

**POLICY:** Purchasing Policy

**ESTABLISHED:** October 25, 2011

**RESOLUTION NO.:** Not Applicable; **DATE:** Not Applicable

**I. Purchasing Policy**

**A. Section I - General**

1. Purpose

To establish the manner by which all City procurement is to be conducted as well as to ensure City compliance with applicable laws relating to the expenditure of public funds.

2. Policy

When authorized to procure material or service, all City employees shall follow this policy to correctly and ethically process a procurement need and ensure the efficient use of public funds. All City rules, regulations, laws, resolutions and the City Purchasing Ordinance are incorporated herein by reference see the following chapters of the Municipal Code and the procurement standards in 2 CFR 200.317:

Chapter 2.52 – Contracting and Purchasing Procedures

Chapter 2.50 – Richmond Business Opportunity Ordinance

Chapter 2.56 – Local Employment Program

Chapter 2.65 – Ban the Box Ordinance

Chapter 2.28 – Nondiscrimination Clauses

3. Overview

The City's Purchasing Ordinance and Procurement Policy are in place as your guideline to ensure materials and services are purchased in a legal and cost-effective manner. Keep in mind that services generally have some risk associated with them and typically require insurance documentation and a City Contract Agreement.

Most services will require a standard City agreement which can be found on the City's Intranet. Each agreement must be approved as to form by the City Attorney's Office.

The purchasing functions are decentralized, with each Department/Division responsible for compliance with City policies and procedures. Purchasing responsibility and authority shall be delegated to the lowest possible level consistent with good business practice and sound financial management policy to the extent practical.

The following apply to all purchases made by the City of Richmond:

- a) No purchase will be approved or undertaken unless an appropriation has been established, through either the adopted annual budget or City Council approval of additional appropriations. It is the responsibility of the Department/Division to maintain budget control of their individual budgets. Ultimate responsibility for the individual budget rests with the Department Director.
- b) Certain purchases are unique in nature and do not lend themselves to the process of competitive bidding. Therefore, these items are excluded from the competitive bidding and purchase order requirements. These items include, but are not limited to, County Services, debt service payments, and ongoing expenses for utilities or services (such as telephones, electricity, etc.)
- c) No City employee shall have a direct or indirect financial interest in any contract or purchase of goods or services entered into by the City, or shall derive any personal benefit from the City's purchase of goods or services.
- d) No City employee shall use the City's purchasing procedures to obtain property for personal use, by misrepresenting to vendors for the purpose of obtaining price discounts for personal purchases.
- e) No City employee shall draft or cause to be drafted any specifications for bids in such a way as to intentionally limit the bidding directly or indirectly to any one bidder.

#### 4. Solicitation Thresholds

The dollar limits for purchases are established by ordinance or resolution. Purchases shall not be split to avoid the required procedures or certain dollar limits. In summary, requisitioners are responsible to obtain quotes/bids as indicated below:

- Less than \$3,000 – Solicit One Written Quote
- Between \$3,000 - \$5,000 – Solicit Two Written Quotes
- Between \$5,000 - \$50,000 – Solicit Three Written Quotes
- Over \$50,000 – Formal Sealed Bids/Proposals are Required

Formal procedures are used when the value of the purchase/service is estimated to be \$50,000 or greater. Informal procedures are used when the estimated value of the purchase/service is less than \$50,000.

Formal purchases may be solicited by either an Invitation For Bid (IFB), a Request For Proposals (RFP), or by a Request For Qualifications (RFQ).

Informal purchases may be solicited by either a Request For Quote or a Request for Proposal (RFP).

5. Issuing the Quote/BID/RFP/RFQ

Since all solicitations over \$3,000 require competitive quotes, the issuing department shall submit the solicitation to the Purchasing Division to post to the City's BidsOnline System. The City utilizes this online registration and bidding system to notify businesses of various bid opportunities, news, and updates. The electronic bidding system provides an easy and accessible way to bid documents. Registered companies will receive customized emails notifying them of specific bids and they will have the ability to search for bids, and download documents. This will ensure maximum exposure and competition. Also submit to Purchasing a list of potential firms to receive notice of the solicitation.

a) Exceptions: The informal/formal bid process may be bypassed in the following three instances:

(1) In emergency situations to preserve life, health or property, the appropriate Department Head may dispense with obtaining quotes/bids/proposals to obtain materials/services necessary in dealing with the emergency. The Emergency Justification Form must be approved by the Finance Director and City Manager prior to any purchase. If the purchase exceeds \$10,000, immediately following the emergency, the appropriate Department Head shall prepare an agenda report to Council explaining the emergency and the items purchased. Emergency procurements should be made only to preserve life, health or property.

- Upon a natural disaster
- To correct or forestall a shutdown
- To maintain essential public services
- Other unforeseeable events
- NOT because of poor planning

(2) When one known supplier is available, the Department Head may complete the Sole Source Form. A sole source is the only possible source, not a preferred source. The Sole Source Form must be approved by the Finance Director. If the purchase is under \$10,000 the City Manager must also approve the Sole Source. If the purchase exceeds \$10,000, an agenda report for Council approval requesting an exception from the solicitation process and requesting awarding the purchase to the "Sole Source vendor" must be prepared.

- (3) When there exists other governmental contracts that are competitively bid (such as State Contracts, DGS, WSCA, Sourcewell, OMNIA Partners, NJPA, etc.) that the City is eligible to use.

## 6. Procurement/Payment Methods

- a) Purchase Order: The Finance Department has designated the purchase order as the primary and preferable procurement and payment method. The Purchase Order (PO) is the main source of encumbering and procuring services and materials. The PO is used to communicate to a vendor the City's terms and conditions, authorizes an encumbrance of City funds and is a contractual agreement to order goods and services. The PO is used to process payment and track expenditures in the City's Financial System (MUNIS).

Important to our procurement process is the system of encumbrance accounting, which helps departments and Finance control department spending by knowing what amounts have been committed prior to the actual invoicing and payment of services. When a department makes a verbal commitment with a vendor and does not issue a purchase requisition and a purchase order is not created, it circumvents the entire budgetary control process. Verbal commitments with a vendor and the absence of a purchase order is not an acceptable practice. Obtaining a purchase order from the Purchasing Division is the main method of encumbering City funds.

Accounts Payable will pay approved vendor invoices with an appropriate and valid purchase order number issued from the Purchasing Division. Invoices without an authorized purchase order may be returned to the vendor unpaid.

- b) Credit/Procurement Card (CAL-Card): The CAL-Card is used as a purchase and payment method used to procure budgeted low value goods, typically up to \$3,000. It may be used for higher value purchases on an approved basis. Cardholder and cardholder's approving official are responsible for proper use of the CAL-Card program. See the CAL-Card Handbook, posted on the City's intranet, for policies and procedures.
- c) Direct Pay (Green Stamp): Green stamps are used as a limited payment method typically used for utilities, trust accounts, and one-time payments. Direct pay is not to be used for payment of services or routine/reoccurring payment of goods. The use of a direct pay must be approved by the Finance Director or his/her designee and shall be limited to the following areas:

- (1) Utility payments, i.e. electricity, gas, water, sewer, etc. 2.
  - (2) Trust Accounts
  - (3) One time vendors – The one-time vendor should be used for any vendor that will be utilized one time during a calendar year with an aggregate payment of less than \$600.00 per calendar year. A vendor number will need to be created for payment. The issuing Department/Division will need to obtain a completed IRS form W-9 from the vendor.
  - (4) Legitimate “emergency” needs, must have the Finance Director’s approval.
- d) Electronic Funds Transfer (EFT): EFT is used as a limited payment method for transactions with large dollar amounts which are time sensitive. Types of payments which are routinely processed by means of an EFT are debt service payments, the purchase of securities, and medical benefits etc.

## **B. Section II – General Supplies, Materials, and Equipment**

### **1. Purpose**

Provide guidelines for the purchase of general supplies, materials and equipment. Supplies, materials and equipment shall consist of any and all articles or things which shall be furnished to or used by any department.

In instances where goods and services are purchased together from one vendor, this section shall only apply if the predominant portion of the purchase is goods. (For example, a purchase of equipment for \$2,000 with a \$300 installation fee would be covered under this section of the policy. A repair of equipment with \$2,000 in labor and \$300 in parts would be covered under Section III General Trade Services).

### **2. Informal/Unsealed Quotes < \$50,000.00**

Material/supply purchases exceeding \$10,000 must be awarded by the City Council.

Informal bidding should be used to assure the most competitive price is received for an item, while avoiding the additional time and expense involved in formal bidding.

The Department/Division should make every reasonable attempt to obtain at least three quotes for all purchases between \$5,000-\$50,000. However, it is understood that at times it is neither practical nor cost effective to continue soliciting quotes until three quotes are received. In the event that three viable quotes are not received, the division shall document what steps were taken to obtain quotes, any vendors contacted that declined to bid, and, if applicable, why it is not practical to receive three quotes.

- a) Documentation: Quotes received must be documented to the satisfaction of the Finance Department. Ideally, documentation should include the name of the company bidding, the person giving the quote, items being quoted, the date and time of the contact, the amount quoted and any other relevant information.
- b) Evaluating Quotes: The Department/Division shall evaluate the informal quotes received and determine the lowest most responsible quote. When evaluating quotes, please verify that like items are being evaluated (apples to apples). The City reserves the right to accept the quote which is in the best interest of the City.
- c) Purchase Order: A purchase requisition detailing the vendor name, address, item(s) being purchased, total price including tax and shipping, and budget account to be charged shall be prepared in the MUNIS Financial System. A copy of the quotes/quote summary shall be attached to the purchase requisition. The Purchasing Division will review/approve the purchase requisition and convert the requisition to a Purchase Order.

3. Formal/Sealed BIDS > \$50,000.00

Material/supply purchases exceeding \$10,000 must be awarded by the City Council.

Formal bidding should be used to assure all possible vendors are given the opportunity to bid on major City purchases, thereby assuring the City that it has received the most competitive price. The formal process generally takes more time and expense than informal bidding.

The initiating Department/Division shall be responsible for completion of the formal bid process.

- a) Bid Package: The initiating department shall prepare a bid form including detailed specifications for the item to be purchased. The following format is suggested for competitive bids.
- (1) Submission of Bids – Include date, time, location and bid number. Include a detailed list of the information the bid or proposal should contain. The public notice shall state the method of submission, either paper bids to the City Clerk’s office or electronic bids through the City’s electronic bidding system.
  - (2) Questions – List the name, address, and telephone number of the person to be contacted concerning questions about the project.
  - (3) Background – Provide as much background as necessary to give the bidder an understanding of the environment in which the job will be performed and to which the job relates.

- (4) Scope of work – Describe in detail the requirements for the job and detail specifications.
  - (5) Desired project schedule – be as specific as possible.
  - (6) Minimum and desirable qualifications – Be as specific as possible.
  - (7) Performance Bond – Whether a performance bond is required and if so, the amount and form of bidders security.
- b) Notice inviting Bids: The initiating department shall also prepare a notice inviting bids that includes the following:
- (1) A general description of the item to be purchased.
  - (2) A statement indicating where bid package, specifications and bonding requirements can be obtained.
  - (3) A statement specifying the time place for the opening of the bid.
- c) Bid Opening:
- (1) Sealed paper bids shall be submitted to the City Clerk's office or electronically through the City's electronic bidding system.
  - (2) Paper bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation to Bid.
  - (3) Electronic bid submission will remain unopened until the closing date and time. Said submission shall not be viewed by the public or City staff until the closing date and time.
  - (4) Any bid received after the time specified in the notice shall be rejected.
  - (5) When bidder's security is required, it will be announced in the public notice inviting bids. The amount shall be determined at the time of preparation of the bid. It shall be in the form of cash, certified or cashier's check, certificate of deposit in City of Richmond's name, or bid bond made payable to the City of Richmond. When a bidder's security is required, a bid shall not be considered unless one of the aforementioned forms of security accompanies the bid.
- d) Rejection of Bids: The City reserves the right to reject any and all bids, to accept or reject any one or more items of a bid, or to waive any irregularities or informalities in the bids or the bidding process if to do so is deemed to best serve the interest of the City.

e) Determining Lowest Responsible Bidder: Award to bid shall be to the lowest responsive and responsible bidder. The City reserves the right to accept that bid which is in the best interest of the City. When selecting the recommended bidder the Department/Division Head will take into consideration:

- (1) Price
- (2) Ability, capacity, and skill, warrantee
- (3) Ability to meet time requirements
- (4) Character, integrity, and reputation
- (5) Previous vendor experience
- (6) Financial resources available for contract performance
- (7) Ability to provide future maintenance and service, if necessary

f) Awarding the Bid: Once the bids have been evaluated, the Department Head/Division Head shall prepare an agenda report to Council recommending the most responsive and responsible bidder. The Council shall then award the bid in a public meeting.

All contracts exceeding \$10,000 must be awarded by the City Council. Otherwise:

- Such purchases are void and not considered an obligation of the City.
- Invoices may be returned to the contractor/service provider unpaid.
- The person ordering the unauthorized purchase may be held personally liable for the costs of the contract.

- g) Purchase Order: A purchase requisition detailing the vendor name, address, item being purchased, total price including tax and shipping, and budget account to be charged shall be prepared in the MUNIS Financial System. A copy of the bid/bid summary shall be attached to the purchase requisition. The Purchasing Division will review/approve the purchase requisition and convert the requisition to a Purchase Order.
- h) Change Orders for Product: The Purchasing Division is authorized to issue change orders for changes or additions to the original purchase that result in less than \$10,000 aggregate change in purchase price. Change orders in excess of the \$10,000 aggregate change in purchase price shall be brought to the City Council for approval.
- i) Change Orders for Services: The City Manager is authorized to issue change orders for changes or additions to the original purchase that result in less than \$10,000 aggregate change in purchase price. Change orders in excess of the \$10,000 aggregate change in purchase price shall be brought to the City Council for approval.

### C. Section III – General Trade Services

#### 1. Purpose

Provide guidelines for the purchase of trade contractual services. Trade services shall mean the repair, rental or maintenance of equipment, machinery and other City-owned or operated property. Included within this term are services necessary for the routine operation, repair or maintenance of existing buildings or improvements. **The term does not include services rendered by professionals and other services which are unique in nature and not subject to competition.**

In instances where goods and trade services are purchased together from one contractor/service provider, this section shall only apply if the predominant portion of the purchase is services. (For example, a repair of equipment with \$2,000 in labor and \$300 in parts would be covered under this section of the policy. A purchase of equipment for \$2,000 with a \$300 installation fee would be covered under Section II- General Supplies, Materials and Equipment).

#### 2. Informal/Unsealed Quotes < \$50,000.00

Trade services exceeding \$10,000 must be awarded by the City Council.

Informal bidding should be used to assure the most competitive price is received for an item, while avoiding the additional time and expense involved in formal bidding.

The Department/Division shall strive to, whenever possible, solicit at least three quotes in writing. It is important that the specifications are accurate and comprehensive.

- a) Documentation: Quotes received must be documented to the satisfaction of the Finance Department. Ideally, documentation should include the name of the company bidding, the person giving the quote, services being purchased, the date and time of the contact, the amount quoted and any other relevant information.
- b) Evaluating Quote: The Department/ Division shall evaluate the informal quotes received and determine the lowest most responsible quote. The City reserves the right to accept that quote which is in the best interest of the City.

When selecting the recommended bidder the Department / Division Head will take into consideration:

- Price
  - Ability, capacity, and skill.
  - Ability to meet time requirements.
  - Character, integrity, and reputation.
  - Previous contractor/service provider experience.
  - Financial resources available for contract performance.
  - Ability to provide future maintenance and service, if necessary.
- c) Contract and Purchase Order:

- (1) A contract shall be prepared detailing the consultant's name, service being purchased, total price of the service being purchased. The consultant shall sign three original copies.
  - (2) The issuing Department/Division will obtain a completed IRS form W-9 from the consultant.
  - (3) Proof of insurance in accordance with the contract shall be obtained. This includes an insurance certificate and an additional ensured endorsement.
  - (4) If the vendor is located in, or perform services within city limits or if vendor delivers products in company owned vehicles, a Business License is required. Visit the City's website [www.ci.richmond.ca.us/businesslicense](http://www.ci.richmond.ca.us/businesslicense) if you want more information.
  - (5) The contract shall be entered in the MUNIS Financial System. A copy of the contract together with the proof of insurance, business license, and evidence of the competitive solicitation, minutes and legal opinion shall be attached in the contract module.
  - (6) A purchase requisition shall be prepared in the MUNIS Financial System.
  - (7) The City Clerk, City Attorney, and Mayor/City Manager shall sign the three original copies of the contract.
  - (8) One original copy of the executed contract shall be returned to the contractor/service provider, the issuing Department shall keep the second copy and the third copy shall remain in the City Clerk's Office.
- d) Renewals: Contracts for ongoing services may include annual renewal provisions for up to three additional years. However, all contracts that exceed \$10,000 in overall contract amount must be approved by the City Council. Cost increases related to such renewals shall not exceed the Consumer Price Index (CPI) adjustments unless approved in advance by the Finance Director.
- e) Change Orders for Product: The Purchasing Division is authorized to issue change orders for changes or additions to the original purchase that result in less than \$10,000 aggregate change in purchase price. Change orders in excess of the \$10,000 aggregate change in purchase price shall be brought to the City Council for approval.
- f) Change Orders for Services: The City Manager is authorized to issue change orders for changes or additions to the original purchase that result in less than \$10,000 aggregate change in purchase price. Change orders in excess of the \$10,000 aggregate change in purchase price shall be brought to the City Council for approval.

3. Formal/Sealed BIDS > \$50,000.00

Trade services contracts exceeding \$10,000.00 must be awarded by the City Council.

Formal bidding should be used to assure all possible contractor/service providers are given the opportunity to bid on major City contracts, thereby assuring the City that it has received the most competitive price. The formal process generally takes more time and expense than informal bidding.

The initiating Department/Division shall be responsible for completion of the formal bid process. However, the process shall be coordinated with the City Clerk's Office and the Purchasing Division. Formal Sealed bids must be publicly opened in the City Clerk's Office.

- a) Bid Package: The initiating department shall prepare a bid package including detail specifications for the services to be purchased. The following format is suggested for competitive bids/proposals:
- (1) Submission of bids (or proposals) – Include date, time, and location. Include a detail list of the information the bid or proposal should contain. State the method of submission, either paper bids to the City Clerk’s Office or electronic bids through the City’s electronic bidding system. Formal sealed proposals are not required to have a public bid opening.
  - (2) Questions – List the name, address, and telephone number of the person to be contacted concerning questions about the project.
  - (3) Background – Provide as much background as necessary to give the bidder an understanding of the environment in which the job will be performed and to which the job relates.
  - (4) Scope of work – Describes in detail the requirement for the job and detail specification.
  - (5) Desired project schedule – Be as specific as possible.
  - (6) Minimum and desirable qualifications – Be as specific as possible.
  - (7) Performance Bond – Whether a performance bond is required and if so, the amount and form of bidders security.
  - (8) Sample Contract – A sample of the contract that is expected to be used should be included in the bid package.
- b) Notice Inviting Bids: The initiating department shall also prepare a notice inviting bids that includes the following:
- (1) A general description of the services to be purchased.
  - (2) A statement indicating where bid forms, specifications and bonding requirements can be obtained.

- (3) A statement specifying the time and place for the opening of the bids.
- c) Bid Opening:
- (1) Sealed paper bids shall be submitted to the City Clerk's office or electronically through the City's electronic bidding system.
  - (2) Paper bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation to Bid.
  - (3) Electronic bid submission will remain unopened until the closing date and time. Said submission shall not be viewed by the public or City staff until the closing date and time.
  - (4) Any bid received after the time specified in the notice shall be rejected.
  - (5) When bidder's security is required, it will be announced in the public notice inviting bids. The amount shall be determined at the time of preparation of the bid. It shall be in the form of cash, certified or cashier's check, certificate of deposit in City of Richmond's name, or bid bond made payable to the City of Richmond. When a bidder's security is required, a bid shall not be considered unless one of the aforementioned forms of security accompanies the bid.
- d) Rejection of Bids/Proposals: The City reserves the right to reject any and all bids, to accept or reject any one item of a bid, or to waive any irregularities or informalities in the bids or the bidding process if to do so is deemed to best serve the interest of the City.
- e) Determining Lowest Responsive and Responsible Bidder: Award of bid shall be to the lowest responsive and responsible bidder. The City reserves the right to accept that bid which is in the best interest of the City. When selecting the recommended bidder the City staff will take into consideration:
- (1) Price
  - (2) Ability, capacity, and skill.
  - (3) Ability to meet time requirements.
  - (4) Character, integrity, and reputation.
  - (5) Previous contractor/service provider experience.
  - (6) Financial resources available for contract performance.
  - (7) Ability to provide future maintenance and service, if necessary
- f) On-Call (Ongoing) Professional Services

- (1) In some instances it is in the best interest of the City to have on-call contracts with multiple consultants for the same or very similar services. (I.e. services that can be defined as to scope of work but not as to require events such as soils testing, contract building inspection services, architectural services, etc.) These services would best be handled by establishing an eligibility list and by entering into annual on-call professional service contracts.
  - (2) The process for selecting firms for annual ongoing professional service contracts shall be generally the same as for other professional services contracts. However, multiple firms may be awarded an on-call contract based on the RFP/RFQ process and may be placed on the eligibility list. Additional firms/individuals may also be awarded contracts and placed on the eligibility list at a later date, using the RFP/RFQ process without impacting contracts currently in place.
  - (3) As events occur and need arises, work may be assigned to the consultants on the eligibility list. The Department Head shall solicit proposals from the consultants on the eligibility list or shall make a reasonable attempt to rotate work between consultants subject to availability and special needs.
- g) Contract and Purchase Order:
- (1) A contract shall be prepared detailing the consultant's name, service being purchased, and total price of the service being purchased. The consultant shall sign three original copies.
  - (2) The issuing Department/Division will obtain a completed IRS form W-9 from the consultant.
  - (3) Proof of insurance in accordance with the contract shall be obtained. This includes an insurance certificate and an additional ensured endorsement.
  - (4) If the vendor is located in or perform services within city limits or if vendor delivers products in company owned vehicles, a Business License is required. Visit the City's website [www.ci.richmond.ca.us/businesslicense](http://www.ci.richmond.ca.us/businesslicense) if you want more information.
  - (5) The contract shall be entered in the MUNIS Financial System. A copy of the contract together with the proof of insurance, evidence of the competitive solicitation, minutes and legal opinion shall be attached in the contract module.
  - (6) A purchase requisition shall be prepared in the MUNIS Financial System.

- (7) The City Clerk, City Attorney, and Mayor/City Manager shall sign the three original copies of the contract.
- (8) One original copy of the executed contract shall be returned to the contractor/service provider, the issuing Department shall keep the second copy and the third copy shall remain in the City Clerk's Office.
- h) Renewals: Contracts for ongoing services may include annual renewal provisions for up to three years. However, all contracts that exceed \$10,000 in overall contract amount must be approved by the City Council. Cost increases related to such renewals shall not exceed the Consumer Price Index (CPI) adjustments unless approved in advance by the Finance Director.
- i) Change Orders for Product: The Purchasing Division is authorized to issue change orders for changes or additions to the original purchase that result in less than \$10,000 aggregate change in purchase price. Change orders in excess of the \$10,000 aggregate change in purchase price shall be brought to the City Council for approval.
- j) Change Orders for Services: The City Manager is authorized to issue change orders for changes or additions to the original purchase that result in less than \$10,000 aggregate change in purchase price. Change orders in excess of the \$10,000 aggregate change in purchase price shall be brought to the City Council for approval.

**D. Section IV – Professional Services**

1. Purpose

Provide guidelines for the purchase of professional services. Professional services are those activities performed by a consultant or firm who possesses a high degree or expertise in a particular profession. This would generally include (but not be limited to) architectural, landscape architectural, engineering, environmental, land surveying, construction project management, accounting/auditing, financial, legal, and other administrative services.

2. Informal Request for Proposal or Request for Qualifications <\$50,000.00

Professional service contracts exceeding \$10,000 must be awarded by the City Council.

An informal Request for Proposal (RFP) or a Request for Qualifications (RFQ) process shall be used for any solicitation under \$50,000. These professional service agreements shall have sufficient documentation of background analysis to support the contract. Informal solicitations should be used to assure quality services are received for a reasonable price.

The Department/Division shall strive, whenever possible, to solicit at least three qualifications/proposals in writing. It is important that the specifications are accurate and comprehensive.

Informal Request for Proposal or Request for Qualifications:

- a) Documentation – Informal quotations must be documented to the satisfaction of the Finance Department. Documents should include:
  - (1) The name of the company
  - (2) The person giving the quote
  - (3) The date and time the quotes were received
  - (4) Understanding of the required scope of services.
  - (5) Specialized experience of the firm and its personnel relative to the required services.
  - (6) References who can be contacted to verify past record of performance, i.e., completion of quality product, in a timely manner, and within budget constraints.
  - (7) The capacity of the firm to perform the subject project within a required timeframe.
  - (8) Estimated price
- b) Evaluating Informal RFP/RFQ: The Department/Division Head or designee(s) shall select the consultant which, in their evaluation process, is the most qualified to perform the work. The evaluation and selection process shall be based upon the following considerations:
  - (1) General quality and responsiveness to the request, including but not limited to:
    - Responsiveness to the terms, conditions, and items of performance;
    - Grasp of the problem, work to be performed, and approach to be used
  - (2) Organization and personnel making the proposal;
    - Evidence of good organizational management practices.
    - Qualification of the personnel.
    - Specialized experience of the firm and its personnel relative to the required services.
    - References who can be contacted to verify past record of performance (i.e., completion of a quality product in a timely manner and within budget constraints).

- Previous consultant experience
  - The final condition of the firm
  - Capacity of the firm to perform the subject project within a required timeframe
- (3) If appropriate, the price, in any of the following formats, may be considered.
- Total price and price breakdown
  - Price range
  - Cost schedule
- c) Negotiation: The Department Head or designee(s) shall discuss with the highest ranked firm(s) the requirements of the project, the scope of services needed to meet the requirements, and negotiate a reasonable fee/contract for the established work assignment.
- d) Contract and Purchase Order:
- (1) A contract shall be prepared detailing the consultant's name, service being purchased, and total price of the service being purchased. The consultant shall sign three original copies.

- (2) The issuing Department/Division will obtain a completed IRS form W-9 from the consultant.
  - (3) Proof of insurance in accordance with the contract shall be obtained. This includes an insurance certificate and an additional ensured endorsement.
  - (4) If the vendor is located in, or perform services within city limits or if vendor delivers products in company owned vehicles, a Business License is required. Visit the City's website [www.ci.richmond.ca.us/businesslicense](http://www.ci.richmond.ca.us/businesslicense) if you want more information.
  - (5) The contract shall be entered in the MUNIS Financial System. A copy of the contract together with the proof of insurance, evidence of the competitive solicitation, minutes and legal opinion shall be attached in the contract module.
  - (6) A purchase requisition shall be prepared in the MUNIS Financial System.
  - (7) The City Clerk, City Attorney, and Mayor/City Manager shall sign the three original copies of the contract.
  - (8) One original copy of the executed contract shall be returned to the contractor/service provider, the issuing Department shall keep the second copy and the third copy shall remain in the City Clerk's Office.
- e) Renewals: Contracts for ongoing services may include annual renewal provisions for up to three additional years. However, all contracts that exceed \$10,000 in overall contract amount must be approved by the City Council. Cost increases related to such renewals shall not exceed the Consumer Price Index (CPI) adjustments unless approved in advance by the Finance Director.
  - f) Change Orders for Product: The Purchasing Division is authorized to issue change orders for changes or additions to the original purchase that result in less than \$10,000 aggregate change in purchase price. Change orders in excess of the \$10,000 aggregate change in purchase price shall be brought to the City Council for approval.
  - g) Change Orders for Services: The City Manager is authorized to issue change orders for changes or additions to the original purchase that result in less than \$10,000 aggregate change in purchase price. Change orders in excess of the \$10,000 aggregate change in purchase price shall be brought to the City Council for approval.
3. Formal Request for Proposal or Request for Qualifications > \$50,000.00  
Professional service contracts exceeding \$10,000 must be awarded by the City Council.

A Formal sealed Request for Proposal (RFP) or a Request for Qualifications (RFQ) process shall be used, for any solicitation exceeding \$50,000, thereby assuring the City that it has engaged the most qualified consultant available for the engagement. The formal solicitation process generally takes more time and expense than informal solicitations of qualifications.

The Formal Request for Proposal or Request for Qualifications shall include:

- a) Developing the RFP or RFQ: Because RFP's and RFQ's ask for a subjective product, they should contain the greatest detail possible, and may include the following:
  - (1) A precise description of the problem or objective
  - (2) The services to be performed
  - (3) The product to be provided
  - (4) The anticipated time schedule for:
    - Submittal of RFP/RFQ (date and time)
    - Any pre-proposal conference (date, time and location)
    - Review and evaluation of the proposals
    - Award of the contract
    - Commencement of the work on the project
    - Completion date
  - (5) Evaluation factors and the relative importance of each
  - (6) Expectations or limitations on the part of the City
    - The format, form and quantity of any expected reports
    - The extent/nature of assistance/cooperation available from the City
  - (7) Expected content of the RFP/RFQ, including:
    - The overall description of techniques to be used
    - Listing of similar services provided to other clients
    - Listing of available references to contact
    - Description and qualifications of assigned lead and supporting personnel
    - Time and staff expected to be expended
    - Facilities and equipment to be used
    - Portion of contract to be performed by sub-contractors
    - Subcontractors / Sub consultants qualifications
    - Cost, in summary and total, and desired method of payment. The RFP/RFQ for services may, but is not required to; state the amount budgeted for the service.
  - (8) Contractual requirements including, but not limited to:
    - Prohibition against assignment
    - Indemnification

- Insurance requirements
- Warranties
- Compliance with federal, state and City laws, rules and regulations
- Compliance with any grant related regulations
- Sample contract

b) Issuing the RFP/RFQ

- (1) To ensure maximum exposure and competition, the issuing department shall submit the RFP/RFQ documents to the Purchasing Division to post to the City's BidsOnline System. Also submit to Purchasing a list of potential firms to receive the RFP/RFQ.
- (2) A reasonable length of time between solicitations and closing dates must be allowed to provide potential respondents time for preparation in accordance with the complexity, the size of the project, and the scope of the advertising.
- (3) City staff may conduct conferences to explain the requirements of the project. A sufficient amount of time should be allowed after the RFP/RFQ has been issued to allow potential respondents to become familiar with the project. Any clarification or changes required to the RFP/RFQ, as a result of the conference, shall be added as a written amendment. A summary of the conference shall be provided to all prospective respondents receiving the request.
- (4) Amendments should be used to make any changes in quantities descriptions, schedules, or to correct defects or ambiguities in the original RFP/RFQ. Amendments are provided to ensure that all potential respondents are furnished with the same information with which to prepare proposals. Amendments to the RFP/RFQ shall be identified as such and shall require acknowledgment as such by firms receiving the RFP/RFQ within a reasonable time period before the closing date. If the time and date established for the receipt of proposals does not allow sufficient time for consideration and changes, the time and date will be modified by amendment.

- c) Proposal Opening:
- (1) Proposal shall be submitted electronically through the BidsOnline System, to the issuing Department or to the City Clerk's office and shall be clearly identified with the Proposal number on the envelope.
  - (2) Any proposal received after the time specified in the RFP/RFQ shall be returned unopened.
  - (3) Respondents may modify or withdraw their proposals prior to the established closing date and time, without penalty. However, any modifications submitted after the established closing date and time will not be accepted. Such modifications will be returned to the respondent, unopened.
  - (4) Proposals and modifications shall be shown only to the evaluation committee personnel, the City Clerk or his/her designee, the Department Head and the Finance Department until a recommendation is made to Council or all proposals have been rejected.
- d) Rejection of Proposals: The City reserves the right to reject any and all proposals, to accept or reject any one or more items of a proposal, or to waive any irregularities or informalities in the proposal or the RFP/RFQ process if to do so is deemed to best serve the interests of the City.
- e) Evaluation Factors and Method:
- (1) Because unique services are requested, cost is not considered the primary selection criteria.
    - General quality and responsiveness of the proposal, including but not limited to:
      - Responsiveness to the terms, conditions, and items of performance;
      - Completeness and thoroughness of the proposal;
      - Grasp of the problem, work to be performed, and approach to be used.
    - Organization and personnel making the proposal:
      - Evidence of good organizational and management practices.
      - Qualification of the personnel.
      - Specialized experience of the firm and its personnel relative to the required services.
      - References who can be contacted to verify past record of performance, i.e., completion of a quality

product, in a timely manner, and within budget constraints.

- The financial condition of the firm.
  - Capacity of the firm to perform the subject project within a required time frame
- If appropriate, the price, in any of the following formats, may be considered.
    - Total price and price breakdown.
    - Price range.
    - Cost schedule.

- (2) A Selection Committee shall be formed to evaluate the submitted data and determine the consultants that should receive further consideration. The Committee shall be appointed by the issuing department and may consist of more than one department. For example one or more people from the issuing department, one person from Finance, one person from the City Attorney's office, an expert in the field or one or more employees from another department.
  - (3) The Selection Committee may choose to interview all of the responding consultants, only the top few ranking consultants or to not perform interviews.
  - (4) After the interviews (if applicable), the Selection Committee shall rank the consultants based on their proposals, interviews, and references.
- f) On-Call (Ongoing) Professional Services
- (1) In some instances it is in the best interest of the City to have on-call contracts with multiple consultants for the same or very similar services (i.e. services that can be defined as to scope of work but not as to required events such as soils testing, contract building inspection services, architectural services, etc.) These services would best be handled by establishing an eligibility list and by entering into annual on-call professional service contracts.
  - (2) The process for selecting firms for annual ongoing professional service contracts shall be generally the same as for other professional services contracts. However, multiple firms may be awarded an on-call contract based on the RFP/RFQ process and may be placed on the eligibility list. Additional firms/individuals may also be awarded contracts and placed on the eligibility list at a later date, using the RFP/RFQ process without impacting contracts currently in place.
  - (3) As events occur and need arises, work may be assigned to the consultants on the eligibility list. The Department Head shall make a reasonable attempt to rotate work between consultants subject to availability and special needs or by soliciting proposals from the consultants on the eligibility list.
- g) Negotiation: The Department Head or designee(s) shall discuss with the highest ranked firm(s) the requirements of the project, the scope of services needed to meet the requirements, and negotiate a reasonable fee/contract for the established work assignment.

h) Awarding the Contract:

The Department Head/Division Head shall prepare an agenda report to City Council recommending the most responsive consultant. The Council shall then award the contract in a public meeting. All contracts exceeding \$10,000 must be awarded by the City Council. Otherwise:

- (1) Such purchases are void and not considered an obligation of the City.
- (2) Invoices may be returned to the contractor/service provider unpaid.
- (3) The person ordering the unauthorized purchase may be held personally liable for the costs of the contract.

i) Contract and Purchase Order:

- (1) A contract shall be prepared detailing the consultant's name, service being purchased, and total price of the service being purchased. The consultant shall sign three original copies.
- (2) The issuing Department/Division will obtain a completed IRS form W-9 from the consultant.
- (3) Proof of insurance in accordance with the contract shall be obtained.
- (4) If the vendor is located in, or perform services within city limits or if vendor delivers products in company owned vehicles, a Business License is required. Visit the City's website [www.ci.richmond.ca.us/businesslicense](http://www.ci.richmond.ca.us/businesslicense) if you want more information.
- (5) The contract shall be entered in the MUNIS Financial System. A copy of the contract together with the proof of insurance, evidence of the competitive solicitation, minutes and legal opinion shall be attached in the contract module.
- (6) A purchase requisition shall be prepared in the MUNIS Financial System.
- (7) The City Clerk, City Attorney, and Mayor/City Manager shall sign the three original copies of the contract.
- (8) One original copy of the executed contract shall be returned to the contractor/service provider, the issuing Department shall keep the second copy and the third copy shall remain in the City Clerk's Office.

- j) Renewals: Contracts for ongoing services may include annual renewal provisions for up to three additional years. However, all contracts that exceed \$10,000 in overall contract amount must be approved by the City Council. Cost increases related to such renewals shall not exceed the Consumer Price Index (CPI) adjustments unless approved in advance by the Finance Director.
- k) Change Orders for Product: The Purchasing Division is authorized to issue change orders for changes or additions to the original purchase that result in less than \$10,000 aggregate change in purchase price. Change orders in excess of the \$10,000 aggregate change in purchase price shall be brought to the City Council for approval.
- l) Change Orders for Services: The City Manager is authorized to issue change orders for changes or additions to the original purchase that result in less than \$10,000 aggregate change in purchase price. Change orders in excess of the \$10,000 aggregate change in purchase price shall be brought to the City Council for approval.

#### **E. Section V – Procurement During a Proclaimed Emergency or Disaster**

##### **1. Purpose**

This Policy modifies the City’s normal purchasing practices (pursuant to Municipal Code-Chapter 2.52 – Contracting and Purchasing Procedures) to assure that, in both emergency and exigent circumstances caused by a proclaimed disaster or emergency, the City is able to acquire the goods and services required to address an immediate threat to life safety, public health, or to eliminate or reduce an immediate threat of significant damage to improved public and private property through cost-effective measures while still maintaining an effective purchasing process and complying with applicable local and state purchasing laws. Where the City is included in a major disaster or emergency declared by the President of the United States, this Policy also assures that City procurements comply with Federal regulations applicable to FEMA disaster grant reimbursement as defined in Title 2 of the Code of Federal Regulations, Part 200 (2CFR Part 200).

Notwithstanding the terms of this policy, nothing contained herein shall conflict with Federal procurement regulations as currently defined in 2 CFR Part 200.

##### **2. Definitions**

“Proclaimed Emergency or Disaster” exists if

- 1. The Governor has declared a state of emergency for an area which includes the geographic territory of the City; or
- 2. The City Manager, Police Chief, or Public Works Director of the City has declared an emergency in the City;

“Exigent Circumstances” are situations in which

1. A disaster or emergency has been proclaimed, and
2. The public need for goods and services required to address immediate threats to life safety, public health, or to eliminate or reduce an immediate threat of significant damage to improved public and private property through cost-effective measures will not permit competitive solicitation.

“Purchase(s)” as defined in this policy means the purchase(s), rental(s) or lease(s) of goods or services related to a Proclaimed Emergency or Disaster.

“Simplified Acquisition Threshold” means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods, as set forth in Title 2 of the Code of Federal Regulations, Part 200, as it may be amended from time to time. Simplified Acquisition Procedures are described in Federal Acquisition Regulations (FAR) Part 13.

3. Delegations of Purchasing Authority in Exigent Circumstances

If the City Manager or his/her designee determines that goods and services must be procured before the Elected governing board is able to assemble and approve purchases, the City Manager has authority, subject to the limitations set forth in sub-paragraphs (a) and (b), to approve the immediate rental or purchase of any equipment, supplies, services or other items necessary to respond to an immediate threat to life safety, public health, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures

(a) Limits of Single Purchase Authority. The City Manager, shall have the authority to make individual purchases up to a maximum of \$150,000 without prior City Council approval.

(b) Limits of Aggregate Purchase Authority. The City Manager shall have the authority to make aggregate purchases up to a maximum of \$1,000,000 without prior City Council approval.

All procurements that exceed the City Council’s approval threshold of \$10,000 shall be presented to City Council for ratification as soon as possible.

**Delegation for purchasing authority to EOC Director or the Finance Director**

The EOC Director, or the Finance Director, shall be designees of the City Manager at any time that the City Manager is not available to approve purchases as allowed in this section.

**Sub-delegation of Purchasing Authority to Department Heads**

If neither the City Manager nor the EOC Director or Finance Director is available, the police department watch commander, duty fire battalion chief, and/or duty public works department director have authority to rent or purchase from the nearest available source any equipment, supplies, services, or other items necessary for his or her department to respond to an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures, up to a maximum of \$150,000.

### **Administrative Procedures/Reporting Requirements**

- As soon as possible after purchases are made under this section, the City Manager, EOC Director, Finance Director or department head shall submit to the Purchasing Division a requisition and a notation that the commodity has been ordered on an emergency basis from the vendor designated.
- If the City Manager/EOC Director/Finance Director is unavailable, and the delay in getting his/her signature would imperil life safety, public health or improved property, the police department watch commander, duty fire battalion chief, and/or duty public works department director or his/her designee may approve the emergency purchase of \$150,000 or more.
- The Purchasing Division shall have the authority to approve all disaster related purchases under \$150,000.
- The Purchasing Division will expedite the verification of funds available and complete the preparation of the purchase order

#### **4. Procurement Procedures in Exigent Circumstances**

Upon receipt of requisitions under Section V, the Purchasing Division shall prepare purchase orders for the emergency equipment, supplies, services or other items in accordance with the requirements of this section.

### **Exempt Purchases**

Purchases up to \$150,000 shall not be required to be formally bid. Purchases greater than \$150,000 may be made following the procedures specified in this section. The signature(s) of the City Manager, Purchasing Division and/or Department Head are still required as provided in Section V.

### **Justification of Sole Source or No-bid Contracts**

Where exigent circumstances require immediate procurement from the nearest available source,

- (a) the Procurement Officer shall use the "Justification Form For Emergency or Sole Source or No-Bid Purchase."

(b) Procurement should be limited to that portion of the work that must be performed immediately, allowing subsequent procurement by competitive proposals of the remainder of the work.

(c) Emergency Sole Source or No Bid acquisitions shall be necessary for one of the following reasons:

- (i) Placement of emergency protective measures
- (ii) Procurement of scarce commodities, goods, or services
- (iii) Acquisition or rental of emergency equipment
- (iv) Emergency consulting services
- (v) Emergency road clearance
- (vi) Other emergency requirements.

**Provision for Alternate Bid Solicitation Procedures**

The City's normal requirements for sealed bids shall not apply to acquisitions under Section V. However, the Procurement Officer shall conduct telephonic or other electronic bid solicitation from potential vendors or suppliers, in an effort to obtain multiple competitive proposals when and if time allows in light of the exigent circumstances; however, all quotations must be fully documented as to the details of the purchase and contain a scope of work if at all possible and a not-to-exceed contract limit.

**Locations of Postings for Requests for Proposals or Solicitation of Bids**

The Procurement Officer may modify normal requirements for public posting of requests for proposals or solicitation of bids. Notices soliciting bids or requests for proposals shall be posted at the Emergency Operations Center or Alternate Emergency Operations Center, if the Primary Emergency Operations Center is not being used.

**Length of Time for Posting Requests for Proposals or Solicitation of Bids**

The Procurement Officer may shorten the normal bid period from 14 days to 24 hours as needed to deal with the emergency circumstances and to expedite the award of contracts for emergency equipment, goods, or services. The Procurement Officer should seek to assure that the shortened bid period allows multiple suppliers to submit bids.

**Number of Bids Required**

Solicited bids that are non-responsive do not count towards the minimum number of bids required when there is a declared emergency or disaster in the Jurisdiction. All such no-bids must be documented as to time, date and person or company contacted, with a reason for the no-bid, if possible.

## **F. Section VI – Purchases with Federal Grant Funds**

The following section is being added to the Purchasing Policy to establish standards for the procurement of supplies, equipment, real property and other services as required by 2 CFR 200.317 through 200.326 to comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards commonly called “Uniform Guidance”.

- **When using federal grant funds, follow applicable state statutes and rules and local policies only to the extent that those statutes, rules, and policies do not conflict with the Uniform Administrative Requirements (UAR) outlined below. 2 CFR 200.318(a)**
- **Contract performance and payments must be monitored during the course of the contract. 2 CFR 200.318(b).**
- **Written standards of conduct and Conflict of Interest:**
  - No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a federal award if he or she [the employee, officer, or agent], any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ
    - the employee, officer, or agent;
    - an immediate family member of the employee, officer, or agent; or
    - the partner of the employee, officer, or agenthas a financial or other interest in or will receive a tangible personal benefit from a firm considered for the contract. Officers, employees, and agents must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. 2 CFR 200.318(c)(1)
- **Before starting a procurement process:**
  - Review all proposed procurements to avoid unnecessary/duplicative purchases of equipment, supplies, and services. Consider whether it will save money/time to consolidate procurements; if so, consolidate. If relevant, consider whether a lease or a purchase is the most economical approach (and document how you came to your decision). 2 CFR 200.318(d).
  - Look for state or local intergovernmental agreements (such as competitive bidding group purchasing programs, state term contracts, GSA contracts, or formal intergovernmental agreements—but get awarding agency approval before using one of those agreements. 2 CFR 200.318(e).

## 1. Purchasing Guidelines

### a) Documentation

#### (1) Keep records showing:

- Basis for vendor selection
- Documentation of lack of competition when competitive bids or offers are not obtained
- Why you chose a specific procurement method;
- The basis for your award (why did you select the contractor or vendor you selected? Why did you reject the others?);
- The basis for the contract price; and
- Any other significant decisions that were a part of the procurement process resources.

b) **Award only to “responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.”** In determining which contractors are responsible, you must consider “matters such as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.” 2 CFR 200.318(h). (Note: This means that your solicitation documents must ask for information that will allow you to assess whether a contractor is “responsible.”)

c) **Keep records to detail the history of each procurement. These records must include, at least, records showing your rationale for** (1) the method of procurement, (2) the selection of contract type, (3) contractor selection or rejection, and (4) the basis for the contract price. 2 CFR 200.318(i)

d) **Prohibit awarding time and materials type contracts unless (1) you have determined that no other contract is suitable and (2) the contract includes a ceiling price that the contractor exceeds at its own risk.** The UAR defines a time and materials type contract as “a contract whose cost to a non-Federal entity is the sum of: (1) the actual cost of materials; and (2) direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.” 2 CFR 200.318(j). For the purposes of this policy, the term “non-Federal Entity” means the City of Richmond and/or the Housing Authority for the City of Richmond.

e) **Restricting competition.** The following actions on procurements funded with federal grants are prohibited:

- Allowing contractors that develop or draft specifications, requirements, statements of work, invitations for bids, or requests for proposals to compete for such procurements;

- Placing unreasonable requirements on firms for them to qualify to do business (if you're not sure if a requirement is unreasonable, ask the Federal awarding agency);
- Requiring unnecessary experience or excessive bonding;
- Permitting noncompetitive pricing practices between companies;
- Awarding contracts to consultants on "retainer" contracts;
- Permitting organizational conflicts of interest
- Specifying a brand name product without permitting an equal product to be offered, and without describing the performance requirements that must be met for a product to qualify as an equal;
- Acting arbitrarily in awarding contracts. 2 CFR 200.319(a)

- f) **Prohibit awards based on local geographic preferences, except where applicable Federal statutes expressly mandate or encourage geographic preference.** However, geographic location may be a selection criteria when awarding contracts for architectural or engineering services, provided that using such criteria "leaves an appropriate number of qualified firms" to compete for the work, "given the nature and size of the project." 2 CFR 200.319(b).
- g) **All solicitations must identify (1) all requirements which the offerors must fulfill and (2) all other factors to be used in evaluating bids or proposals.** 2 CFR 200.319(c)
- h) **If you use prequalified lists of entities or products when procuring goods or services, make sure those lists are "current and include enough qualified sources to ensure maximum open and free competition," and do not preclude other potential entities or products from participating in the solicitation.** 2 CFR 200.319(d).

2. Methods of Procurement to be followed

- a) **Procurement by sealed bids require formal advertising. Bids are publicly solicited (Post to the BidsOnline System) and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction.**

(1) In order for sealed bidding to be feasible, the following conditions should be present:

- A complete, adequate, and realistic specification or purchase description is available;
- Two or more responsible bidders are willing and able to compete effectively for the business; and

- The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
- (2) If sealed bids are used, the following requirements apply:
- The invitation for bids must be publicly advertised, providing suppliers sufficient response time prior to the date set for opening the bids;
  - The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
  - The bids must be opened publicly at the time and place prescribed in the invitation for bids;
  - A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
  - Any or all bids may be rejected if there is a sound documented reason. 2 CFR 200.320(c)
- (3) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
- Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
  - Proposals must be solicited from an adequate number of qualified sources;
  - The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
  - Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

- The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort. 2 CFR 200.320(d)
- (4) Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
- The item is available only from a single source;
  - The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
  - The Federal awarding agency expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
  - After solicitation of a number of sources, competition is determined inadequate. 2 CFR 200.320(f)

- b) **Take certain steps to assure that minority firms and women's business enterprises are used when possible.** These steps are:
- (1) Place qualified small and minority businesses and women's business enterprises on solicitation lists;
  - (2) Assure that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
  - (3) Divide total requirements into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
  - (4) Establish delivery schedules which encourage participation by small and minority businesses and women's business enterprises;
  - (5) Use the services and assistance of the Small Business Administration (<http://www.sba.gov>) and the Minority Business Development Agency of the Department of Commerce (<http://www.mbda.gov>); and
  - (6) Require prime contractors to take the same steps listed above. 2 CFR 200.321
- c) **Contract cost and price**
- (1) Perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold (\$150,000), including contract modifications. Make the Independent Cost Estimates (ICE) before receiving bids or proposals. 2 CFR 200.323(a)
  - (2) Negotiate profit as a separate element of the price (1) for each contract in which there is no price competition and (2) in all cases where cost analysis is performed. 2 CFR 200.323(b)
  - (3) A prohibition on using "cost plus a percentage of cost" or "percentage of construction cost" methods of contracting. 2 CFR 200.323(d)

### 3. Federal Awarding Agency Review

- a) The non-Federal entity must make available, upon request of the Federal awarding agency or passthrough entity, technical specifications on proposed procurements where the Federal awarding agency believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase. 2 CFR 200.324(a)
- b) The non-Federal entity must make available upon request, for the Federal awarding agency preprocurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
  - (1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;
  - (2) The procurement is expected to exceed the Simplified Acquisition Threshold (\$150,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
  - (3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;
  - (4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
  - (5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold. 2 CFR 200.324(b)
- c) The non-Federal entity is exempt from the pre-procurement review in the above paragraph if the Federal awarding agency determines that its procurement systems comply with the standards of this part.
  - (1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

- (2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review. 2 CFR 200.324(c)

#### 4. Bonding requirements

- a) For construction or facility improvement contracts or sub contracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency may accept the bonding policy and requirements of the local agency provided that the Federal awarding agency has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:
  - (1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified. 2 CFR 200.325(a)
  - (2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract. 2 CFR 200.325(b)
  - (3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract. 2 CFR 200.325(c)

#### 5. Contracting Provisions

##### **Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards**

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

- a) **Remedies:** Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- b) **Termination:** All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- c) **Equal Employment Opportunity:** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” ( 30 FR 12319, 12935, 3 CFR Part, 1964- 1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- d) **Davis-Bacon Act, as amended:** ( 40 U.S.C. 3141- 3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act ( 40 U.S.C. 3141-3144) as supplemented by Department of Labor regulations ( 29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act: ( 40 U.S.C. 3145), as supplemented by Department of Labor regulations ( 29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”).

The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- e) **Contract Work Hours and Safety Standards Act:** ( 40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations ( 29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- f) **Rights to Inventions Made Under a Contract or Agreement:** If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

- g) **Clean Air Act:** ( 42 U.S.C. 7401- 7671q.) and the Federal Water Pollution Control Act ( 33 U.S.C. 1251- 1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act ( 42 U.S.C. 7401- 7671q) and the Federal Water Pollution Control Act as amended ( 33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- h) **Debarment and Suspension:** (Executive Orders 12549 and 12689) – Verify that a vendor is not debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. Confirm and document that vendors are not on the federal government’s Excluded Party list found at [www.sam.gov](http://www.sam.gov).
- i) **Byrd Anti-Lobbying Amendment:** ( 31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not use, and has not used, Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

## **Attachment A**

### **City of Richmond RFP/RFQ Evaluation Committee Guidelines (Sample Documents)**

The Evaluation Committee (EC) has the authority to review and evaluate proposals received by the City in response to a specific Request for Proposals (RFP) or Request for Qualifications (RFQ) for the purpose of identifying the most competitive or best qualified proposal(s) from responsive and responsible offerors.

#### **Proposed General guidelines:**

1. Identifying Evaluation Committee Members. The members of the EC should be identified prior to the solicitation issuance. Members of the EC should have professional interest and expertise to evaluate proposals and make recommendations that could lead to the selection of one or more offeror(s) who will provide products/services to the City in an acceptable manner pursuant to the RFP/RFQ.
2. EC Member Participation Form. The Project Manager (PM) will send an Evaluation Committee Member Participation Form to the individual EC members and each member shall return an executed copy to the PM.
3. Preparing the Evaluation Rating Matrix (Attachment C). The EC will identify mandatory, non-mandatory requirements, in addition to establishing evaluation criteria and assigned weight. The evaluation criteria and assigned weight shall be consistent with the criteria defined in the RFP/RFQ.
4. Initial Review of Proposals. The PM will review received Proposals for compliance with the submittal criteria and content requirements. The EC will review Proposals that are deemed “responsive and responsible”. A responsive RFP/RFQ is one that meets all the terms, conditions and specification of the RFP/RFQ. A responsible RFP/RFQ is one where the proposer has the overall capability to satisfactorily perform the contract. “Non-Responsible” Proposals will not be evaluated and shall be rejected from any further consideration by the City.
5. Submitting Proposals to the EC. The EC members who have executed the Evaluation Committee Member Participation Form will be provided with all “responsive and responsible” Proposals and evaluation forms.
6. Independent and Individual Review. The EC shall review the received Proposals and independently score each Proposal. Scores shall be in accordance with the Evaluation Rating Matrix and shall represent each evaluator’s best objective judgment.
7. Convening EC Committee Meetings. The EC meeting(s) shall be convened by the PM on the date and time designated. Each member will bring his/her completed technical evaluation form.

The EC members will discuss the individual scores and, as a result of the discussion, each member may adjust the member's individual scoring up or down as appropriate. The PM shall average the individual scores to determine the Offeror's score for that particular question/requirement.

8. Analyzing Cost Proposals. When applicable, the City may utilize lowest cost, lowest total cost, Total Cost of Ownership (TCO) or greatest savings to determine best offeror; provided, however, the City must abide by any statements within the RFP regarding cost evaluation.

9. Overall Scores Preceding Negotiations. The EC will identify which offeror(s) submitted the best ranked, responsive and responsible proposal(s) according to the evaluation and scoring by the EC. The Cost and Evaluation Rating Matrix summary or such other appropriate document should be used to determine the award recommendation and the offeror(s) that will participate in negotiations, if applicable.

10. Convening a Negotiation Team. If the EC elects to initiate negotiations, as approved by the PM, in order to ensure that the City is receiving the best value and/or the most cost-efficient goods and/or services, then a Negotiation Team (NT) will convene. The NT may include any or all members of the EC or other individuals as appropriate; provided, however, only the EC may rescore proposal revisions following negotiations. The NT will develop the Negotiation Plan and Negotiation Script.

11. Capturing Negotiation Results & Award Recommendation. If the City elects to negotiate with identified offerors, the offerors will each be asked to submit a Proposal Revision following each round of negotiations, which Proposal Revision will then augment the original RFP submission. Each Proposal Revision will be evaluated and re-scored by the EC utilizing the same evaluation criteria. Upon completion of negotiations, the PM will prepare the Evaluation and Selection Report and obtain EC's signatures approving the award recommendation.

12. Final Contract Award. Based on the recommendations contained in the Evaluation and Selection Report, the PM will prepare an Agenda Report to present to Council. Upon Council approval, the PM will process the contract to be executed by the offeror and the City.

13. Maintaining Agency Records. All evaluation/negotiation documents/forms completed by each evaluator and by the EC and NT will be collected by the PM and become part of the official records and subject to the Public Records Act and Record Retention Policy. The retention period for these documents is Audit plus four years.

**Attachment B**

**EVALUATION COMMITTEE MEMBERS PARTICIPATION FORM**

**(Solicitation Title)  
REQUEST FOR PROPOSAL  
(Sample Documents)**

You have been asked to participate in the evaluation of offers that have been received as the result of the competitive solicitation referenced above.

It is essential that the integrity of the evaluation process is maintained to ensure that each bidder or offeror is given fair and equal consideration. Your knowledge of and/or past or current association with particular firms and/or individuals must not influence your evaluation. The written responses to the solicitation and any subsequent respective clarifications and/or negotiations must stand alone, and you are required to be particularly objective and guard against any tendency to favor a particular firm or individual.

You are required to report to the Project Manager any actual or potential conflict of interest.

An additional consideration is the need to maintain confidentiality during the evaluation regarding the contents of the offerors' or bidders' responses, as well as the proceedings of the evaluation committee. Any inquiries regarding the evaluation of this particular solicitation must be directed to the Project Manager.

You are asked to read and sign the following statement:

**I have read, understand, and agree to the above, and I will adhere to the policies presented. I do not know of any conflict of interest on my part, nor have I accepted any gratuities or favors from potential offerors or bidders, which would compromise my objectivity. I shall keep all evaluation proceedings in strict confidence prior to contract award. I will do my best to base my recommendation for contract award solely upon the evaluation criteria in the solicitation and each offeror's or bidder's response.**

---

Committee Member Signature

Date

---

Print Name and Title of Committee Member

Date

## ATTACHMENT C

### City of Richmond RFP SCORE SHEET – Solicitation Title

(Sample Documents – Evaluation Criteria and assigned weight shall be consistent with the criteria defined in the RFP/RFQ)

Vendor \_\_\_\_\_

Evaluator Name \_\_\_\_\_

<i>Evaluation Criteria</i>	<i>Maximum Points</i>	<i>Assigned Score</i>	<i>Comments</i>
<b>1. <u>Qualifications of Firm</u></b> 1.1 Technical experience in performing work of a closely similar nature 1.2 Experience working with public agencies 1.3 Strength and stability of the firm 1.4 Strength, stability, experience and technical competence of subcontractors 1.5 Assessment by client references 1.6 Knowledge of applicable laws and regulations.	%		
<b>2. <u>Staffing and Project Organization</u></b> 2.1 Qualifications of project staff 2.1.1 Key personnel 2.1.2 Project Manager 2.2 Key personnel’s level of involvement in performing related work cited in “Qualifications of the Firm” section 2.3 Logic of project organization 2.4 Adequacy of labor commitment; 2.5 Concurrence in the restrictions on changes in key personnel 2.6 Ability to deal with City staff	%		
<b>3. <u>Work Plan/Methodology and Approach to Work</u></b> 3.1 Depth of Offeror’s understanding of City’s requirements and overall quality of work plan 3.2 Logic, clarity and specificity of work plan 3.3 Appropriateness of labor distribution among the tasks 3.4 Ability to meet the project deadline 3.5 Reasonableness of proposed schedule; 3.6 Utility of suggested technical or procedural innovations. 3.7 Approach and proposed methodology to project scope 3.8 Innovative approaches and internal measures for timely completion of project	%		
<b>4. <u>Cost and Price</u></b> ASSIGN POINTS FOR COST	%		
<b>TOTAL WEIGHT MUST EQUAL:</b>	100		
<b>5. <u>Interviews/Presentation – (Optional)</u></b> 5.1 Quality and clarity of presentation 5.2 Ability of presenter to answer questions 5.3 Demonstrations (if required) 5.4 Demonstrated understanding of the project	%		

## Scoring Mechanisms (SAMPLE)

For the evaluation criteria, the following scoring mechanism will be used. The points awarded for each criterion are determined by multiplying the weight by the assigned score.

### Exceptional (Assigned Scores - 22 to 25) –

- The approach will yield a result that exceeds the Objectives qualitatively.
- The proposal offers an approach or features with little or no risk.
- The response covers areas not originally addressed within the RFP category and includes additional information and recommendations that would prove both valuable and beneficial to the City of Richmond.
- This response is considered an excellent approach demonstrating the Supplier's authoritative knowledge and understanding of the project.

### Exceeds Objectives (Assigned Scores - 19 to 21) –

- A very good response that shows experience and knowledge within the category. The Supplier provides insight into their expertise, knowledge and understanding of the subject matter.
- The collective approach yields a qualitative benefit to the project that is beyond the minimum objectives.
- The approach being proposed or the majority of the features are acceptable or above the objectives set out in the RFP.
- The Supplier can easily implement additional features or options. A minimal number of resources will be required from the City of Richmond.

### Meets Objectives (Assigned Scores - 14 to 18) –

- The approach or the majority of the features proposed meet the objectives.
- No apparent deficiencies noted. Some items could be improved upon but are still considered acceptable. To enhance them may require rework and resources from the Supplier and/or the City.
- The ranking should reflect some qualitative achievement(s) such as acceptable delivery timeframe, end-user training program, etc.

### Fails to Meet Objectives (Assigned Scores - below 14)-

- The proposed approach or a majority of the features for the item are deficient. The approach taken is undesirable and correction would require a major and material change in the proposal.
- The correction of any deficiencies either collectively or individually, poses a serious problem in correction or has a "domino" effect on the other design features.