



MIAMI BEACH

OFFICE OF THE CITY MANAGER

LTC # 230-2013

LETTER TO COMMISSION

RECEIVED

2013 JUL -8 AM 9:58

CITY CLERK'S OFFICE

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: July 2, 2013

SUBJECT: Procurement Update

The purpose of this Letter to Commission (LTC) is to update the City Commission on current and scheduled process improvements to the City's procurement activities. Following the commencement of new departmental leadership in late 2012 and a resulting assessment of all operational processes, a series of process improvement measures have either been implemented or scheduled to be implemented in the near future as noted herein.

Code and Policy Review and Recommendations

The National Institute for Governmental Purchasing (NIGP) has advised public sector agencies that outdated regulations can impede both the efficiency and effectiveness of procurement-related activities. To assure the City's Procurement Division is operating in the most efficient and effective manner possible, NIGP Consulting has been engaged to complete review of the City's regulations relative to its procurement activities, as well as other applicable requirements. The scope of the review includes:

- a review of procurement-related ordinances, statutes, policies and procedures to ensure compliance, consistency and a comparison with industry best practices;
- a high-level comparative analysis that will benchmark the City against other similar national and local municipalities;
- a review of any constraints that may impede effectiveness and efficiency of the City's procurement-related functions.

Following the review, a report with recommendations for procurement regulatory improvements, based in part on the American Bar Association (ABA) Model Procurement Code, will be presented to the City. At the July 17, 2013 Commission Meeting, Administration will ask the City Commission to refer an item to the Finance and City-wide Projects Committee for discussion of the proposed review and recommendations.

Solicitation Document Review

The importance of clarity in the City's competitive solicitations cannot be understated. Clear and reader-friendly bid documents encourage competition by allowing prospective vendors to fully understand the City's expectations in any given solicitation and minimizes the need to unnecessarily penalize vendors for not complying with unclear solicitation requirements. With that goal in mind, all competitive solicitation documents through which the City seeks bids, proposals or quotes for the acquisition of goods or services are currently under review by a team of independent reviewers with extensive

experience in assisting governmental agencies with public procurement projects. The reviewers have completed procurement-related assignments in a diverse range of governmental agencies, including: The National Institute for Governmental Purchasing (NIGP), State of Idaho, State of Texas, State of Missouri, State of Connecticut, State of South Dakota, Jackson County (MO), Orlando Aviation Authority (FL), District of Columbia, Miami-Dade County, Florida Atlantic University, City of Miramar, City of Homestead, Federal Government General Services Administration, San Diego County, and the City of Pompano Beach Community Redevelopment Agency. The objective of the review is to: create consistency and uniformity among City solicitation documents; incorporate best practices available from NIGP and others; create a simplified process for vendors to do business with the City; assure that competitive solicitations promote competition; reduce the possibility of bid rejections caused by inconsistent bid language; increase the productivity of the Procurement Division staff; and, improve the likelihood the City will gain maximum benefit from its competitive solicitations.

Contract Negotiations

The transparency of the City's contracting activities is an important part of maintaining a procurement system based on openness, fairness, ethics and integrity. Florida Statutes stipulate that most activities of procurement selection meetings are subject to Sunshine Law requirements for public meetings, except for those meetings at which: 1) a negotiation with a vendor is conducted pursuant to a competitive solicitation, 2) a vendor makes an oral presentation as part of a competitive solicitation, or 3) a vendor answers questions as part of a competitive solicitation. Notwithstanding the exemption provided in statute for these exempt meetings, Sunshine Law requirements stipulate that "a complete recording must be made of the exempt meeting; no portion of the meeting may be held off the record." The recordings must be made available pursuant to any public records request following the conclusion of the solicitation process.

In the past, it has been the City's past practice to allow the vendor negotiations to be managed by the user department *without participation* by the Procurement Division. However, in these cases it is difficult to assure strict adherence to the requirements of the Florida Sunshine Law. In order to assure statutory requirements, in addition to assuring negotiations do not deviate from the original scope and intent of the solicitation, the administration of the contract negotiation process has been assumed by the Procurement Division, with participation by City staff as necessary.

Contract Administration & Risk Management

It has been the City's practice that much of the administrative contract management duties are delegated to the user department's contract manager. While it is important to include the departmental contract manager in the day-to-day management of the contract requirements, including managing contractor performance, certain aspects of the contract administration process should be centralized to assure that the risks to the City are minimized, including certain risk management considerations (e.g., insurance, performance and payment bonds) and timely contract renewals.

In an effort to assure that the aforementioned contract administration and risk management goals are achieved, these activities have been assumed by Procurement Division. To facilitate contract administration process, the division is finalizing the implementation and full use of the City's contract management system that allows the tracking and maintenance of contractor performance evaluations, contract renewal periods, and risk management factors.

Construction Procurement Contracting

Since the discontinuation of the Job Order Contracting (JOC) process last fall, the City has been without a methodology for expediting construction projects. This is especially problematic for smaller projects and projects related to unplanned emergency work for which releasing independent solicitations is not feasible. To address this concern and expedite the delivery of planned construction projects, the Administration is considering implementation of a tiered approach to construction contracting which may include a fixed priced methodology for small (less than \$250,000) and emergency projects and an expedited prequalified process for moderately sized projects (\$250,000 to \$2 million). Projects greater than \$2 million would be handled through project-specific competitive solicitations in accordance with the requirements of Florida Statutes. Prior to implementation, the Administration will ask the City Commission to refer an item to the Finance and City-wide Projects Committee for discussion of the proposed recommendations.

Ethics Training

As the City Commission has been previously informed, the City has contracted with the Miami-Dade Commission on Ethics to provide a series of training sessions to all regulatory personnel regarding ethical requirements for public employees. In addition to this training, all Procurement Division personnel have also attended the Procurement Ethics Training sponsored by Miami-Dade County, The Miami-Dade Commission on Ethics and the Miami-Dade Office of Inspector General. The Procurement Ethics Training provides detailed instruction on procurement-related ethical matters, including: ethical violations; conflicts of interests; gifts by vendors; doing business with one's agency; and, other relevant matters. The primary focus of the training, in addition to facilitating an understanding of applicable regulations, is to help employees be cognizant of day-to-day circumstances that could lead to actual or perceived ethical concerns. As of the date of this LTC, Procurement Division personnel have completed the training.

Financial System Internal Control Improvements

Procurement and Information Technology staff have completed a test of the internal controls of the City's enterprise resource planning (ERP) system relative to the process for the acquisition of goods and services. While the system performs well under most scenarios, the results of the internal control testing resulted in a number of recommendations that would improve the security of these processes. The recommended improvements have been discussed with the City's ERP provider, which has agreed to complete a business process review and assist the City in implementing

improvements to both the acquisition processes and the internal controls related to these activities.

e-Marketplace

The City requires routine goods and services to support the operations of many City departments, especially those departments involved in maintaining infrastructure systems and other City assets. Since the City does not currently maintain an adequate stocking facility for routine operational requirements, these departments must acquire the goods and services they require at the time of need, usually through blanket purchase orders, spot market purchases or procurement card purchases. These methods are often inefficient or do not provide the internal controls necessary to assure that sound procurement practices are being adhered to.

In an ongoing effort to increase efficiencies in the acquisition of goods and services by City departments while assuring that internal controls for a sound procurement process are in place, the Procurement Division has identified a process for maximizing the efficiency of MRO purchases through the U.S. Communities Purchasing Alliance (U.S. Communities) Marketplace system (e-Marketplace). U.S. Communities, founded by the National League of Cities, The National Institute for Governmental Purchasing (NIGP), National Association of Counties, and the U.S. Conference of Mayors, is the leading national government purchasing cooperative, providing procurement resources and solutions to public sector agencies looking for the best overall supplier government pricing, while achieving procurement operational efficiencies. U.S. Communities offers contracts established through competitive bids that aggregate the volume of over 55,000 participating public sector agencies across the country, including state agencies, municipalities, counties, special districts (e.g., fire, sewer, water, etc.), public schools (including K-12, colleges and universities) and non-profit organizations.

The e-Marketplace tool allows for routine maintenance, repair and operations (MRO) purchases to be made in a simplified web-based manner through which the items available under the competitively bid contracts may be acquired from reputable suppliers at the best government pricing available, while maintaining tight controls on expenditures through the approval workflow functionality. e-Marketplace will increase the efficiency, cost-effectiveness and internal control goals described above by:

- providing online access to all U.S. Communities competitively bid contract prices which have been guaranteed by the awarded contractors to be the lowest offered to public sector agencies;
- decreasing "off-contract" spend that results when departments purchase requirements from other than contract sources;
- maximizing savings through comparison shopping functionality which allows users to compare specifications and cost of similar items;
- establishing pre-established required approval workflow for all purchases;
- providing free shipping and next day delivery on most items so that the receipt of routine items can be expedited;

- allowing the department managers and the Procurement Division to manage spend and consider historical volume for subsequent solicitations and potentially deeper discounts.
- assuring a fully transparent acquisition process with a verifiable audit trail to ensure purchases are properly approved, from authorized suppliers, at contract prices.

The e-Marketplace is a secure and proven solution utilized by public sector agencies across the country. With a single logon, authorized users can logon to the e-Marketplace and have access to a number of providers of MRO equipment and supplies that have been competitively bid to assure that the City is yielding the best possible public sector pricing, while assuring that required goods are received, in most cases, by the next business day.

Objective Cost Scoring Criteria

Assuring a fair process for the evaluation of competitive proposals received is a primary goal of the public procurement process. While some aspects of the competitive proposal evaluation process are subjective in nature, other aspects are well-suited for a more objective evaluation process. The scoring of cost proposals is one of those aspects of the competitive proposal evaluation process that may be evaluated objectively. In the past, the City has allowed for a more subjective evaluation of cost proposals by evaluation committee members. Going forward, the Procurement Division is implementing a process by which the cost portion of competitive proposals are to be evaluated in an objective manner based on a common formula utilized by many public sector agencies as illustrated in the following example:

Vendor	Vendor Cost Proposal	Maximum Allowable Points for Cost Proposal	Formula for Calculating Points (lowest cost / cost of proposal being evaluated X maximum allowable points = awarded points)	Total Points Awarded
Vendor A	\$100.00	30	$\$100 / \$100 \times 30 = 30$ OR $100/100 = 1.0$ $1.0 \times 30 = 30$	30
Vendor B	\$150.00	30	$\$100 / \$150 \times 30 = 20$ OR $100/150 = .667$ $.667 \times 30 = 20$	20
Vendor C	\$200.00	30	$\$100 / \$200 \times 30 = 15$ OR $100/200 = .50$ $.50 \times 30 = 15$	15

As the objective formula described above indicates, Vendor A submitted the lowest overall cost proposal and, therefore, a received the full allocation of allowable points. By

comparison, Vendors B and C submitted cost proposals that were higher than as Vendor A. Therefore, Vendors B and C received a pro-rated percentage of points. The objective scoring methodology, used primarily for Request for Proposals or Invitations to Negotiate, will be incorporated in the solicitations following the document review described above.

Industry Review Meetings

It is the goal of the Procurement Division to conduct the City's processes related to the acquisition of goods and services in the most transparent manner possible. The Division believes the City's is best served when all stakeholders, internal and external, are well informed of the City's goals in any given competitive solicitation process and the City has taken into account any potential pitfalls or available best practices that may exist when creating specifications for the solicitation. Accordingly, the Division has instituted an industry review process through which vendors in any given field are invited to discuss with City staff how best to accomplish the goals of a forthcoming solicitation. The industry review meetings allow the City to consider ways of achieving a particular goal which maximizes the value of the competitive solicitation process and minimizes the potential for specifications that are difficult to achieve or limit competition.

The industry review meetings also help vendor outreach efforts by increasing the transparency of the City's procurement processes. In this effort, meetings send a message to vendors that may have previously resisted participation in the City's solicitations that it is the City's intent to assure a fair and transparent environment in all activities related to the acquisition of goods and services.

Procurement Liaison Program

It is the Administration's goal to assure the City's procurement processes are models of excellence founded on fairness, transparency and sound business processes. In order to create and sustain excellence, it is important that those entrusted with the stewardship of City resources expended in the acquisition of the goods and services required by City departments be well trained in maximizing taxpayer resources through strict adherence to procurement rules, transparency, the highest ethical standards, strategic sourcing and best practices. In order to facilitate these goals, the Procurement Division will be implementing the Procurement Liaison Program. The Procurement Liaison Program will assure that those departmental staff members responsible for managing the acquisition of goods and services required by their departments are fully trained through a curriculum based on the following general topics:

- Overview of the Procurement Liaison Program
- Fundamentals of Procurement Requirements, including Sunshine Law & Public Records
- Ethics
- Maximizing Enterprise Resource Planning (ERP) Procurement Functionality
- Budgeting
- Small Dollar Purchases
- e-Procurement
- Formal Solicitations

- Contract Management & Vendor Performance Management

Each month, Procurement Liaison Program participants will be offered training session on one of the subjects noted above. The Procurement Liaison Program will be offered yearly.

Conclusion

The process improvements described herein are examples in action of the new mission of the Procurement Division, which is...

...dedicated to maximizing taxpayer resources in the acquisition of goods and services, through strict adherence to governing law, the highest ethical standards, strategic sourcing and best practices, transparency and customer-focus.

The division is committed to continuing process improvements which improve the efficiency and effectiveness of the process through which the City acquires the goods and services required, while assuring sound business practices and tight internal controls are followed.

JLM / KGB / AD

U:\EXO Memos\LTC\LTC Procurement 20130515.docx