

Chapter 6 – PLANNING PHASE

Procedure 6.2 – USE OF CONSULTANT (PROFESSIONAL) SERVICES

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PURPOSE

The purpose of this procedure is to provide a guideline for determining when to use a Consultant for a City of Oakland Design & Construction Services Department (DCSD) Capital Improvement project or activity. As a general rule, DCSD attempts to perform services with internal resources and utilize the expertise and capabilities that exist in-house. However, there are instances when it is more appropriate using Consultants when it is *more feasible or cost-effective* to use Consultants. This section describes the guidelines and procedures in preparing and issuing a request and the selection of consultants for capital improvement projects.

Consultant services or “Professional or specialized services” are defined in City of Oakland Municipal & Planning Code (OMC) Chapter 2.04.010 as “services which are of an advisory nature that provide a recommended course of action or personal expertise that will result in a transmittal of information to the city, either verbal or written, related to city administration and management or program management, innovation and which must be performed by appropriately licensed consultants, architectural or engineering personnel, or which are so technical or complex in nature that such services must be performed by persons possessing unique or special training, education or skills.”

RESPONSIBILITIES

Project Manager (PM): The PM is responsible for preparing an analysis and determines if City resources are available to perform the required work in the timeframe in which it is needed or if consultant services are required for a project and recommends the need for the consultant services to the Division Manager. The PM is also responsible for analyzing if the required consultant service should be procured under informal or formal process and providing recommendation to the Division Manager to use a Project Specific contract or utilize an existing Pre-Qualified list.

Division Manager: The Division Manager is responsible for deciding whether DCSD should seek approval for the use of Consultants and for securing Deputy Director’s approval.



CEDA Deputy Director: The Deputy Director reviews, approves or disapproves recommendation on the use of Professional services.

City Engineer: The City Engineer has the overall management responsibility ensuring that DCSD follows guidelines and adheres to City requirements.

PROCEDURE

The procedures for procuring a Consultant in DCSD are discussed in this chapter and outlined in the Standard Consultant Hiring Flowchart and Standard Schedule (*Attachments 6.2-A and 6.2-B1 through B4*). The PM should keep in mind that it takes a minimum of 8 months to get a professional services contract into place. Additional checklists from Department of Contracting & Purchasing (DC&P) are also available that incorporates the process and timeline required to complete the RFP/RFQ process. Close coordination with DC&P is necessary to ensure successful procurement process.

Consultants are most commonly used when additional capital activity is planned for a time period when adequate staff is not available to perform the required work. This often happens when large projects or programs are created or when mid-year work is directed to DCSD that must be immediately completed. When DCSD identifies a need to use Consultants, the following procedures will provide guidance. Additionally, DC&P needs to be consulted to coordinate the procurement process. The OMC Chapter 2.04.020 codifies the underlying principle that Consultant use is only allowable

- 1) when it is more economical or feasible to do so,
- 2) that the service is professional, scientific or technical,
- 3) that the service is temporary in nature, and
- 4) that the contract shall not result in the loss of salary or employment by any person having permanent status in the competitive service.

6.2.1 Feasibility – Determine the need for consultant services and Resources to Perform the Work When Needed

The use of Consultants is typically driven by the feasibility issue. In general, it is more feasible to use Consultants if

- 1) The City Department have an insufficient number of qualified people available to perform a certain function when it is needed, or
- 2) The City lacks the specific technical expertise required and is unable to gain that knowledge within the required timeframe, or

- 3) The work is of limited scope or intermittent nature and it is unlikely that the City would be able to continue the employment of persons hired for the project.

The feasibility analysis should always be done prior to the cost-effectiveness analysis described below. The feasibility decision made within DCSD is based on the PM's analysis, with input from key divisions, of whether or not DCSD will have the required number of people with sufficient knowledge and background available to perform the work when it is needed. Generally, the staffing resources should be estimate by determining all of the various types of resources required (Total Labor Need). The Total Labor Need should then be compared to the projected staff availability for that time period.

The various support groups in the City (Environmental Services, Real Estate, Survey, Electrical Services, Architectural, Construction Management, Facilities Building Services, Parks & Building Maintenance, etc.) should also be contacted to ensure that these groups can support the work at the appropriate time. If it is determined that DCSD will have the appropriate staff to do the work, DCSD will typically perform the work with internal personnel. However, if it is determined that DCSD will not have the required resources and/or expertise, and there is ample time to procure the required Consultant(s), then it is more feasible to utilize Consultant(s). This analysis and recommendation should be prepared by the PM for review and approval by the Division Manager, the Deputy Director and the City Engineer.

6.2.2 Preliminary Steps

- 1) City's Administrative Instruction 150 requires the responsible agency seeking to use professional and specialized services to make the determination that
 - The proposed project is their responsibility,
 - Ensure funds have been budgeted for the project, and
 - The agency/department must determine if City staff can provide the service. If there is any concern, Office of Personnel and Resource Management should be consulted.
- 2) Secure Funding for Project & Program Specific Work, if Not Already Authorized: In most of the cases when Consultants are used, funding for the project has already been approved by the Council through legislation or budget process in the adoption of the annual Capital Improvement Program (CIP). If this has NOT BEEN DONE, then the PM, in consultation with the Division Manager should initiate the actions to secure Council approval and funding for the professional services contract. This should be started immediately and done in parallel to the consultant procurement process. If it is not done until the finalized

contract is being processed for approval, it will result in delaying the contract's execution.

3) After determining the need for consultant services, evaluate the project size and cost and determine if **Informal** RFP/RFQ Process or **Formal** process is appropriate for the specific project. Per OMC Section 2.04.051, **Informal** advertising and solicitation of proposals/qualifications is required for professional services contracts involving expenditures of twenty-five thousand dollars (\$25,000.00) or less; and **Formal** RFP/RFQ Process (formal advertising and solicitation of proposals/qualifications) is required for professional services contracts involving expenditures of more than twenty-five thousand dollars (\$25,000.00). However, since City Administrator's contracting authority under OMC Section 2.04.020.B is limited to professional services fifteen thousand dollars or less (\$15,000.00), unless specific funding source restrictions are met, it is DCSD's policy to limit informal and formal consultant hiring process at the \$15,000 threshold. Thus, any professional services estimated to be over \$15,000 are procured under the formal process. The procedures for issuing RFP/RFQ are described in Chapter 6-3.

In some instances, a consulting contract will be procured and negotiated to provide a specific set of services on a specific, pre-identified project. This form of contract, known as Project Specific; is used with the traditional way that services are procured. The contracts are structured accordingly reflecting the scope of work for a specified project. However, over the past several years, the most common method of procuring services and structuring contracts is known as the Pre-Qualified On-Call (PQ OC) contracting method. In this situation, multiple firms are chosen as being prequalified to do a certain type of work and "stand-by" contracts are put in place with each of them. When a PQ OC contract is executed, one or more of the pre-qualified firms are issued a "Work Order" for a specific project.

6.2.3 Project-Specific Contracts

Generally, this type of contract is used when the project:

- 1) Is identified in advance.
- 2) Has a sufficiently long schedule to allow the Consultant procurement to go through the RFP process.
- 3) Is not a part of a large number of similar projects to be completed around the same time.
- 4) Is a project that requires specialty consultant procurement based on the unique, specific details of that project.
- 5) Is a major project in which the consultant fee exceeds the contract limit of the on-call consultant contracts.

The RFP is prepared which describes the specific project and scope of services. A single, most qualified firm is selected, contract negotiated and executed based on the specific project scope identified in the RFP.

6.2.4 Pre-qualified On-Call (PQ OC) Contracts

Generally, this type of contract is used when the project:

- 1) Fits within the scope of work that can be executed through an existing PQ OC Consultant List.
- 2) Is a smaller project that does not warrant the effort of specific contract procurement.
- 3) Is of great urgency (although it may be large), and fits within the technical scope of an existing PQ OC Consultant List.
- 4) Is a part of a large program with many similar projects, and the time it takes to put a special PQ OC Consultant List in place is justified because it is then much quicker to assign Work Orders to firms and have them start their work.

Today, much of the DCSD's contracting activity is on projects that fit this description, and therefore, PQ OC contracts are used for much of the DCSD consulting services. The advantage of PQ OC contracts is that once the list has been established after going through the RFQ process, it is comparatively quick and easy to negotiate the specific scope, schedule and compensation terms of a Work Order with a firm from the established list. On large programs with repetitive types of projects (such as the Fire Stations and Measure DD Bond), this type of contract is generally preferred because it reduces the overall length of time and effort that it takes to hire the needed consulting firms. In the case of smaller projects and services, the availability of PQ OC Consultant Lists serves as "back-up" to City staff when projects quickly arise and existing staff is already fully allocated to other projects. As of the publishing date of this Procedure, PQ OC Consultant Lists exist for the following types of services:

1. Geotechnical, Engineering Geology and Environmental Exploration Services, including Hazardous Materials Studies and Environmental Site Assessment
2. Civil Design Services, including Street and Storm drain Design and Development Services
3. Architectural Design Services, including Structural, Mechanical, Plumbing and Electrical disciplines
4. Landscape Design Services

This procedure is discussed in more detail in Procedure 6.4 – Consultant Contracts



REFERENCES

City of Oakland Municipal & Planning Code Chapter 2.04

City of Oakland Administrative Instruction 150, dated August 1, 2000.

ATTACHMENTS

- 6.2-A Standard Consultant Hiring Flowchart
- 6.2-B1 Formal Consultant Hiring Timeline
- 6.2-B2 Informal Consultant Hiring Timeline