

AGENDA REQUEST

FOR: COUNCIL MEETING OF JUNE 5, 2012

FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Approve The City's Professional Hiring Policy Numbers Pu-12  
And Pu-13

APPROVED FOR AGENDA:



City Attorney

May 17, 2012

Date



Utilities Director

17 May 12

Date



Finance Director

5/17/12

Date



Chief of Staff

5/17/12

Date



Mayor

5/21/12

Date



05-17-12 A09:59 RCVD

Kim G.

**Kit Williams**  
*City Attorney*

**Jason B. Kelley**  
*Assistant City Attorney*

**TO: Mayor Jordan**  
**City Council**

**CC: Don Marr**, Chief of Staff  
**Paul Becker**, Finance Director  
**Peggy Vice**, Purchasing Manager

**FROM: Kit Williams**, City Attorney



**DATE: May 17, 2012**

**RE: Adoption of Professional Services Selection City Policy for contracts under \$20,000.00**

The City Council has clear statutory authority to set “the procedure for making all purchases (under) twenty thousand dollars (\$20,000.00).” A.C.A. §14-58-303(b). You exercised that statutory authority by enacting §34.23 **Purchases and Contracts Not In Excess of \$20,000.00** of the Fayetteville Code. (D) of that code section states

“The hiring or engagement of professional services shall be conducted according to the professional hiring policy approved by the City Council.”

The City of Fayetteville Policy and Procedure covers many, many city policies including Professional Services Selection Process (in Numbers PU-12 and PU-13). These policies and amendments thereto are distributed to department directors for comments before being officially adopted by the Mayor. However, your statutory authority and the code section on professional selection for contracts under \$20,000.00 require your approval of those particular city policies.

I do not believe you have officially approved these policies, and so I am presenting them for your approval through the accompanying Resolution. As Chief Executive Officer and Administrator of the City, the Mayor

has the statutory power and authority to approve and amend all city policies except the portions of PU-12 and PU-13 that apply to contracts less than \$20,000.00. For those portions, the City Council has exclusive approval authority.

I ask that you exercise this approval authority to examine the **Contracts Under \$20,000.00** section of both PU-12 and PU-13 and approve this policy. You also have the statutory power to amend this portion of the policies prior to approving them.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION TO APPROVE THE CITY'S PROFESSIONAL HIRING  
POLICY NUMBERS PU-12 AND PU-13**

**WHEREAS**, the City Council has statutory power to "provide ... the procedure for making all purchases which do not exceed the sum of twenty thousand dollars (\$20,000.00);" A.C.A. §14-58-303(b); and

**WHEREAS**, the City Council enacted §34.23 **Purchases and Contracts Not In Excess of \$20,000.00** and mandated that "the hiring or engagement of professional services shall be conducted according to a professional hiring policy approved by the City Council"; and

**WHEREAS**, the City Policy and Procedure relating to Professional Services Selection should be expressly approved by the City Council to ensure their use for professional services contracts under \$20,000.00 are fully authorized.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves City Policy and Procedure **Professional Services Selection** in Policy Numbers PU-12 and PU-13 (attached) and specifically approves the procedure adopted for contracts under \$20,000.00 that "(t)he requirements for a review committee may be waived (by the Mayor) and the review of qualifications shall be delegated to the responsible department head for recommendation to the Mayor ...."

**PASSED and APPROVED** this 5<sup>th</sup> day of June, 2012.

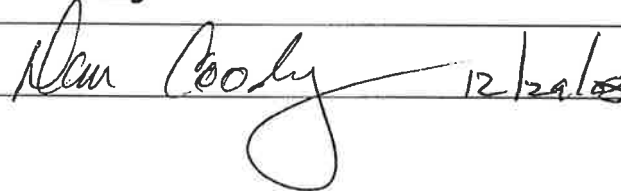
APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

## CITY OF FAYETTEVILLE, ARKANSAS POLICY AND PROCEDURE

<b>Subject:</b>	<b>Professional Services Selection Process: Legal, Financial Advisory, Architectural, Engineering, Land Surveying and Construction Manager</b>
<b>Policy Number:</b>	<b>PU-12</b>
<b>Original Policy Date:</b>	<b>June 27, 1990</b>
<b>Effective Date of New/Revised Policy:</b>	<b>December 22, 2008</b>
<b>Revision Dates:</b>	<b>Replaces PUR-13 issued June 27, 1990; Revised July 8, 2005</b>
<b>Custodian: (Division)</b>	<b>Purchasing</b>
<b>Mayor's Signature and Date</b>	 12/29/08

### **PU-12.0 PURPOSE:**

The purpose of this directive is to establish a formal Competitive Selection of Professional Services Policy for legal, financial advisory, architectural, engineering, construction management and land surveying services and the responsibilities for its execution.

### **PU-12.1 DEFINITION:**

- A. The City and all its boards, commissions and authorities shall competitively select, based on qualifications and performance evaluation criteria, all professional services performed for or on behalf of the City. The three (3) highest qualified firms shall be elected without consideration of the fees. Fees shall be considered as one of the selection criteria for other professional services required.
- B. It is the policy of the City to publicly announce requirements for the competitive selection for professional services as referenced above, and to negotiate contracts for such services on the basis of demonstrated competence and qualifications for the type of professional services required provided that the services are rendered at fair and reasonable prices.

### **PU-12.2 RESPONSIBILITY:**

- A. All municipal boards, commissions, and authorities established pursuant to state statute or other legislative authority other than that provided for in A.C.A. tit.14, ch. 47 A.C.A. sec. 14-47-101 et seq., shall be responsible for the implementation of such policies and procedures as are hereinafter delegated to the Mayor and the City Council.

### **PU-12.3 PROCEDURES:**

- A. The competitive selection for such services shall be conducted by a review committee which shall include one Alderman appointed by the Mayor to serve and represent the Council, the Mayor (or representative), the Finance & Internal Services Director (or representative), the involved Department Heads, appropriate city personnel and may include professionals, and/or individuals with expertise in the community. The review committee for each proposed contract shall establish the qualifications and evaluation criteria necessary for the specific services to be provided. This committee shall be established prior to the issuance of any Request for Proposal (RFP) or Request for Qualification (RFQ) so that it may establish the point ranges for the four selection criteria and review the proposed RFP or RFQ.
- B. The RFP or RFQ shall outline the structure of the selection committee and shall state the point ranges which will be used to select the firm. The RFP or RFQ will not ask for cost estimates.
- C. The Mayor will cause to be advertised in a newspaper of general circulation a notice that the city has a need to contract for a particular professional service and shall invite all interested parties to submit, to the extent permitted by the ethical standards of that profession, a statement of their qualifications and other relevant information based on the evaluation criteria specifically developed for the proposed services to be provided.
- D. Once an RFP or RFQ has been advertised, any questions or inquiries regarding the RFP or RFQ by a prospective responder must be directed to the Purchasing Division. Direct contact by the prospective responder and the effected division/department personnel regarding the RFP or RFQ should be avoided unless referred by Purchasing.
- E. Competitive selection of professional services may be from annual statements of qualifications and performance data. The City may advertise annually for legal, financial advisory, architectural, engineering, construction manager or land surveying services to submit annual statements of qualifications and performance data. The City shall evaluate current statements of qualifications and performance data of firms on file whenever a project requiring these professional services are proposed.

### **PU-12.4 SELECTION PROCESS:**

- A. In evaluating the qualifications of each firm, the review committee shall consider the following (assigning point ranges for each element from 20% to 45%, so that the total for the four elements combined equals 100%):
  1. The specialized experience and technical competence of the firm with respect to the type of professional services required;
  2. The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project;

3. The past record of performance of the firm with respect to such factors as control of costs, quality of work and ability to meet schedules and deadlines; and
  4. The firm's proximity to and familiarity with the area in which the project is located.
- B. The review committee shall evaluate all statements of qualifications and other submittals and may conduct interviews with up to five (5) firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and shall select therefrom, in order of preference, based on criteria established and published by the review committee, no less than three (3) of the firms deemed to be the most highly qualified to provide the services required. The method of selection shall be for each committee member to rate the firms based on the points established in the RFP or RFQ so that each member selects 3 firms, rated 1, 2, and 3. The firm receiving the highest number of 1st place votes shall be selected (if a tie occurs, the firm receiving the highest number of 1st and 2nd place votes shall be selected. If a tie still occurs, the Committee will hold further discussions, followed by a re-vote.)
- C. The review committee or its designee shall negotiate a contract with the highest qualified firm for the services to be rendered, at compensation which the review committee, or its designee, determines is fair and reasonable to the city, subject to the approval of the governing board, commission or authority as referred to in PUR-12.2 (A) of this policy. In making such determination, the review committee or its designee, shall take into account the scope, complexity, and professional nature of the services to be rendered.
- D. Should the review committee, or its designee, be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price determined to be fair and reasonable to the City, negotiations with that firm shall be formally terminated. The review committee, or its designee, shall then undertake negotiations with the second most qualified firm. Should the review committee, or its designee, be unable to negotiate a satisfactory contract with any of the selected firms, the review committee shall reevaluate the necessary legal, architectural, engineering or land surveying services, including the scope and reasonable fee requirements.

#### **PU-12.5 CONTRACT REVIEW/RECOMMENDATION:**

- A. The selection committee will recommend, after negotiations and review by the City Attorney, Finance and Internal Services Director, Internal Auditor, Accounting Manager, and Purchasing Manager, the most advantageous contract to the Board for awarding.

#### **PU-12.6 CONTRACTS UNDER \$20,000:**

- A. The requirement for a review committee may be waived and the review of qualifications as hereinabove stated shall be delegated to the responsible department head for recommendation of the Mayor who shall review and approve or disapprove all professional services contracts in an amount of twenty thousand dollars (\$20,000.00) or less. If no annual statements of qualifications are on record the department head shall solicit qualification statements from appropriate firms for recommendation to the Mayor who shall review and approve or

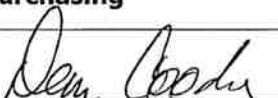
disapprove all professional services contracts in an amount of twenty thousand dollars (\$20,000.00) or less.

**PU-12.7 PROFESSIONAL PROJECT EVALUATION:**

- A. Upon completion or termination of a contract, the division head responsible for the project will submit a summary evaluation of the professional firm's handling of the project to include the following data:
  - a. name of professional firm;
  - b. date of contract and date of completion;
  - c. cost as stated in initial contract, amount paid, and reason for any difference;
  - d. special strengths exhibited by professional firm;
  - e. problems or weaknesses in professional firm's handling of the project;
  - f. adherence to time schedule by the professional firm; and
  - g. names of key personnel working on the project and comments on their performance.
  
- B. The summary evaluation will be submitted to the Purchasing Manager through the department director and will be filed in the Purchasing Manager's records. The evaluations will be available to selection committee members for review when evaluating firms to select for other projects.



## CITY OF FAYETTEVILLE, ARKANSAS POLICY AND PROCEDURE

<b>Subject:</b>	<b>Professional Services Selection Process: Other Services</b>
<b>Policy Number:</b>	<b>PU-13</b>
<b>Original Policy Date:</b>	<b>June 27, 1990</b>
<b>Effective Date of New/Revised Policy:</b>	<b>December 22, 2008</b>
<b>Revision Dates:</b>	<b>Replaces PUR-13 issued June 27, 1990; Revised July 8, 2005</b>
<b>Custodian: (Division)</b>	<b>Purchasing</b>
<b>Mayor's Signature and Date</b>	 12/29/08

### **PU-13.0 PURPOSE:**

The purpose of this directive is to establish a formal Competitive Selection of Professional Services Policy for all professional services other than those for legal, financial advisory, architectural, engineering, construction management and land surveying and the responsibilities for its execution.

### **PU-13.1 DEFINITION:**

- A. The City and all its boards, commissions and authorities shall competitively select based on qualifications and performance evaluation criteria all professional services performed for or on behalf of the City.
- B. It is the policy of the City to publicly announce requirements for the competitive selection for professional services as referenced above, and to negotiate contracts for such services on the basis of demonstrated competence and qualifications for the type of professional services required provided that the services are rendered at fair and reasonable prices.

### **PU-13.2 RESPONSIBILITY:**

- A. All municipal boards, commissions, and authorities established pursuant to state statute or other legislative authority other than that provided for in A.C.A. tit. 14, ch. 47, A.C.A. sec. 14-47-101 et seq, shall be responsible for the implementation of such policies and procedures as are hereinafter delegated to the Mayor and the City Council.

### **PU-13.3 PROCEDURES:**

- A. The competitive selection for such services shall be conducted by a review committee which shall include one Alderman appointed by the Mayor to serve and represent the Council, the Mayor (or representative), the Finance & Internal Services Director (or representative), the involved Department Heads, appropriate City personnel and may include professional, and/or individuals with expertise in the community. The review committee for each proposed contract shall establish the qualifications and evaluation criteria necessary for the specific services to be provided. This committee shall be established prior to the issuance of any Request for Proposal (RFP) or Request for Qualification (RFQ) so that it may review the proposed RFP or RFQ.
- B. The RFP or RFQ shall outline the structure of the selection committee and shall state the point ranges which will be used to select the firm.
- C. The Mayor will cause to be advertised, in a newspaper of general circulation, a notice that the City has a need to contract for a particular professional service and shall invite all interested parties to submit, to the extent permitted by the ethical standards of that profession, a statement of their qualifications and other relevant information based on the evaluation criteria specifically developed for the proposed services to be provided.
- D. Once an RFP or RFQ has been advertised, any questions or inquiries regarding the RFP or RFQ by a prospective responder must be directed to the Purchasing Division. Direct contact by the prospective responder and the affected division/department personnel regarding the RFP or RFQ should be avoided unless referred by Purchasing.

### **PU-13.4 SELECTION PROCESS:**

- A. In evaluating the qualifications of each firm, the review committee shall include the following:
  1. Qualifications in Relation to Specific Project to be Performed: Information reflecting qualifications of the firm. Indicated specialized experience and technical competence of the firm in connection with the type and complexity of the service required. Subcontractors, if used, must be listed with information on their organization.
  2. Experience, Competence, and Capacity for Performance: Information reflecting the names, titles, and qualifications (including experience and technical competence) of the major personnel assigned to this specific project. Provide detailed breakdown of subcontractor's staff to be used and how they are to be used to supplement your staff.
  3. Proposed Method of Doing Work: A proposed work plan (description of how the project would be conducted as well as other facts concerning approach to scope you wish to present) indicating methods and schedules for accomplishing each phase of the work. Include with this the amount of work presently underway.

4. Past Performance: Previous evaluations (as set forth in PUR-13.7) shall be considered a significant factor. If previous evaluations with this city are not available, the professional firm's past performance records with others will be used, including quality of work, timely performance, diligence, ability to meet past budgets, and any other pertinent information. The firm will provide a list of similar jobs performed and the person with that firm from whom the City can obtain information.

5. Price

B. Proposal Evaluation:

In evaluating the qualifications of each firm, the review committee shall consider the following (assigning point ranges for each element from 10% to 35%, so that the total for the five elements combined equals 100%):

1. Qualifications in relation to specific project to be performed;
2. Experience, competence, and capacity of performance;
3. Proposed method of doing work;
4. Past performance; and
5. Price.

- C. The review committee shall evaluate all submittals and may conduct interviews with up to five (5) firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based on criteria established and published by the review committee, no less than three (3) of the firms deemed to be the most highly qualified to provide the services required. The method of selection shall be for each committee member to rate the firms based on the points established in the RFP or RFQ so that each member selects 3 firms, rated 1, 2, and 3. The firm receiving the highest number of 1st place votes shall be selected (if a tie occurs, the firm receiving the highest number of 1st and 2nd place votes shall be selected. If a tie still exists, the Committee shall hold further discussions and a re-vote shall occur.)
- D. The review committee or its designee shall then negotiate a contract with the highest qualified firm for the services to be rendered, at compensation which the review committee, or its designee, determines to be fair and reasonable to the City, subject to the approval of the City Council.
- E. Should the review committee, or its designee, be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price determined to be fair and reasonable to the City, negotiations with that firm shall be formally terminated. The review committee, or its designee, shall then undertake negotiations with the second most qualified firm. Should the review committee, or its designee, be unable to negotiate a satisfactory contract with any of the selected firms, then the review committee shall reevaluate the services including the scope and reasonable fee requirements.

**PU-13.5 CONTRACT REVIEW/RECOMMENDATION:**

- A. The selection committee will recommend, after negotiations and review by the City Attorney, Internal Auditor, Accounting Manager, and Purchasing Manager, the most advantageous contract to the City Council for awarding.

**PU-13.6 CONTRACTS UNDER \$20,000:**

- A. The requirements for a review committee may be waived and the review of qualifications as hereinabove stated shall be delegated to the responsible department head for recommendation to the Mayor, who shall review and approve or disapprove all professional services contracts in an amount of twenty thousand dollars (\$20,000) or less.

**PU-13.7 PROFESSIONAL PROJECT EVALUATION:**

- A. Upon completion or termination of a contract, the division head responsible for the project will submit a summary evaluation of the professional firm's handling of the project to include the following data:
- a. name of professional firm;
  - b. date of contract and date of completion;
  - c. cost as stated in initial contract, amount paid, and reason for any difference;
  - d. special strengths exhibited by professional firm;
  - e. problems or weaknesses in professional firm's handling of the project;
  - f. adherence to time schedule by the professional firm; and
  - g. names of key personnel working on the project and comments on their performance.
- B. The summary evaluation will be submitted to the Purchasing Manager through the department director and will be filed in the Purchasing Manager's records. The evaluations will be available to selection committee members for review when evaluating firms to select for other projects.

FAYETTEVILLE CODE OF ORDINANCES  
TITLE III ADMINISTRATION

municipal improvements. All such purchases and contracts shall be subject to prior appropriations, in the budget approved by the City Council, or to other authorization of expenditures therefor, approved by the Council.

(Code 1965, §2-66; Ord. No. 1215, 9-14-59; Ord. No. 1687, 7-21-69; Ord. No. 3453, 9-5-89; Code 1991, §34.22)

**34.23 Purchases And Contracts Not In Excess Of \$20,000.00**

- (A) All such purchases not in excess of \$20,000.00 shall be made by the mayor, or his duly authorized representative, after the securing and recording of quotation bids therefor; provided quotation bids need not be secured for purchases under \$1,000.00.
- (B) Cost-share agreements with developers or governmental entities for the improvement of City infrastructure are expressly exempt from the requirements of this section. The City Council shall signify its approval of cost-share agreements by Resolution.
- (C) Contracts not in excess of \$20,000.00 shall be made and entered into by the mayor. The mayor shall have the authority to approve contract change orders up to the contingency amount, if any, as set forth in any approved contract even though such contingency amount may exceed \$20,000.00.
- (D) The hiring of engagement of professional services shall be conducted according to a professional hiring policy approved by the City Council.
- (E) *Sole Source Provider*. Multiple quotation bids shall not be required if the Purchasing Manager approves the Sole Source Justification form signed by the requesting Division Head for an item that is uniquely compatible with existing equipment or has unique and essential design or performance features.
- (F) *Waiver of the Requirement for Bids*. The City Council, by ordinance, may waive the requirements of this section for competitive bids or quotes in exceptional situations where this procedure is deemed not feasible or practical.

(Code 1965, §2-67; Ord. No. 1215, 9-14-59; Ord. No. 1687, 7-21-69; Ord. No. 2259, 8-3-76; Ord. No. 3400, 1-3-89; Ord. No. 3453, 9-5-89; Ord. No. 3676, 2-17-93; Ord. No. 3719, 7-6-93; Code 1991, §34.23; Ord. No. 4722, 7-19-05; Ord. No.

4901, 7-18-06; Ord 4963, 12-19-06; Ord. 5298, 12-15-09)

**34.24 Repealed**

**34.25 Sales**

- (A) The purchasing agent may sell or exchange any city-owned supplies, equipment, or materials if such have a fair market value of less than \$2,500.00 through a quote process. Vehicles and heavy equipment are excluded from this process.
- (B) Such supplies, equipment, or materials which have a fair market value of \$2,500.00 or more may be sold by the purchasing agent by public auction or by contract sale after formal competitive bids for the purchase therefore have been solicited by advertisement and by other means and such bids have been received and opened.
- (C) In regard to the marketing and sale of hay produced by the City of Fayetteville:
  - (1) The current year's hay crop shall be advertised for sale, at a pre-established base price on or about April 1<sup>st</sup> of a given year. The hay shall be pre-committed, on a first call, first commit basis, up to 60% of the projected crop. Any remaining hay shall be marketed during the harvest season at the same base price on a first call, first served basis.
  - (2) A base or standard price shall be established based on average fair market value for square baled Bermuda grass hay, behind the baler, in Northwest Arkansas, or based on the best available information from the cooperative extension service.
  - (3) Prior to buyer's removal of the hay from the site, adjustments as determined by site operating personnel, will be made to the base price for quantity purchases; according to the type of bale purchased; and the relative quality of the harvested hay; and for damage the hay may have received during the harvest.
- (D) In regard to the marketing and sale of dried biosolids produced by the City of Fayetteville Wastewater Utility:
  - (1) Bulk quantities of dried biosolids (defined as amounts greater than 500 pounds not in a

