



Georgetown Utility Systems

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To: Tom Benz, P.E., Systems Engineering Director
From: Bill Dryden, P.E., Transportation Engineer
Date: November 25, 2009
Re: Procurement of Professional Services
Summary of the State Statutes
Current City General Procedure

BACKGROUND:

From what I have found, the following is a brief summary of the germane points of the Professional Procurement Act:

Texas Government Code
Title 10, General Government
Subtitle F. State and Local Contracts and Fund Management
Chapter 2254. Professional and Consulting Services:

SUBCHAPTER A. PROFESSIONAL SERVICES

Sec. 2254.002. DEFINITIONS. In this subchapter:

- (1) "Governmental entity" means:
 - (B) ..., municipality, ...
- (2) "Professional services" means services:
 - (A) within the scope of the practice, as defined by state law, of:
 - (vii) professional engineering;
 - (B) provided in connection with the professional employment or practice of a person who is licensed or registered as:
 - (vii) a professional engineer;

Sec. 2254.003. SELECTION OF PROVIDER; FEES.

- (a) A governmental entity may not select a provider of professional services ... or award a contract for the services on the basis of competitive bids ..., but shall make the selection and award:
- (1) on the basis of demonstrated competence and qualifications ...; and
 - (2) for a fair and reasonable price.

Sec. 2254.004. CONTRACT FOR PROFESSIONAL SERVICES OF ARCHITECT, ENGINEER, OR SURVEYOR.

- (a) In procuring ..., engineering, ... services, a governmental entity shall:
- (1) first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
 - (2) then attempt to negotiate with that provider a contract at a fair and reasonable price.
- (b) If a satisfactory contract cannot be negotiated with the most highly qualified provider of ..., engineering, ... services, the entity shall:
- (1) formally end negotiations with that provider;
 - (2) select the next most highly qualified provider; and
 - (3) attempt to negotiate a contract with that provider at a fair and reasonable price.
- (c) The entity shall continue the process described in Subsection (b) to select and negotiate with providers until a contract is entered into.

Sec. 2254.005. VOID CONTRACT. A contract entered into or an arrangement made in violation of this subchapter is void as against public policy.

PROJECT EVENTS:

With respect to a particular project, the following is a summary of the procedures and steps that are followed to determine a “Most Qualified” responder to the Request for Qualifications (RFQ) for this project:

The Request for Qualifications (RFQ) is developed. The RFQ is advertised in the Williamson County Sun and published on the City of Georgetown website (eBid System) with a date stating the deadline for submitting Statements of Qualifications (SOQs).

Further, upon posting on the website, a notice is sent by automatically generated e-mail to all firms registered with Purchasing Department through the website. When firms register, they

select categories which would trigger automatically generated e-mail notification as a project is posted to the website.

To assure a more complete notification, individual invitations may be sent to specific firms who possibly would have interest in this project but who may not be registered with the Purchasing Department's system. Some of these firms subsequently register and will receive "first knowledge" of future RFQs based upon the notification categories selected by the firm during registration.

The RFQ contains the selection criteria and each criterion's weighting/scoring value. Further, a by department/division membership of the Selection Committee is included with and makes up part of the RFQ.

A non-mandatory pre-submittal conference will be scheduled and included in all notices. Subsequent to that non-mandatory pre-submittal conference, questions germane to the proposal are answered and those are also published on the web site and e-mailed to all known interested parties.

The Selection Committee reviews each SOQ, rating each using the score sheet to determine the individual members ratings and rankings to determine to be the most qualified based upon demonstrated competence and qualifications. Those scores are combined, averaged and the submitting firms are given preliminary rankings based upon the average score values. Firms' references are checked and those results are also shared within the Committee. The Committee then meets and discusses their scorings, firm references and ultimate rankings for going forward with selection.

Based upon the number of submittals and the scoring differentials, the Committee would select up to three firms for oral presentations and interviews. Following oral presentations and interviews, the Committee discusses each firm and prepares its final rankings of the top three firms.

Currently, at this point, staff contacts the highest ranking firm and begins negotiations in accordance with the Professional Procurement Act as outlined above. First a Scope of Services is developed followed by determining the man-hours required to produce the Scope. Based upon the number of man-hours, the firm develops a fee for the Scope and submits that to Staff for review and concurrence.

Having reached an agreement on the Scope of Services and man-hours required for the project, a Task Order is developed based upon a fair and reasonable price for the Professional Services.

If the City does not already have a Master Services Agreement (MSA) in place with the firm, one is developed. The MSA and Task Order are forwarded through the appropriate Board, or directly to Council, in accordance with the guidelines based upon the value of the Task Order.

Memo – Tom Benz – APA Selection Process

June 9, 2009

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If we are to amend this process, I would recommend prior to opening any negotiations, Staff presents the Selection Committee's top three firms to the appropriate Board for concurrence.