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Title: Ordinance amending the Pittsburgh Code, Title One, Administrative, Article VII Procedures, Chapter 161 Contracts, Section 161.02 Competitive Bidding; Exceptions.

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Indexes: PGH. CODE ORDINANCES TITLE 01 - ADMINISTRATIVE

Code sections:

Attachments: 1. 2009-1328.doc, 2. 2009-1328 VERSION 2.doc

Date	Ver.	Action By	Action	Result
5/12/2009	2	Mayor	Signed by the Mayor	
5/5/2009	2	City Council	Passed Finally, As Amended	Pass
5/5/2009	2	City Council	AMENDED	Pass
4/29/2009	1	Committee on Finance and Law	AFFIRMATIVELY RECOMMENDED	Pass
4/21/2009	1	City Council	Read and referred	

Ordinance amending the Pittsburgh Code, Title One, Administrative, Article VII Procedures, Chapter 161 Contracts, Section 161.02 Competitive Bidding; Exceptions.

Be it resolved that the Council of the City of Pittsburgh hereby enacts as follows:

Section 1. The Pittsburgh Code, Title One, Administrative, Article VII Procedures, Chapter 161 Contracts, Section 161.02 Competitive Bidding; Exceptions, is hereby amended by deleting certain language, as follows:

§ 161.02 COMPETITIVE BIDDING; EXCEPTIONS.

- (a) All contracts shall be awarded to the lowest responsible bidder pursuant to competitive bidding except:
 - (1) Contracts let in cases of emergency as set forth in Section 161.28 below;
 - (2) Those made for improvements, repairs and maintenance of any kind made or provided by the City through its own employees; provided, that this exception shall not apply to construction materials used in a street and bridge improvement;
 - (3) Those where the unique types, models or pieces of new equipment, articles, apparatus, appliances, vehicles or parts thereof, are patented and manufactured products or copyrighted products, insofar as their essential function is concerned;
 - (4) Those made for public utility service under tariffs on file with the Pennsylvania Public Utility Commission;
 - (5) Those made with another political subdivision or a county, the Commonwealth of Pennsylvania, the United States Government, any agency of the Commonwealth or the United States Government, or any authority,

including the sale, leasing or loan of supplies or materials by the Commonwealth or the United States Government or their agencies, but the price thereof shall not be in excess of that fixed by the Commonwealth, the United States Government, or their agencies.

(6) Those involving client services provided by not-for-profit agencies;

(7) Purchases through intergovernmental or cooperative purchasing plans, established pursuant to applicable law.

(8) Those for personal or professional services agreements, the award of which is governed by Section 161.02 A herein.

§161.02A. AWARD OF PROFESSIONAL SERVICES AGREEMENTS

(a) Definitions. The following definitions are applicable to this Section 161.02A:

1. *Competitive Process-* method of competitively selecting contractors/consultants based on qualifications and negotiations rather than a sole competitive price bid.

2. *Contract modification.* Any written alteration in the scope of work, compensation, period of performance, or any other provision of any professional services contract that is agreed to by both parties in a written contract amendment.

3. *Emergency Professional Services contract-*a professional services contract required where there exists unforeseen circumstances beyond the City's control that either: (a) present a real and identifiable threat to the proper performance of essential functions or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

4. *Professional Services contract-*a contract involving services of members of the medical or legal profession, registered architects, appraisers, auditors, engineers, certified public accountants or other personal services, including provision of such services by non-profit entities, that involve quality as the paramount concern and require a recognized professional and special expertise. For purposes of this Section, this term shall also encompass "personal service contracts."

5. *Request for Proposals (RFP)-* an announcement by the City of a willingness to consider proposals for the performance of a specified project or program. The RFP should contain all relevant criteria the City will consider when evaluating proposals for award.

6. *Request for Qualifications (RFQ)-*an announcement by the City seeking qualifications of potential contractors to perform a particular scope of work/service for the City.

7. *Sole Source Professional Services contract:* a contract involving unique professional services that are documented to be available from one source only.

(b) Competitive process required. No professional services contracts will be awarded by the City of

Pittsburgh without undertaking a RFQ, RFP or other applicable competitive process as set forth herein unless falling within an exemption category set forth in subsection (c) herein. The Director of the Department of Finance shall issue regulations regarding, *inter alia*, the applicability of this Section to contract modifications and amendments as well as to the use of pre-qualified contractors.

(c) Exemptions. The following professional services contracts are exempt from the requirement of a competitive process for selection contingent upon obtaining a written waiver issued by the City Solicitor that this exemption provision duly applies based on inclusion in one or more of the following categories:

1. Emergency Professional Service contracts as defined herein.
2. Sole Source Professional Service contracts as defined herein.
3. Contracts requiring compliance with terms and conditions of a court order, government grant or governmental order.
4. Contracts for expert witnesses or consultants associated with anticipated or pending litigation.
5. Intergovernmental agreements.

(d) Applicable Competitive Selection Process. The competitive process required for the applicable professional services contract shall be based on the proposed budget and/or “not to exceed” total amount of the contract compensation for the entire anticipated contract term:

1. Where the estimated compensation amount of the professional services contract is less than Thirty Thousand Dollars (\$30,000.00), the applicable department will solicit proposals from at least three qualified providers and/or issue a public advertisement on the internet and in at least one newspaper of general circulation.
2. Where the estimated compensation amount of the professional service contract is Thirty Thousand Dollars (\$30,000.00) or more, a formal RFP or RFQ must be issued. Public advertisement of RFP/RFQ is required on the internet and in at least one newspaper of general circulation or relevant trade magazine.