

Category: 200 – FINANCIAL

Number: 244

Subject: **SECURING PROFESSIONAL SERVICES CONTRACTS**

Purpose: The purpose of this policy is to:

1. Establish general guidelines for the contracting of professional services to ensure that the purchasing function is conducted in a fair and consistent manner as initiated by County Departments.
2. Communicate to County Elected Officials, Department Heads and the Public the policy of the Board of Commissioners to utilize a standard procedure to pre-qualify professional service providers.

Authority: St. Clair County Board of Commissioners

Application: This policy applies to all County Elected Officials, Department Heads and Employees of the County of St. Clair, MI. It should be applied to all professional services required and paid with public monies from any source. All professional service agreements require appropriate budget approvals.

Responsibility: The Administrator/Controller shall be responsible for the implementation and administration of this policy.

Definitions:

Professional Service: A service that is predominately intellectual in character, which includes, but is not limited to: consultation, analysis, evaluation, prediction, planning or recommendation.

Professional Service Agreement (PSA) or Professional Service Contract (PSC): A contract used to engage a consultant, freelancer, or to provide any other professional services to the County.

Professional Service Provider or Independent Contractor: A person or entity engaged by the County on a limited basis to perform specific functions or tasks at his or her own discretion with respect to the means and methods used to accomplish the assignment. These contractors must not be currently employed by the County and must not have been employed by the County within the previous rolling twelve month period. Designation of independent contractor status is governed by the Internal Revenue Service tax code and common law. The penalties for misclassification can result in the County being held responsible for under payment of taxes including federal and state income tax, social security and Medicare taxes, and federal unemployment taxes. The IRS developed the 20-Factor Test to determine if a business controls and directs a service provider, or has a right to do so.

Estimated Project Costs (EPC): EPC includes fees for architectural, engineering, design, all applicable permits, and all other ancillary costs to complete the project.

MITN: Michigan Inter-governmental Trade Network purchasing system, which is an association of Michigan municipal entities that offers government purchasing officials customizable, comprehensive Internet-based procurement solutions.

RFQ: Request for Qualifications

Formal RFQ: Are used when the buyer estimates that the EPC exceeds \$50,000.00 per each. A Notice of Request for Proposal shall be published in a statewide system (MITN). These proposals are time-specific documents and must be received at the buyer's location at or before a specific time and date indicated on the proposal form. Proposal packages received after the time and date specified will not be accepted and will be returned to the service provider unopened. Formal proposals are opened and read by County Administration at a specified time and date. The County reserves the right to reject any and all proposals.

Informal RFQ: Are used when the buyer estimates that the EPC exceeds \$5,000.00 per each but does not exceed \$50,000.00 per each. A minimum of three (3) oral, phone, fax or written proposals shall be solicited. More may be solicited if deemed appropriate by the department or Administration. The contractor receiving the award shall supply a written proposal for auditing and legal purposes. For EPC under \$5,000, no formal or informal RFQ's are necessary and the requesting department shall select a contractor from the pre-qualified list.

Pre-Qualified Contractor: A service provider that has successfully submitted a County Engineering Services Pre-Qualification Form or a County Architectural Services Pre-Qualification Form and met or exceed the necessary qualification as determined by the County.

Qualifications-Based Selection (QBS): An objective, flexible procedure for obtaining architectural, engineering, surveying and other related professional design services on public projects. QBS is a procedure used to select a design professional based on qualifications and competence in relation to the needs of a particular project.

IRS: Internal Revenue Service

Policy:

General

1. Documents affected by this policy include, but are not limited to, professional services contracts, maintenance contracts, independent employment contracts, consulting services and department-hired contractors or third parties.
2. All professional services providers shall be required to enter into an agreement with the County.
3. All professional service contracts shall require Board of Commissioner approval in accordance with the County Contract Policy #121.
4. Architectural and engineering service contracts and pre-qualifications shall be solicited minimally every three (3) years in accordance with this policy. All other professional service contracts shall be solicited as deemed necessary by the Administrator/Controller in accordance with this policy.

5. All RFQ's for professional services shall be coordinated through the County Purchasing Department.
6. All RFQ's for professional services require inclusion of the entire scope of services to be rendered and divided into phases, if appropriate, such that each phase may be proposed on separately to promote cost efficiencies for each phase of the project.
7. Proposals will be solicited for the pre-qualified professional services. As projects are developed a professional service consultant will be selected and the final scope of the project will be agreed to by both parties. The fee for services will be negotiated by both parties, at which time a contract will be brought before the Board of Commissioners for their approval.
8. A determination must be made as to whether the service provider will be an employee of the County or an independent contractor prior to entering into any agreements. The Administrator/Controller's Office shall make the final determination in accordance with IRS rules and regulations.
9. Payment for professional services will only be processed using a County Purchase Order number obtained from the Purchasing Department. Such payments will be made in accordance with federal and state regulations.
10. The predominant, but not the sole, factor in selecting a professional service consultant shall be qualifications as determined to be in the County's best interest by the County Board of Commissioners and/or its representative (e.g. Department Head/Elected Official).
11. In accordance with the County Contract Policy #121, dual signatures are required on all contracts.
12. The Purchasing Department shall maintain a listing of pre-qualified professional service consultants for architectural and engineering services.
13. Emergency situations, regardless of EPC, do not require formal or informal proposals. The requesting department shall select a consultant.
14. The Administrator/Controller shall have the authority to waive the process outlined below if a project needs to be expedited.

Architectural/Engineering Services

1. Projects with EPC under \$5,000:
 - Requesting department shall select a consultant from the list of Pre-qualified professional service consultants.
 - No informal or formal RFQ shall be required.
 - A project meeting shall be conducted as well as a site walk through.
 - Agreement by both parties for the final scope of work and fee for services.
 - Requesting department shall have final authorization.
 - This same procedure is used when an emergency situation arises.
2. Projects with EPC from \$5,001 to \$10,000:
 - Select a minimum of three (3) prospective professional service consultants from the list of Pre-qualified professional service consultants.
 - Conduct a project meeting and site walk through, if necessary, to familiarize participant with the proposed project.
 - Agreement by both parties for the final scope of work and fee for services.
 - Requesting department shall solicit an informal RFQ.

- Requesting department shall have final authorization.
3. Projects with EPC from \$10,001 to \$50,000:
 - Select a minimum of three (3) prospective consultants from the list of Pre-qualified professional services consultants.
 - Conduct a project meeting and site walk through, if necessary, to familiarize participant with the proposed project.
 - Agreement by both parties for the final scope of work and fee for services.
 - Requesting department shall solicit an informal RFQ.
 - Board of Commissioners shall have final authorization.
 4. Projects with EPC of \$50,001 - \$100,000:
 - Select a minimum of three (3) prospective consultants from the list of Pre-qualified professional service consultants.
 - Conduct a project meeting and site walk through, if necessary, to familiarize participant with the proposed project.
 - Purchasing Department shall solicit a formal RFQ.
 - Invited consultants will submit sealed proposals.
 - As deemed necessary by the Board of Commissioners, a Qualifications Based Selection (QBS) committee shall be formed and provide a written recommendation to the Board of Commissioners.
 - Board of Commissioners shall have final authorization.
 5. Project with EPC of \$100,001 or more:
 - Select a minimum of five (5) prospective consultants from the list of Pre-qualified professional service consultants.
 - Conduct a project meeting and site walk through, if necessary, to familiarize participant with the proposed project.
 - Purchasing Department shall solicit a formal RFQ.
 - Invited consultants will submit sealed proposals.
 - As deemed necessary by the Board of Commissioners, a Qualifications Based Selection (QBS) committee shall be formed and provide a written recommendation to the Board of Commissioners.
 - Board of Commissioners shall have final authorization.

All Other Professional Services (E.g. including, but not limited to, banking services, auditing services, courier services, consulting services, etc.)

All non-architectural/engineering services contracts shall be solicited on an as needed basis as determined by the Administrator/Controller.

1. Projects with EPC under \$5,000:
 - Requesting department shall select a consultant.
 - No informal or formal RFQ shall be required.
 - Requesting department shall have final authorization.
2. Projects with EPC from \$5,001 to \$10,000:
 - Requesting department shall issue an informal RFQ.
 - The RFQ shall be advertised locally and/or in a statewide publication (MITN).
 - Conduct a project meeting and site walk through, if necessary, to familiarize participant with the proposed project.

- The requesting department shall have final authorization.
3. Projects with EPC of \$10,001 to \$50,000:
 - Requesting department shall issue an informal RFQ.
 - The RFQ shall be advertised locally and/or in a statewide publication (MITN).
 - Conduct a project meeting and site walk through, if necessary, to familiarize participant with the proposed project.
 - The Board of Commissioners shall have final authorization.
 4. Projects with EPC of \$50,001 or more:
 - Purchasing Department shall issue a formal RFQ
 - The RFQ shall be advertised in a statewide publication (MITN).
 - Conduct a project meeting and site walk through, if necessary, to familiarize participant with the proposed project.
 - The Board of Commissioners shall have final authorization.

Administrative

Procedures: Purchasing Department shall solicit qualifications for architectural and engineering services at minimum every three years and post the Pre-Qualified Vendor List on the Intranet.

Periodic

Review: The Administrator/Controller shall review this policy and make recommendations for changes, as needed.

Adopted: **January 19, 2012**
 Amended: October, 2014
 Amended: October 4, 2018