

RESOLUTION

WHEREAS, on March 12, 2002, the City Council adopted a resolution approving the use of competitive sealed proposal as an alternative procurement method for construction and determined that the competitive sealed proposal alternative procurement method was the procurement method that provided the best value for the City for the construction of facilities; and

WHEREAS, on April 23, 2002, the City Council adopted a resolution approving the evaluation criteria and the relative weight for each criterion, for use in evaluating competitive sealed proposals for the construction of facilities;

WHEREAS, on July 20, 2004, the City Council adopted a resolution approving the use of competitive sealed proposal, design-build and job order contracts as the alternative procurement methods which provided the best value for the City for the construction of facilities and delegated authority to the Director of Purchasing to determine, before advertising which of the three methods would provide the best value to the City; and

WHEREAS, on July 20, 2004, concurrent with the resolution approving the use of competitive sealed proposals, design-build and job order contract as the alternative procurement methods which provide the best value for the City for the construction of facilities, the City Council adopted a resolution approving new evaluation criteria and establishing the relative weight for each criterion, for use in evaluating competitive proposals for the construction of facilities; and

WHEREAS, on June 8, 2010, the City Council adopted a resolution approving competitive sealed proposal, design-build and job order contracts as the selection methods that provide the best value to the City for the construction of facilities and adopted a Competitive Sealed Proposal Policy which set forth the selection criteria and the relative weight for each criterion for the competitive sealed proposal method of selection; and

WHEREAS, on July 17, 2012, the City Council adopted a resolution approving a Design-Build Policy, which set forth the requirements for use of the Design-Build alternative procurement method, including how the determination will be made to use the Design-Build procurement method; and

WHEREAS, on September 18, 2012, the City Council adopted a resolution approving Construction Manager At Risk as an alternative construction project delivery method; and

WHEREAS, on September 18, 2012, concurrent with the resolution approving the use of Construction Manager At Risk as an alternative project delivery method for the City, the City Council approved a Construction Manager At Risk Policy for City facilities; and

WHEREAS, City Council now desires to delegate authority to the City Engineer to determine, before advertising, which approved alternative delivery method for construction

provides the best value to the City, and adopt a new Competitive Sealed Proposal Policy to include additional evaluation criteria as permitted by Texas Government Code Section 2269.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Council hereby approves and adopts Competitive Sealed Proposal, Design-Build, and Construction Manager at Risk as alternative project delivery methods for the construction, rehabilitation, alteration, or repair of a facility and Job Order Contract as an alternative project delivery method for maintenance, repair, alteration, renovation, remediation, or minor construction of a facility when the work is of a recurring nature but the delivery times, type, and quantities of work required are indefinite; and

That the City Council delegates to the City Engineer, the authority to determine, before advertising, which approved alternative project delivery method for construction, if any, provides the best value to the City; and

That selection of the Competitive Sealed Proposal method by the City Engineer does not require City Council approval before issuance of a Competitive Sealed Proposal solicitation; and

That the City Council hereby adopts the City of El Paso Competitive Sealed Proposal Policy, for construction, rehabilitation, alteration or repair of City facilities which is attached to this Resolution as *Exhibit A*. *Exhibit A* hereby replaces the resolutions approved on March 12, 2002, April 23, 2002, and July 20, 2004 and the Competitive Sealed Proposal Policy approved on June 8, 2010.

ADOPTED this _____ day of _____, 2014.

CITY OF EL PASO

Oscar Leeser
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Cynthia Osborn
Assistant City Attorney

APPROVED AS TO CONTENT:

Irene D. Ramirez, P.E.
Interim City Engineer

EXHIBIT A

THE CITY OF EL PASO COMPETITIVE SEALED PROPOSAL POLICY

I. Introduction

Texas Government Code Chapter 2269 allows the City to use the Competitive Sealed Proposal method for the construction, rehabilitation, alteration, or repair of a facility. A facility means an improvement to real property.

Competitive Sealed Proposal is a procurement method by which the City requests proposals, ranks the offerors, negotiates as prescribed, and then contracts with a general contractor for the construction, rehabilitation, alteration, or repair of a facility.

State law requires that, prior to using an alternative procurement method permitted by Texas Government Code Chapter 2269, the governing body of a governmental entity, shall determine, before advertising, which method provides the best value for the City. By Resolution approved concurrently with this policy, the City Council delegated to the City Engineer, the authority to determine, before advertising, which alternative project delivery method for construction, if any, provides the best value to the City and that selection of the Competitive Sealed Proposal method by the City Engineer does not require approval by City Council before issuance of a Competitive Sealed Proposal solicitation.

II. The Procurement Process

The city shall select or designate an architect or engineer to prepare construction documents for the project.

The City shall prepare a request for competitive sealed proposals that includes construction documents, selection criteria and the weighted value for each criterion, estimated budget, project scope, estimated project completion date, and other information that a contractor may require to respond to the request.

The City shall advertise or publish notice of the time and place the proposal will be received and opened. The notice must be published in a newspaper of general circulation once each week for at least two weeks before the deadline for receiving proposals.

A person who submits a proposal shall seal it before delivery.

The City shall receive, publicly open, and read aloud the names of the offerors and any monetary proposals made by the offerors.

Not later than the 45th day after the date on which the proposals are opened, the City shall evaluate and rank each proposal submitted in relation to the published selection criteria. The City shall select the offeror that submits the proposal that offers the best value for the City based on the selection criteria in the request for proposal and the weighted value for those criteria in the request for proposal. The City shall first attempt to negotiate a contract with the highest ranked

offeror. The City and its architect or engineer may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification.

If the City is unable to negotiate a satisfactory contract with the selected offeror, the City shall, formally and in writing, end negotiations with that offeror and proceed to the next highest ranked offeror until a contract is reached or all proposals are rejected.

If the City is able to negotiate a satisfactory contract with a selected offeror, the contract shall be presented to City Council for award. The City shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded.

III. Selection Criteria

A. The selection criteria, together with the weighted value for each criterion, shall be clearly identified in the City's request for proposals. The weighted value for any one criterion shall not exceed 50% of the total value of all criteria except upon approval by City Council. The criteria shall be established to meet the specific needs of a particular project and pursuant to Texas Government Code Chapter 2269.055, may include any of the following:

- 1) The price;
- 2) The offeror's experience and reputation;
- 3) The quality of the offeror's goods or services;
- 4) The impact on the ability of City to comply with rules relating to historically underutilized businesses;
- 5) The offeror's safety record;
- 6) The offeror's proposed personnel;
- 7) Whether the offeror's financial capability is appropriate to the size and scope of the project; and
- 8) Any other relevant factor specifically listed in the request for proposals.

B. The following selection criteria may be included under "other relevant factors" provided the criteria are clearly identified in the City's request for proposals together with the weighted value for each criterion:

- 1) Health benefits; provided that the total weight for the provision of health benefits by the contractor/bidder/vendor to employees shall not exceed 5% of the total value of all criteria.
- 2) Local preference criteria; provided that the total weight for all local preference criteria shall not exceed 5% of the total value of all criteria, including:
 - a. Location of primary headquarters or executive office where corporate officers are located from which the operations of the business are directed and controlled by its officers or owners.
 - b. Length of time business has been established in incorporated limits of El Paso.
 - c. Number of employees which reside within City of El Paso.

- d. Does contractor/bidder/vendor own or lease real property in incorporated limits of City?
- e. Are contractor/bidder/vendor's facilities fully operational with sufficient equipment, supplies and personnel to provide the product or service of the business in question without significant reliance on the resources of another entity or affiliate located outside the corporate limits of the City?
- f. Is the contractor/bidder/vendor's facility a temporary construction trailer or temporary structure?

Date: _____



Competitive Sealed Proposal Policy Proposed Revisions Legislative Review Committee Agenda Item #2 - April 7, 2014



Background

Alternative Procurement Methods

- In addition to Competitive Bidding, Texas Government Code Chapter 2269 allows municipalities to utilize any of the following alternative procurement methods for construction projects:
 - Competitive Sealed Proposal*
 - Construction Manager at Risk*
 - Design Build*
 - Job Order Contracts for minor construction*
 - Construction Manager-Agent
- * Methods City Council has adopted



Alternative Procurement Methods

- State law requires that the Governing Body, determine, before advertising, which alternative method provides the “best value” for City
- Current City policies for Design-Build and Construction Manager-at-Risk methods delegate authority to the City Engineer to determine which method to utilize and require City Council approval prior to issuance of solicitation
- Current City policy for Competitive Sealed Proposal method
 - Delegates to Purchasing Director authority to determine when CSP method is the best value to the City
 - Does not require City Council approval prior to issuance of solicitation
- City practice has been to limit CSP method to construct new facilities



State Law: Allowable Criteria

- State law allows consideration of the following evaluation criteria when using the Competitive Sealed Proposal method
 - Price
 - Offeror's experience and reputation
 - Quality of Offeror's goods and services
 - Impact on the ability of the City to comply with rules relating to historically underutilized businesses
 - Offeror's safety record
 - Offeror's proposed personnel
 - Offeror's financial capability is appropriate to the size and scope of the project
 - Any other relevant factor



Current City Policy: Criteria

- Current City policy for CSP limits evaluation criteria to the following only and sets the weight for each criterion
 - Price – 75%
 - Past Performance – 20%
 - Provision of Health Insurance – 5%
- Current City policy limits City's ability to take full advantage of CSP method
- Example: Traffic Center Management, CSP issued July 2013
 - Specialized construction, highly technical
 - Could not utilize any other evaluation factor that considered experience related to building a center like this
 - Re-bid, removed requirement of having built TMC



Proposed Revisions

- Revise policy to delegate to *City Engineer* authority to determine when Competitive Sealed Proposal method is best value to City
- Specify that City Council approval is not required prior to issuance of CSP solicitation
- Clarify that Competitive Sealed Proposal method may be used for construction, rehabilitation, alteration, or repair of a facility
- Allow staff to choose from list of allowable criteria on a case-by-case basis and set weight for each criterion; none to exceed 50%
- Add consideration of principle place of business as permissible evaluation criterion, to allow for application of local preference policy adopted by City Council



Summary

- “One size fits all” approach is limiting given amount of projects being let
- Revisions allow flexibility is setting varying criteria for each project based on special needs
- Revisions will reduce time to issue and evaluate solicitations and execute projects
- Presented to industry and obtained positive feedback
- Will continue outreach via workshops on all alternative procurement methods



Questions/Comments