

**REQUEST FOR QUALIFICATIONS & REQUEST FOR PROPOSALS (“RFQ/P”)  
PRESIDING OFFICER FOR COUNCIL REGULATORY PROCEEDINGS  
OCTOBER 14, 2019**

**Purpose**

The Council for the City of New Orleans (“Council”) is vested by the Home Rule Charter and the Louisiana Constitution with powers of regulation, supervision and control over electric and gas utilities providing service in Orleans Parish. The Council seeks to retain the professional services of one or more persons to preside over hearings held in connection with its regulatory proceedings pursuant to Article III of Chapter 158 of the Code of the City of New Orleans and to perform such other related services as the Council may require from time to time.

Services to be performed include, but are not limited to: (1) presiding over and conducting evidentiary and administrative hearings; (2) assembling and certifying the evidentiary record in such proceedings of the City Council; (3) administration of oaths; (4) ruling on evidentiary and other matters, as appropriate; (5) drafting orders including recommended findings of fact; and (6) performing such other related duties as may be required pursuant to lawful authority delegated by the City Council or as set forth in the City Code.

Selected respondent(s) will be assigned to dockets that are active at the time of selection and will be assigned to new dockets when they are initiated by the Council. Selected respondent(s) will be permitted to continue outside employment provided that the Council is made aware of any potential conflicts of interest. With the exception of presiding over and conducting evidentiary and administrative hearings, the average weekly time commitment is not expected to exceed ten hours.

**Qualifications Statement Contents**

Respondents must have a law degree (J.D. or equivalent) and be a practicing attorney and member of the bar in good standing in a jurisdiction within the United States. It is desirable that respondents have a minimum of seven (7) years of experience as a licensed attorney preparing for, participating in, and/or presiding over formal hearings or trials involving litigation and/or administrative law at the federal, state or local level sufficient to enable the respondent to adequately carry out the services described above.

Overly elaborate, verbose responses are strongly discouraged. All responses must include:

1. If an association or joint venture is contemplated, the expertise of each individual firm should be clearly defined as well as the level of involvement of each individual firm, prior work of the firms as a joint venture, and the proposed means of coordination between firms. A joint venture will be considered a “firm.”

2. A description of the respondent's current professional status, including areas of practice and specialties, and proposed hourly rate of pay.
3. Professional experience and resumes of respondent and employees who are expected to perform work in connection with respondent's work, including appropriate evidence of accreditation and licensing by the bar of the jurisdiction in which respondent practices; and
  - a. specific case listings of experience preparing for, participating in, or presiding over administrative hearings.
4. A description of three or more assignments which best illustrate the respondent's current qualifications relevant to the areas requested in the RFQ/P, including samples of work product and/or recommended findings.
5. Availability of respondent to provide coverage for City Council matters as needed, including any minimum notice requirements or limitation as to length of hearings.
6. A sworn affidavit listing all persons with an ownership interest in the respondent. An "ownership interest" shall not be deemed to include ownership of stock in a publicly traded corporation or ownership of an interest in a mutual fund or trust that hold an interest in a publicly traded corporation. This affidavit is a public record.
7. A sworn affidavit that no other person holds an ownership interest in the respondent via a counter letter.
8. A list of all persons, natural or artificial, who are retained by the respondent at the time of the application and/or who are expected to perform work as sub-contractors in connection with respondent's work.

### **Conflict of Interest**

Any firm or individual providing a response to the RFQ/P shall provide a clear and unambiguous indication of any potential or real conflicts of interest it may have with respect to performing work on behalf of the Council or its committees. In particular, any prior or existing services being provided any other governmental entities within the last 2 years should be disclosed.

For any such work performed, the respondent shall indicate the scope of the engagement, the time frame, the amount of compensation received and why the respondent deems such work to be or not to be in conflict with the interests of advising or representing the Council or its committees. The Council shall make the final decision as to whether any conflict of interest exists.

### **Evaluation criteria**

Upon receipt by the due date of responses to this RFQ/P by qualified firms, the Council's staff Selection Review Committee will evaluate all responses received based upon the criteria listed herein below and in Council Rule 42, a copy of which is attached. Particular emphasis will be placed on the following criteria:

1. Experience of the professional personnel.
2. Quality of work samples presented.
3. The appropriateness of the proposed plan and the timeline to achieve its goals.
4. Clear understanding by the applicant of work to be performed.
5. Capability of providing consistent, timely services, as determined by information requested from references or actual experience performing such services for the City Council.
6. Involvement at the professional level of minorities, women and New Orleans domiciliaries and/or involvement of certified disadvantaged business enterprises.

### **Proposal Process**

No written or oral communications from potential applicants regarding this RFQ/P shall be made to any Councilmember or Council Staff person during this Request for Proposals process.

Five (5) hard copies of the submission, including samples of work products by 3:00 p.m. on Monday, November 11, 2019 to the City Council Utilities Regulatory Office, Room 6E07 City Hall, 1300 Perdido Street, New Orleans, LA 70112. An electronic version of the proposal should be submitted to Erin Spears at [espears@nola.gov](mailto:espears@nola.gov). If an electronic version cannot be submitted via email, applicants should include an electronic version saved on a USB flash drive with the hard copies.

An evaluation committee composed of the Council Chief of Staff, the Council Research Officer, and the Council Utility Regulatory Office Chief of Staff will review and evaluate the submissions, and select qualified proposals for referral to the Council.

The Inspector General shall be notified in writing prior to any meeting of a selection or negotiation committee relating to the procurement of goods or services by the city, including meetings involving third party transactions. The notice required shall be given to the Inspector General as soon as possible after a meeting has been scheduled, but in no event later than twenty-four hours prior to the scheduled meeting. The Inspector General may attend all city meetings relating to the procurement of goods or services as provided herein, and may pose questions and raise concerns consistent with the functions, authority and powers of the Inspector General. An audio recorder or court stenographer may be utilized to record all selection or negotiation committee meetings.

attended by the Office of the Inspector General.

All contracts are for a twelve month period. However, the Council may renew the contract for additional 12 month periods up to five years, assuming continuing need for the service and mutual satisfaction. Each respondent is to include in its submittal a clear and concise statement of those personnel and firm resources for which it is willing and can commit to make available for the Council's regulatory activities during such period.

**Additional Information**

The City of New Orleans is not liable for any costs incurred prior to entering into a formal written contract. Any costs incurred in the preparation of the statement, interview, or other pre-contract activity are the responsibility of the person submitting the statement.

All submissions become the property of the City and as such are public information.

The contractor will invoice the City Council on a monthly basis during the term of the contract. Work shall be detailed in increments of one-tenth of an hour.

The contract shall contain a provision that any subcontractor proposed to be retained by the respondent to perform work on the contract with the City Council must be approved in advance of such retention by Motion of the Council. The Council may require information on ownership interests in the sub-contractor prior to approval of the sub-contractor's retention.

Section 9-1120, Chapter 2 of the Code of the City of New Orleans, relative to the Office of Inspector General provides in part as follows:

“Every city contract and every bid, proposal or solicitation for a city contract, and every application for certification of eligibility for a city contract or program shall contain a statement that the corporation, partnership, or person understands and will abide by all provisions of this chapter.”

**COMPETITIVE SELECTION PROCESS FOR  
PROFESSIONAL SERVICES CONTRACTS**

**Rule 42.** Pursuant to Section 6-308 (5) (c) of the City Charter, contracts for professional services to be administered by the Council shall include but not be limited to the following professions:

Accountants  
Appraisers  
Architects  
Auditors  
Attorneys  
Economists  
Management Consultants  
Public Relations/Media Consultants  
Real Estate Consultants  
Telecommunications Consultants  
Utilities Regulatory Consultants

The following process shall be followed for retention of consultants with expertise in a field as required by the Council for all contracts at or above the threshold amount established by Section 2-7 of the City Code:

1. Upon determination by a majority vote of the entire membership of the City Council that the services of a professional are needed, a Request for Qualifications (RFQ) or Request for Proposals (RFP), as appropriate based on the scope of work to be performed, shall be issued. The Request shall include the deadline for submission of responses. The RFQ or RFP shall additionally require that the person or entity responding to the RFP or RFQ (the respondent) provide the following information:
  - A sworn affidavit listing all persons with an ownership interest in the respondent. An "ownership interest" shall not be deemed to include ownership of stock in a publicly traded corporation or ownership of an interest in a mutual fund or trust that holds an interest in a publicly traded corporation. This affidavit is a public record.
  - A sworn affidavit stating that no other person holds an ownership interest in the respondent via a counter letter.
  - A list of all persons, natural or artificial, who are retained by the respondent at the time of the application and who are expected to perform work as sub-contractors in connection with the respondent's work for the City Council. The Council may require information on employees or sub-contractors of or ownership interests in the sub-contractor. This list is a public record.
  - A sworn affidavit stating that the affiant is in compliance with Section 2-8(c) of the City Code and that no principal, member and/or officer of the contracting entity has within the preceding five (5) years been convicted of or plead guilty to, a felony under state or federal statutes for embezzlement, theft of public fund, bribery, and/or falsification or destruction of public records. This affidavit shall not be required for contracts or cooperative endeavor agreements between the city and the state(s), the city and the federal government, parishes/counties of the state(s), municipalities, and/or the various agencies/political subdivisions of the above.

- A comprehensive narrative detailing the respondent's plan to comply with the provisions of Article IV of Chapter 70 of the Code of the City of New Orleans pertaining to local and disadvantaged business enterprises (DBE) goals for the City of New Orleans.

The RFQ or RFP shall additionally advise the respondent that the contract with the City Council shall contain a provision that in regard to any sub-contractor proposed to be retained by the respondent to perform work on the contract with the City Council, the respondent must provide notice to the appropriate Council Committee within thirty (30) days of retaining said sub-contractor. The Council may require information on ownership interests in the sub-contractor.

2. The **Request for Qualifications or Request for Proposals** shall be published at least three times in a 5 day period in the Official Journal by the Clerk of Council. The publication may be in brief, if the Request is lengthy, and may be supplemented by letters of inquiry and/or placement of the request in appropriate additional publications.
  3. Interested professionals who respond by the deadline date shall be evaluated by the **Selection Review Committee**. If more than five (5) responses are received, the Selection Review Committee shall review all responses but is authorized to eliminate from consideration, if it deems doing so appropriate, all but the five (5) most qualified and responsive respondents.
  4. The committee shall establish appropriate evaluation criteria, which may include but not be limited to the following:
    - a) Training and experience with type of task required;
    - b) Appropriateness of plan submitted;
    - c) Capability of contractor to provide staffing and support;
    - d) Knowledge of local conditions;
    - e) Ability to provide the work in the time period required, as evidenced by past performance and current workload;
    - f) Involvement of members of disadvantaged groups at the professional level;
    - g) Participation by persons living and/or working in New Orleans at a professional level;
    - h) The need for continuity of services and/or specialized and institutional experience and knowledge; and
    - i) For RFP's, the cost of services to be provided.
- 1) **The Selection Review Committee** shall forward to the Council Committee under whose jurisdiction the subject matter of the contract falls, if any, a list of up to five top respondents, with an analysis of each respondent's compliance with each criterion. If there is no such Council Committee, the list shall be forwarded to the entire Council.
  - 2) **The Council Committee**, or the Council, if there is no specific committee, may choose one of these respondents and negotiate a proposed contract, including a scope of work to be performed. If a proposed contract cannot be negotiated with the firm/individual initially chosen, one of the other firms/individuals submitted by the Selection Review Committee may be chosen; and a proposed contract negotiated.

- 3) **The Council Committee** may recommend to the City Council its choice of the firm/individual. The Council, by a majority vote of its entire membership and by motion, may accept or reject the Council Committee's recommendation and choose one of the other firms/individuals submitted by the Selection Review Committee to the Council Committee. If the Council does not choose one of the firms/individuals submitted by the Selection Committee, the selection process shall begin again. In the absence of a Council Committee, this same process shall be followed by the City Council.
- 4) **The Selection Review Committee** shall consist of the **Council Chief of Staff, the Council Research Officer and either the Council Fiscal Officer or the Chief of Staff of Council Utilities**, depending on the type of professional service to be performed. The Council, responsible committee, or Chief of Staff may invite additional knowledgeable persons to participate as member(s) of the Selection Review Committee when particular expertise would be helpful in the evaluation process. The Selection Review Committee shall conduct its meetings in accordance with the Louisiana Public Meetings Law, R.S. 42:4.1, et seq.
- 5) **Exceptions** from this Competitive Selection process shall be made for:
  - a. Professional services contracts for an individual member's office.
  - b. Emergency situations in which a majority of the entire membership of the Council by motions determines that there is an immediate need for a specific contract and that there is not sufficient time to go through the Competitive Selection Process. Emergency situations may include, but are not limited to, legal actions to which action or response is needed or required in 30 days or less or emergency situations as defined in LA. R.S. 38:2211 A (6). In those emergency instances, where there are available at least 10 working days but not the 30-35 days required for an RFQ/RFP process, an informal process consisting of solicitation of firms/individuals and a shortened review process shall be followed.

The Council, by majority vote of its entire membership, shall determine which contracts are eligible for **exemption** under this sub-paragraph.

- 6) The Council may by motion authorize the amendment of a contract that was under the monetary threshold for use of the competitive selection process to increase the maximum compensation or modify the scope of services if justified by a need to ensure continuity of services for the performance of work related to the original scope of services if the proposed amendment satisfies one or more of the following criteria:
  - a) the increase in scope of work adds a task which can best and most efficiently be performed in a timely and effective manner by a contractor having knowledge and experience gained during performance of the scope of the existing contract;
  - b) the increase in scope of work adds a task which is essential to completion of the original scope of work but could not reasonably have been anticipated when the original scope was developed;

- c) the increase in compensation is needed because the time required to complete the original scope of work exceeded the original estimate, which was reasonable based upon the information available to the Council and its consultant at the time the compensation was agreed upon.
  - d) the Council may authorize no more than three such amendments to any individual contract.
- 7) Upon the completion of each professional services contract, an evaluation report for that contract shall be prepared under the supervision of the Council Chief of Staff by the office utilizing those services. All such reports shall be maintained in the Office of the Council Chief of Staff and shall be provided to the selection committees for future related professional services procurements.
- Renewal or extension of the contract, when continuity of service is essential;
  - Amendments to such contracts that may expand but do not materially alter the scope of services and for which specialized and institutional experience and knowledge are required.  
(M-07-413, Adopted, 10/4/07)

The Council, by majority vote of its entire membership, shall determine which contracts are eligible for **exemption** under this sub-paragraph. (Substitute M-96-29, Adopted, As Amended 2/15/96); (M-07-413, Adopted, 10/4/07)

- (e) The Council may by motion authorize the amendment of a contract that was under the monetary threshold for use of the competitive selection process to increase the maximum compensation or modify the scope of services if justified by a need to ensure continuity of services for the performance of work related to the original scope of services if the proposed amendment satisfies one or more of the following criteria:  
(M-07-413, Adopted, 10/4/07)

- 1) the increase in scope of work adds a task which can best and most efficiently be performed in a timely and effective manner by a contractor having knowledge and experience gained during performance of the scope of the existing contract;
- 2) the increase in scope of work adds a task which is essential to completion of the original scope of work but could not reasonably have been anticipated when the original scope was developed;



- 3) the increase in compensation is needed because the time required to complete the original scope of work exceeded the original estimate, which was reasonable based upon the information available to the Council and its consultant at the time the compensation was agreed upon.
  - 4) the Council may authorize no more than three such amendments to any individual contract. **(M-04-236, As Amended, As Corrected, 5/20/04)**
10. Upon the completion of each professional services contract, an evaluation report for that contract shall be prepared under the supervision of the Council Chief of Staff by the office utilizing those services. All such reports shall be maintained in the Office of the Council Chief of Staff and shall be provided to the selection committees for future related professional services procurements. **(M-16-92, As Corrected, 5/19/16)**