>• Look up at <a href="http://www.portlandonline.com/omf/index.cfm?&amp;a=8516&amp;&amp;c=27353">www.portlandonline.com/omf/index.cfm?&amp;a=8516&amp;&amp;c=27353</a> or check with Bureau of Purchases</li> <li>• Work with consultant to meet requirements</li> <li>• Submit Vendor Master Update form to A/P if vendor number is needed</li> </ul>  | <ul style="list-style-type: none"> <li>---</li> <li>---</li> <li>---</li> </ul>  |     |
| 12. | INTERVIEW HIGHEST RANKED TWO OR MORE RESPONSES;   | ---  | --- |
|     | <ul style="list-style-type: none"> <li>• Develop agenda</li> <li>• Score interviews similarly to the written responses</li> </ul>   | <ul style="list-style-type: none"> <li>---</li> <li>---</li> </ul>   |     |
| 13. | REQUEST A COST PROPOSAL FROM FINAL RESPONDERS<br>Those short listed firms selected to receive the RFP may be evaluated on:  | ---  | --- |
|     | <ul style="list-style-type: none"> <li>• Project approach and understanding</li> <li>• Project expectations</li> <li>• Experience and qualifications</li> <li>• Compensation requirements</li> <li>• Diversity in employment and contracting</li> <li>• Supporting information</li> <li>• Proposal submission/deadline</li> <li>• Other evaluation criteria of importance to the bureau</li> </ul>  | <ul style="list-style-type: none"> <li>---</li> <li>---</li> <li>---</li> <li>---</li> <li>---</li> <li>---</li> <li>---</li> <li>---</li> </ul> |     |

*Other necessary information/documents to be included:*

- General terms/conditions \_\_\_\_\_
- Insurance requirements \_\_\_\_\_
- Contract for PTE Services (example – marked as appropriate) \_\_\_\_\_

14. SELECT RESPONDENT MOST ADVANTAGEOUS TO CITY;  
 NOTIFY CANDIDATE(S) ELIMINATED FROM CONSIDERATION  
 (observe appeal process timeline) \_\_\_\_\_

15. OBTAIN BUREAU DIRECTOR'S/COMMISSIONER'S APPROVAL  
 AS NECESSARY \_\_\_\_\_

16. PREPARE CONTRACT DOCUMENTS: \_\_\_\_\_

- Contract for PTE Services (can be down-loaded from  
[www.portlandonline.com/omf/index.cfm?&a=10545&c=27572](http://www.portlandonline.com/omf/index.cfm?&a=10545&c=27572) ) \_\_\_\_\_
- Select optional provisions as identified on Page 4 of the Contract  
 for PTE Services \_\_\_\_\_
- Fill out Contractor's Scope of Work and Payment schedule (see  
 Attachment I, Instructions for Completing Contract for PTE Services) \_\_\_\_\_

~ATTACHMENTS REQUIRED~

PTE Worksheet \_\_\_\_\_

- Identify other consultants considered or document why it is  
 considered a sole source
- Include M/W/ESB information
- For contracts less than \$100,000 the bureaus will obtain signature of  
 bureau director, Commissioner or designee and forward to the  
 Purchasing Agent
- For contracts over \$100,000 the bureaus will obtain signature of  
 bureau director of Commissioner and forward to the Auditor's  
 Office with an extra copy to the Bureau of Purchases (NOTE:  
 worksheet form found on the Bureau of Purchases website  
 is the only acceptable version)

Evaluator's Statement of Independence and Conflict  
of Interest \_\_\_\_\_

- Certificates to be completed and signed by each member of the  
 Evaluation Committee (reference Exhibit F of this manual)

Workers Compensation Insurance Certificate \_\_\_\_\_

- Shows current dates of coverage, compliance with Oregon law,  
 and consultant signs Exhibit B, Section A (top) of the Contract for  
 PTE Services

~OR~

- Consultant certifies that he/she meets independent contractor stan-  
 dards by marking at least four (4) criteria in Exhibit B of the Con-  
 tract for PTE Services, \_\_\_\_\_

~ AND ~

- City project manager reads and signs as applicable Exhibit B, Section B  
 of the Contract for PTE Services, \_\_\_\_\_

INSURANCE REQUIREMENTS (unless waived by City Attorney's Office\*):

General Liability Insurance Certificate \_\_\_\_\_

- Must include valid effective and expiration dates
- Limits of coverage in accordance with the contract
- Additional insured endorsement naming City
- 30-day cancellation notice

- City listed as certificate holder

Auto Liability Insurance

- Most important when operating a motorized vehicle is specifically required within the scope of work

Professional Liability insurance

- Coverage amount in accordance with contract
- 30 or 60-day cancellation notice  
City listed as certificate holder/additional insured

- |     |  |                 |
|-----|--|-----------------|
| 17. | PREPARE 3 CONTRACT COPIES; FORWARD TO CONSULTANT FOR SIGNATURE ON FINAL CONTRACT   | —               |
| 18. | OBTAIN CITY ATTORNEY'S APPROVAL ON FINAL CONTRACT  | —               |
| 19. | WRITE/FILE ORDINANCE FOR COUNCIL APPROVAL  | —               |
|     | <ul style="list-style-type: none"> <li>• After Council approval, Purchasing Agent will sign contracts under \$100,000</li> <li>• After Council approval, Mayor, Commissioner or City Auditor will sign contracts over \$100,000 or may authorize the Purchasing Agent to so sign</li> <li>• Bureau of Purchasing and City Auditor must receive a copy of the PTE Worksheet, contract, and insurance documents</li> </ul> | <br>—<br>—<br>— |
| 20. | NOTIFY CONSULTANT TO BEGIN WORK AFTER CONTRACT PROCESSING IS COMPLETE  | —               |

\* On a case-by-case basis and upon discussion with the project manager, the City Attorney's Office may waive particular insurance requirements based upon special circumstances, limited risk exposure, and other factors. Conversely, situations and projects may present themselves that increased requirements be appropriate.



## **FREQUENTLY ASKED QUESTIONS**

**1. Should PTE RFQ's and the resulting contracts be reviewed by the Purchasing Agent and the City Attorney's Office prior to advertising?**

*If the estimated dollar amount is over \$100,000, the draft RFQ must be reviewed by both the Purchasing Agent and City Attorney. Additionally the Purchasing Agent will approve the RFQ prior to releasing it for advertising. For projects under \$100,000, review is not technically required but staff members in the Bureau of Purchases and the City Attorney's Office have special training and experience in working with these projects and as time permits. All contract documents will be reviewed by the City Attorney's Office prior to release for signature.*

*All contracts must be reviewed and approved by the City Attorney's Office before releasing for signatures.*

**2. Who signs contracts and in what order?**

*For contracts under \$100,000 for the total amount of the contract, the package is forwarded to the Purchasing Agent for signature and then forwarded to the Auditor's Office; if the total contract amount is over \$100,000 the contract will be forwarded to the Commissioner in Charge. The Auditor's Office then assigns a contract number and distributes copies, keeping one original on file.*

*If substantive changes or revisions to the Contract for PTE Services are proposed, bureaus will work with the City Attorney on such revisions prior to finalizing the contract.*

**Order for contract signing:**

1. Consultant
2. City Attorney
3. For contracts under \$100,000 – Purchasing Agent
4. For contracts over \$100,000 - Commissioner
5. City Auditor

**3. When is an ordinance necessary?**

*An ordinance is required for all PTE contracts over \$100,000 and on all Inter-Governmental Agreements (IGA), regardless of the amount. The ordinance should be filed with the Council office after the consultant has signed the contract and it has been approved as to form by the City Attorney.*

**4. Who files the ordinance for contracts? For amendments?**

*The individual bureaus are responsible for filing all ordinances, whether for contracts or amendments.*

**5. What types of insurance are necessary?**

*General, auto, and professional liability are required unless waived by the City Attorney.*

**Workers Compensation** is always required. If a consultant does not have commercial coverage (or is not self-insured), then they must be legally exempt from the requirement, which is

determined through their certification in Exhibit B (Independent Contractor Certification Statement) of the Contract for PTE Services. Workers Compensation coverage must comply with Oregon Revised Statutes 656.017.

**General Liability** provides coverage for lawsuits/claims asserted by third parties in regards to the consultant's work/matters arising from that work. The limits of coverage required are spelled out in the contract specifications. The insurance must name the City as an additional insured, and that endorsement must be on a proper form. The certificate must provide 30 days notice of cancellation to the City.

**Auto Liability** is appropriate if the consultant must operate a motorized vehicle or use motor vehicles as part of the contract work. There are many different types of coverage. Check with City Attorney or Bureau of Purchases for more information.

**Professional Liability** covers misconduct, negligence, errors or omissions in professional services, and lack of ordinary skill. Generally, if a state certification or license is required (i.e., engineers, architects, teachers, etc.) this insurance is appropriate.

The City Attorney may waive general, auto, or professional liability if those types of insurance are not required. On a case-by-case basis and upon discussion with the project manager, the City Attorney may waive particular insurance requirements based upon special circumstances, limited risk exposure, and other factors. Conversely, situations and projects may present themselves that increased requirements be appropriate.

6. **Must all committee members evaluating responses to a request for qualifications solicitation sign the Evaluator's Statement of Independence and Conflict of Interest, or can the project manager sign one for the entire committee?**

No, the project manager does not sign on behalf of the evaluation committee members or any individual member. Each member of the evaluation committee is required to read, sign and date their own EVALUATOR'S STATEMENT OF INDEPENDENCE AND CONFLICT OF INTEREST STATEMENT and each member's signed statement must be included as part of the RFQ file and attached to the PTE worksheet for the project.

7. **Will projects over \$100,000 be sent to a contracts attorney for review? If so, in what order will these documents be transmitted?**

All project solicitations exceeding \$100,000 will be reviewed by both the City attorney's Office and the Bureau of Purchases prior to advertising the project.

The solicitation documents for projects exceeding \$100,000 will first be submitted to the bureau of Purchases for review; the Bureau of Purchases will then forward the documents to the City Attorney's Office and then back to the Bureau of Purchases to be returned to the bureau. Project Managers will be informed of any necessary changes that need to be made. Once the requested changes have been made, the solicitation documents will be forwarded for their inclusion on the Bureau of Purchases website.

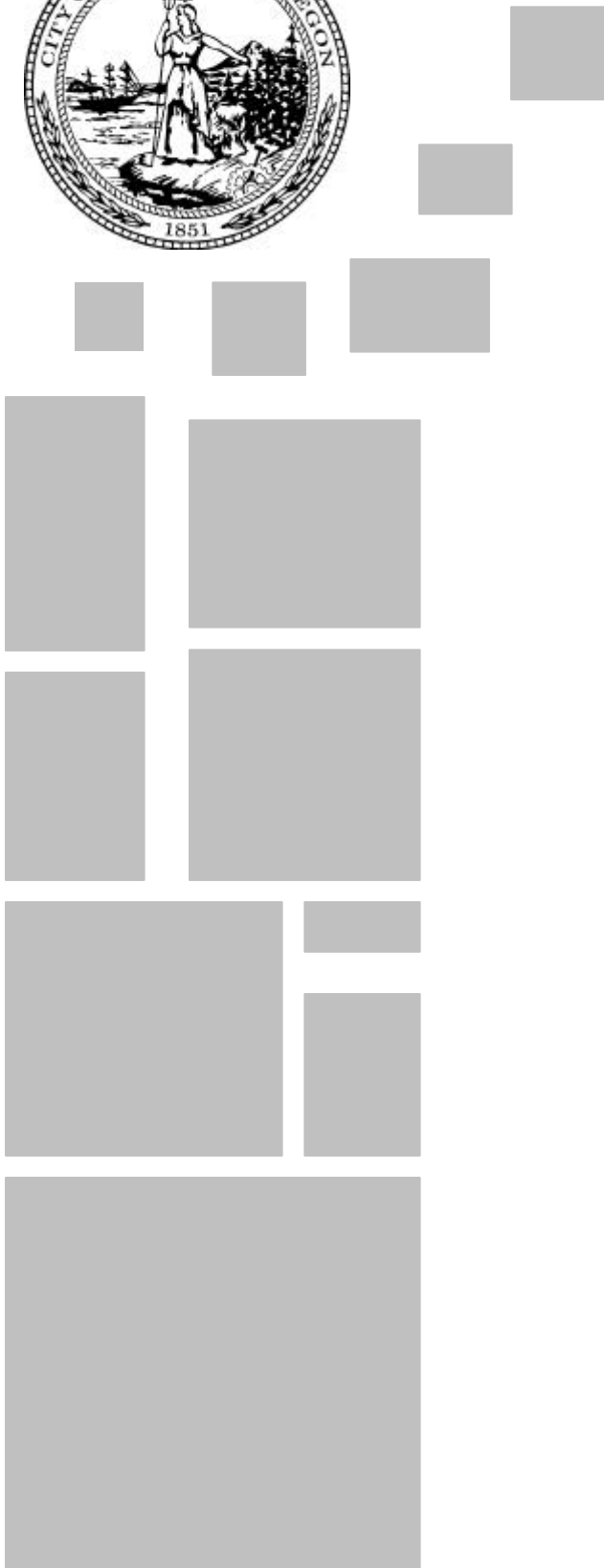
8. **Do IGA's fall under these new rules?**

Intergovernmental Agreements (IGA's) do not fall within the PTE category, a separate contract document is used and regardless of the amount of the contract must be reviewed by the City Attorney's Office and authorized by City Council.

9. **Will the final payment form be used for all contracts or only those over \$100,000? What about the monthly utilization report?**

*The final payment form will be used for ALL contracts except those initiated via purchase order.*

*The monthly utilization reports (MUR) will be completed by the prime consultants and submitted to the Bureau of Purchases compliance staff on all projects over \$100,000.*



## PART VIII

# QUALIFICATION BASED SELECTION

# **PROCEDURES FOR THE QUALIFICATION BASED SELECTION**

The Qualification Based Selection (QBS) method is required for projects to select registered architectural, engineering, or land surveying services if the project exceeds \$400,000 and a minimum 35% or more of the funding is derived from State Highway Funds from the State of Oregon (ref. ORS 279.057). Evaluation will be based solely on their qualifications; compensation requirements will not be an element of the selection process but will be negotiated with the most qualified proposer following the evaluation process. With the approval of the Purchasing Agent, this process may also be utilized for other PTE services if determined to be in the best interest of the City. All contracts must contain the maximum, not-to-exceed total compensation amount within the contract.

It is best used when the bureau requires the most qualified professional (s) developing the project and when greater ability to control scope of work, schedule and ultimately the project cost is required. The Qualification Based Selection process is similar to the Request for Qualifications process in that respondents are evaluated based upon their qualifications, expertise, previous experience, and work history. They are distinctly different in that the RFQ is a two-step process requiring the evaluation committee develop a shortlist of qualified offerors and complete the second step via a request for proposal. Whereas, the QBS process requires the selection of the single most qualified respondent who will then negotiate the scope of work, technical work requirements, schedule, and project cost with the City.

At the formal PTE level (over \$20,835), the Qualification Based Selection process must contain all the information necessary for the prospective respondents to prepare a concise, complete submittal. In order to provide consistency and reliability for the contracting community, the format as found on the Bureau of Purchases website is the only acceptable format. Given enough clear, concise information about the project, background, technical requirements, expectations of the consultant and the desired outcome, the offerors will have the opportunity to showcase the qualifications, expertise and experience of the firm, as well as the individuals within the firm. Some of the elements common to any complete QBS are as follows:

## ***INTRODUCTION***

The introduction need not be lengthy, but will provide a general description of the bureau, it's mission as it relates to the project at hand and an overview of how the bureau views the purpose of the project. This is the first place to identify the issue or problem that has been identified and for which the consultant is being evaluated.

## ***PROJECT BACKGROUND***

A background statement is needed to describe the bureau's organization, location of the project, review the present situation and why the need for the consultant. The project background is intended to help the prospective offerors understand the organization for which they will work, site location or surrounding area, environmental situations, locality of the project, and need for the project. The background need not be any more than two to three paragraphs long and can often help the offeror understand the scope of work and the qualifications necessary for the project.

The background section must provide historical information needed by the offeror in order to understand current requirements; it does not need to involve an extensive history of the City of Portland or the bureau unless it adds information needed to adequately respond. The background is simply to provide the consultant with a clear understanding, purpose and extent of the requirements of the project, how they relate to the overall project, and how the project may have evolved (i.e., natural phenomenon, act of God, previous tenant/owner, geographic location of the project, etc.). Do not include specific work-related requirements in this section. Often the Project Background section can identify any related research, studies or other efforts that will contribute to the consultant's understanding of the project; this section will easily segue into the Issue Statement.

**DEVELOPING A  
SCOPE OF WORK**

The scope of work is a written description of the contractual requirements, is the most important statement within the document and must be described in a manner that promotes full and open competition to the maximum extent possible. While rarely more than two to three sentences, the scope of work will describe the overall project purpose. When writing a QBS solicitation document, all previous statements must lead to the scope of work and it is expanded upon throughout the remainder of the document. Because the scope of work will ultimately be negotiated with the successful respondent, it is important that the solicitation document identify what the bureau views as the scope of work for the project, it should be given comprehensive attention.

The breakdown or failure of many professional, technical or expert service contracts can be readily pointed to a poor scope of work and while a clear, concise description of the work does not guarantee that the negotiations will begin on a positive plain. However, it does significantly reduce the likelihood that problems will arise. It is important that a scope of work be expressed in a clear, concise manner that can be understood by all parties and will specifically establish the contractual requirements and expectations.

In the case of the QBS process, the scope of work may be changed somewhat due to the negotiation process, but the negotiated scope of work will continue to be the guideline with which to follow and the pre-cursor for effective, on-going communication throughout the contract. Since the scope of work is written into a contract, the contractor is required to do only what is written into the contract, therefore, it is imperative that it accurately describe the work to be performed.

**DEVELOPING  
TECHNICAL REQUIREMENTS**

This section of the QBS document is required to further define the scope of work, describe actions, work requirements and include any technical details relating to the work proposed and enable the respondent to articulate the firm's experience and expertise in relation to the scope of work. The Technical Requirements are the mandatory requirements of the work and applies only to work performed following award of the contract.

If the bureau truly wants innovation, minimizing the number of mandatory requirements is paramount. It is important to remember that whatever is written as a technical requirement will be considered 'required' by the offerors; any information not included within this section will be considered 'negotiable'. The information provided in the Technical Requirements section must be explanatory and definitive enough for the offerors to respond with information regarding their management, qualifications, expertise and references, yet not define how the project will be accomplished, delineating specific personnel, doing any problem solving or identifying the final product. Some considerations for technical requirements may include: special permitting; any work required to conform to specific city, state or federal guidelines or standards; work to be performed by others (contractors, other governmental entities, railroad, port, etc); or outcome of the services if they are required to facilitate bidding or alternate construction methods, specific support during the next phase(s) of the project, any special provisions for support services and project interfaces.

Failure to adequately define phrases, acronyms, keywords or clearly identifying required tasks often results in confusion, misunderstandings, frustration, delays and increased costs in achieving the project objectives. Respondents will find it helpful and an aid to understanding if the same phrases and terms are consistently used throughout the solicitation document.

The more information the offerors are given with regard to the City's requirements and expectations, the better they can respond to the City's needs. Conversely, the better information provided in the QBS document, the better the chances of obtaining the most qualified respondent. The most important aspect is to diligently do the initial work in order to empower the evaluation committee to select the most qualified consultant for the project based upon the information provided by the offerors.

**WORK PERFORMED  
BY THE CITY/OTHERS**

The City's responsibilities must be identified as well as any work performed by others and may include approvals, testing, reviews, etc. along with any estimated turn-around time required to provide the information or materials to the successful contractor. This will also be the section to describe any City furnished equipment, furniture, computers, property, communication equipment, reports, drawings, maps, and personnel. Any City furnished equipment must clearly indicate it will be made available only to the successful contractor and must be returned in good condition at the conclusion of the project. Bureaus must be sure to identify any items that will affect contract performance and their impact on the schedule (i.e., data being collected by the bureau, reports generated for the benefit of the contractor, etc.).

Again, clearly note any third-party interfacing that will be required under the proposed contract. Bureaus are cautioned to provide appropriate schedules and dates as the responsibility for any City provided equipment or materials can become a liability and have an impact on the overall schedule and ultimately the cost of the project. The negative impact of third-party interfacing on the delivery schedule and project cost cannot be underestimated.

**PROJECT REVIEW**

The bureau will need to identify to the respondents how the work of the consultant will be managed and who will be the contractor's successful contact on a day-to-day basis. Identify any City bureaus or other organizations that will be providing input, review, comment, oversight or approval.

**DELIVERABLES  
AND SCHEDULE**

The purpose of this section is to separate the description of the physical characteristics and the delivery schedule for interim and end products from the description of the technical requirements. The actual work requirements are identified within the Technical Requirements section while the end product of the work requirements and their deliverable schedules are included in the Deliverables section. Deliverables are an important aspect of any project as they provide the project manager with one means of evaluating the consultant's performance. The deliverables may be considered anything relating to work products or by-products of the services performed under the contract that can be physically delivered such as: reports, draft documents and data, interim findings, drawings, schematics, training, final drawings or reports. Additionally, if training, technical meetings, meeting presentations, and written meeting minutes are expected during the course of the contract they may be considered as deliverables if the consultant provides a written report recording the event.

The transfer of a deliverable is often considered a signal that the end of a specific task or benchmark within the project has been completed, therefore, the bureau may find it prudent to provide for periodic or a final report by identifying the delivery timed based upon schedule – not dates. The bureau will find it helpful to define within the solicitation document what formats (i.e., written, written and CD, etc.), quantities, or specific order the reports are to be submitted, along with whether the contractor is to provide the reports with or without an executive summary.

It is important to note in the Qualification Based Selection solicitation documents that all deliverables resulting from the contract shall become the property of the City of Portland.

**PLACE OF PERFORMANCE**

While most consultant's perform their work at their office or work site, some consultants may be required to visit or perform most of their work at the City's facility or a combination thereof. Depending upon the requirements of the project, the City may need to identify the location. By defining the place of performance, the City is intrinsically indicating its preference and consequently no other location will be suggested. A specific address does not need to be included within the solicitation document unless there is a specific third party or off-site location requirement. If this may be a point of final negotiation, this section may be deleted.

**PERIOD OF PERFORMANCE**

The period of performance is considered to be the term of the entire contract. That is, how long the contract will be in effect, not the length of the scope of work or work effort. The period of performance is usually longer than just the scope of work. When determining the period of performance, make sure the schedules for the scope of work is taken into consideration as well as all technical requirements and deliverables. Unless timing is critical, do not pin the contractor's back to the wall with an unnecessarily aggressive completion date. Often the result of a tight contract schedule is lower quality of work, as contractors may have to cut corners or deliver late. The period of performance must be realistic, but depending upon the project, may also be a point of final negotiation.

The period of performance is usually expressed as the time period following contract award, not a specific date. The bureaus are cautioned to not use specific dates unless there are special budgetary or if completion date is critical (i.e., end of the fiscal or calendar year, end of preceding contract, etc.). If there are special considerations that demand that time is of the essence, funding expirations, particular obligations and/or special conditions (i.e., in-water window, hazardous material clean-up deadline, etc.), be sure to identify those conditions here, identify when funding will expire or what the particular obligations and/or conditions are.

**PUBLIC SAFETY**

In this time of heightened awareness, building security, public safety, security information, access control, and other safety requirements relating to physical safety, access and data information may be important and will need to be included in the solicitations. This may include a discussion by the City regarding physical access to buildings, property, computer and/or communication equipment owned, occupied or provided by the City. Public safety may require limiting access to public work sites, facilities and offices with or without advance notice to the consultant. When developing the QBS document, be prepared to identify any safety, security issues or requirements. It is possible that inherent in some projects will be the necessity that some or all of the consultant's personnel be required to undergo background checks, fingerprinting, photos, ID badges, security clearances and other security prerequisites which can be a time, scheduling and cost consideration to the respondents. Additionally, some work sites may require the consultant's personnel obtain a visitor badge or provide identification during the time of their work all of which may take extra time and must be factored into the negotiations.

**INDEX AND PROJECT DATA**

Any attachments, exhibits, reference materials, memos, letters, or supporting documents that the offerors will require for the preparation of their responses will be identified within this section. Bureaus should use caution when including attachments. This information must be necessary for the respondent's understanding of the project or further clarification – but never include conflicting information unless it is well defined within the document. It is important to identify how the respondent is to use the attachment information provided: merely as antidotal information or as a contractual requirement. All such materials will be identified as an exhibit, marked in alphabetical order herein. Exhibit A in this section may be a reference to the City's Internet where a copy of the Professional, Technical and Expert Services Contract may be found or a copy of the applicable contract intended to be used to consummate this process may be attached.

The QBS solicitation documents may also reference any background or project drawings, maps, photos, permits, plat maps, descriptive data, reports or certificates pertinent to the project that will provide additional information with which the respondents would require for the preparation of their proposals. On occasion, a minimal number of copies are available or originals are required to be retained in the office of the bureau may be made available for the respondent's review on a limited basis as a reference document. The QBS must identify what reference materials and items are available and note within the solicitation document, the location and times the materials will be made available. If an appointment to review these materials is required, the name of the person to call along with the phone number for making the appointment, physical location and dates for viewing is required. This index of available documents



will be included within this section; all documents will be clearly identified and referenced in ascending numerical order and will be marked as a “reference” document.

### **PRE-SUBMITTAL MEETINGS**

Depending upon the type or complexity of the project, the bureau may determine that a pre-submittal meeting would be beneficial to the offerors in order to acquaint them with the scope of work, project parameters, location, technical aspects, restrictions and deliverables. Pre-submittal meetings will be held with prospective consultants prior to receipt of their responses, will be designated as being either mandatory or non-mandatory and will be so identified within the QBS documents. Additionally, a pre-submittal meeting allows offerors to ask questions, clear up any ambiguities and ensure that all offerors have the same basis of understanding regarding the proposed project.

**Mandatory** pre-submittal meetings require that all offerors attend if they plan to submit a response. From this point on, only those who are present at the mandatory meeting will be allowed to submit responses that will be considered for review. The project manager and personnel from the Bureau of Purchases will be allowed to answer questions posed during the meeting. The general Pre-Submittal Meeting Agenda form as found on the Bureau of Purchases website will be used as a guideline for developing a pre-submittal meeting agenda.

**Non-mandatory** pre-submittal meetings will be considered an ‘optional’ meeting for the offerors. The offerors failure to attend this meeting will NOT cause their response to be rejected. Any questions posed during the meeting will be collected and responses provided in the form of an addendum in order to assure that all proposers of record receive the same information [ref. Bureau of Purchases website] in accordance with the procedures within this manual.

### **SUBMITTAL CLARIFICATION**

As clear and succinct as the QBS solicitation documents are intended to be, there are still questions and clarifications that arise from the offers that require the project manager’s review, documentation and response. The solicitation document must identify where the questions are to be directed, providing both the name of the person, any phone or email addresses, and the format to be used (i.e., telephone, e-mail, fax or in writing). It is important that the person to whom questions or clarifications are referred is responsive and knowledgeable about the project. The QBS document must also contain a statement defining the time period during which questions will be accepted (usually no less than five (5) working days prior to QBS deadline). Questions must be addressed to the person indicated on the document (e.g., project manager or procurement official) with sufficient time prior to the QBS deadline in order to address the issue, make any necessary corrections and inform all potential offerors.

### **QUALIFICATION DEADLINE AND SUBMITTAL**

The main purpose of the preparation and submission instructions is to ensure the responses address the areas of interest identified in the document in such a way that information can be readily found and information assimilated. The general instructions require directions be given to assure that each response is clear, succinct and provides for evaluation based upon the information included within the document. If all is followed, the resulting submissions will allow the initial screening to be performed in an efficient and objective fashion. Although the offeror has every right to respond to the solicitation in any manner he/she sees fit, these instructions are provided to help the consultant work through the various project tasks and provide a response within a structure that can be quickly and easily read by the evaluation committee. Therefore, submission instructions are used to:

1. Ensure that offerors address the areas of interest as expressed by the solicitation document. Each offeror should structure their response in the same order of importance as the evaluation criteria. The instructions will identify specific elements the bureau deems necessary with which to evaluate responses, therefore, instructions should be as explicit as possible. The evaluation

team's job is to evaluate the respondent's technical expertise and qualifications – not their proposal writing skills or glitzy brochures.

2. Standardize the submission to facilitate the evaluation process. By standardizing the submission, the process will be easier for the evaluators. They will not need to search through differing organizations in order to find the information they need. The City's sustainability requirements are included as a part of the submission section and will include such statements as:
  - the number of copies to be submitted (original and copies);
  - unnecessarily elaborate or lengthy proposals are not desired;
  - encourages double-sided copying; and
  - discourages spiral or other bindings, plastic or glossy covers, dividers, tabs, and table of contents
3. Require the submission of specific information. By requiring specific information with the response, the evaluation committee will be able to review the information which may include a discussion of specific work requirements, performance issues as identified in the document, identify the content and format of any management reports, how they plan to manage the project, and the respondent's work plan. In order to minimize omission of any responses or failure of the offerors to respond to one or more questions, it is important that questions posed to the offerors be located in one place on the QBS and offerors be required to respond in the same order.

All submittals will be evaluated on their completeness and quality of content. Only those firms providing complete information as required within the solicitation document will be considered for evaluation. The ability to follow the instructions as provided within the QBS document demonstrates the respondent's attention to detail, ability to share information necessary for a decision, willingness to serve and attention to customer service.

### **RESPONSE ORGANIZATION**

The consultants will be asked to provide information regarding qualifications, experience, and expertise, reference materials and other submittals that will fully describe their firm's skills and abilities as well as those of the firm's personnel. By requiring the information organized in sections containing specific information, the bureau will be making it considerably easier for the evaluation committee members as they read through the various responses. While there are many qualification questions and options for organizing the materials, the following are provided as an example only:

- ✓ Description of Firm. Describe your firm's legal structure, areas of expertise, length of time in business, number of employees, and other information that would be helpful in characterizing the firm. Provide the address of the main office (for legal purposes) and the address of the office that will manage the project. Identify any sub-consultants that you would propose to include as a part of this project; provide the same information for any sub-consultants as previously described for your firm's legal structure.
- ✓ Experience. Briefly describe other projects executed by your firm that demonstrate relevant experience. Also, list all public sector clients for whom you have performed similar work in the past five (5) years. For each project mentioned, include the name, address and phone number of a person who can be contacted regarding your performance on the project. When submitting projects for which your firm worked in an auxiliary capacity or in a joint venture or partnership, include the name of the lead firm. Please remember that any extensive descriptions of vaguely related projects are discouraged and could negatively impact the overall outcome of the evaluation.
- ✓ Personnel. Provide a professional resume for the key people proposed to be assigned to the project (including any important sub-consultants), and describe their relevant related experience. Describe key personnel's proposed roles and responsibilities on this project. Submittals must identify a proposed project manager who would be responsible for the day-to-day management of project tasks and would be the primary point of contact with your firm. Identify who the second level production

person will be, provide a description of their experience as it relates to the project at hand. An organizational chart of the project team may be appropriate.

The project team will be the consultant's key personnel working directly with and having the most impact on the City's project. The information required will include the consultant's or individual team member's names, qualifications and experience as they relate to the proposed project. Their individual expertise will cover all phases of the project, understanding of the project, management approach, integration of all activities required by the scope of work, key personnel to be assigned to the project and their education, background, experience and performance records. If there are specific concerns or requirements that the bureau needs to have the offerors address, this is the section in which to make those requirements known. For more information, Bureau personnel should review the Qualification Based Selection cues as found in the QBS form on the Bureau of Purchases website.

Understand that if bureaus are requesting information regarding key personnel only, you will probably receive information relating to the project principal, project manager, key staff members and possibly a few sub-consultants. If the bureau requires information on the entire team, be sure to stipulate that requirement. Don't assume they will volunteer this information. If the bureau requests information on key personnel by name, they may elect to add an additional statement that requires no substitution of key personnel may be made without: (1) advance notification to the project manager and (2) confirmation from the project manager the substitution meets the required qualifications. If the bureau determines this clause is to be used, the qualifications of the key personnel must be identified in the QBS. Use this requirement sparingly as each identified position carries with it an administrative burden on the part of the project manager for reviewing personnel changes for the life of the contract. If the bureau determines to require the key personnel clause, whenever possible request only the top few managerial and technical positions. Identify lower level positions as key personnel only if a specific level of expertise or experience is required specifically for the project.

When describing the qualifications for key positions, the bureau must specify the level of expertise, educational or background experience required for the project all the while understanding the offeror must be allowed to identify its key personnel and demonstrate how they meet the required qualifications. Permit them to provide, document and explain education or experience levels that are either equivalent or a substitute for those specified. Bureaus are not required to accept the respondent's equivalency statements although by so doing, the bureaus may find experience and expertise of which they were previously not aware and of which may be more beneficial to the overall project.

If helpful, the bureau may require the offeror provide the percentage of time that key personnel would be expected to work or devote to the contract. This can be important if continuity within the project time is important. Sometimes firms will remove the original project manager and bring in a "closer" which may or may not be acceptable to the bureau. If this type of substitution is a concern, the bureau should be sure to indicate this within the solicitation document.

- ✓ Workforce Diversity. The City of Portland seeks to extend contracting opportunities to Minority Business Enterprises, Women Business Enterprises and Emerging Small Businesses (M/W/ESBs) in order to promote their economic growth and to provide additional competition for City contracts. Therefore, the City has established an overall 20% utilization goal in awarding PTE contracts to ESBs. No goal is set for the use of M/WBE firms, but the City is committed to ensuring that such firms receive opportunities and equal consideration to be awarded City PTE contracts.

#### COSTS OF RESPONDING

For most responses, the costs for preparation and presentation are exclusively to the account of the respondent. On occasion, the City may wish to reimburse a specific number of respondents either for information or designs provided as part of their response. These responses may require submittal of preliminary designs or draft work plans that will then be reviewed and scored by the evaluation committee. Because of the amount of effort and the uniqueness of the project design competitions, innovative issue resolution and design and development

of copyrighted designs, it may be important that the shortlisted respondents be reimbursed for their time and efforts put forth in responding to the solicitation. The requirement for designs or work plans will be at the City's discretion and will be so noted within the original solicitation document.

### **SELECTION PROCESS**

Professional, technical and expert services are evaluated and awarded based on several factors and in the case of the qualification based selection, the award will be evaluated predominantly on the expertise and experience of both the firm and the individuals within the firm as provided in the response. The bureau must develop a standardized method for evaluation of all offerors. The criteria is determined during the preparation of the QBS document and will be clearly described within the solicitation document along with the weighting of each criteria. This allows the responses to be evaluated on an equal basis, provides a "yardstick" that minimizes arbitrary decisions and helps provide an objective determination of the respondents most qualified to handle the project. Per City Code 5.68, projects greater than the current informal limit shall have a well defined set of evaluation criteria, a precise definition in narrative form to describe the standard, how it will be used and the performance criterion for each along with the corresponding weighting for each criteria.

The step-by-step evaluation and scoring procedures will be identified in the request for qualifications and will be followed in order to assure objectivity and thoroughness in comparative analysis of the responses (reference the QBS format as found on the Bureau of Purchases website). The QBS will describe the point value or weight given to each criterion. A scale will be developed to help the evaluation committee members assign point values to each criterion for each response received. This allows the offerors to tailor their responses according to the importance and weighting given to each evaluation criteria (NOTE: If the score values are not identified, they must be assumed to be all of equal value and the committee must rank them as such).

The weighting each criterion receives will be an important factor in the final outcome of the award and the ultimate project outcome. The factors most likely to have the greatest impact on successful project completion must be given the most value; therefore, if the approach is not as important as the fact that the professionals carrying out the tasks are very experienced in this endeavor, then "project team expertise" may be valued most. Wherever the most weighting occurs, this is where the respondents must assume the bureau has put the most importance and the respondents will in turn spend the most time in developing their responses.

If a few of the highest ranking respondents are to be interviewed, the QBS solicitation document must so state the criteria with which the bureau will use to advance the respondents to the interview process and how the interview will be used in the overall scoring process, that is, will the interview scores be added to those of the original response, or will they be evaluated separately? It is acceptable to indicate within the solicitation document that depending upon the responses, the evaluation committee "may invite respondents in for interviews and presentations". Additionally, the QBS documents must indicate if specific staff members, proposed positions (i.e., project manager, etc.) or sub-consultants personnel will be required to participate in the interview.

While there are a variety of potential evaluation criteria available, the following is a listing of some of the most commonly used criteria and information on weighting the evaluation criteria. Items identified with a "X" are required for each OBS solicitation document, and all other items are optional and may be considered for use in evaluating professional, technical and expert service proposals:

#### **X Experience**

The experience of the firm on similar projects may be a valuable yardstick for their future performance. Is the experience recent, or in the distant past? How similar in type, size and complexity were the projects to the one presently proposed? References should be requested and checked with care. However, talented and resourceful firms with little relevant experience may bring a fresh approach. Be careful when requiring a specific amount of experience or by requiring numerous years of experience, the bureau may succeed only in reducing the number of responses, precluding qualified, experienced consultants with

lesser years of experience. But potentially more direct experience. This may also be a false indicator of the bureau's willingness to pay higher hourly costs.

### **X Expertise**

Expertise differs from experience in that it refers to the qualifications of the individuals suggested for the project. Have their education and training prepared them to adequately perform the required tasks? Is the offeror supplying adequate personnel to fully complete the project in the required period? It is a good practice to request the names, qualifications and background of any people who will be assigned to the project.

### **X Relevant Project Experience**

How well does the offeror understand the bureau's requirements, scope of work, or expectations? Have they clearly stated their methodology for achieving the goals, objectives, expectations and timelines indicated in the QBS solicitation document? Can the firm meet your time requirements? The project approach should be an important evaluation criterion with any project. A firm that does not address all the issues clearly in their response may not be the best candidate for award.

### **X Diversity in Employment and Contracting**

To help promote diversity in the City's PTE contracts, and in accordance with the City's Fair Contracting and Employment Strategy for PTE contracts, all qualification based selection solicitations distributed by City bureaus and offices must contain evaluation criteria for Diversity in Employment and Contracting which shall be no less than 15% of the total evaluation criteria.

- **Capacity**

Does the firm have the necessary personnel, equipment, insurance, bonding, capital, etc. to successfully complete the proposed project? Does the firm currently have the staff and resources extended to the point they cannot devote adequate time or resources to the project being proposed? If part of the work will be subcontracted, to whom? It is important to have this information prior to contract award.

- **Years in Business**

Unless this has a direct bearing on the overall project, as an evaluation criterion this may not provide the needed information and be very misleading. A new partnership of experienced personnel may be highly qualified to do the task although they may have just "hung their shingle." It may be more advantageous to request information regarding experience on projects of the same scope, magnitude or degree of difficulty.

- **Certification**

Is this required by law or for the success of the proposed project? Are the firm's proposed key personnel certified to perform the work within the State of Oregon (i.e., will engineers be doing the engineering, etc.)? Will they be utilizing less experienced personnel in relation to the cost of certified personnel? This may also be incorporated into expertise, above.

Should you require assistance in weighting of the criterion, establishing evaluation criteria for a specific project or developing a standardized method for evaluation and scoring, please contact the Bureau of Purchases.

## **REVIEW OF DRAFT QBS BY THE PURCHASING AGENT**

For QBS projects estimated to be more than the formal amount as established by the City Auditor's Office (currently \$20,835) and less than \$100,000, the individual bureaus will process the QBS documents and submit the document to the Bureau of Purchases for posting on the Bureau of Purchases website.

For projects estimated to exceed \$100,000, the individual bureaus will forward the draft QBS solicitation information and documents to the City Attorney's Office and the Bureau of Purchases for review and

comment. Once any changes have been made and approved by the Purchasing Agent and City Attorney, the document will be advertised on the Bureau of Purchases website.

### **SOLICITATION EFFORTS**

It is important to allow sufficient time for offerors to prepare a complete response to the QBS. Usually two to three weeks is adequate, depending upon the complexity of the project and the time and resource involvement required in order to respond to the solicitation. However, requests for particularly complex projects or responses requiring involved or intricate responses may require a month or more.

With the formal request for qualification process, written responses are required. QBS solicitation documents are advertised on the Bureau of Purchases website, for three (3) consecutive days in the City's official paper of record (currently the *Daily Journal of Commerce*) or as deemed appropriate by the Purchasing Agent. The Purchasing Agent may provide a waiver from the advertising as deemed appropriate for the solicitation. Additionally, bureaus shall make every effort to utilize minority newspapers in order to foster and promote competition. Project announcements may be placed in such publications as: *The Skanner*, *Observer*, *El Hispanic News*, *Just Out*, *El Latino de Hoy*, or *Asian Reporter*. These advertisements or those placed in industry trade journals are placed at the discretion of the individual project manager or bureau director depending upon project budget constraints.

Often bureaus forward copies of the QBS solicitation to an initial listing of firms already known to have interest in the project and thus will be required to maintain multiple planholders lists. By utilizing the Bureau of Purchases website, the interested parties are able to quickly register and download the necessary documents, the Bureau of Purchases is able to maintain an up-to-date mailing list on behalf of the bureau, and later if addendums are sent, they will automatically be sent to all QBS planholders. Therefore, if bureaus wish to forward information regarding the project or notify consultants who have previously expressed an interest, they may do so by referencing the Bureau of Purchases website and allow the potential respondents to download the information for themselves. For all projects estimated over formal amount established by the City Auditor's Office (currently \$20,835), the project manager will be responsible for forwarding their advertisements to the official paper of record and the Bureau of Purchases.

### **DIVERSITY IN EMPLOYMENT AND CONTRACTING REQUIREMENTS**

The City of Portland seeks to extend contracting opportunities to Minority Business Enterprises, Women Business Enterprises and Emerging Small Businesses (M/W/ESBs) in order to promote their economic growth and to provide additional competition for City contracts. Therefore, the City has established an overall 20% utilization goal in awarding PTE contracts to ESBs. No goal is set for the use of M/WBE firms, but the City is committed to ensuring that such firms receive opportunities and equal consideration to be awarded City PTE contracts.

### **THE PRE-SUBMITTAL MEETING**

The pre-submittal meeting may be either mandatory or non-mandatory and must be so identified within the QBS document. The pre-submittal meeting is held with all prospective offerors prior to receipt of their responses and is intended to acquaint the offerors with the scope of work, project and project location, technical aspects, restrictions, and deliverables. If used wisely, the pre-submittal meeting can be an important part of the QBS process. A pre-submittal meeting provides an opportunity for the offerors to ask questions, clear up any ambiguities, and ensure that all have the same basis of understanding regarding the proposed project. The Bureau of Purchases pre-submittal meeting "Cue Sheet for Pre-Submittal Meeting Agenda" as found on the Bureau of Purchases website is to be used as an aid planning and organizing such a meeting.

Statements made by City representatives about the solicitation, project or QBS documents, including statements made at the pre-submittal meeting are not to be considered binding on the City nor a responsibility of the offerors. Regardless the type of meeting, if a response or answer to a question is unknown, the attendees would be best served to know that and understand that the answer will be

researched and provided at a later date via addendum. The solicitation document shall not change unless the City confirms the statements and changes to all prospective respondents by way of a written addendum [NOTE: the form found on the Bureau of Purchases website is the most current form].

**Mandatory** pre-submittal meetings require that all offerors attend if they plan to submit a response. Therefore, prior to a mandatory pre-submittal meeting, all offerors will sign in and from this time forward, only those who signed in and attended the pre-submittal meeting will be considered for the project and be eligible to have their responses reviewed. Since only those who were present at the pre-submittal meeting will be submitting responses, the project manager is able to answer the questions asked during the meeting and will confirm those comments via an addendum. It is important to note in the addendum which items change or modify the original contract document. It is therefore, highly recommended the questions and responses from the pre-submittal meeting be recorded.

**Non-mandatory** pre-submittal meetings will be considered an “optional” meeting for the offerors. The offerors failure to attend this meeting will NOT cause their response to be rejected. While offerors may ask questions and request clarification, the answers will be withheld and provided in writing by way of an addendum to all offerors of record.

Whether mandatory or non-mandatory, the pre-submittal meeting for projects less than \$100,000 will normally be facilitated by the project manager and for those projects estimated to exceed \$100,000 will be attended and may be facilitated either by the project manager or the personnel from the Bureau of Purchases. Self-introductions will include the bureau staff, project manager, personnel from the Bureau of Purchases and all offerors in attendance. The facilitator will identify the type of pre-submittal meeting (i.e., mandatory/non-mandatory) and the following information:

- sign-in requirements,
- a further explanation of the competitive process,
- identify the submittal due date,
- procedures for clarifications and questions,
- outline the protest procedures,
- provide instructions regarding EEO certification and Diversity in Employment and Contracting, outline when addendums will most likely be sent out,
- discuss any proprietary requirements for submittal of the documents, and
- explain the requirements for submitting the response.

The project manager will be prepared to outline the project background, issues relating to the project, challenges or requirements inherent to the project, and scope of work. Additionally, the project manager or other project member will provide such information regarding:

- certifications or permitting required,
- project exceptions, constraints, challenges, restrictions, etc. without telling them how the work is to be performed,
- evaluation criteria and weighting,
- visit the project site, and
- due date and time when selection of consultant will be made public (following written notification of award or contract award letter).

Regardless whether the pre-submittal meeting was mandatory or non-mandatory, clarifications or answers resulting from the pre-submittal meeting will be forwarded to the offerors in the form of an addendum (NOTE: the addendum form on the Bureau of Purchases website is the only acceptable form). Any questions or clarifications that cannot be addressed by the time of the first addendum is sent, will be identified and the addendum so noted: “research underway, response forthcoming”. By noting the unanswered questions in such a way, the respondents will understand that it continues to be an open question or request for clarification. As the answer becomes available or clarification has been determined, the information will be provided to all offerors of record by way of a subsequent addendum.

The contact person must be responsive to all offerors by returning phone calls and e-mails, documenting the questions and determining whether an addendum is appropriate. Additionally, the contact person must clearly understand that under no circumstances will information be provided to one offeror that could be construed as giving him preferred status nor will information purposefully be withheld from offerors, thereby giving an advantage to one or more offerors. Under no circumstances will the project manager or bureau personnel provide unauthorized documents or information to one or more offerors without officially documenting it. It is important that all potential respondents receive the same information and that it be sent at the same time.

Changes to the QBS documents shall be made only by written addenda. Addenda shall be clearly identified as such and distributed to all prospective offerors known to have obtained the solicitation documents or to have attended any mandatory pre-submittal conference. The City shall make a reasonable effort to notify offerors of the addenda. However, it is the responsibility of the offerors to ascertain the issuance of and be responsive to all addenda. Addenda shall be issued no later than seventy-two (72) hours before the QBS closing date and time. The Purchasing Agent may extend the request for qualifications closing date and time in order to allow prospective offerors time to analyze and adjust to the changes identified in the addenda. The City shall notify prospective offerors of the new closing date and time either by way of the addenda. Notification by the City shall be complete upon writing and mailing of the addenda.

#### ***QBS CLARIFICATION***

Regardless how clear and self-explanatory the QBS solicitation documents are intended to be and in spite of all pre-submittal meeting efforts, there may still be questions that arise or clarifications required by the offerors. The QBS solicitation document must identify where and to whom the questions are to be directed, providing both the name of the person, address, phone or fax number, e-mail address, and in what format the questions are to be forwarded (i.e., telephone, e-mail, fax or in writing). Requests for clarification may be requested anytime throughout the pre-award process until five (5) days before the QBS due date. Offerors may request clarification to a specification, documentation requirement, evaluation criteria, type of backup information requested, or process identified for award.

Questions from the potential offerors will be carefully evaluated to determine if the question(s) asked and any responses or information provided has direct bearing on or will effect the responses of other offerors. If so, an addendum will be prepared and forwarded to all offerors of record to assure that they received the same information (NOTE: the addendum form found on the Bureau of Purchases website is the only acceptable form).

Addendums will be identified by request for qualification number and kept in order by consecutive addendum number. Addendums must be sent in time to reach potential offerors prior to the QBS deadline. If the information has bearing on the quality and content of the offerors responses, the QBS due date will be so adjusted to allow the offeror time to assimilate the information provided in addendum.

#### ***CLARIFICATION PROTESTS***

On occasion, offerors may not agree with information provided within the solicitation document or addendums and may protest the process. The Purchasing Agent shall have the authority to settle or resolve a written protest of a solicitation document in accordance with ***AWARD CLARIFICATION AND PROTEST*** section as provided herein. No protest shall be considered after the deadline established for submitting questions. The bureau shall forward a copy of any protest to the Purchasing Agent. The Purchasing Agent shall notify the applicable offeror if the City entirely rejects the protest, agrees with the protest in whole or in part and shall issue an addendum reflecting the change or cancel the solicitation. It is imperative that all processes, procedures and guidelines be adhered to and documented in order to have a successful outcome.

#### ***RECEIPT OF RESPONSES***

It is important that all formal responses be received at the appointed time and location as noted on the QBS documents and all sealed envelopes are recorded and time stamped. Responses received prior to



the designated date and time must NOT be opened and the contents must remain secure until the appropriate date and time. There should be a designated secure storage area in which to place unopened responses as they arrive.

If a late proposal is delivered by common carrier it should be accepted and the bureau will record the name of the company, the time the proposal was received and the name of the company representative or commercial carrier attempting to deliver the proposal.

## **EVALUATING RESPONSES**

### **REVIEW FOR RESPONSIVENESS**

Prior to providing qualification response copies to the committee members for scoring, the responses must first be examined to determine whether they meet the minimum requirements stated in the QBS document. These minimum requirements may include: was the response received by the filing deadline? Was there a mandatory pre-submittal meeting? Did someone from the respondent's firm attend? Was a letter of interest required and included with the response? Offerors who fail to meet minimum requirements will be considered non-responsive and will be disqualified from further consideration. It is important, however, to determine if a submission failure is "material" or "immaterial" to the evaluation. By conducting this preliminary evaluation, it could be suggested that a measure of the potential contractor to follow the instructions demonstrates their ability to not only follow primary directions but identifies their attention to detail, responsiveness to the City's directions, and willingness to provide a certain level of customer service.

Any responses eliminated due to their lack of responsiveness or non-conformity to the mandatory requirements will be removed from further consideration by the evaluation committee and the file will be so documented.

### **NOTIFICATION OF THOSE REMOVED FROM CONSIDERATION**

The individual bureau will provide a written notice by mail to all respondents removed from further consideration as part of the initial evaluation process. The respondents removed from consideration as part of this process will be thereby notified of their exclusion and shall have seven (7) days from the date of notice to file a protest. If no protest is received, the process will continue. Should a protest be received, the bureau will follow the **AWARD CLARIFICATIONS AND PROTESTS** procedures as herein provided.

### **EVALUATE RESPONSES**

Evaluation Committee members will be expected to review and evaluate all responses in accordance with the *Evaluate Responses* sub-section as provided under **LET'S GET STARTED**.

### **RESPONSE CLARIFICATION**

During the evaluation process, clarification of certain points in a response may be necessary. The Project Manager or a designated member of the evaluation committee should be delegated to contact the responding firm for clarification. In order to minimize confusion, no other people will contact the firm or request additional information from them. All contact with the offerors must be from the one designated individual, no other committee members must contact them. Responses received from this communication will be documented and filed with the request for qualification documents. At this point, no other additions, deletions, or substitutions will be allowed to the responses. It is advisable to document all contacts, questions and answers and information provided for clarification; all records become public information after contract award and are subject to public review. Information received from the responding firm will be shared with the members of the Evaluation Committee.

### **REFERENCE CHECKS**

Most QBS evaluation criteria include the need for the offerors to provide references and supporting documentation regarding previous history or

projects. This information should include the name of the company or firm, contact name, phone number and address. If allowed within the solicitation document, the project manager or designee shall contact each reference and ask the same questions of each. Once the evaluation committee has determined which of the offerors will be called for interviews, the project manager may begin checking references. It should be noted that City staff may also check other references. It is important that the evaluation committee develop a standard listing of questions that will be posed to each reference identified by the respondents. Some sample questions may include:

- Describe the project they worked on for you.
- Would you hire them again?
- Was there a frequency and rationale for change orders?
- Were their preliminary estimates accurate throughout the project?
- Did they provide any special services?
- Did they provide all the closeout documents?

Comments and information provided by the reference checks will be documented, shared with the evaluation committee members and become a part of the permanent proposal file.

### ***SELECT THE MOST QUALIFIED RESPONSES***

Following the review by the evaluation committee, the committee will convene and collectively incorporate their comments and total scores into one evaluation, one final candidate must be identified as the most qualified and eligible to negotiate a contract with the City. The evaluation committee will select and rank the most qualified offerors in order.

Based upon the evaluation scores, any responses receiving low scores will be removed from further consideration by the evaluation committee and the file so documented. Summary scoring sheets of the committee's decision will be kept with the contract file for future reference and a copy will be filed with the Bureau of Purchases. This listing will include the names of the respondents and addresses only; information contained within the responses will be kept confidential until after the presentation/interview evaluation and final selection.

### **NEGOTIATION**

The goal of negotiating with a consultant is to reach a solution and is an opportunity to confer openly in order to arrive together at an agreeable settlement. By negotiating in good faith, we are reducing the risk to both parties, eliminating unnecessary costs while improving benefits, clarifying the scope of work and technical requirements and developing a better understanding of what is really needed.

Often the best way for the project manager to start with the negotiation process is to meet with those involved with developing the original solicitation document. This meeting will be to review all the potential points of negotiation that were purposefully omitted from the QBS solicitation document such as: the technical requirements, deliverables, and work performed by others, etc. Secondly, this meeting will familiarize the members with the consultant's response and enable them to discuss any outstanding issues and identify any questions they may have.

The project manager usually will be the lead negotiator unless another has been appointed and it is wise to have at least one or possibly two additional negotiators on the team. More than one negotiator eliminates any negative perceptions regarding what has transpired, affirmation of what has or has not been stated, and provides information back-up, feedback and support for the team negotiator. Additionally, it is important that someone serve as a recorder, charged with the responsibility to take notes and keep track of the direction of the negotiations.

### ***PREPARATION***

Negotiations should not be entered into lightly nor should a team negotiate without laying the proper foundation and doing an appropriate amount of preparation work. By analyzing the situation, the team will be able to identify what is really important to them in order to complete the project. Start by reviewing the response from the negotiating consultant. The team needs to understand the project needs, the interests and perceptions of the consultant's team and identify any existing or available options and alternatives. It is always helpful for the team to brainstorm about the project, identify a variety of options and develop ideas possible for the project. Identify what will be known as the project BATNA (best alternative to a negotiated agreement); this is not the "bottom line" but a plan developed by the team knowing that they have an agreeable options and can always more comfortably conclude the negotiations if necessary. This is the standard that will protect the team from accepting terms that are too unfavorable and from rejecting terms that would be in the team's best interest to accept.

### ***BE PATIENT***

Negotiating does not happen in one afternoon; it is a process. Since it is impossible to negotiate everything all at once, the negotiation team must be prepared to take the time it needs to arrive at a mutually satisfying agreement. This takes effort and time on the part of the team members.

### ***COMMUNICATE***

Without communicating with the consultant, there would be no negotiation. This is a back and forth process that will seek to reach a combined understanding, solution, resolution or answer. This activity will require the team to be prepared to not only present information, but to LISTEN. Since a negotiation is not a debate, the best way to communicate is to use descriptive terms in order to find solutions. Be prepared to ask open-ended questions and listen to the answers. Continue to invent options, propose ideas, and work with the consultant to develop the final result. Negotiating a contract is the beginning of team work between the City and the consultant, so the more shared interest that can be developed, the more successful the result; eliminate the 'adversarial relationship' and begin communicating with the consultant as a member of the team. Negotiation is rarely used to find the single best answer or solution, if so the team is likely to short-circuit a good decision-making process by reducing the number of options. Be reasonable in reviewing ideas, solutions and options and yield only to principle.

As a negotiating team, you do have a choice. The team can accept what has been negotiated, determine to continue with negotiations or close off all efforts which will terminate any contractual outcome.

### ***TERMINATING NEGOTIATIONS***

At a point in the negotiations, it will be the determination of the team whether further negotiations with the consultant will continue or be terminated. Should the team determine that further negotiations would not result in a contract that would be agreeable to both parties, further negotiations maybe terminated. By terminating negotiations, the project team is indicating that future negotiations with the firm will cease and the team will begin negotiations with the next most qualified consultant. While the failure of the parties to reach agreement will probably be evident to all participants, it should be discussed during the final negotiation meeting. A formal termination letter will then be sent to the consultant and officially state that:

- agreement could not be reached;
- further negotiations are being terminated;
- specific areas within the negotiations were stalled; and
- at no point will negotiations be re-introduced.

It is important for the team members to understand that if negotiations with a firm have been terminated, the team will not have another opportunity to reopen those negotiations for this project.

### ***REQUEST MODIFIED COST PROPOSAL***

Following completion of the negotiations or interview, the consultant will be asked to provide a modified proposal which must be on the firm's letterhead and will outline the fully negotiated scope of work, agreed upon schedule, technical requirements, deliverables and cost as the consultant understands it. As the offerors need as much information as possible to enable them to respond, incorporating the necessary key personnel, management and staffing and diversity plans in order to adequately develop a viable cost and response. Conversely, the response to this same information provides the evaluation committee a uniform basis for evaluating responses and considering prices.

Allow a reasonable period of time for the respondent to provide a complete, final proposal. Allow at least a week or more if available.

### ***EVALUATE RESPONSES***

Reference the LET'S GET STARTED, Evaluation Committee: Evaluating the Responses sub-section, of this manual for more information regarding the evaluation of formal proposals.

### ***NOTIFICATION OF AWARD***

In order to provide a response to the QBS solicitation, the proposers have made a substantial investment in both time and resources; therefore both the successful and non-selected offerors will be notified regarding the outcome of the award. The individual bureau will prepare and distribute a Notice of Intent to Award to all proposers on the project. The City will provide a written notice of intent to award that will be mailed by regular mail to ALL proposers. The proposers removed from consideration as part of this process will be thereby notified of their exclusion and shall have seven (7) days from the date of notice to file a protest.

If there is no protest, the award will be prepared for approval. Should a protest be received, the bureau will follow the ***AWARD CLARIFICATIONS AND PROTESTS*** procedures as herein provided.

## **AWARD CLARIFICATIONS AND PROTESTS**

### ***CLARIFICATIONS***

Following the Notice of Intent to Award, proposal documents may be viewed by the public. However, any proprietary information so designated by the proposer as a trade secret and meeting the requirements of ORS 192.410 does not become public record. Proposers not awarded the contract may seek additional clarification or debriefing, request time to review the selection procedures or discuss the scoring methods utilized by the evaluation committee. They should courteously be given the opportunity to come in and review the proposal documents as submitted and the final score sheet showing points awarded on the various evaluation criteria in response to the solicitation and the interviews. Allowing the unsuccessful firms to view successful proposals helps them to better understand the process, gather information about how other proposals are presented, recognize the positive contribution of each proposal and identify what they can do to improve on their future submittals.

In some circumstances, proposers will ask to debrief the project with either the project manager or Procurement representative. It is wise to have staff review the file prior to the proposer's arrival, recap the information required by the original proposal in relation to what was provided by the proposer, identify areas where information responsiveness could be improved, and identify what information or documentation might have been missing or incomplete. City staff should be careful not to compare the information provided by various respondents, but instead, focus on the information and presentation by the proposer seeking clarification. This direction will concentrate the attention and efforts on the respondent's proposal.

### ***PROTESTS***

Protests may be submitted to the Purchasing Agent only for contracts in excess of the formal limit established by the City Auditor (currently \$20,835), and only from those proposers who would receive the contract if their protest was successful.

The protest must be received by the Purchasing Agent within seven (7) calendar days following the date the City's Notice of Intent to Award was issued. The protest must specifically state the reason for the protest and show how its proposal or the winning proposal was mis-scored or show how the selection process deviated from that described in the solicitation document. The firm protesting the award must include all legal and factual information regarding its protest and a statement of the form of relief requested. Protests received later than specified or from other than respondent who would receive the contract if the protest was successful will not be considered. The exercise of judgment used by the evaluators in scoring the proposals is not grounds for appeal, unless the protester can show a clear inconsistency in the way proposals were evaluated.

Depending upon the estimated project amount, protests will be processed as follows:

For those projects estimated to be between the formal limit (currently \$20,835) and \$100,000, the protest process will include review and response by the Purchasing Agent. If a timely protest is received from a person qualified to submit a protest, the contract award process will be put on hold until the protest has been resolved. If it is determined that proper procedures have not been followed, the Purchasing Agent may: waive any procedural irregularities that had no material affect on the selection of the proposed consultant, determine the proposed award invalid, amend the award decision, request that the evaluation committee re-evaluate any solicitation or require the bureau to cancel the solicitation and begin again to solicit new proposals. In the event that the matter is returned to the evaluation committee, the Purchasing Agent shall issue a notice canceling the Notice of Intent to Award and the award process shall begin again.

For those projects over \$100,000, timely protests must be received from a respondent who would receive the contract if the protest was successful. The contract award process will be put on hold until the protest has been resolved. If it is determined that proper procedures have not been followed, the Purchasing Agent may waive any procedural irregularities that had no material affect on the selection of the proposed contract, invalidate the proposed award, amend the award decision, request the evaluation committee re-evaluate any proposal or require the bureau to cancel the solicitation and begin again to solicit new proposals. In the event that the matter is returned to the evaluation committee, the Purchasing Agent shall issue a Notice canceling the Notice of Intent to Award and the award process shall begin again. Only for those projects estimated to exceed \$100,000 and received from the respondent who would receive the contract if the protest was successful and is not satisfied with the decision of the Purchasing Agent may file a written request for hearing by the Purchasing Board of Appeals only if the respondent has fully complied with the requirements of protest submittal as identified above. Any request for hearing by the Board shall be received by the Purchasing Agent no later than seven (7) calendar days from the date of the Purchasing Agent's decision. The request shall be delivered to the Purchasing Agent and shall be marked "Request for Hearing by the Purchasing Board of Appeals."

The Purchasing Board of Appeals, under the authority given it by the City Council, shall hear and resolve protests and appeals arising from City decisions about solicitation or contract provisions pursuant to PCC 5.68. The Board shall include three (3) members consisting of a representative from the public purchasing sector, the City Engineer or designee, and a member of the general public with affiliation to the purchasing industry. The request for hearing must describe the specific reason for the appeal request and is limited only to those matters that were raised in the original protest letter. The Board will hear the protest and issue a written decision. If the protesting firm is satisfied with the Board's decision, the award process will continue.

If the proposer is not satisfied with the Board's decision, it may ask that its protest be considered by City Council. A request by the aggrieved proposer must be made within three (3) calendar days from the date of the Board's written decision is issued and the award will not proceed until a determination has been made. At this time, the City Council may decide to hear the appeal or adopt the decision of the Purchasing Board of Appeals. Should the Council decide to hear the appeal, the proposer may be heard at a regularly scheduled Council meeting as scheduled by the Council Clerk. Any decision made by the City Council regarding the matter is final.

Regardless whether the Bureau of Purchases was involved in the initial selection process or not, the Bureau of Purchases will be the central agency for receipt of protest notifications for all PTE contracts over the formal limit and will take the lead on investigating, preparing and responding to all such requests or may delegate these tasks to the bureau that is seeking contract services.

## **PREPARE CONTRACT DOCUMENTS**

### ***WRITING THE CONTRACT***

By following the instructions for completing the Contract for PTE Services (NOTE: the contract form on the Bureau of Purchases website is the only authorized form), the bureau will select the optional provisions as identified on page 4 of the contract, add the contractor's scope of work and payment schedule, and include the necessary insurance or independent contractor certification. The bureau will negotiate the total not-to-exceed contract cost with the consultant. The QBS documentation along with the contract, insurance documents and other requirements of the contract shall be compiled and the complete contract must be reviewed as to form by the City Attorney's office and include all the necessary signatures on the contract document:

\$0 - \$100,000

Bureau Director must seek the written consent from the Commissioner-in-Charge and submit contract and PTE Worksheet to the Purchasing Agent for final approval and signature.

\$100,000 +

Bureau Director must seek the written consent from the Commissioner-in-Charge and submit the contract and PTE Worksheet to the City Auditor's Office for Counsel approval via ordinance. The ordinance will identify who will execute the agreement.

Regardless of the type of solicitation process, three copies of the contract will be forwarded to the City Auditor's Office along with the required insurance certificates and the PTE Worksheet. Once a contract is awarded, the City Auditor will issue a contract number for tracking purposes. A copy of the final contract and PTE worksheets will be forwarded to the City Auditor's Office for filing.

### ***DRAFTING THE ORDINANCE***

An ordinance is required for professional, technical and expert projects that exceed \$100,000. Since an ordinance carries the binding force of law, and is passed by the Council in accordance with rules or procedures as set forth by the City Charter, the information contained within the ordinance must be correct and comprehensive and must pertain to only one general subject. Since the processes, procedures and deadlines change from bureau to bureau, all transmitted documents filed with the Council Clerk must be signed and initialed by the approving authorities and accompanied by all supporting materials. All Council documents must be submitted in both paper and electronic form. All Council documents must be submitted in the standard drafting procedures as required by the City Auditor's Office. For ordinances filed for the competitive, qualification based selection process should be so indicated within the text, that the people authorized in the ordinance to sign the contract are the same people whose names appear on the signature block of the contract.

## **POST- AWARD ACTIVITIES**

Information and suggestions relating to post-contract award activities may be found in the LET'S GET STARTED section of this manual.

**CHECKLIST: QUALIFICATION BASED SELECTION\***

[required for registered architectural, engineering and land surveying projects that exceed \$400,000 AND have 35% or more State Highway funding or State of Oregon funding] [reference also [www.portlandonline.com/omf/index.cfm?&a=10545&c=27572](http://www.portlandonline.com/omf/index.cfm?&a=10545&c=27572) ]

- 1. DETERMINE NEED, OBTAIN BUREAU APPROVAL(S) \_\_\_\_\_
  - If for other than licensed architectural, engineering or land surveying, approval must be obtained from the Purchasing Agent
  
- 2. ESTIMATE COSTS \_\_\_\_\_
  
- 3. WRITE QUALIFICATION BASED SELECTION DOCUMENT \_\_\_\_\_
 

Use of standard QBS required (current form may be downloaded from [www.portlandonline.com/omf/index.cfm?&a=10545&c=27572](http://www.portlandonline.com/omf/index.cfm?&a=10545&c=27572) )

*QBS Document will include the following elements:*

  - Introduction \_\_\_\_\_
  - Background \_\_\_\_\_
  - Scope of Work \_\_\_\_\_
  - Project Funding \_\_\_\_\_
  - Technical Requirements \_\_\_\_\_
  - Work performed by the City \_\_\_\_\_
  - Review \_\_\_\_\_
  - Deliverables \_\_\_\_\_
  - Public Safety \_\_\_\_\_
  - Special Provisions \_\_\_\_\_
  - Place of Performance \_\_\_\_\_
  - Period of Performance \_\_\_\_\_
  - Index \_\_\_\_\_
  - Project Data \_\_\_\_\_
  - Pre-Submittal Meeting \_\_\_\_\_
  - Response Organization \_\_\_\_\_
  - Additional Information \_\_\_\_\_
  - Qualification Submission \_\_\_\_\_
  - Qualification Deadline \_\_\_\_\_
  - Questions and Clarifications \_\_\_\_\_

*Other necessary information to be included:*

  - General terms/conditions, insurance requirements \_\_\_\_\_
  - Date and time of pre-submittal meeting (if any) and \_\_\_\_\_
  - Determination of mandatory/non-mandatory attendance \_\_\_\_\_
  - Establish standardized method for evaluation by committee \_\_\_\_\_
  
- 4. FORWARD DRAFT QBS DOCUMENT FOR REVIEW BY THE PURCHASING AGENT (*only for projects over \$100,000*) \_\_\_\_\_
  
- 5. QBS SOLICITATION EFFORTS \_\_\_\_\_
  - Advertise in *Daily Journal of Commerce* for three consecutive days and on the Bureau of Purchases website \_\_\_\_\_
  - Advertise in other local papers as budget permits (e.g., *Skanner, Observer, El Hispanic News, Just Out, Asian Reporter*, etc.) \_\_\_\_\_
  - Mail to several firms known to have interest in this type of work. \_\_\_\_\_
  - Maintain mailing list - add further requests for responses from ads to mailing list \_\_\_\_\_
  - Seek out minority-owned and woman-owned, ESB firms \_\_\_\_\_
  - Respond to substantive questions regarding QBS via written addendum to all QBS document holders \_\_\_\_\_

\* deviations and variations must be approved by the Purchasing Agent and City Attorney's Office.

- Establish evaluation committee with a minimum of three (3) members - must include one (1) member from outside of City of Portland staff, unless the Commissioner waives the requirement \_\_\_\_\_
  - Establish standardized method for evaluations by members \_\_\_\_\_
6. PRE-SUBMITTAL MEETING (as required) \_\_\_\_\_
- The pre-submittal agenda to be developed by project manager \_\_\_\_\_
  - Have roster for attendees to sign in along with extra copies of the QBS document \_\_\_\_\_
  - Copy of agenda to be filed with contract documents \_\_\_\_\_
7. EVALUATE RESPONSES RECEIVED \_\_\_\_\_
- Based solely upon evaluative criteria in QBS document \_\_\_\_\_
  - Utilize previously established criteria (reference #3 above) \_\_\_\_\_
  - Select the most qualified response; rank in order \_\_\_\_\_
  - Notify all non-responsive candidates of decision \_\_\_\_\_
8. CONFIRM EEO CERTIFICATION, INSURANCE CERTIFICATION REQUIREMENTS AND VENDOR NUMBER WITH CONSULTANT \_\_\_\_\_
- Look up [www.portlandonline.com/omf/index.cfm?&a=8516&&c=27353](http://www.portlandonline.com/omf/index.cfm?&a=8516&&c=27353) or check with Bureau of Purchases \_\_\_\_\_
  - Work with consultant to meet requirements \_\_\_\_\_
  - Submit Vendor Master Update form to A/P if vendor number is needed \_\_\_\_\_
9. NEGOTIATE WITH THE MOST QUALIFIED RESPONDENT NOTIFY THOSE ELIMINATED FROM CONSIDERATION \_\_\_\_\_
10. OBTAIN BUREAU DIRECTOR'S/COMMISSIONER'S APPROVAL AS NECESSARY \_\_\_\_\_
11. PREPARE FINAL CONTRACT DOCUMENTS: \_\_\_\_\_
- Contract for PTE Services (can be down-loaded from [www.portlandonline.com/omf/index.cfm?&a=10545&c=27572](http://www.portlandonline.com/omf/index.cfm?&a=10545&c=27572)) \_\_\_\_\_
  - Select optional provisions as identified on Page 4 of the Contract for PTE Services \_\_\_\_\_
  - Fill out Contractor's Scope of Work and Payment Schedule \_\_\_\_\_

~ ATTACHMENTS REQUIRED ~

PTE Worksheet \_\_\_\_\_

- Identify other consultants considered \_\_\_\_\_
- Include M/W/ESB information \_\_\_\_\_
- For contracts over \$100,000 the bureaus will obtain signature of bureau director of Commissioner and forward to the Auditor's Office with a copy to the Bureau of Purchases (NOTE: worksheet form found on the Bureau of Purchases website is the only acceptable version). \_\_\_\_\_

Evaluator's Statement of Independence and Conflict of Interest \_\_\_\_\_

- Certificates to be completed and signed by each member of the evaluation committee (reference attached) \_\_\_\_\_

Workers Compensation Insurance Certificate \_\_\_\_\_

- Show current dates of coverage, compliance with Oregon law, and consultant signs Exhibit B, Section A (top) of the Contract for PTE Services \_\_\_\_\_



~ OR ~

- Consultant certifies that he/she meets independent contractor standards by marking at least four (4) of the criteria in Exhibit B of the Contract for PTE Services, —

~ AND ~

- City project manager reads and signs as applicable Exhibit B, Section B of the Contract for PTE Services —

INSURANCE REQUIREMENTS (unless waived by City Attorney's Office\*):

General Liability Insurance Certificate —

- Must include valid effective and expiration dates
- Limits of coverage in accordance with the contract
- Additional insured endorsement naming City
- 30-day cancellation notice
- City listed as certificate holder

Auto Liability Insurance —

- Most important when operating a motorized vehicle is specifically required within the scope of work

Professional Liability Insurance —

- Coverage amount in accordance with contract
- 30 or 60-day cancellation notice
- City listed as certificate holder/additional insured

12. PREPARE 3 CONTRACT COPIES; FORWARD TO CONSULTANT FOR SIGNATURE ON FINAL CONTRACT —
13. OBTAIN CITY ATTORNEY'S APPROVAL ON FINAL CONTRACT —
14. WRITE/FILE ORDINANCE FOR COUNCIL APPROVAL —
  - Purchasing Agent will sign contracts under \$100,000 —
  - After Council approval, Mayor, Commissioner or City Auditor will sign contracts over \$100,000 or may authorize the Purchasing Agent to sign —
  - City Auditor's Office must receive copies of PTE Worksheet, contract, and insurance documents; Bureau of Purchases must receive a copy of the PTE worksheet —
15. NOTIFY CONSULTANT TO BEGIN WORK AFTER CONTRACT PROCESSING IS COMPLETE —

\* On a case-by-case basis and upon discussion with the project manager, the City Attorney's Office may waive particular insurance requirements based upon special circumstances, limited risk exposure, and other factors. Conversely, situations and projects may present themselves that increased requirements be appropriate.

## **FREQUENTLY ASKED QUESTIONS**

- 1. When are we required to utilize the Qualification Based Selection method and specifically for what services?**

*The Qualification Based Selection method shall be used to select registered architectural engineering, architectural or land surveying services if the project exceeds \$400,000 and a minimum 35% or more of the funding is derived from State Highway Funds from the State of Oregon (ref. ORS 279.057). Evaluation will be based solely on their qualifications; compensation requirements will not be an element of the selection process but will be negotiated with the most qualified proposer following the evaluation process.*

*With the approval of the Purchasing Agent, this process may also be utilized for services under the \$400,000 if determined to be in the best interest of the City. All contracts must contain the maximum, not-to-exceed total compensation amount within the contract.*

- 2. Does the co-mingling of federal, state and local funds for project expenditures in a single account mandate having to use the QBS process for projects over \$400,000? What about projects under \$250,000?**

*For those under over \$400,000, it may mandate the use of the QBS process. For example, local government transportation funds are often budgeted in the same account as monies from the State Highway Trust Fund (gas tax).*

*It may require that the City utilize the QBS process for those projects under \$400,000 depending upon the requirements of the source funds.*

- 3. If the Federal funding for our bureau's project requires use of the QBS process, do I still need to seek approval from the Purchasing Agent?**

*Yes, for all projects other than those over \$400,000 with 35% State Highway funding for licensed architects, engineers and land surveyors will specifically require the approval of the Purchasing Agent.*

- 4. When working on an engineering proposal, do Revenue Sharing dollars meet the criteria of a State grant or loan under the QBS requirements?**

*Since revenue sharing can apply to a wide variety of situations in which the State government shares revenue with local governments, only revenue sharing that qualifies as a grant or loan (or money from the State Highway Fund) can trigger QBS requirements. Loans and monies from the State Highway Fund are relatively easy to identify but grants are a little harder. First, the definition of a "grant" is a gift for a specific purpose (Webster's Third International Dictionary). If the City receives money from the State for a particular project that it does not need to pay back, then it is probably a grant and provided other conditions are met, the QBS procedure would apply. But revenue sharing that is not tied to a specific project probably would not qualify as a grant and would most likely not require use of the QBS procedures*

- 5. Will projects over \$100,000 be sent to a contracts attorney for review? If so, in what order will these documents be transmitted?**

*All project solicitations that exceed \$100,000 must be reviewed by both the City Attorney's Office and the Bureau of Purchases prior to advertising the project.*

The solicitation documents for projects exceeding \$100,000 will first be submitted to the bureau of Purchases for review; the Bureau of Purchases will then forward the documents to the City Attorney's Office and then back to the Bureau of Purchases to be returned to the bureau. Project Managers will be informed of any necessary changes that need to be made. Once the requested changes have been made, the solicitation documents will be forwarded for their inclusion on the Bureau of Purchases website.

**6. Who signs contracts and in what order?**

For contracts under \$100,000 for the total amount of the contract, the package is forwarded to the Purchasing Agent for signature and then forwarded to the Auditor's Office; if the total contract amount is over \$100,000 the contract will be forwarded to the Commissioner in Charge. The Auditor's Office then assigns a contract number and distributes copies, keeping one original on file.

If substantive changes or revisions to the Contract for PTE Services are proposed, bureaus will work with the City Attorney on such revisions prior to finalizing the contract.

**Order for contract signing:**

1. Consultant
2. City Attorney
3. For contracts under \$100,000 – Purchasing Agent
4. For contracts over \$100,000 – City Council
5. City Auditor

**7. When is an ordinance necessary?**

An ordinance is required for all PTE contracts over \$100,000 dollar amount and on all Inter-Governmental Agreements (IGA), regardless of the amount. The ordinance should be filed for Council approval after the consultant has signed the contract and it has been approved as to form by the City Attorney.

**8. Who files the ordinance for contracts? For amendments?**

The individual bureaus are responsible for filing all ordinances, whether for contracts or amendments.

**9. What types of insurance are necessary?**

General, auto, and professional liability are required unless waived by the City Attorney.

**Workers Compensation** is always required. If a consultant does not have commercial coverage (or is not self-insured), then they must be legally exempt from the requirement, which is determined through their certification in Exhibit B (Independent Contractor Certification Statement) of the Contract for PTE Services. Workers Compensation coverage must comply with Oregon Revised Statutes 656.017.

**General Liability** provides coverage for lawsuits/claims asserted by third parties in regards to the consultant's work/matters arising from that work. The limits of coverage required are spelled out in the contract specifications. The insurance must name the City as an additional insured, and that endorsement must be on a proper form. The certificate must provide 30 days notice of cancellation to the City.

**Auto Liability** is appropriate if the consultant must operate a motorized vehicle or use motor vehicles as part of the contract work. There are many different types of coverage. Check with City Attorney or Bureau of Purchases for more information.

**Professional Liability** covers misconduct, negligence, errors or omissions in professional services, and lack of ordinary skill. Generally, if a state certification or license is required (i.e., engineers, architects, teachers, etc.) this insurance is appropriate.

The City Attorney may waive general, auto, or professional liability if those types of insurance are not required. On a case-by-case basis and upon discussion with the project manager, the City Attorney may waive particular insurance requirements based upon special circumstances, limited risk exposure, and other factors. Conversely, situations and projects may present themselves that increased requirements be appropriate.

10. **Must all committee members evaluating either a request for proposal, request for qualifications or qualification based selection sign the Evaluator's Statement of Independence and Conflict of Interest , or can the project manager sign one for the entire committee?**

Yes. Each member of the evaluation committee is required to read and sign and date their own EVALUATOR'S STATEMENT OF INDEPENDENCE AND CONFLICT OF INTEREST STATEMENT and each member's signed statement must be included as part of the QBS file and attached to the PTE worksheet for the project. No, the project manager cannot sign one blanket statement on behalf of all the evaluation committee members.

11. **When does the diversity language apply in the RFQ or QBS solicitation methods?**

The diversity language must appear in the initial RFQ or QBS solicitation, applies to the initial solicitation documents and will be weighted and evaluated along with the other criteria identified within the document.

12. **Is a scope of work required for the QBS process?**

Yes, a scope of work for the QBS solicitation process is required, in order for the respondents to understand the direction and requirements of the project as well as provide the necessary documentation. This will be a scope of work that is intended to be modified due to negotiation of the final contract.

13. **Do IGA's fall under these new rules?**

Intergovernmental Agreements (IGA's) do not fall within the PTE category, a separate contract document is used and regardless of the amount of the contract, must be reviewed by the City Attorney's Office and authorized by City Council.

14. **Do we disclose the names of the evaluation committee members?**

Normally, during the solicitation process the names of the evaluation committee members are not divulged and if in some way, the names become public, the respondents are further cautioned not to contact the evaluation committee members. Following contract award, the names of the evaluation committee members may become public.

**15. Do you really get greater control of costs when you are using the QBS process?**

*With a good negotiation team, the bureau should achieve their desired outcome and a positive result for the project cost, scope and schedule. One of the biggest benefits is the fact that the bureau will have the consultant's buy-in regarding the project scope, schedule and cost which will further serve to minimize costly future amendments and changes as the project progresses.*

**16. If a contract is \$50,000 per year with an optional renewal of two additional years, can the Purchasing Agent sign the contract each year or on the third year, will the bureau need to go to Council?**

*The key is the individual contract amount. In this case, the individual contract amount at any one time remains at 450,000; therefore the Purchasing Agent will sign the contracts all three years.*

**17. Who files the ordinance for contracts? For amendments?**

*The individual bureaus are responsible for filing all ordinances, whether for contracts or amendments.*

**18. Will the final payment form be used for all contracts or only those over \$100,000? What about the monthly utilization report?**

*The final payment form will be used for ALL contracts except those initiated via purchase order.*

*The monthly utilization reports (MUR) will be completed by the prime consultants and submitted to the Bureau of Purchases compliance staff on all projects over \$100,000.*



## **CHAPTER IX**

# **SOLE SOURCE CONTRACTING**

## **PROCEDURES FOR SOLE SOURCE CONTRACTING**

It is the premise of public contracting that competitive solicitation be used in order to maintain fair and open competition. One of the most over-used contracting processes is the sole source contract. Sole source contracting is a method of award by means other than the normally prescribed competitive process. For whatever reasons, it is a declaration that the professional, technical or expert services being requested are of such a unique nature that the consultant is clearly and justifiably the only source to provide the services. In order to maintain fair and open competition, City bureaus are expected to obtain as much competition as is reasonable and possible, therefore a sole source contract is a departure from this norm and requires full justification and complete documentation.

The City may procure a particular service that is available from only one source, without using a competitive selection process after documenting the solicitation file with findings to support the determination that the service is truly available from only one source. Any measure(s) undertaken to obtain competition must be documented and made a part of the final contract file.

### **DETERMINE NEED; WRITE DETERMINATION**

By declaring a sole source, the bureau is only eliminating the formal competitive solicitation requirements; all other contracting requirements remain in place. A sole source declaration is acceptable only when documentation is provided that declares that indeed there is no available competition and that a sole source is the only option. As previously stated, the declaration does not exempt the resulting contract from other requirements of Oregon law or City Code including: an executed contract document, EEO certification, insurance documents included, and the PTE worksheet completed and signed by the bureau director, Purchasing Agent, and/or Commissioner as required.

Prior to any notification of the contractor, the sole source criteria and justification must be documented on the PTE Worksheet as required for submission of the contract. Justification and documented information shall include but not be limited to:

- a. Description of the services to be acquired including contemplated future services; and
- b. The reason(s) the City is using a sole source acquisition method, which may include such reasons as:
  - (1) The only authorized trainer for a specific training or educational program; or
  - (2) The particular service is for use in a pilot program or an experimental project; or
  - (3) The services are intended for testing purposes; or
  - (4) The services provided by the consultant have been determined to be the only one with the necessary quality, merit or functionality required by the City.
- c. Identify other consultants considered and explain why it has been determined to be a sole source with the contractor selected.
- d. If the bureau has contracted with this firm before, they will need to explain why the firm was again selected without going through a competitive selection process.

Once the bureau has determined their need and written the sole source determination, approval must be obtained from the Bureau Director and the Purchasing Agent prior to the purchase. Signatures of the bureau director and Purchasing Agent will be obtained for contracts from \$0 to 100,000 levels. For those contracts exceeding \$100,000, the bureau director must sign and submit to Council for approval via the ordinance process. The ordinance must clearly state that it is a "sole source contract that is being acquired as an exception to the policies and procedures identified PCC 5.68 and the PTE Manual."

## **PREPARE THE DRAFT CONTRACT**

Completely document the sole source request by providing the name of the contractor identified as the sole source provider and the estimated cost of the service required to the Bureau of Purchases. It is important that as soon as the sole source is identified, the bureau staff begin to formulate the scope of work and technical requirements of the contract and identify the reference materials and project data available. All of the following information assimilated will be for the contractor's information and use in order to provide a comprehensive cost proposal and by the bureau as a reference document and supporting information required for the final contract documents. The information provided as part of the consultant's cost proposal will, for the most part, be assimilated into and used as a part of Exhibit A of the Contract for PTE Services.

### ***PROJECT BACKGROUND***

A background statement is needed to describe the bureau's organization, location of the proposed project, how the present situation got to where it is today, and why the project is currently being undertaken. This general statement will aid the contractor in understanding the scope of work and need be no more than two to three paragraphs.

### ***IDENTIFY AN ISSUE STATEMENT***

As with most professional, technical and expert services contracts, the sole source contract is also initiated to require the consultant address specific issues, areas of concern, or situations, this section is included to specifically identify what they are. While this section is not a prerequisite for the scope of work, it is helpful to include the "issue statement" to clearly state the sole source issues surrounding the project and identify problem(s) or needs the consultant is hired to solve, correct, mitigate or modify. The project background and issue statements, while each fairly concise will be natural precursors to the Scope of Work and will provide the contractor with good, sequential information about the project, project issues, sole source concerns and the bureau.

### ***DEVELOPING A SCOPE OF WORK***

The scope of work is a written description of the contractual requirements and is the most important statement within any contract and particularly for sole source. While all previous statements lead up to the scope of work, it will then be amplified throughout the remainder of the document. It has the most bearing on the outcome of the project and should be given comprehensive attention. As there tend to be fewer opportunities for clarification for sole source contracts, developing a comprehensive scope of work is extremely important. While rarely more than two to three sentences, the scope of work is the "project in a nutshell"; it will describe the overall project purpose, clearly set forth the boundaries within which the consultant shall perform, and set clear expectations for the project.

The breakdown or failure of many professional, technical or expert service contracts often can be traced to a poor or weak scope of work. It is imperative the contractor understand the scope of work in order to perform the work properly. If the scope of work does not adequately define the required tasks, the resulting outcome can often be confusion, misunderstandings, frustration, delays and increased costs in achieving the project objectives. Although a clear and concise description of the work does not guarantee that the contract will be successful, it does significantly reduce the likelihood that problems will arise. A poorly written scope of work will often create the need for changes in the contract that will negatively impart both the contracts cost and project scheduling.

A carefully prepared scope of work is an easy to follow description of the project requirements, expectations and a timeline necessary to meet the requirements. Based upon verbal communications, the consultant may have a general idea about the project requirements. Until the scope of work is clearly written and defined, it will be nearly impossible for the consultant to provide a comprehensive and definitive response which will include their price, schedule, management and staffing plans.



**DEVELOPING  
TECHNICAL REQUIREMENTS**

The technical requirements section of the contract document further defines the scope of work, describes actions, identifies specific work requirements, includes any technical details relating to the project, and the required work products. The Technical Requirements are the mandatory requirements of the work. Even when working with a sole source consultant, it is very important to identify the mandatory work and work products. All the information provided in the technical requirements section will enable the consultant to develop a more accurate understanding of the scope of work, schedule and final cost estimate.

The initial information provided in the technical requirements section must be self-explanatory and definitive enough for the offeror to respond with information that will include technical, management and staff planning, qualifications, expertise and project pricing. Even with a sole source contract, innovation can be very important, therefore, the technical requirements must still be unrestricted enough to refrain from defining how the project will specifically be accomplished, delineating specific personnel, doing any problem solving or identifying the final product. Some considerations for technical requirements may include: special permitting; any work required to conform to specific state or federal guidelines or standards; work to be performed by others as part of their contract (contractors, other governmental entities, railroad, port, etc); or outcome of the services if they are required to facilitate bidding or alternate construction methods; specific support during the next phase(s) of the project or any special provisions for support services and project interfaces.

The bureau may find it helpful to divide the work into tasks or task groups in order to provide the contractor with clear and consistent information. Providing the task or task groups in sequential order is always helpful. If the contractor is required to provide specific testing or reporting, state exactly what tests or reports will be required, and how and when they are to be provided to the project manager.

The more information the tentative contractor is given with regard to the City's requirements and expectations, the more positively the contractor can respond to the City's needs and the better the final outcome. Should the bureau have any questions, the Bureau of Purchases is available to help.

**WORK PERFORMED  
BY THE CITY/OTHERS**

The City's responsibilities must be identified to the contractor as well as any work intended to be performed by others. This information may include approvals, testing, reviews, etc. along with any estimated turn-around time required to provide the information or materials to the successful contractor. This will also be the section to describe any City furnished equipment, furniture, computers, property, communication equipment, reports, drawings, maps, and personnel. Any City furnished equipment must clearly indicate it will be made available only for the successful contractor's use during the term of the project and must be returned to the City in good condition upon the project's completion. Be sure to identify any items that will affect contract performance and their impact on the schedule (i.e., data being collected by the bureau, reports generated for the benefit of the contractor, etc.).

Clearly note any third-party interfacing that will be required under the proposed contract. Interfaces are instances when a third party will affect the contract performance of the contractor, their work and project scheduling, therefore, it must be described in order for the contractor to adequately prepare his response. Bureaus are cautioned to provide appropriate schedules and dates as the responsibility for any City provided equipment or materials can become a liability and have an impact on the overall schedule of the project. The negative impact of third-party interfacing on the delivery schedule and project cost cannot be underestimated, therefore the bureau should use caution when requiring too many instances of third-party interfacing.

**DELIVERABLES**

Due to the fact that a sole source is requested, it is often very easy to avoid requiring deliverables. During the course of a sole source contract, it is equally, if not more important, that the project manager know exactly where the scheduling of the work is, what work has been completed, outcome of the various tests and what tasks remain to be completed in order to determine any scheduling and costing difficulties.

The deliverables separate the description of the physical characteristics and the delivery schedule for interim and end products from the description of the technical requirements. The tangible work requirements are identified in this section while the end product of the work requirements and their deliverable schedules are included in the Deliverables section. Deliverables may be considered anything relating to work products or by-products of the services performed under that contract that can be physically delivered such as: reports, draft documents and data, interim findings, drawings, schematics, training, final drawings or reports. Additionally, training, technical meetings, meeting presentations, and written meeting minutes are expected during the course of the contract and may be considered as deliverables if the consultant provides a written report recording the event.

Deliverables are important as they provide the project manager with one means of evaluating and measuring the consultant's performance. Even with a sole source project, it is very important that the project manager knows where they are with the project schedule and continually evaluate the contractor's progress. The deliverables are one important measure of that progress. The fact that this is a consulting contract alone is a good reason to enumerate the required deliverables, but as a sole source contract, the lack of competition suggests the need for over-sight and the receipt of deliverables clearly identifies benchmarking and contract management.

The receipt of a deliverable is often the signal that the end of a specific task within the project has been completed, therefore, the bureau may find it prudent to require periodic or a final report by identifying the delivery time based upon schedule – not dates. The bureau will find it helpful to define within the contract what formats (i.e., written, written and CD, etc.), quantities, or specific order in which the reports are to be submitted, along with whether the contractor is to provide the reports with or without an executive summary.

It is important to note in the contract documents that all deliverables resulting from the contract will become the property of the City of Portland.

### ***PUBLIC SAFETY***

In this time of heightened awareness, building security, public safety, security information, access control and safety requirements will need to be included within the contract and may include a discussion by the City regarding physical access to buildings, property, computer and/or communication equipment owned, occupied or provided by the City. When developing the contract, be prepared to identify any safety or security issues or requirements. Public safety may require limiting access to public work sites, facilities and offices with or without advance notice to the consultant. It is possible that inherent in some projects will be the necessity that some or all of the consultant's personnel undergo background checks, fingerprinting, photos, ID badges, security clearances and other security prerequisites which can be a time, scheduling and cost consideration to the consultant. Additionally, some work sites may require the contractor personnel obtain a visitor badge or identification prior to starting their work on-site, all of which may take extra time and must be factored into the consultant's overall cost.

### ***PLACE OF PERFORMANCE***

While most consultant's perform their work at their office or work site, some consultants may be required to visit or their work at the City's facility or a combination thereof. Depending upon the requirements of the project, the City may or may not need to identify the location.

### ***PERIOD OF PERFORMANCE***

The intent of a sole source contract is to identify the sole contractor available to perform the work, get the contractors work underway and have the contract work completed as quickly as possible. Under these conditions, the period of performance could very well be considered to be the term of the entire contract. That is, how long the contract will be in effect, not just the length of the scope of work or work effort. When determining the period of performance, make sure the schedules for all technical requirements and deliverables are taken into consideration along with the scope of work. Unless timing in this case is critical, try not to pin the contractor's back to the wall with an unnecessarily aggressive completion date. The result of a tight

contract schedule is usually lower quality work as contractors may have to cut corners, deliver late, or identify higher costs as they have to put a lot more personnel to the task in order to complete the work on time. As much as can be humanly possible, the period of performance must be realistic. If timing is critical, that information must be distinctly conveyed to the contractor as the schedule will be an important part of the negotiation as well as a part of the resulting contract cost.

The period of performance is usually expressed as the time period following contract award, not a specific date. The bureaus are cautioned not to use specific dates unless the specific date is critical (i.e., in-water window, hazardous materials clean-up deadline, expiration of project funding, etc.).

### ***PROJECT DATA***

Any attachments, exhibits, reference materials, memos, letters, or supporting documents that the contractor will require for the submission of their cost proposal, work required under the contract, and completion of the project will be identified within this section. All such materials will be identified as an exhibit, marked in alphabetical order and included as part of the contract documents.

Additional project data may also include any background or project drawings, maps, photos, permits, plat maps, descriptive data, reports or certificates pertinent to the project that will provide the additional information with which the contractor would require for the submission of their cost proposals and project completion. Reference documents may be retained by the bureau but made available for the consultant's review and use during the course of the contract. The listing of reference project data will be included within this section and all documents will be referenced in ascending numerical order and so noted within the contract as a "reference" document.

### **NEGOTIATE CONTRACT**

The bureau will negotiate the total not-to-exceed contract cost with the consultant. While negotiating the contract, the bureau will make known the proposed scope of work, all known technical requirements and any work to be performed by the City or other deliverables and scheduling requirements. Additionally, the bureau will make available any project data and reference documents and will work with the potential contractor to clearly define the scope of work and understand the cost involved in the contract. Utilizing a draft copy of the Exhibit A from the Contract for PTE Services, the bureau and contractor will find it is a good way to begin developing the scope and general requirements of the project. As both parties come to better understand what is required for the contract documents and the project itself, this draft will evolve into the final Exhibit A to the contract document.

Upon completion of the negotiation process, the bureau will obtain a written proposal from the consultant that must clearly state their understanding of the contract requirements, including the scope of work, not-to-exceed cost and timeline for the project.

### **PREPARE FINAL CONTRACT DOCUMENTS**

The bureau will prepare the final contract documents by utilizing the Contract for PTE Services (the contract form as provided on the Bureau of Purchases website is the only authorized form). By following the instructions for completing the Contract for PTE Services, the bureau will select the optional provisions as identified on page 4 of the contract, add the contractor's scope of work, payment schedule, and the necessary insurance or certification that the contractor is an independent contractor. The final contract will have been reviewed as to form by the City Attorney's Office and the final, not-to-exceed contract amount will actually determine the appropriate procedure and signatures required for the contract document. Sole source documentation along with the contract documents shall be completed as follows:

\$0 - \$100,000	Bureau Director must seek the written consent from the Commissioner-in-Charge and submit the contract and PTE Worksheet to the Purchasing Agent for final approval and signature.
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Bureau Director must seek the written consent from the Commissioner-in-Charge and submit the contract and PTE Worksheet to the City Auditor's Office for Council approval via ordinance. Following Council approval, Mayor, Commission or City Auditor will sign the contract or may authorize the Purchasing Agent to so sign.

Regardless of the sole source standing of the contract, all insurance and certifications will be required as part of the contract document. The Bureau of Purchases and the City Attorney's Office are both available to help the bureau draft the contract documents or the City Council ordinance as needed.

Three copies of the contract will be forwarded to the City Auditor's Office along with the required insurance certificates (approved as to form) and the PTE Worksheet. Once a contract is awarded, the City Auditor will issue a contract number for tracking purposes. A copy of the final contract and PTE worksheets will be forwarded to the City Auditor's Office for filing.

### **POST-CONTRACT AWARD**

Information and suggestions relating to post-contract award activities may be found in the LET'S GET STARTED section of this manual.

# **CHECKLIST: SOLE SOURCE CONTRACTING\***

[for all solicitation levels]

*[The City defines "sole source" as being a service or item that is available from only one source or seller]*

1. DETERMINE NEED, WRITE SOLE SOURCE DETERMINATION AND OBTAIN BUREAU AND PURCHASING AGENT'S APPROVAL(S)\* \_\_\_\_\_
2. PREPARE DRAFT CONTRACT, DEVELOP SCOPE OF WORK, PROJECT SCHEDULE, DELIVERABLES AND EXPECTATIONS \_\_\_\_\_
3. CONFIRM EEO CERTIFICATION, INSURANCE CERTIFICATION REQUIREMENTS AND VENDOR NUMBER WITH CONSULTANT \_\_\_\_\_
  - Look up [www.portlandonline.com/omf/index.cfm?&a=8516&&c=27353](http://www.portlandonline.com/omf/index.cfm?&a=8516&&c=27353) or check with the Bureau of Purchases
  - Work with consultant to meet requirements
  - Submit Vendor Master Update form to A/P if vendor number is needed
4. NEGOTIATE TOTAL NOT-TO-EXCEED COST WITH CONSULTANT OBTAIN WRITTEN PROPOSAL FROM CONSULTANT \_\_\_\_\_
  - If criteria for a sole source contract (project or service can only be provided by one source or consultant and exceeds \$100,000) are met) attach a sole source justification/documentation to the file and prepare an ordinance for authorization by Council to award the contract without a formal competitive selection process \_\_\_\_\_
5. PREPARE FINAL CONTRACT DOCUMENTS; CONSULT WITH PROJECT SCHEDULE, DELIVERABLES OF PURCHASES OR THE CITY ATTORNEY'S OFFICE FOR HELP FINALIZING THE CONTRACT: \_\_\_\_\_
  - Use Contract for PTE Services (can be downloaded from [www.portlandonline.com/omf/index.cfm?&a=10545&c=27572](http://www.portlandonline.com/omf/index.cfm?&a=10545&c=27572) ) \_\_\_\_\_
  - Select and identify optional provisions on Page 4 of the Contract for PTE Services \_\_\_\_\_
  - Fill out Contractor's Scope of Work and Payment Schedule (see Instructions for Completing Contract for PTE Services) \_\_\_\_\_
6. OBTAIN BUREAU DIRECTOR'S/COMMISSIONER'S APPROVAL AS NECESSARY \_\_\_\_\_
  - \$0 - \$100,000 - Bureau Director must seek the written consent from the Commissioner-in-charge (if required ) and submit contract and PTE Worksheet to the Purchasing Agent for final approval and signature.
  - \$100,000 + Bureau Director must seek the written consent from the Commissioner-in-Charge and submit contract and PTE Worksheet to the City Auditor's Office for Counsel approval via ordinance.

\* deviations and variations must be approved by the Purchasing Agent and City Attorney's Office.

~ATTACHMENTS REQUIRED~

PTE Worksheet \_\_\_\_\_

- Identify other consultants considered and/or explain why it has been determined to be a sole source
- If bureau has contracted with this firm before, explain why firm was selected again without competition
- Include M/W/ESB information
- For contracts less than \$100,000 the bureaus will obtain signature of bureau director and/or Commissioner and forward to the Purchasing Agent
- For contracts over \$100,000 the bureaus will obtain signature bureau director or Commissioner approval and forward to the Auditor's Office with a copy to the Bureau of Purchases (NOTE: the worksheet form on the Bureau of Purchases website is the only acceptable version.)

Workers Compensation Insurance Certificate \_\_\_\_\_

- Show current dates of coverage, compliance with Oregon law and consultant signs the Contract for PTE Services, Section A (top of Exhibit B)

~ OR ~

- Consultant certifies that he/she meets independent contractor standards by marking at least four (4) of the criteria at the bottom of Exhibit B of the Contract for PTE Services \_\_\_\_\_

INSURANCE REQUIREMENTS (unless waived by City Attorney\*):

General Liability Insurance Certificate \* \_\_\_\_\_

- Must include valid and effective expiration dates
- Limits of coverage in accordance with the contract
- Endorsement naming City as additional insured
- 30-day cancellation notice
- City listed as certificate holder

Auto Liability Insurance (important if operating a motorized vehicle is required within the scope of work) \_\_\_\_\_

Professional Liability Insurance \_\_\_\_\_

- Coverage amount in accordance with contract
- 30 or 60-day cancellation notice
- City listed as certificate holder/additional insured

7. PREPARE 3 CONTRACT COPIES; FORWARD TO CONSULTANT FOR SIGNATURE ON FINAL CONTRACT \_\_\_\_\_

8. OBTAIN CITY ATTORNEY'S APPROVAL ON FINAL CONTRACT \_\_\_\_\_

\* On a case-by-case basis and upon discussion with the project manager, the City Attorney's Office may waive particular insurance requirements based upon special circumstances, limited risk exposure, and other factors. Conversely, situations and projects may present themselves that increased requirements be appropriate.

9. DEPENDING ON AMOUNT OF CONTRACT - WRITE/FILE ORDINANCE FOR COUNCIL APPROVAL \_\_\_\_\_
- Ordinance must indicate that it is a sole source contract and the competitive requirements of PCC 5.68 are being waived. \_\_\_\_\_
  - Purchasing Agent will sign all contracts under \$100,000 \_\_\_\_\_
  - After Council approval, Mayor, Commissioner or City Auditor will sign contracts over \$100,000 or may authorize the Purchasing Agent to sign \_\_\_\_\_
10. NOTIFY CONSULTANT TO BEGIN WORK AFTER CONTRACT PROCESSING IS COMPLETE \_\_\_\_\_

## **FREQUENTLY ASKED QUESTIONS**

**1. Is it permissible to ‘sole source’ a consultant?**

*Yes. The City may purchase a particular service available from only one source, without using a competitive selection process after documenting the solicitation file with findings to support the determination that the service is available from only one source. Approval must be received by the Bureau Director and the Purchasing Agent prior to awarding the contract if less than \$100,000.*

**2. Aren’t contracts less than \$20,835 intended to be sole source (i.e., trainers, etc.)?**

*No, all contracts for professional, technical and expert services are expected to be competitively solicited as described within the PTE Manual. All City bureaus are expected to obtain as much competition as is reasonable and possible. Sole source is a departure from the competitive solicitation norm. With a declaration of a sole source, the bureau is only eliminating the solicitation requirements; all other contracting requirements remain in place. Sole source contracts must be fully justified and complete documentation provided.*

**3. We need to contract with the State Department of Health for specific services, do we use the Contract for PTE Services? Is this considered a sole source acquisition?**

*While this may appear to be a sole source, it is really an inter-governmental agreement. Therefore, the sole source procedures do not apply. The bureau must check with the City Attorney’s Office for developing the IGA contract language and format.*

**4. Will the Bureau of Purchases review the sole source documentation on PTE contracts over \$100,000 before it goes to Council?**

*At the request of the bureaus, the Bureau of Purchases will review and comment regarding a pending sole source contract being presented to City Council. However, the bureaus are not required to obtain the Bureau of Purchases approval or comments prior to presenting it to Council.*

**5. Regarding the Sole Source Checklist does the bureau director and/or Commissioner have to sign off on projects under \$100,000?**

*If the internal procedures and policies of the bureau dictate that either the bureau director or Commissioner must sign internal documents before forwarding to the city Attorney’s Office or the Purchasing Agent, these procedures will not change.*

**6. Do IGA’s fall under these new rules?**

*Intergovernmental Agreements (IGA’s) do not fall within the PTE category, a separate contract document is used and regardless of the amount of the contract must be reviewed by the City Attorney’s Office and authorized by City Council.*

**7. Who files the ordinance for contracts? For amendments?**



*The individual bureaus are responsible for filing all ordinances, whether for contracts or amendments.*

- 8. Will the final payment form be used for all contracts or only those over \$100,000? What about the monthly utilization report?**

*The final payment form will be used for ALL contracts except those initiated via purchase order.*

*The monthly utilization reports (MUR) will be completed by the prime consultants and submitted to the Bureau of Purchases compliance staff on all projects over \$100,000.*



**CHAPTER X**  
**EMERGENCY  
CONTRACTING**

## **PROCEDURES FOR EMERGENCY CONTRACTING**

[for all solicitation levels]

It is the premise of all public contracting that competitive solicitation be used in order to maintain fair and open competition. Emergency contracting is a non-competitive process used in order to accommodate a "circumstance creating a substantial risk of loss, damage, interruption of services or threat to public health or safety that could not have been reasonably foreseen and requires prompt award and execution of a contract to remedy the situation." Emergency contracting processes are intended for circumstances that could not have been foreseen and therefore avoided; they are not intended to accommodate lack of planning or forethought. Therefore, an emergency contract is a departure from the normal competitive process.

It is incumbent on City staff that as much competition as possible be obtained and to the extent reasonable under the circumstances. Any measure(s) undertaken to obtain competition must be documented and made a part of the final contract file.

### **DECLARE THE EMERGENCY**

By declaring an emergency, the bureau is declaring they will be foregoing the formal competitive solicitation requirements and that the contract will not be used for any more than what is required to mitigate the emergency situation. An emergency declaration documents and provides for the removal of only the competitive selection process; all other contracting requirements remain in place. The declaration is acceptable only when documentation is provided indicating that an emergency truly exists, identifying the specific emergency that has or would cause additional damage to personnel or property and further providing what is intended to be done to alleviate the emergency. As previously stated, the declaration does not exempt the resulting contract from other requirements of Oregon law or City Code including: executed contract documents, EEO certification, insurance documents as required and the PTE worksheet completed, and signed by the bureau director, Purchasing Agent, or Commissioner. As soon as the emergency is declared, the bureau will begin compiling this documentation and provide as much information as possible. All documentation compiled will be for the consultant's information and review, submission of a cost proposal, reference documents required for completion of the contract document and as a basis for work performed under the resulting contract. For the most part, the information provided for the consultant's cost proposal, will be assimilated into Exhibit A of the Contract for PTE Services. The written emergency declaration must be filed with the contract documents, are considered public information and will be made available upon request.

If an emergency occurs during working hours (i.e., Monday through Friday, 8:00 A.M. to 5:00 P.M.) and is estimated to be less than \$100,000, the bureau shall contact the Bureau of Purchases, notifying them of the emergency. The bureau will later provide adequate written justification necessitating the need for an emergency contract. If the emergency occurs during non-working hours, the Bureau of Purchases shall be notified within twenty-four hours following the emergency. For projects estimated over \$100,000, the bureau shall be prepared to file an ordinance for hearing on the next available Council calendar authorizing the emergency.

### **PREPARE THE DRAFT CONTRACT**

Work with the Bureau of Purchases, to document the emergency and provide the name of the contractor identified as the emergency provider and the estimated cost of the service required. If no contractor has been contacted, work with the personnel from the Bureau of Purchases to identify an appropriate source or sources. Please note that by working with the Bureau of Purchases, the bureau is not precluded from the responsibility of declaring and fully documenting the emergency. It is important that the bureau begins to identify and quantify the services required along with the listing of project data available for the

contractor's information and use for submission of a cost proposal as well as completion and elimination of the emergency.

### **PROJECT BACKGROUND**

A background statement is needed to describe the bureau's organization, location of the project, how the present situation got to where it is today, and why the project is currently being undertaken. The project background is intended to help the prospective contractor understand the organization, surrounding area, environmental situations, or locality of the project, and why or how the emergency came about. This general statement can often aid the contractor in understanding the scope of work and needs to be no more than two to three paragraphs.

### **IDENTIFY AN ISSUE STATEMENT**

As all emergency contracts are initiated to address specific issues, areas of concern or situations, this section is included to specifically identify what they are. While this section is not always required nor a prerequisite for the scope of work, the "issue statement" is used to clearly identify the emergency issues and problem(s) as the bureau sees them and for which the emergency contract is intended to correct, mitigate or modify. The project background and issue statements, while each fairly concise will be natural precursors to the Scope of Work and will provide the contractor with good sequential information about the project, project issues, emergency concerns and the bureau. This section needs to be no more than two to three paragraphs.

### **DEVELOPING A SCOPE OF WORK**

The scope of work is a written description of the contractual requirements and is the most important statement within any contract but particularly an emergency contract. While all previous statements lead up to the scope of work, it will then be amplified upon throughout the remainder of the document. It has the most bearing on the outcome of the project and should be given comprehensive attention. The scope of work is rarely more than two to three sentences and is considered the "project in a nutshell"; it will describe the overall project, clearly set forth the boundaries within which the consultant shall perform and set clear expectations for the project.

A carefully prepared scope of work is an easy to follow description of the project requirements, expectations and timeline necessary to meet the emergency requirements. While the consultant may have a general idea of the project requirements but it will be nearly impossible for the consultant to provide an adequate response and proposal including the price, schedule, and management and staffing plans until the scope of work is clearly written and defined. At any point in developing the scope of work, bureau personnel are encouraged to consult the Bureau of Purchases or the City Attorney's Office for assistance in expressing their needs in a clear, concise manner that will specifically establish all contractual requirements and expectations in a way that will be understood by all parties.

The breakdown or failure of many professional, technical or expert service contracts can be readily pointed to a poor scope of work. The simple fact that an emergency being what it is, implies haste and speed with all undue efforts expended to get the consultant working and the situation under control. Unfortunately many short cuts must be taken, but a clearly written scope of work should not be one of them. If the scope of work does not adequately define the required tasks, the resulting outcome can often result in confusion, misunderstandings, frustration, delays and increased costs in achieving the project objectives. Although a clear and concise description of the work does not always guarantee that the contract will be successful, it does significantly reduce the likelihood that problems will arise. A poorly written scope of work will often create the need for changes in the contract that will effect both the contract amount, scheduling and project outcome.

### **DEVELOPING TECHNICAL REQUIREMENTS**

This section of the contract document further defines the scope of work, describes actions, identifies specific work requirements and includes

any technical details relating to the project and work product to enable the proposed contractor develop an accurate cost estimate. The Technical Requirements are the mandatory requirements of the work. Even when working with an emergency consultant, it is very important to identify the mandatory work and work products. All information provided in the Technical Requirements section will enable the consultant to develop a more accurate understanding of the scope of work.

The initial information provided in the technical requirements section must be self-explanatory and definitive enough for the contractor to respond with information that will include technical, management, qualifications, expertise and pricing proposals. Yet the technical requirements must be still unrestricted enough to refrain from defining how the project will be specifically accomplished, delineating specific personnel, doing any problem solving or identifying the final product. Some considerations for technical requirements may include: special permitting; any work required to conform to specific state or federal guidelines or standards; work to be performed by others as part of the consultant's contract (contractors, other governmental entities, railroad, port, etc); or outcome of the services if they are required to facilitate bidding or alternate construction methods, specific support during the next phase(s) of the project or any special provisions for support services and project interfaces.

The bureau may find it helpful to divide the work into tasks or task groups in order to provide the contractor with clear and consistent information. Providing the task or task groups in sequential order is always helpful. If the contractor is required to provide specific testing or reporting, state exactly what tests or reports will be required, and how and when they are to be provided to the project manager. The more information the tentative contractor is given with regard to the City's requirements and expectations, the better the contractor will be able to respond to the City's needs and the better the final outcome.

#### **WORK PERFORMED BY THE CITY/OTHERS**

The City's responsibilities must be clearly identified to the contractor as well as any work intended to be performed by others. This information may include approvals, testing, reviews, etc. along with any estimated turn-around time required to provide the information or materials to the successful contractor. This will also be the section to describe any City furnished equipment, furniture, computers, property, communication equipment, reports, drawings, maps, and personnel. Any City furnished equipment must clearly indicate it will be made available only for the successful contractor's use during the course of the project and must be returned to the City in good condition upon the project's completion.

As an emergency contract, bureaus must take care to identify any items that will affect contract performance and their impact on the schedule (i.e., data being collected by the bureau, reports generated for the benefit of the contractor, etc.). Again, clearly note any third-party interfacing that will be required under the proposed contract. Interfaces are instances when a third party will affect the contract performance of the contractor, their work and project timing, therefore, it must be described in order for the contractor to adequately prepare his response. Bureaus are cautioned to provide appropriate schedules and dates as the responsibility for any City provided equipment or materials can become a liability and have an impact on the overall schedule of the project. The negative impact of third party interfacing on the delivery schedule and project cost cannot be underestimated, therefore, with an emergency contract, the bureau should minimize the use of too many instances of third party interfacing.

#### **DELIVERABLES**

Due to the fast track scheduling required for an emergency contract, it is often very easy to avoid requiring deliverables. It is equally, if not more important, that the project manager know exactly where they are in the scheduling of the work, what work has been completed, outcome of the various tests and what tasks remain to be completed in order to determine any scheduling and costing difficulties. Therefore, as an emergency contract, it is especially important to identify the required deliverables; the deliverables take on an important role of helping the project manager know that specific benchmarks have been attained. Deliverables are also important as they provide the project manager with one means of evaluating the consultant's performance. Even with an emergency project, it is very important that the project manager continually evaluate the contractor's progress and the deliverables are one important, albeit tangible measure of that progress.

The Deliverables Section serves to separate the description of the physical characteristics and the delivery schedule for interim and end products from the description of the technical requirements. The tangible work requirements are identified in the Technical Requirements section while the end product of the work requirements and their deliverable schedules are included in the Deliverables section. The deliverables may be considered anything relating to work products or by-products of the services performed under that contract that can be physically delivered such as: reports, draft documents and data, interim findings, drawings, schematics, training, final drawings or reports. Additionally, if training, technical meetings, presentations, and written meeting minutes as expected during the course of the contract and may be considered as deliverables if the consultant provides a written report recording the event.

The receipt of a deliverable is often the signal that the end of a specific task within the project has been completed, therefore, the bureau may find it a prudent requirement for periodic or a final report by identifying the delivery timed based upon schedule – not dates. The bureau will find it helpful to define what formats (i.e., written, written and CD, etc.), quantities, or specific order the reports are to be submitted, along with whether the contractor is to provide the reports with or without an executive summary.

It is important to note within the contract documents that all deliverables resulting from the contract will become the property of the City of Portland.

#### ***PUBLIC SAFETY***

In this time of heightened awareness, building security, security information, access control and safety requirements will need to be included within the contract and may include a discussion by City personnel regarding physical access to buildings, property, computer and/or communication equipment owned, occupied or provided by the City. When developing the emergency contract, be prepared to identify any security issues or requirements. It is possible that inherent in some projects will be the necessity that some or all of the contractor's personnel undergo background checks, fingerprinting, photos, ID badges, security clearances and other security prerequisites which can be a time, scheduling and cost consideration to the contractor. Additionally, some work sites may require the contractor personnel obtain a visitor badge or identification prior to or during the course of their work on site that may take extra time and must be factored into the contractor's overall cost.

#### ***PLACE OF PERFORMANCE***

While most consultant's perform their work at their office or work site, some consultants may be required to visit or perform their work at the City's facility or a combination thereof. Depending upon the requirements of the project, the City may or may not need to identify the location.

#### ***PERIOD OF PERFORMANCE***

The intent of an emergency is to get the contractor's work underway and completed as quickly as possible, therefore the period of performance is considered to be the term of the entire contract. That is, how long the contract will be in effect, not just the length of the scope of work or work effort. When determining the period of performance, make sure the schedules for all technical requirements and deliverables are taken into consideration along with the scope of work. Depending upon timing in this case, the bureau should try not to pin the consultant's back to the wall with an unnecessarily aggressive completion schedule. Even an emergency contract can have a completion date that can be considered unrealistic and unattainable. The result of a tight contract schedule is usually lower quality work as contractors may have to cut corners or deliver late or higher costs as they have to put a lot more personnel to the task in order to complete the work on time. As much as can be humanly possible, the period of performance must be realistic. In the case of a declaration of an emergency, timing is critical and that information must be distinctly conveyed to the contractor as the schedule will be an important part of the negotiation as well as the resulting contract cost.

The period of performance is usually expressed as the time period following contract award, not a specific date. The bureaus are cautioned to refrain from using specific dates unless the specific date is critical to the emergency (i.e., in-water window, hazardous materials clean-up deadline, etc.).

### ***PROJECT DATA***

Any attachments, exhibits, reference materials, memos, letters, or supporting documents that the contractor will require for the submission of their cost proposal, work under the contract and completion of the project will be identified within this section. All such materials will be identified as an exhibit and marked in alphabetical order and included as part of the contract documents.

Additional project data may also include any background or project drawings, maps, photos, permits, plat maps, descriptive data, reports or certificates pertinent to the project that will provide the additional information with which the contractor would require for the submission of their cost proposals and project completion. Reference documents may be retained by the bureau but made available for the consultant's review prior to and during the course of the project. The listing of reference project data will be included within this section and all documents will be referenced in ascending numerical order and so noted within the contract as a "reference" document.

### **NEGOTIATE CONTRACT**

The bureau will negotiate the total not-to-exceed contract cost with the consultant. While negotiating the contract, the bureau will make known the proposed scope of work, all known technical requirements, any work to be performed by the City or others, deliverables, and scheduling requirements. Additionally, the bureau will make available any project data and reference materials and will work with the potential contractor to clearly define the scope of work and understand the cost involved in the contract. Utilizing a draft copy of the Exhibit A from the Contract for PTE Services, the bureau and contractor will find it is a good way to begin developing the scope and general requirements of the project. As both parties come to better understand what is required for the contract documents and the project itself, this draft will evolve into the final Exhibit A to the contract document.

### **PREPARE FINAL CONTRACT DOCUMENTS**

The bureau will prepare the contract documents by utilizing the Contract for PTE Services (NOTE: the contract form as provided on the Bureau of Purchases website is the only authorized form). By following the instructions for completing the Contract for PTE Services, the bureau will select the optional provisions as identified on page 4 of the contract, add the contractor's scope of work, payment schedule, and the necessary insurance or certification that the contractor is an independent contractor. The final contract will have been reviewed as to form by the City Attorney's Office, the final, not-to-exceed contract amount will actually determine the appropriate procedure and signatures required for the contract document. Emergency documentation along with the contract documents shall be processed as follows:

\$0 - \$20,835 (formal limit)

Bureau Director must provide written emergency justification, documentation and consent. All documents will be submitted along with the PTE Worksheet to the Purchasing Agent for final approval and signature.

\$20,835 - \$100,000

Bureau Director must seek the written consent from the Commissioner-in-charge and provide the written emergency justification, documentation, contract and PTE Worksheet to the Purchasing Agent for final approval and signature.

\$100,000 +

Bureau Director must seek the written consent from the Commissioner-in-Charge to the City Auditor's Office for

Council approval via ordinance. Following Council approval, Mayor, Commission or City Auditor will sign the contract or may so authorize the Purchasing Agent to so sign.

Three copies of the contract will be forwarded to the City Auditor's Office along with the required insurance certificates (approved as to form) and the PTE Worksheet. Once a contract is awarded, the City Auditor will issue a contract number for tracking purposes. A copy of the final contract and PTE worksheets will be forwarded to the City Auditor's Office for filing.

### **POST-CONTRACT AWARD**

Information and suggestions relating to post-contract award activities may be found in the LET'S GET STARTED section of this manual.



## **CHECKLIST: EMERGENCY CONTRACTING\***

[for all solicitation levels]

*[The City defines an emergency as “circumstances creating a substantial risk of loss, damage, interruption of services or threat to public health or safety that could not have been reasonably foreseen and requires prompt award and execution of a contract to remedy the condition”.]*

1. DECLARE EMERGENCY IN ACCORDANCE WITH CITY CODE 5.68.020  
NOTIFY THE BUREAU OF PURCHASES; OBTAIN BUREAU DOCUMENTATION; WRITE EMERGENCY JUSTIFICATION; \_\_\_\_\_
2. PREPARE DRAFT CONTRACT; DEVELOP SCOPE OF WORK, PROJECT SCHEDULE, DELIVERABLES AND PROJECT EXPECTATIONS \_\_\_\_\_
3. CONFIRM EEO CERTIFICATIONS, INSURANCE REQUIREMENTS AND VENDOR NUMBER WITH CONSULTANT \_\_\_\_\_
  - Look up [www.portlandonline.com/omf/index.cfm?&a=8516&&c=27353](http://www.portlandonline.com/omf/index.cfm?&a=8516&&c=27353) or check with the **Bureau of Purchases**
  - Work with consultant to meet requirements
  - Submit Vendor Master Update form to A/P if vendor number is required
4. NEGOTIATE TOTAL NOT-TO-EXCEED COST WITH CONSULTANT; OBTAIN WRITTEN PROPOSAL FROM CONSULTANT \_\_\_\_\_
  - If criteria for an emergency contract is met (ref. above statement), attach documentation to the file and prepare a report to the Purchasing Agent, who shall include this information in periodic reports to Council. \_\_\_\_\_
6. PREPARE FINAL CONTRACT DOCUMENTS \_\_\_\_\_
  - Contract for PTE Services (can be downloaded from [www.portlandonline.com/omf/index.cfm?&a=10545&c=27572](http://www.portlandonline.com/omf/index.cfm?&a=10545&c=27572)) \_\_\_\_\_
  - The following to be included as part of EXHIBIT A, Statement of Work : \_\_\_\_\_
    - Project background
    - Issue Statement
    - Scope of Work
    - Technical Requirements
    - Work Performed by the City/others
    - Deliverables
    - Security
    - Place of Performance
    - Period of Performance
    - Project Data
5. OBTAIN ALL NECESSARY APPROVALS \_\_\_\_\_
  - \$0 - \$20,835 obtain the Bureau Director's consent as well as the Purchasing Agent's approval
  - \$20,835 - \$100,000 obtain the Bureau Director's, Commissioner's and the Purchasing Agent's approval
  - \$100,000 + obtain the Bureau Director's, Commissioner's and City Council approval

\* deviations and variations must be approved by the Purchasing Agent and City Attorney's Office.

~ATTACHMENTS REQUIRED~

PTE Worksheet \_\_\_\_\_

- Identify other consultants considered and/or explain why it has been determined to be an emergency
- If contracted with this firm before, explain why firm was selected again without competition
- Include M/W/ESB information
- For contracts less than \$20,835 the bureaus will obtain signature on the PTE Worksheet of bureau director or designee and forward to the Purchasing Agent
- For contracts over \$20,835 and less than \$100,000 the bureaus will obtain signature on the PTE Worksheet of bureau director or designee and forward to the Purchasing Agent
- For contracts over \$100,000 the bureaus will obtain signature on the PTE Worksheet of bureau director or designee and forward to the Auditor's and Bureau of Purchases (NOTE: the worksheet form on the Bureau of Purchases website is the only acceptable version.)

Workers Compensation Insurance Certificate \_\_\_\_\_

- Show current dates of coverage, compliance with Oregon law and consultant signs the Contract for PTE Services, Section A (top of Exhibit G)

~ OR ~

- Consultant certifies that he/she meets independent contractor standards by marking at least four (4) of the criteria at the bottom of Exhibit G of the Contract for PTE Services \_\_\_\_\_

~ AND ~

- Bureau Director reads and signs as applicable, the Contract for PTE Services, Section B (middle of Exhibit G) \_\_\_\_\_

INSURANCE REQUIREMENTS (unless waived by City Attorney\*):

General Liability Insurance Certificate \_\_\_\_\_

- Must include valid and effective expiration dates
- Limits of coverage in accordance with the contract
- Endorsement naming City as additional insured
- 30-day cancellation notice
- City listed as certificate holder

Auto Liability Insurance (important if operating a motorized vehicle is required within the scope of work) \_\_\_\_\_

Professional Liability Insurance \_\_\_\_\_

- Coverage amount in accordance with contract
- 30 or 60-day cancellation notice
- City listed as certificate holder/additional insured

6. PREPARE THREE (3) CONTRACT COPIES; FORWARD TO CONSULTANT FOR SIGNATURE ON FINAL CONTRACT \_\_\_\_\_

\* On a case-by-case basis and upon discussion with the project manager, the City Attorney's Office may waive particular insurance requirements based upon special circumstances, limited risk exposure, and other factors. Conversely, situations and projects may present themselves that increased requirements be appropriate.

7. OBTAIN CITY ATTORNEY'S APPROVAL ON FINAL CONTRACT \_\_\_\_\_
8. DEPENDING ON AMOUNT OF CONTRACT - WRITE/FILE ORDINANCE FOR COUNCIL APPROVAL \_\_\_\_\_
  - Ordinance must indicate that it is a sole source contract and the competitive requirements of PCC 5.68 are being waived \_\_\_\_\_
  - Purchasing Agent will sign all contracts under \$100,000 \_\_\_\_\_
  - After Council approval, Mayor, Commissioner or City Auditor will sign contracts over \$100,000 or may authorize the Purchasing Agent to sign \_\_\_\_\_
9. NOTIFY CONSULTANT TO BEGIN WORK AFTER CONTRACT PROCESSING IS COMPLETE \_\_\_\_\_

## **FREQUENTLY ASKED QUESTIONS**

**1. What defines an “emergency” PTE services contract?**

*City Code Chapter 5.68 provides that “...if any emergency as defined in the PTE Manual exists the Purchasing Agent may authorize selection of a contractor without following the requirements of this Chapter.” The PTE Manual describes emergency contracting as a contract award by means other than the normally prescribed competitive process in order to accommodate a “circumstance creating a substantial risk of loss, damage, interruption of services or threat to public health or safety that could not have been reasonably foreseen and requires prompt award and executive of a contract to remedy the situation.”*

**2. If we have an emergency can we move on getting the contractor working on the project?**

*Yes, but all documentation must follow. The only exception that an emergency allows is from the competitive solicitation process, all other documentation and contracting requirements will be in place. Additionally, for projects estimated over \$100,000, the bureau shall be prepared to file an ordinance for hearing on the next available Council calendar authorizing the emergency.*

**3. Under the emergency contracting procedures, if we estimate the contract cost will exceed \$20,835, can we call a few contractors to see if they could do the work in the time necessary? Since we’d be calling a few contractors, what would we need to document? Would it still be an emergency since we called the contractors?**

*Yes, it would still be considered an emergency. The bureau should be complimented because they **called** contractors in order to obtain as much competition as possible within the available timeframe but given the fact that the required written formal proposal process was not undertaken, it is considered a deviation from the norm. The rule of thumb is that any deviation from normal requirements must be documented.*

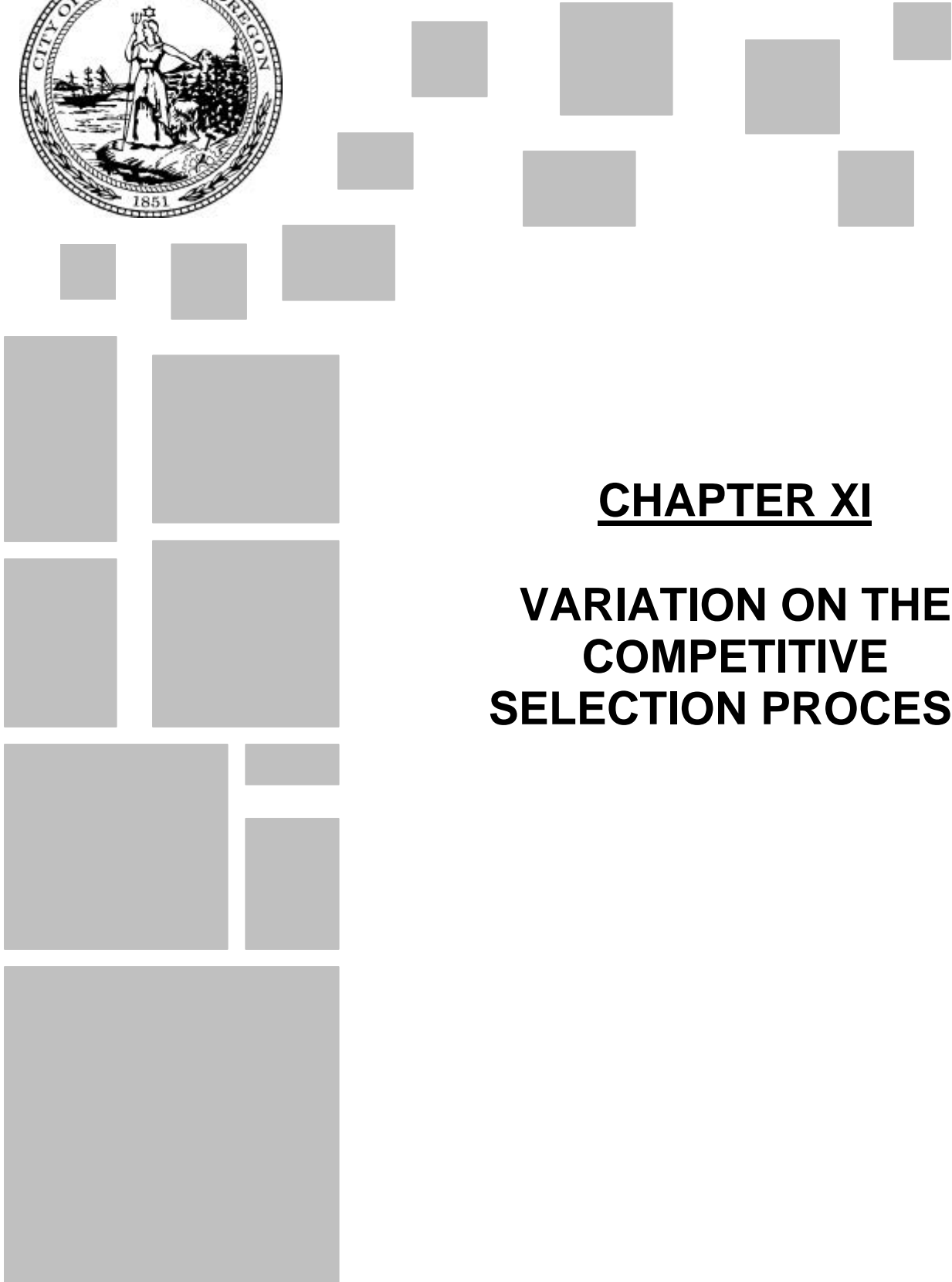
**4. Who files the ordinance for contracts? For amendments?**

*The individual bureaus are responsible for filing all ordinances, whether for contracts or amendments.*

**5. Will the final payment form be used for all contracts or only those over \$100,000? What about the monthly utilization report?**

*The final payment form will be used for ALL contracts except those initiated via purchase order.*

*The monthly utilization reports (MUR) will be completed by the prime consultants and submitted to the Bureau of Purchases compliance staff on all projects over \$100,000.*



## **CHAPTER XI**

# **VARIATION ON THE COMPETITIVE SELECTION PROCESS**

## **VARIATION ON THE COMPETITIVE SELECTION PROCESS**

### ***REQUEST FOR STANDARD SERVICES (RFSS)***

One of the most common complaints heard regarding the PTE process in the City is that the solicitation process must be followed for each and every professional service acquisition, regardless of the dollar amount to be expended. Often, bureaus have frequent requirements for an architect, engineer, or other consultant to perform a small task. Spending the time to obtain proposals from three (3) firms for a relatively small amount is an inefficient use of City resources, especially when it will be repeated over and over again. The Bureau of Purchases has developed a methodology to relieve City bureaus from this time consuming, and inefficient process: The Request for Standard Services.

The process begins with an analysis of the bureau's repetitive small PTE task requirements, define approximately how often these services are required within a year, and what the average cost of these services would be. Depending upon the frequency and need for these services, the RFSS process could potentially be beneficial to the bureau.

The Request for Proposal format as developed by the Bureau of Purchases will be used for solicitations of standard services. The contracts are established so that they have a specific maximum dollar amount, which must be monitored by the bureau. Following contract award, the various firms under contract will be called whenever a job becomes available on a rotational basis or as indicated in the solicitation document. As each project is identified, the firm next on the list provides a cost estimate for the work based upon the rates they provided in their RFSS proposals; bureaus must ensure systematic rotation among all firms within each technical specialty. The bureau then has the option of declining the proposal and using the next firm on the list should the cost estimate appear excessive or the consultant is unable to perform the work within the required period of time. Additionally, bureaus cannot utilize the services of a consultant resulting from the RFSS process for services outside the original solicitation, scope of work, etc.

While several City bureaus currently use the RFSS process for frequent, small dollar volume projects, when larger projects arise or more complex work is required, a separate RFP and contract needs to be established. For more information on the RFSS process, contact the Bureau of Purchases for assistance.

## **FREQUENTLY ASKED QUESTIONS**

**1. RFSS? Is this the same as the flexible services or requirements contracts?**

*Yes, RFSS is a solicitation method and is an acronym for Request for Standard Services. This process typically results in several contract awards with the intent to rotate routine on-going contract work among these consultants.*

**2. For multiple contract awards resulting from an RFSS with each contract less than \$100,000, but the total of all contracts exceeding \$100,000, who signs the contracts?**

*The Purchasing Agent would sign each contract, as the amount of each contract is less than \$100,000.*

**3. We use an RFQ to do the flexible services contract. Is that okay?**

*The Request for Qualifications is a two-step process requiring pricing and further scope of work to be evaluated via a Request for Proposal. The RFSS process would be best served by using the RFP process.*

**4. Who files the ordinance for contracts. For amendments?**

*The individual bureaus are responsible for filing all ordinances, whether for contracts or amendments.*

**5. If a contract is \$50,000 per year with an option renewal of two additional years, can the Purchasing Agent sign the contract each year or on the third year, will the bureau need to go to Council?**

*The key is the individual contract amount. In this case, the individual contract amount at any one time remains at \$50,000, therefore the Purchasing Agent will sign the contracts all three years.*

**6. Will the final payment form be used for all contracts or only those over \$100,000? What about the monthly utilization report?**

*The final payment form will be used for ALL contracts except those initiated via purchase order.*

*The monthly utilization reports (MUR) will be completed by the prime consultants and submitted to the Bureau of Purchases compliance staff on all projects over \$100,000.*