

BILL NO. 4 -2015
AN ORDINANCE

AMENDING THE ADMINISTRATIVE CODE, CHAPTER 5, SECTION RE3117-OO5a-Ex A - PURCHASING POLICIES REGARDING THE USE OF OUTSIDE LEGAL COUNSEL.

Whereas the Council of the City of Reading hereby ordains as follows:

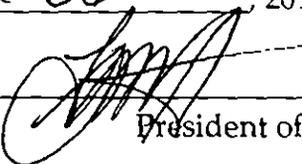
Section 1. Amending the Administrative Code, Chapter 5, Section Re3117-Oo5a-Ex A - Purchasing Policies regarding the regarding the use of outside legal counsel, as attached in Exhibit A.

Section 2. All ordinances or resolutions, or parts of ordinances or resolutions, insofar as they are inconsistent with this Ordinance are hereby repealed.

Section 3. The provisions of this Ordinance shall be severable and if any of its provisions shall be held to be unconstitutional or illegal, the validity of any other remaining provisions of the Ordinance shall not be affected thereby. It is hereby expressly declared as the intent of the City Council of the City of Reading that this Ordinance would have been adopted had such unconstitutional or illegal provision or provisions had not been included herein.

Section 4. This ordinance shall become effective ten (10) days after it adoption, in accordance with Sections 219 & 221 of the City of Reading Home Rule Charter.

Enacted: Jan 26, 2014



President of Council

Attest: 

City Clerk

(Adm Services & Council Staff)

Submitted to Mayor: _____

Date: 1-27-13

Received by the Mayor's Office: _____

Date: 1-27-13

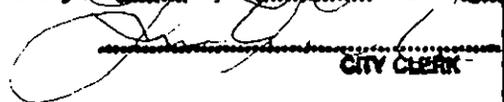
Approved by Mayor: _____

Date: 2/2/13

Vetoed by Mayor: _____

Date: _____

I, **LUNDA A. KELLEHER**, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Ordinance passed by the Council of the City of Reading, on the 26 day of Jan, A. D. 2014. Witness my hand and seal of the said City this 26 day of Jan, A. D. 2014.



CITY CLERK

EXHIBIT A

Section 4

Sole Source Purchases

1.01 DEFINITION

Sole source purchases are defined as purchases of supplies, or equipment that meet all of the following criteria:

- A. It is the only item that will produce the desired results or possess a unique performance capability and
- B. It is available from only one source and
- C. It is patented or copyrighted.

Professional services, ***legal services and attorneys and law firms*** are not eligible for sole source purchasing requirements.

4.02 PROCEDURE

Sole source purchases are exempt from competitive requirements upon certification by the Purchasing Coordinator stating the conditions and circumstances necessitating the purchase via a Sole Source Justification Form. This certification shall set forth the purpose and need in addition to why the item is the only one that will produce the desired results. The Sole Source Justification Form must be signed by the Managing Director to be deemed "approved".

Sole Source Justification Forms shall expire annually on December 31st. Sole Source contracts shall not be eligible for automatic renewal/extension and must be re-certified by the Purchasing Coordinator before a renewal/extension may occur.

Section 8

Purchasing of Professional Services

8.01 PURPOSE:

The purpose of this regulation is to outline the process involved for preparing specifications, letting of Request For Proposals (RFP's), awarding contracts and payment of bills for professional services.

8.02 APPLICABLE TO:

All departments, divisions, offices or agencies.

8.03 POLICY:

1. For the purpose of this regulation the term "professional" is defined as those persons or firms marketing services requiring advanced academic or technical training skills. Examples of professional services include work done by the following contractors but is not necessarily limited to these services:

- ◆ Accountants
- ◆ Architects
- ◆ Attorneys, *including Independent legal counsel as per § 5-213 and § 5-302*
- ◆ Bond Underwriters
- ◆ Engineers
- ◆ Insurance Consultants, Agents, and/or Brokers
- ◆ Investment Advisors
- ◆ Physicians
- ◆

2. Professional service contracts are not to be confused with standard contracts which seek a price or costs for particular work detailed in specifications. Professional contracts seek expertise through an RFP and pricing or cost may not be of "primary" importance.

3. A professional contract, while it is based upon work performed in response to task specifications and the need for a finished product as outlined by the City and agreed to by a contractor, it is one that by its very nature cannot be awarded solely based upon the selection of the lowest bidder.

4. Factors other than price alone must be carefully weighed in the review of proposals and the award of such contracts. These factors include the professional qualifications/certifications, special skills, experience, and familiarity of the contractor with the work requested, all of which have impacts on the quality of the product/service to be delivered.

8.04 PREPARING REQUESTS FOR PROPOSALS (RFP'S) FOR CONTRACTS GREATER THAN \$35,000.

1. When to prepare an RFP.

A. When it is estimated that the cost of a purchase of professional services shall meet or

exceed \$35,000, the RFP process must be initiated and the vendor must be retained through a written contract. Competitive proposals increase the ability to fully evaluate both the benefit and costs of the services being sought.

B. Notwithstanding any other provisions to the contrary if the Managing Director so determines, no RFP shall be required for an employee engaged in providing professional services to the City who terminates employment with the City and shall then be engaged as an independent contractor. In addition, no RFP shall be required for an independent contractor whose engagement terminates, if the Managing Director desires to continue the engagement by the City.

C. For all contracts expected to exceed \$34,999.99 and for all contracts that are multi-phased (e.g., feasibility study and design, multiple contract renewals/extensions within a one-year period) department, division, office, agency or person designated by the Managing Director shall prepare a RFP specifically for the extent of the work effort that can be defined at that particular time. The RFP should solicit information pertaining to the contractor's qualifications and costs (including appropriate hourly rates, etc.) for as many phases as appropriate. Costs and qualification information should then be utilized to select the contractor. For any subsequent phases of the contract that have not been specifically defined in the initial RFP, a new RFP should be drafted and circulated to secure competitive proposals from interested contractors.

2 How to write an RFP:

The Request For Proposal shall clearly describe the desired services and may include, but not be limited to, the following information:

- ◆ General background information pertinent to the requested services.
- ◆ Nature and scope of requested services including minimum tasks and activities to be performed together with prescribed completion schedule.
- ◆ Methodology and technical approach to be used in accomplishing the requested work.
- ◆ Description of reports required.
- ◆ Documentation of qualifications and experience in similar work and resumes of staff members to be assigned to the engagement.
- ◆ Compensation information including detailed cost information itemizing hours and rates of each class of staff to be utilized, and out-of-pocket expenses such as travel, telephone, publication and duplication.
- ◆ Estimated utilization of City resources necessary to complete the engagements.
- ◆ Information as to the City's evaluation and selection process.
- ◆ Minority Business Enterprise (MBE)/Woman Business Enterprise (WBE) participation.

8.05 CONTRACTS BETWEEN \$10,000 AND \$34,999:

1. The department, division, office, agency or person designated by Managing Director to handle the assignment, shall request written proposals from at least three (3) firms. Proposals shall include the fee in the form of a unit cost and the total maximum cost to be charged. After analysis, a recommendation shall be presented to the purchasing coordinator, Director of Administrative Services and Managing Director for final approval.

In the event the Solicitor has concluded that a conflict exists between the Mayor/Administration and City Council, the RFP process for independent legal

counsel shall commence. The Mayor/Administration or City Council shall review their respective proposals and prepare individual justifications that will include, at minimum: a brief explanation identifying the preferred bid, anticipated cost, and the allocation source from where the expenses will be paid. Final analysis and ultimate approval for all justifications will rest with the purchasing coordinator, Solicitor or his representative, Director of Administrative Services and Managing Director.

2. Upon written request, unsuccessful firms shall be given a written explanation as to the reasons for the selection.

3. The department, division, office or agency should take precautions to project the total cost of professional service contracts that are multi-phased. An RFP must be prepared for those multi-phased contracts when the total cost of which could exceed \$34,999.99.

4. Once final approval for a contract less than \$35,000 has been granted by the Administrative Services Director and the Managing Director, the department, division, office, agency or person designated by the Managing Director to handle the assignment shall meet with a representative from the City Solicitor's office to draft the required contracts.

5. Multiple contracts valued below \$35,000 which occur during a single year and provide for the same or a substantially similar service; or for which services are provided by the same individual or vendor shall be considered to be multi-phased. These contracts shall be subject to the approval requirements of a contract that exceeds \$34,999.99.

6. No contract valued at less than \$35,000 shall be eligible for payment by the City without the contract having been signed by the City Solicitor.

7. The City Solicitor shall provide final review for form and content and signature on the contract. Contracts without Solicitor signature will not be eligible for payment.

8.06 THE PURCHASING COORDINATOR'S RESPONSIBILITY:

For purposes of consistency, the purchasing coordinator shall be appointed to all committees designated to prepare RFP's, review all documents prior to issuance and evaluate submissions.

The Administrative Services Director shall authorize the advertising for professional services by the purchasing coordinator, who will advertise in local newspapers of general circulation, regional metropolitan newspapers, trade journals, if applicable, and the City website.

1. The advertisement shall give notice that an RFP is available for review by interested firms. Basic information describing the requested services, where the document can be obtained and the deadline and location for submission shall be included.

2. At the discretion of the purchasing coordinator or the department, division, office or agency a mandatory pre-proposal conference may be held with all interested firms to clarify any questions.

8.07 SELECTION OF PROFESSIONAL SERVICE CONTRACTS GREATER THAN \$34,999.99

The proposals of those firms responding to an RFP are reviewed by a selection committee designated by the Managing Director or his designee.

In the event the Solicitor has concluded that a conflict exists between the Mayor/Administration and City Council, the RFP process for independent legal counsel shall commence. The Mayor/Administration or City Council shall review their respective proposals and prepare individual justifications that will include, at minimum: a brief explanation identifying the preferred bid, anticipated cost, and the allocation source from where the expenses will be paid. The justifications will then be submitted to a Panel composed of the Solicitor, Managing Director, and Auditor for their review and recommendation. The Panel shall offer their recommendation for final approval to City Council once they have reached a two-thirds majority vote. Failure to secure a majority vote by either the Mayor/Administration or City Council will require supplemental information or additional information as requested by the Panel.

1.

A. The selection committee shall consist of the purchasing coordinator, the City Solicitor (non-voting member), three designees of the department, division, office or agency, and the designee of the Administrative Services Director. All committee members must sign and return, to the purchasing coordinator, the Confidentiality Statement and No Conflict of Interest Statement prior to receiving any non-public information regarding the applicable RFP.

B. The selection process shall be based on the objective criteria contained in the RFP (Section 8.04.2) and not on the lowest bid.

Examples of the evaluation criteria include: size and experience of the firm on similar projects, client references, demonstrable understanding of the requested work, the ability and/or commitment to meet the prescribed completion schedule, and the cost estimates.

C. The recommendation of the selection committee shall be to the firm with highest total points.

D. The selection committee has the responsibility to negotiate the most favorable cost, terms and conditions to the City of Reading. The negotiating process may involve one or more RFP responses, and may continue until the actual award of the contract.

E. A meeting with the purchasing coordinator and the representative of the Solicitor's office will be available for a firm who is dissatisfied after not being recommended for award of the contract.

2. The selection committee shall submit a written report on the process and its recommendation, to be reviewed with the Administrative Services Director.

3. Prior to formal acceptance, the RFP and the proposal shall be submitted to the Solicitor's staff for review.

4. The Administrative Services Director and the selection committee will prepare a recommendation for the Managing Director to present to City Council for final approval where such approval is required by the Charter and/or by the Administrative Code. ~~and/or the purchasing policies.~~

5. The Administrative Services Director shall advise the purchasing coordinator to formally notify the successful firm.

6. No contract valued at greater than \$34,999.99 shall be eligible for payment by the City

unless the contract is approved by Council and signed by the Mayor and City Solicitor.

7. The City Solicitor shall provide final review of the contract for form and content. The City Solicitor's signature shall only be affixed to the contract after this review is complete. Contracts lacking Solicitor approval will not be eligible for payments.

8.08 RENEWAL OF PROFESSIONAL SERVICE CONTRACTS:

The City shall have the option to renew a professional services contract for one (1) year beyond the established contract period, based upon a continuation of the current contract price or the re-negotiation of a new price. This does not preclude the City from requesting a term contract with multiple 1-year renewal periods, as long as the total contract term does not exceed five (5) years. However, if a contract does not originate with multiple 1-year renewal periods, it shall only be eligible for a one (1) year extension at the current or re-negotiated price.