



## Legislation Details (With Text)

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<b>Enactment date:</b>	7/17/2018	<b>Enactment #:</b>	24
<b>Effective date:</b>	7/19/2018		
<b>Title:</b>	Ordinance amending the Pittsburgh Code, Title One: Administrative, Article VII: Procedures, Chapter 161: Contracts, by adding specific language to Section 161.02A to provide for the competitive process to procure certain professional services on an as-needed basis; and by amending Section 161.24 to reference the new procurement option; and by amending Section 161.01 and 161.01A to remove the legislative financial account requirement as it applies to professional services procured on an as-needed basis.		
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Date	Ver.	Action By	Action	Result
7/19/2018	1	Mayor	Signed by the Mayor	
7/17/2018	1	City Council	Passed Finally	Pass
7/11/2018	1	Standing Committee	Affirmatively Recommended	Pass
7/2/2018	1	City Council	Read and referred	

Ordinance amending the Pittsburgh Code, Title One: Administrative, Article VII: Procedures, Chapter 161: Contracts, by adding specific language to Section 161.02A to provide for the competitive process to procure certain professional services on an as-needed basis; and by amending Section 161.24 to reference the new procurement option; and by amending Section 161.01 and 161.01A to remove the legislative financial account requirement as it applies to professional services procured on an as-needed basis.

**WHEREAS**, the City of Pittsburgh desires to procure certain professional services on an as-needed basis; and

**WHEREAS**, procurement of certain professional services on an as-needed basis provides the City of Pittsburgh with the ability to mobilize necessary professional services more quickly to address changing circumstances; and

**WHEREAS**, the Pittsburgh Code of Ordinances does not currently provide a competitive process suited to the procurement of certain professional services on an as-needed basis.

**The Council of the City of Pittsburgh hereby enacts as follows:**

**Section 1.** The Pittsburgh Code of Ordinances, Title One: Administrative, Article VII: Procedures, Chapter 161: Contracts, is hereby supplemented by adding new subsections 161.02A(a)(4) and 161.02A(e) as follows:

## § 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) **Open-end professional services contract.** **A professional services contract under which the City engages a consultant on an as-needed basis without a pre-determined quantity of services required or guarantee of work.**

(5) *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."

(6) *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.

(7) *Request for qualifications (RFQ).* An announcement by the City seeking qualifications of potential **consultants**, contractors, **and/or vendors** to perform a particular scope of work/ service for the City.

(8) *Sole source professional services contract.* A contract involving unique professional services that are documented to be available from one (1) 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 **in this Section**, unless falling within an exemption category set forth in subsection (c) herein. The Director of the **Office of Management and Budget** [~~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.* **Other than as set forth in subsection (e) for open-end professional service contracts,** 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 (3) qualified providers and/or issue a public advertisement on the internet [~~and in at least one (1) 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 (1) newspaper of general circulation or relevant trade magazine~~].

**(e) Competitive Process for open-end professional services contracts. In order to enter into an open-end professional services contract, a separate competitive process will be administered subject to regulations promulgated by the Director of the Office of Management and Budget. This competitive process must conform to the following parameters:**

**a. Consultants will be selected for the opportunity to enter into an open-end professional services contract via a qualifications-based RFQ selection process.**

**b. For open-end professional services contracts where individual work orders are estimated to cost less than or equal to One Hundred Thousand Dollars (\$100,000.00):**

**1. the contract must be limited to a value of no more than Seven Hundred and Fifty Thousand Dollars (\$750,000.00) annually per consultant;**

**2. the contract will be limited to a term of no more than two (2) years with up to two (2) one (1)-year annual extensions;**

**3. If specific professional services are thereafter assigned to a consultant under contract, individual work orders will subsequently be executed as addenda to the contract during its term.**

**c. For open-end professional services contracts where individual work orders are estimated to cost less than or equal to One Million Dollars (\$1,000,000.00)**

**1 the contract must be limited to a cost of no more than Two Million and Five Hundred Thousand Dollars (\$2,500,000.00) annually per consultant;**

**2. the contract must be limited to a term of no more than two (2) years with up to two (2) one (1)-year annual extensions;**

**3. If specific professional services, available under the contract, are thereafter needed by the Department, it will issue a solicitation to a minimum of three (3) of the consultants with which the City has an open-end professional services agreement to provide the required services. The individual work orders issued to the consultant selected by solicitation will subsequently be executed as addenda to the contract during its term.**

**d. Use of open-end professional services contracts is not permitted where individual work orders are estimated to cost greater than One Million Dollars (\$1,000,000.00).**

**(f) Per Council's inclusion of a desired professional service in the relevant annual adopted operating or capital budget, department directors and/or the Mayor shall have Council pre-authorization to seek**

request for proposals ("RFPs"), requests for qualifications ("RFQs") or quotes, as applicable per this Section 161.02A, for professional services contracts estimated to be valued over three thousand dollars (\$3,000.00). Upon selection of a consultant pursuant to the applicable competitive selection process set forth in this Section 161.02A, the applicable department director and/or the Mayor must thereafter present an authorizing resolution to City Council for final approval to enter into a professional services contract with said consultant. Such authorizing resolution shall include a "not-to-exceed" compensation amount, financial system account information, and the name of the proposed awardee(s). For open-end professional services contracts, financial system account information will not be required in the authorizing resolution but will be included in addenda to the open-end professional services contract.

**Section 2.** The Pittsburgh Code of Ordinances, Title One: Administrative, Article VII: Procedures, Chapter 161: Contracts, Section 161.24, subsection (b) is hereby amended as follows:

(b) *Advertising for bids.* The bid specifications for construction contracts and requests for proposals for engineering, ~~and~~ architectural, and other specialty professional services contracts, open-end or otherwise, or any other publication or notification with respect thereto shall not include any estimated construction costs or design costs for the project; provided, however, potential bidders may be advised of the anticipated cost category of the project as the categories may be developed and determined by the Director of Public Works or Director of Mobility and Infrastructure.

The Director of the department requiring the project shall concur in the plans and specifications prior to the advertising for bids thereon.

**Section 3.** The Pittsburgh Code of Ordinances, Title One: Administrative, Article VII: Procedures, Chapter 161: Contracts, Section 161.01, subsection (a) is hereby amended as follows:

(a) Every contract relating to City affairs shall be authorized by ordinance or resolution of City Council and shall be awarded as required by applicable law and authorized regulations. Except in the case of contracts for the purchase of general material, supplies and equipment, or for general maintenances and services or for open-end professional services contracts, such ordinance or resolution shall designate the maximum amount authorized for such contract, and the account from which payment shall be made.

**Section 4.** The Pittsburgh Code of Ordinances, Title One: Administrative, Article VII: Procedures, Chapter 161: Contracts, Section 161.01A, subsection (b)(6) is hereby amended as follows:

(b) The Mayor, or his/her designee, are authorized to purchase all commodities and enter into contracts for the furnishing of non-professional services subject to the following requirements:

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~~[(6) Per Council's inclusion of a desired professional service in the relevant annual adopted operating or capital budget, department directors and/or the Mayor shall have Council pre-authorization to seek request for proposals ("RFPs"), requests for qualifications ("RFQs") or quotes, as applicable per Section 161.02A of this Chapter, for professional services contracts estimated to be valued over ten thousand dollars (\$10,000.00). Upon selection of a consultant pursuant to the competitive selection process set forth in Section 161.02, the applicable department director and/or the Mayor must thereafter present an authorizing resolution to City Council for final approval to enter into a professional services contract with said consultant. Such authorizing resolution shall include a "not-to-exceed" compensation amount, financial system account information, and the name of the proposed awardee(s).]~~

