



# Public Projects

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**Policy Number:** *AP-4002*

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## ADDITIONAL DETAILS

Definitions  
Appendices  
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Related Information  
History

**Effective:** *February 2010*

**Last Updated:** *February 2010*

**Responsible Department/Division:**  
*Department of General Services /  
Procurement division*

## Policy Statement

This Administrative Policy sets forth City policies that apply to contracting for public project work and supplements requirements set forth in the Sacramento City Charter and City Code, including City Code Chapter 3.60.

### Special Situations

Not Applicable

### Exclusions

Not Applicable

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## Purpose

To ensure that all contracting functions are performed in compliance with applicable Federal, State and City laws, regulations, ordinances and policies, to ensure the uniform and consistent application of the contracting process, and to ensure fairness, open competition, and competitive pricing.

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## Procedures

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## Forms/Instructions

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### Contacts

Department of General Services, Procurement Division

Office of the City Clerk

Office of the City Attorney

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### Related Information

- City Charter-Article XIV Public Contracts and Supplies
  - City Code 3.60
  - Resolution No. 2010-084
  - Administrative Policy (Signing Authority # 22)
  - Procurement Guidelines
  - Procurement Ethics and Standards of Conduct
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### Document History

**Amended:** NA  
**Supersedes:** API 48-Contracts for Public Projects  
**Effective:** February 2010

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### Definitions

#### Addendum

An amendment to a request for bid (RFB) or request for qualifications (RFQ) or proposals (RFP).

#### Bid Specifications

Complete directions, provisions, requirements, plans and specifications for the performance of a public project. Bid specifications shall be included with the RFB.

#### Change Order

An amendment to a contract for construction of a public project, that must be approved in accordance with the provisions of article VI of Chapter 3.60 of the City Code.

#### Competitive Bidding

The process of soliciting bids and awarding a contract to the lowest responsive and responsible bidder.

#### Contract

Any binding contract document, regardless of what it is called, for the procurement of public projects. References to a “contract” shall be deemed to include all documents attached to or incorporated in the contract, which also may be referred to as the “contract documents.”

**Contracts Manager**

A position or employee authorized by the Department Director to administer the contracting process for public projects on behalf of that Department. A Contract Manager is not authorized to execute public project contracts or change orders on behalf of the City unless such signature authority has been delegated by the City Manager in accordance with applicable provisions of the City Code.

**Contractor**

A person, firm or other entity that contracts with the City to perform public project work.

**Emergency Contracts**

A contract initiated when the public interest and necessity demand immediate action, repair or replacement to safeguard life, health, or property, to permit the continued conduct of City operations or services, or to mitigate further damage.

**Emerging and Small Business Enterprise (ESBE) Requirements**

The procurement requirements and procedures imposed pursuant to the program established by the City Council to promote and provide incentives for the participation of emerging and small business enterprises in City contracts.

**Lowest Responsible Bidder**

The lowest responsible bidder determined in accordance with the criteria specified in City Code Section 3.60.020.

**Master Contract**

A contract for on call work for a specified term.

**Procurement**

This term is intended to include all functions that pertain to obtaining the work, including the preparation of specifications and requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

**Procurement Guidelines**

Written guidelines developed by City staff and approved by the City Manager that specify more detailed operational requirements for City procurement, consistent with applicable provisions of the City Charter, City Code and Administrative Policy Instructions (APIs).

**Project Manager**

A position or employee authorized by the Department Director to administer a public project on behalf of the applicable Department. A Project Manager is not authorized to execute public project contracts or change orders on behalf of the City unless such signature authority has been delegated by the City Manager in accordance with applicable provisions of the City Code.

**Purchase Order**

A written authorization for a contractor to perform work at a specified price and over a specified period of time. Acceptance of the purchase order constitutes a contract and is legally binding on all parties.

## **Public Project**

(1) A project for the erection, improvement and remodeling of public buildings or other public improvements, (2) street, sewer and water work (except maintenance or repair)\*, and (3) furnishing supplies or materials for such projects. Maintenance and repair of public facilities, other than street, sewer or water facilities, constitutes public project work.

\*The terms “maintenance” and “repair” are defined in City Code section 3.60.010.

## **Request for Bids (RFB)**

A written notice issued to potential bidders that includes bid specifications and specifies, among other things, the procedures for bid submittal and place, date and time of bid opening.

## **Request for proposals (RFP)**

A written request for proposals to perform public project work, if permitted under Section 4 (Requirements for RFPs) below.

## **Request for Qualifications (RFQ)**

A written request for the submission of qualifications to perform specified public project work. RFQs are used to solicit SOQs from prospective contractors, in order to identify contractors with adequate qualifications to perform the specified work.

## **Responsive Bidder**

A bidder whose bid meets all of the bidding requirements in the RFB.

## **Statement of Qualification (SOQ)**

The written document submitted in response to a RFQ.

## **Standard Specifications**

The City’s current Standard Specifications for Public Construction, which constitute one of the contract documents.

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# **Policy**

## **1. SOLICITATION THRESHOLDS AND REQUIREMENTS**

### **1.1 GENERAL REQUIREMENTS APPLICABLE TO ALL PUBLIC PROJECT WORK**

- (a) The City Code prohibits splitting or separating into smaller units any requirement for public project work for the purpose of evading the requirements for competitive bidding and City Council award that apply to contracts of \$100,000 or more. The City Code defines this prohibited practice as reducing the size of the public project under circumstances where there is a reasonable knowledge that the remaining work after such reduction will be additionally required within the same budgetary term, that there are funds available for that project, and the purpose is to knowingly avoid formal competitive bidding. For emergency contracts, work

requirements may be split into separate contracts of \$100,000 or less, provided the requirements of City Code Section 3.60.070 are met.

- (b) To the extent practical, Departments shall use master contracts for routine, recurring or on-call work, to maximize economic efficiencies.
- (c) The solicitation and award procedures specified in this Policy for public project work vary depending on the amount of the procurement. For purposes of determining which solicitation and award procedures apply:
  - 1. When a master contract is used, the amount of the procurement is the total amount of the master contract or contracts (if multiple master contracts are being let to multiple contractors for the same scope of work).
  - 2. When a master contract is not used, the amount of the procurement is the amount of the contract for a specific project and shall not include any payments made under other contracts with the same contractor for different projects, subject to the requirements specified in subsection (a) above.
- (d) The Contracts Manager shall be responsible for maintaining all bid documentation including analysis of bids, contractor notifications and contract award correspondence in accordance with the City's record retention policy. This shall include the responsibility for compiling and reporting data that will assist with ascertaining the utility of City programs associated with the procurement process, such as the City's equal benefits, disadvantaged business enterprise and emerging/small business enterprise requirements. The Contracts Manager shall use standardized RFB and RFP formats, as provided in the Procurement Guidelines.
- (e) Standard City contracts must be executed prior to the performance of any work and must be "approved as to form" by the City Attorney. A purchase order may be used in lieu of a contract for work of \$5,000 or less, provided that the purchase order shall incorporate all applicable requirements for the work, and the contractor shall be required to meet the City's standard insurance requirements, obtain a City Business Operations Tax Certificate and any other requirements specified in the Procurement Guidelines.
- (f) Contracts less than \$100,000 do not require the approval of the City Council and may be executed on behalf of the City by the City Manager or any City employee to whom the City Manager has delegated such approval authority. Delegations of approval authority are specified in API # 22.
- (g) For the performance of work in any amount, the contract amount shall be calculated based on the full cost of any term extensions provided for in the contract (e.g., the amount for a two-year contract in the amount of \$40,000 per year, with an optional extension for year three, shall be based on the total three year term, for a contract amount of \$120,000).

## **1.2 PUBLIC PROJECT WORK OF \$5,000 OR LESS**

- (a) The procurement of public project work at a cost of \$5,000 or less does not require competitive bidding and the contractor may be selected at the discretion of the Project Manager; provided that the Contracts Manager shall approve the procurement process.
- (b) Price quotations shall be written. All prospective contractors contacted must be given the same information and allowed adequate time to respond.

## **1.3 PUBLIC PROJECT WORK OF MORE THAN \$5,000 UP TO \$25,000**

- (a) The Project Manager shall be responsible for soliciting at least three prospective bidders, unless the Contracts Manager documents that the nature of the work is such that at least three bidders are not reasonably available to bid on the work.
- (b) Price quotations shall be written. All prospective bidders contacted must be given the same information and the same amount of time to respond.
- (c) Contract award shall be made to the lowest responsive and responsible bidder as recommended by the Contracts Manager.
- (d) Exceptions to the above requirements are provided for in Section 2 (When Competitive Bidding is Not Required) of this Policy.

## **1.4 PUBLIC PROJECT WORK OF MORE THAN \$25,000 AND LESS THAN \$100,000**

- (a) The issuance of a Request for Bids (RFB) and advertising on the City's web site for Contracting Opportunities are required.
- (b) Bids must be obtained in writing, and all prospective bidders must be given the same information.
- (c) All such bids shall be advertised on the City's web site for Contracting Opportunities for a minimum of ten calendar days prior to the date set for receiving bids. Advertisement of RFBs should be appropriate to the industry standards for the particular work, to achieve the maximum practical public notice and competition.
- (d) Bids shall be received and opened by the Contracts Manager. (e) Contract award shall be made to the lowest responsive and responsible bidder as recommended by the Contracts Manager.
- (f) Exceptions to the above requirements are provided for in Section 2 (When Competitive Bidding is Not Required) of this Policy.
- (g) Notice of the contract award shall be provided to all bidders as soon as reasonably practical. Notice may be provided by any form of media used by those participating in the bid process.

## **1.5 PUBLIC PROJECT WORK OF \$100,000 OR MORE**

- (a) Advertising through the City Clerk's office and competitive bidding is required for public project contracts with a cost of \$100,000 or more.
- (b) All such bids shall be advertised on the City's web site for Contracting Opportunities for a minimum of fifteen calendar days prior to the date set for receiving bids.
- (c) Bidding shall be conducted in accordance with the requirements of City Code, Chapter 3.60, including public opening of bids by the City Clerk's office.
- (d) Circumstances under which the City Code does not require competitive bidding for contracts of \$100,000 or more are summarized in Section 2 (When Competitive Bidding is Not Required) of this Policy.
- (e) Staff recommendations for awarding contracts of \$100,000 or more must be presented to the City Council for approval.
- (f) Award is made to the lowest responsive and responsible bidder, unless a different action is taken by the City Council pursuant to the City Code.
- (g) Notice of contractor selection shall be provided to all bidders as soon as reasonably practical.

## **2. WHEN COMPETITIVE BIDDING IS NOT REQUIRED**

### **2.1 PUBLIC PROJECT WORK OF MORE THAN \$5,000 AND LESS THAN \$100,000**

- (a) The bidding requirements specified in Section 1 (Solicitations Thresholds and Requirements) of this policy, do not apply if any of the following conditions are met:
  - 1. After advertising for bids as required, no bids are received, or all bids received are rejected because they are invalid or nonresponsive. If this occurs, a different procurement method may be used, provided the use of such method is documented and approved as provided in subsection 3, below.
  - 2. The contractor awarded a contract resulting from a City bid fails to enter into contract. If this occurs, the next lowest bidder, if there is one, shall be awarded the contract, if such bidder's price is acceptable. If there is no such bidder, a different procurement method may be used, provided the use of such method is documented and approved as provided in subsection 3, below.
  - 3. It is in the City's best interest to use a different procurement method. This justification must be documented by the Project Manager, and the request to use a different procurement method must be approved by the Department Director in accordance with applicable provisions of the Procurement Guidelines. Examples of alternative procurement

methods are:

- (i) Competitive negotiation: The Project Manager negotiates with two or more prospective contractors to obtain a contract for the lowest price. Documentation shall be maintained of all negotiation discussions, terms, and offers.
  - (ii) Sole source procurement: After conducting a good faith review of available sources, the Project Manager determines there is only one reasonable and practicable source for the required public project work. A requirement for a particular proprietary service does not justify a sole source procurement if more than one potential provider for that service is reasonably and practicably available. All requests for this restrictive method of procurement shall be accompanied by an explanation as to why no other source of work or service will be suitable or acceptable to meet the need. Documentation shall be maintained of all negotiation discussions, terms, and offers.
  - (iii) Prequalification: A RFQ process can be used to limit participation in the bidding process that follows to only those persons or firms determined to be qualified in accordance with the provisions of the preceding RFQ process. This can be done for a single project, or for multiple projects, as would be the case for approval of a master list of contractors by trade or specialty to be used on specified projects.
  - (iv) Use of RFP process: A RFP process is used consistent with the provisions of section 4 of this Policy.
  - (v) Emergency contracts: When emergency conditions render competitive bidding impractical, and the determination of an emergency is approved by the Department Director.
  - (vi) Cooperative service agreements: A competitively bid cooperative service agreement of another governmental jurisdiction or public agency may be used, when supported by a market analysis showing that the prices and terms for the work to be performed are below or meet market rates.
- 4. Federal or state law requires other selection procedures to be utilized.
  - 5. Maintenance, remodel, or repair work is performed by City employees.

## **2.2 PUBLIC PROJECT WORK OF \$100,000 OR MORE**

- (a) Under City Code Section 3.60.170, competitive bidding is not required for contracts of \$100,000 or more under the following circumstances:
  - 1. After advertising for bids as required, no valid bids are received. If this occurs, a different procurement method may be used, provided the use of such method is approved by the City Council consistent with applicable provisions of the City Code.

2. The City Council determines on a **2/3 vote** that it is in the best interests of the City to suspend competitive bidding. The suspension of competitive bidding can be recommended for various reasons, including:
  - (i) *Other competitive methods*: Alternative methods for contractor selection, such as using a RFP process, a design-build or design-assist process, and/or selecting a contractor based on factors other than or in addition to price, may be utilized for contracts of \$100,000 or more if the City Council determines prior to conducting such alternative process (on a **2/3 vote**) that it is in the City's best interests to suspend competitive bidding for this purpose.
  - (ii) *Sole source procurement*: After conducting a good faith review of available sources, the Department determines there is only one reasonable and practicable source for the required non-professional service. A requirement for a particular proprietary service does not justify a sole source procurement if more than one potential provider for that service is reasonably and practicably available. All requests for this restrictive method of procurement shall be accompanied by an explanation as to why no other source of work or service will be suitable or acceptable to meet the need. Documentation shall be maintained of all negotiation discussions, terms, and offers.
  - (iii) *Prequalification*: A RFQ process can be used to limit participation in the bidding process that follows to only those persons or firms determined to be qualified in accordance with the provisions of the preceding RFQ process. This can be done for a single project, or for multiple projects, as would be the case for approval of a master list of contractors by trade or specialty to be used on specified projects.
  - (iv) Council reports and resolutions prepared for a recommendation to suspend competitive bidding must set forth factual justification to support a finding that such action is in the best interests of the City. Questions concerning the applicability of competitive bidding requirements should be directed to the City Attorney's Office.
3. Maintenance, remodel, or repair work is performed by City employees.

### **3. REQUESTS FOR BIDS (RFB)**

- (a) RFBs must be used for the procurement of public project work costing more than \$25,000, except as otherwise provided in Section 2 (When Competitive Bidding is Not Required) of this Policy. This does not preclude the use of RFBs for procurements below this threshold.

- (b) The Project Manager shall bear the overall responsibility for the preparation of bid specifications, utilizing a standardized RFB format, as provided in the Procurement Guidelines.
- (c) The bid specifications shall contain a complete scope of work for the construction work to be performed, and shall conform to the City's Standard Specifications.

#### **4. REQUIREMENTS FOR RFPS**

- (a) An RFP may be used to solicit public project work if authorized as required under Section 2 (When Competitive Bidding is Not Required) of this policy.
- (b) The Project Manager shall bear the overall responsibility for the preparation of an RFP, in compliance with all applicable provisions of the Procurement Guidelines Manual.

#### **5. ITEMS REQUIRING REVIEW PRIOR TO AN RFB OR RFP**

- (a) Public project contracts that will include the provision of materials or equipment to be installed, configured or maintained may require a materials or equipment review by other City departments or divisions before the selection process is initiated. Such reviews are intended to ensure consistency and conformity with City standards and building codes. These reviews are required regardless of the contract amount.
- (b) Materials or equipment review prior to issuance of a RFB or RFP is required in the following situations by the Department or divisions indicated below:
  1. Installed computer-related equipment such as UPS, energy management, fiber connections, SCADA and other information technology items or services — review by Department of Information Technology.
  2. Green Building Rating System™ LEED (Leadership in Energy and Environmental Design) materials or equipment — review by the Facilities and Real Property Management Division (Department of General Services).
  3. Installations at facilities or sites that require new construction, remodeling, modifications, electrical, mechanical, plumbing, or structural changes in City facilities, as well as the installation of systems furniture or interior design work (except facilities or sites within the street right of way) — review by the Facilities and Real Property Management Division (Department of General Services).

## **6. AMENDING OR CANCELING AN RFB OR RFP**

- (a) An addendum shall be used to amend or cancel an RFB or RFP, and shall be issued not less than three working days before the deadline specified for receipt of bids or proposals. Addendums extending the deadline may be issued less than three working days before such date if necessary.
- (b) The minimum components required for addendums are identified in the Procurement Guidelines.
- (c) The addendum should be published using the same media used to advertise the RFB or RFP, including the City website. Addendums shall be sent to all prospective bidders/proposers known to have received an RFB or RFP.

## **7. PUBLIC DISCLOSURE**

- (a) RFBs and RFPs for public project work of \$25,000 or more shall be available for public inspection at the office of the Contracts Manager and shall be posted on the City website for Contracting Opportunities.
- (b) After bid opening, bids shall be made available in response to an official request for public inspection, in accordance with the California Public Records Act.
- (d) Proposals submitted in response to a RFP shall be made available in response to an official request for public inspection after the proposal evaluation process is complete, in accordance with the California Public Records Act.
- (e) If the bidder or proposer designates any portion of its bid as proprietary or confidential, or any other public disclosure issues are presented, the Contracts Manager shall consult with the City Attorney's Office prior to any response or disclosure.

## **8. ACCEPTANCE AND EVALUATION OR REJECTION OF BIDS OR PROPOSALS**

### **8.1 LATE BIDS OR PROPOSALS**

- (a) A bid or proposal is late if it is received at the location designated in the RFB or RFP after the deadline specified in the RFB or RFP.
- (b) A late bid or proposal shall be rejected and not considered, regardless of the reason for lateness, including circumstances beyond the control of the bidder.
- (c) A late bid or proposal shall not be opened, except (if necessary), for identification purposes. Delivery and return of late bids or proposals shall

be handled in the following manner:

1. If delivered in person, a late bid or proposal should be rejected and returned to the person delivering it;
2. If not delivered in person, a late bid or proposal should be returned by certified mail;
3. Bidders or proposers submitting late bids or proposals that will not be considered for award shall be notified as soon as practicable.

## **8.2 GENERAL REQUIREMENTS FOR ACCEPTANCE AND EVALUATION**

- (a) Bids or proposals shall not be altered or corrected after opening, except for minor irregularities as specified in the bid specifications and/or the City Code. A bid or proposal may be withdrawn only if so authorized in the bid specifications or under State law.
- (b) For bids or proposals of \$100,000 or more, only Council has the authority to waive minor irregularities.
- (c) No criteria may be used in bid or proposal evaluations that are not referenced in the bid specifications or RFP or in applicable provisions of the City Code, other applicable laws or regulations or contract documents.

## **8.3 DETERMINATION OF LOWEST BID**

- (a) For a RFB, the contract shall be awarded to the lowest responsive and responsible bidder.
- (b) If a bidder that otherwise would have been the lowest responsible bidder is determined to be nonresponsible, after consulting with the City Attorney's office, the Contracts Manager shall prepare a written determination of nonresponsibility, setting forth the basis of the finding of nonresponsibility and advising the bidder that it may request a Bid Protest hearing on the matter, and shall send such determination to the bidder by certified mail.
- (c) If there are two or more low responsive bids from responsible bidders that are identical in price, and both meet all the requirements and criteria set forth in the RFB, then award, if made, shall be made by a drawing of lots.

## **8.4 ADDITIVE OR DEDUCTIVE BID ITEMS**

- (a) The evaluation of bids for public projects containing additive or deductive items shall comply with Public Contract Code Section 20103.8.

## **8.5 REJECTION OF BIDS**

- (a) For contracts less than \$100,000, the Department Director or the Contracts Manager shall have the authority to reject bids.

- (b) For contracts of \$100,000 or more, only the City Council has the authority to reject bids.

## **8.6 CONTRACT FORM AND DOCUMENTATION**

- (a) The current standard contract form approved by the City Attorney's office shall be executed prior to starting any work, provided that a purchase order may be used in lieu of a contract for work of \$5,000 or less, so long as the purchase order incorporates all applicable requirements for the work, and the contractor meets the City's standard insurance requirements and any other requirements, obtains a Business Operations Tax Certificate number, specified in the Procurement Guidelines Manual.
- (b) For contracts of \$100,000 or more, the contract must be signed by the contractor and the City Attorney's Office, and **submitted to the City Clerk, prior to City Council award of the contract.**
- (c) For all levels of contract award, contract documents must be fully executed (obtain all signatures and provide any required contract documents) prior to performance of the contract.

## **9. BID SECURITY, BONDS AND INSURANCE**

### **9.1 BID SECURITY**

- (a) Bids require bid security (such as a bid bond or cashier's check) unless this requirement is waived as specified in the Standard Specifications. Bid security shall be provided in a standardized format specified in the Procurement Guidelines and/or Standard Specifications and included in the RFB.
- (b) Bids received without the required security shall be considered non-responsive and will be rejected.
- (c) Bid security shall be returned to unsuccessful bidders after a successful bidder is selected and awarded the contract.
- (d) Bid security may be forfeited and applied as specified in the Standard Specifications.

### **9.2 PERFORMANCE AND PAYMENT BONDS**

- (a) Performance and payment bonds are required for public project contracts exceeding \$25,000, as provided in the Standard Specifications and as required by State law (for payment bonds).
- (b) The bond requirements shall be described in the RFB or RFP, and shall conform to applicable provisions of the Procurement Guidelines.
- (c) Bonds shall be accepted only from sureties admitted and duly

authorized to transact business in the State of California, and shall be approved as to form by the City Attorney's office.

- (d) Failure to submit the required bonds within the time specified in the notice of award shall be just cause for annulment of the award and forfeiture of the bidder's bid security.

### **9.3 INSURANCE**

- (a) All insurance requirements specified in the current standard contract form must be satisfied when and as specified in the contract.
- (b) All changes to insurance requirements proposed by contractors must be reviewed by Risk Management and approved by the Department Director prior to contract award/approval/execution by the City.

## **10. BID PROTEST**

### **10.1 CONTRACTS OF MORE THAN \$5000 AND LESS THAN \$100,000**

- (a) A bidder on a contract may file a bid protest (1) claiming that one or more bidders on the contract should be disqualified or rejected for any reason, or (2) contesting a City staff recommendation to award the contract to a particular bidder, or (3) contesting a City staff recommendation to disqualify or reject one or more bidders on the contract. Only a bidder may file a bid protest on a contract.
- (b) The bid protest shall be in writing and shall be filed with the Contracts Manager not later than five working days after City staff provides notice of the recommended contract award to the bidders. The bid protest shall provide the name, address, telephone and telecopier numbers of the protesting bidder, shall identify the contract to which the bid protest pertains, including the contract number and date that bids for such contract were received by the City, and shall identify the City department or division requesting bids. The bid protest shall identify and explain the factual and legal grounds for the protest, and shall include and attach any written materials that the protesting bidder wishes to have considered in determining the protest.
- (c) At the time a bid protest is filed, the protesting bidder also shall make payment to the Contracts Manager of a bid protest fee in the amount established by resolution of the City Council, which fee shall be used to pay the City's costs of processing the protest as provided herein.
- (d) Any bid protest that is received by the Contracts Manager after the time period specified above, or that is not accompanied by the bid protest fee, shall be untimely and invalid, and shall not be considered.
- (e) The protesting bidder and any other bidder(s) potentially affected by the bid protest shall be provided written notice of an informal hearing to be

held not less than five working days after receipt of the bid protest. The hearing shall be conducted by the Director of the Department requesting bids or his or her authorized designee. The protesting bidder and any other bidder on the contract shall promptly provide any information requested by City staff prior to the informal hearing.

- (f) As soon as practicable after the informal hearing, the Department Director or authorized designee shall issue a written response to the bid protest, including an explanation of the reason or reasons for the decision made. The written response shall be provided to the protesting bidder and any other bidder(s) potentially affected by the bid protest.
- (g) Any bid protest, notice or bid protest response provided by or to the City shall be provided by registered or certified mail (return receipt requested), by telecopy, by personal delivery or by any other method that provides reliable evidence of the date of receipt. Written notice provided by telecopy shall be deemed received on the date that it is transmitted and transmission is confirmed by the transmitting machine. Written notice provided by personal delivery shall be deemed received on the date of delivery.

## **10.2 CONTRACTS OF \$100,000 OR MORE**

Bid protests on contracts of \$100,000 or more shall be filed and processed in accordance with the provisions of Article X of Chapter 3.60 of the Sacramento City Code (commencing with City Code Section 3.60.460).

## **11. ESBE PARTICIPATION AND REPORTING REQUIREMENTS**

- (a) Emerging and Small Business Enterprise (ESBE) requirements shall be met for all contracts as specified in the Procurement Guidelines , unless these requirements are reduced or waived by the Office of Small Business Development (OSBD), or an external funding source requires the use of other business enterprise requirements.
- (b) Any modification or waiver of an ESBE requirement must be requested in writing and approved by the OSBD prior to any advertisement or posting to the City's website for Contracting Opportunities.
- (c) Departments shall be responsible for meeting annual ESBE participation goals on a Department-wide basis.
- (d) The OSBD shall compile data relative to ESBE expenditures and utilization and submit periodic reports to the City Manager detailing contract amounts and ESBE participation rates.

## **12. EQUAL BENEFITS ORDINANCE**

- (a) Contracts exceeding \$25,000 are subject to applicable provisions of the City's Non-Discrimination in Employee Benefits Code, codified at Chapter 3.54 of the City Code (commonly referred to as the Equal Benefits

Ordinance, or EBO).

- (b) All solicitations shall contain the City's standard EBO Requirements.
- (c) All contracts to which the EBO applies shall contain an executed EBO Declaration of Compliance.
- (d) More detailed information concerning the EBO requirements is set forth in API 53.

### **13. PREVAILING WAGES; USE OF APPRENTICES**

- (a) The City Code mandates that public project contracts originally awarded in an amount exceeding \$25,000 require the payment of prevailing wages, as determined by the Director of the Department of Industrial Relations pursuant to Labor Code Section 1773.
- (b) Bid specifications for public projects exceeding \$25,000 shall include prevailing wage requirements.
- (c) More specific requirements relating to prevailing wages for public projects are specified in City Code Section 3.60.180.
- (d) Apprentices are required on all public project contracts originally awarded in an amount exceeding \$30,000. More specific requirements relating to the use of apprentices are specified in the Procurement Guidelines Manual.

### **14. SPECIAL REQUIREMENTS FOR CONTRACTORS WHO ARE SOLE PROPRIETORS (INDIVIDUALS)**

- (a) When the contractor is not a business entity (such as a corporation, partnership, etc.) and utilizes a personal social security number as their Federal or State tax identification number, all transactions with such individuals must be entered into the City's financial system within ten working days after execution of a contract, or ten working days after the date services are commenced, whichever occurs first.
- (b) This includes any City contract with a contractor who is a sole proprietor.

### **15. CHANGE ORDERS**

- (a) Change orders for public projects may be approved by the City Manager or authorized designee, within the limits of approval authority specified in article VI of City Code Chapter 3.60. Change orders exceeding these limits must be approved by the City Council.
- (b) Delegations of approval authority are specified in API 22.
- (c) Any change order extending the term of a contract must be approved prior to expiration of the contract term.

### **16. PAYMENT METHODS AND PAYMENT TERMS**

## **16.1 PAYMENT METHODS**

- (a) Original invoices are required for payment of all contracts.
- (b) Payments for contracts over \$25,000 must include an approved Pay Request Application and Schedule of Values.
- (c) More specific requirements are set forth in the contract documents and Procurement Guidelines.

## **16.2 PAYMENT TERMS**

- (a) Progress payments and project retention, as applicable, may be reduced by any deduction or withholding authorized under the contract, and shall be reduced by the amount of any stop notice until a verified release of stop notice is provided on a City-approved form or a release bond is accepted by the City.
- (b) Time limits for progress payments and the release of retention are set forth in the contract documents and Procurement Guidelines.
- (c) A Notice of Completion must be filed with the Sacramento County Recorder's Office within ten days after the date that the City accepts the work as complete.

## **17. TRANSACTION NUMBER LOG**

- (a) Each Department shall establish and maintain a transaction number log for all Department solicitations for which an IFB or RFP is issued. The transaction number log shall be organized based on solicitations initiated within each Department.
- (b) A transaction number shall be assigned to each IFB or RFP, and will be used to identify and track all related activity through requisition and payment, if applicable.
- (c) Transaction numbers will be prominently displayed on the IFB or RFP and on the City's web site for Contracting Opportunities (if applicable).
- (d) Transaction numbers shall be created in accordance with procedures established by the Procurement Services Division Manager or authorized designee.

## **18. EMPLOYEE CONFLICT OF INTEREST/ETHICS**

- (a) All procurement activities shall be performed in compliance with the provisions of the Procurement Ethics and Standards of Conduct Policy.

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