



# Memorandum

**TO:** MAKING GOVERNMENT WORK  
BETTER COMMITTEE

**FROM:** Deanna J. Santana

**SUBJECT: REPORT ON THE CITY'S  
REQUEST FOR PROPOSALS  
PROCESS**

**DATE:** September 9, 2004

Approved

Date

## **RECOMMENDATION**

Accept the report on the City's Request for Proposals (RFP) process and direct staff to return with proposed guidelines for improving the City's RFP process.

## **BACKGROUND**

On June 22, 2004, the City Council directed staff to provide a report to the Making Government Work Better (MGWB) Committee on the City's RFP process. This direction was made during Council discussion on the recommendation for the converged network for the New City Hall. Specific action regarding the converged network was referred to future Council meetings for discussion and action, and the broader discussion on RFPs was referred to the MGWB Committee.

## **ANALYSIS**

This report covers the City's current RFP process, includes discussion on the recent RFP recommendations made by the City Attorney and City Auditor, and provides research on other RFP practices. This report also incorporates discussion of the developing administrative procedures and definitions related to conflict of interest with consultant contracts.

With the presentation of this information, staff would like to obtain input from the MGWB Committee on improving the RFP process, along with previous Council discussions. Input obtained from the Committee's discussion will be used to develop new RFP guidelines and will be presented to the MGWB Committee for consideration in the January 2005.

## **Procurements and Contracts**

The San Jose Municipal Code, Section 4.12, Purchases of Supplies, Materials and Equipment, and 4.13, Contracts and General Services, outline the detailed procurement procedures required for the purchase of supplies, materials, equipment, and general services. In addition, the Department of General Services utilizes administrative policies to implement the Municipal Code provisions.

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These policies are contained in the Purchasing Guide, Request for Proposal Procedures Manual, and Purchasing Administrative Manual.

The San Jose Municipal Code requires that three competitive proposals shall be obtained if practical on all contracts for general and professional services with a payment amount exceeding \$5,000. Contracts for the procurement of supplies, materials, and equipment that exceed \$100,000 must be awarded to the lowest responsive bidder pursuant to a Formal Bid process. A Request for Quotation (RFQ) can be used for products not subject to formal bidding requirements, less than \$100,000, or straightforward service purchases (those easily specified with award typically based on low price).

The procurement of supplies, materials, equipment and general services (i.e. repair and maintenance services) is centralized in the Department of General Services' Purchasing Division. The Purchasing Division is responsible for the entire process from the conduct of the selection process through the development and award of the contract.<sup>1</sup> Depending on the complexity of the purchase or service, the contract may be a form purchase order, form service order or a contract negotiated and drafted for the particular purchase or service.

The procurement of professional ("consultant") services is decentralized. Each City department is responsible for the procurement of consultant services required by the department. This responsibility includes the conduct of the selection process, the development of the consultant agreement, working with their assigned attorney in the City Attorney's Office, and processing the approval of the agreement by the City Council or the City Manager, as appropriate.<sup>2</sup> The decentralization of professional services procurements is under evaluation by the Strategic Support City Service Area. The CSA is evaluating a new procurement function to oversee all procurement, from complex services to bulk commodity purchases. This new procurement function would serve as the centralized single point of contact and would perform at a higher-level procurement function than exists currently.

In addition to the above, the Department of Public Works has been working on an update to the Qualification Based Consultant Selection Policy. This is a department policy approved by the Council. The main purpose of the update is to: increase consistency within the Department and to clarify the process; bring the policy into alignment with other policies (i.e.. Local Preference Policy); and, bring transparency to the process so that the consultant community is more trusting of the process. Key elements of the process include: increased owner department and community stakeholder involvement; three process: Minor < \$100,000, Intermediate \$100,000 to \$500,000, and Major > \$500,000; points for local and small businesses; composite scores reported to the Council; and, consultants can obtain detailed scores. The efforts of improving the Qualification Based Consultant Selection Policy process will be used to inform the process to improve RFPs.

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<sup>1</sup> The City Council approves the award of contracts for general services and the purchase of equipment where the compensation exceeds \$100,000. The General Services Director is authorized to award the contract for general services and the purchase of equipment where the compensation is less than \$100,000.

<sup>2</sup> The City Manager is authorized to execute professional services agreements in an amount not to exceed \$100,000. Agreements exceeding the City Manager's authorized amount require City Council approval.

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*The remaining discussion focuses on the City's current RFP process.*

### **City's RFP Process**

A RFP is used for more complex service procurements where the City is looking for a "solution" to an identified need. The RFP process allows the City to procure services in a manner that allows for a qualitative evaluation based on various factors, i.e., cost, quality, capabilities/ expertise, adherence to Council policy, local and small business preference, etc. This process allows the City to identify the best-proposed solution that meets the City's requirements and is not based solely on lowest cost.

Although RFPs are typically used to procure high dollar, complex software and services, at times ancillary supplies and equipment that are integral to these service requirements are included the RFP. Recently, the City Attorney's Office and Department of General Services began examining the Municipal Code to clarify to what extent products may be procured through the RFP process. The nature of the requirement/identified need determines the extensiveness or complexity of the RFP.

To illustrate the City's current RFP process, the following is an example of a general RFP process. It should be noted that not every RFP process necessarily needs to include all of the steps or necessarily needs to proceed in the manner described. The key to a fair process is to state the process clearly from the outset and to adhere to the stated process throughout.

1. **Create RFP document**— Depending on the complexity of the goods or services solicited, the process of developing an RFP can require extensive coordination among the City Attorney's Office, departments and Purchasing Division staff. However, there are three main categories of an RFP:
  - A. **Standard information**, which includes minimum qualifications, process timeline, and various attachments which may include (depending on the requirement):
    - Proposer questionnaire
    - Work environment questionnaire
    - Exemplar Agreement, containing standard terms and conditions that the City expects the proposer vendor to agree to, if selected
    - Insurance requirements
    - Equality Assurance requirements
  - B. **Specifications**, sometimes presented as a scope of services, which describe the City's requirements;
  - C. **Instructions on how to respond to the RFP**. Typically, the City requires that proposals be categorized as follows:

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- Technical proposal, describing the proposer's solution to the City's stated requirements
- Management plan, which describes the project structure, provides credentials on key team members, and describes how their proposed solution will be deployed.
- Cost Proposal, detailing the cost of the proposed solution. Depending on the RFP, cost proposals may be submitted as separate sealed documents, and are only opened after the technical and management proposals are evaluated and scored.
- Completed Attachments, as described in Section A above.

During this period, the evaluation criteria are established and the Evaluation Committee is named. The Evaluation Committee is responsible for reviewing and scoring the proposals. The Evaluation Committee is made up of individuals that offer expertise regarding the goods and/or services solicited and are not necessarily City staff. To ensure fairness and consistency in scoring, it is almost always mandatory that every member of this Committee evaluates all proposals, attends all meetings and briefings to discuss scoring, and attends all oral interviews. The commitment in time can be substantial.

2. **Evaluation Committee**—This item was partially addressed in Section 1. The Purchasing Division representative in charge of the procurement works with the requesting department to put together a cross-functional panel of at least three individuals to review the responses to the RFP. The panel members should consist of individuals that have a technical understanding if applicable, at minimum one "user" of the service, and an external evaluator, if practical.

Once the team is selected, a meeting is set to brief all members on the proper procurement protocols and the ground rules for the RFP evaluation process. The panel will then begin discussions on the evaluation criteria and interview questions, if applicable. This work begins early in the RFP process, as acknowledged in Section A of this report.

Typically, all scoring is done independently by each committee member, and discussed jointly in meetings in the presence of a purchasing representative.

3. **Advertise and distribute**—Following completion of the RFP document, the Purchasing Division advertises the RFP opportunity on its website to facilitate competition ([www.ci.san-jose.ca.us/purch/Purch.htm](http://www.ci.san-jose.ca.us/purch/Purch.htm)). In addition, RFPs are typically distributed to interested parties via an electronic solicitation tool, e-mail, fax or regular mail.
4. **Pre-proposal conference**—A mandatory meeting is typically held to clarify the ground rules for appropriate procurement processes and allows potential proposers an opportunity to review with staff the details of the RFP document and process (i.e. schedule, clarifications etc.). This meeting also allows staff an opportunity to address and document questions and clarifications. Following the pre-proposal conference, written addenda are sent to all companies that were in attendance for purposes of clarification.

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5. **Written Questions and Answers period**— During the open question and answer period, which is date and time specific and noted in the RFP, proposers may seek additional clarification by submitting their questions in writing to the designated City contact. Staff consolidates all questions, and provides written responses as RFP addenda to all companies participating in the RFP process before the end of the open question and answer period. This process ensures that all proposers receive the same information at the same time.
6. **Proposal Evaluation**— In designing the evaluation process, the City works to create an unbiased and impartial process that is in compliance with the Municipal Code. The number of tiers in the review process depends on the size and complexity of the RFP.

A one-tier review consists of the evaluation panel considering technical ability, overall competence and the cost proposal simultaneously. One-tier evaluations are typically used on RFPs with a smaller scope of services.

A multi-tier review is one in which the overall capacity of the proposers to provide the service is rated separately from the cost proposal and other factors. A multi-tier evaluation is commonly used on larger, more complex RFPs. The primary reason for separating the cost and technical proposals is to avoid inadvertently influencing the technical evaluation team with pricing information. In addition, some RFPs only request cost proposals from finalists that receive the highest scores on their technical proposals.

7. **Evaluation Criteria** – The evaluation criteria used are based on the criteria outlined in the Municipal Code, Section 4.13.040. Although these basic criteria can be augmented to meet the specific requirements of the RFP, the fundamental requirements are as follows:
  - Cost;
  - Quality;
  - Capabilities and Expertise;
  - Adherence to Council Policies;
  - Local and Small Business Preference.

The evaluation criteria are to be structured and phrased so that a numerical score can be given to each factor. If any weighted factors are to be used, they should relate to the goals and needs of the department. If there is no such basis for using established weights, weighted criteria will not be used.

Before the evaluation process begins, the panel members should meet to discuss the criteria developed for the RFP. Panel members should be thoroughly familiar with the criteria and the panel should reach a consensus on what each criterion means and how it is to be evaluated. The use of a pre-briefing meeting helps ensure that the panel is using standard interpretations of the rating criteria.

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- 8. Oral Interviews**—Oral Interviews provide a structure for allowing City staff the opportunity to meet key representatives that will be assigned to the project (such as the proposer's program manager), observe product presentations (typical for software purchases), and provide staff the opportunity to seek clarification on any aspect of the proposal or presentation through a Q&A process.

The Evaluation Committee sets the format for the Oral Interviews and shares this information with the proposers that have been invited for interview. This allows the proposers to develop presentations that are similar in format, and designed to address the City's objectives. Scoring of the Oral Interviews is logged by each Evaluation Committee member, but not shared with the proposers.

- 9. Final Selection** – After all of the scoring based on the evaluation criteria is complete, a final meeting is held with all evaluators to review and discuss the total scoring, agree on a final ranking, and understand and agree on the relative differences between each of the top scorers. Depending on the procurement, these scores and ranks are sometimes presented to an executive body for final validation and approval.

In a multi-tier process, where scores on technical non-cost criteria are separated from cost scores, the final technical scores and ranks are established and approved then, cost proposals are opened and presented to either the evaluation committee, or an executive responsible for making the final selection. If the proposer receiving the highest technical score also submits the lowest price, then the recommendation for award will be to that proposer. If the proposer receiving the highest technical score is not the lowest price, then a value analysis is performed to determine the combination of price/performance that is most advantageous to the City. This constitutes a "value analysis" and will be up for review as part of the RFP process improvements.

- 10. Present recommendation to Council for consideration**— City Council approval is required for all procurements over \$100,000. Staff presents a Council memo that describes the need for the requested product or service, and the process by which the recommended supplier was selected. Typically, if Council agrees with staff's recommendation, it authorizes the Administration to negotiate and execute with the recommended vendor.
- 11. Final contract negotiations** – If Council has directed the Administration to negotiate and execute an agreement, staff from the department, City Attorney's Office, and Department of General Services work with the recommended proposer to finalize an agreement. If required, this agreement is presented to Council for final review and approval.

## **GUIDELINES FOR IMPROVEMENT**

Improving the RFP process has been the subject of much discussion over the past months. Attachment A provides a summary of twelve recommendations made recently by the City Auditor

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and City Attorney that stem from investigation of the CUSP RFP and the Converged Network RFP processes.

In addition to the twelve recommendations in Attachment A, the following enhancements to the RFP process are topics for further evaluation and/or immediate implementation, which are:

- ***Conflict of Interest***—Improving the administrative procedures for evaluating potential Conflicts of Interest of the staff, evaluators, and consultants who are involved in the development of RFPs or in the evaluation of RFP responses. In order to address potential conflicts of interest, two questionnaires are in the process of being developed: one for City employees and unpaid evaluators and the other for the City's consultants. The consultant questionnaire is to be completed as part of the selection process for the consultant. The goal is to identify any potential conflicts of interest of the consultant prior to commencement of the consultant's work on the project. Following the selection of the consultant, under State law, the consultant's personnel may also be required to complete the Statement of Economic Interest Form (aka Form 700). The attached consultant questionnaire has been used in the RFQ for the converged network consultant.

With respect to City employees participating in the RFP process, the Form 700 could serve the purpose of the conflict questionnaire for those employees required to file this form. For those employees not required to file the Form 700 or for unpaid evaluators, the consultant questionnaire could be revised to be applicable to staff and unpaid evaluators. The use of conflict of interest questionnaires is also referenced in Attachment A, and while the use of the consultant questionnaires has been implemented, staff needs to evaluate their effectiveness as well as any revisions that would improve their usefulness. In addition, staff will formalize the use of the questionnaires through an administrative policy.

- ***Centralized Service***—Establishing a new, centralized procurement function, as discussed earlier in this report.
- ***Request for Information Guidelines***—Establishing guidelines of when issuing a Requests for Information (RFI) is appropriate, prior to developing a RFP, as a means of obtaining more detailed market information for complex procurements, setting standards and/or even proceeding with a RFPs as the mechanism to procure.
- ***Process Integrity Guidelines***—Already staff has begun developing Process Integrity Guidelines for RFP proposers. These guidelines establish conduct standards for prospective proposers and will be incorporated into the RFP document. The guidelines will provide conduct standards for prospective proposers during the development of the RFP, while it is in circulation, while being evaluated, and post-recommendation.
- ***RFP Validation Teams***—Setting validation teams to uphold high-profile, complex RFP processes.
- ***Process Support Teams***—Establishing process support teams to enhance staff capacity and assist with guiding RFP processes, along with utilizing staff team approach from across departments to assist with high-profile, complex RFPs where staff capacity and/or experience

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may be limited (including purchasing support, RFP writing assistance, RFP administration support, etc.).

- ***RFP External Resources***—Obtaining external resources by contract, when internal resources are limited (including purchasing resources).
- ***Council Report Template***—Developing a Council report template to provide consistent information to Council on RFP processes and award.
- ***Evaluation Criteria Review***—Improving the evaluation criteria process, including adding criteria that accounts for value-added services as a consideration. These are services or synergies that were not necessarily part of the goods or services procured, but come as a byproduct of selecting a particular vendor. In addition, the “value analysis” process will be further evaluated to reconcile the City’s need to remain flexible when evaluating RFP proposals, while providing proposers enough information to understand how scoring will be weighted.
- ***Consistency***—Strengthening controls to ensure that data comparisons are consistent throughout the RFP process.
- ***Outlet for Concerns***—Reemphasize and strengthen the City’s existing process for proposers to express concerns during and after a RFP process.
- ***Use of Technology***—Identifying enhanced use of technology (i.e., internet) to improve RFP process.

## **OTHER RFP PRACTICES**

A matrix of other RFP practices is being prepared for distribution at the MGWB Committee. Due to workload constraints, at the time that this report was distributed, the matrix was not yet complete. The information contained in the matrix will be used to review against the City’s RFP process, and will provide additional input on best practices.

## **PUBLIC OUTREACH**

This report summarizes the City’s current RFP process and no public outreach was conducted to complete this report. Public outreach is conducted for each RFP the City releases. In addition, public outreach will be completed prior to proposing an improved RFP process.

## **COORDINATION**

This report has been coordinated with the City Attorney’s Office and Department of General Services.

DEANNA J. SANTANA  
Assistant to the City Manager

**Table 1: RFP Recommendations (City Auditor and City Attorney's)**

Source	Recommendation	Response/Workplan
CUSP Rec. #1	The City require consultants to complete a conflict of interest questionnaire affirming that he or she has no actual or apparent financial or other conflicts of interest related to any specific project. (Priority 1)	A questionnaire has been developed to address this recommendation. In appropriate cases, consultants will also complete the State's Statement of Economic Interest Form (aka Form 700). This recommendation will be formalized during the development of the new RFP guidelines.
CUSP Rec. #2	The City require all City personnel who participate in an evaluation process to complete a similar questionnaire. (Priority 1)	Staff, with assistance from the City Attorney's Office, is in the process of developing a new form to respond to this recommendation. The Form 700 could be used for those employees required to file this form.
CUSP Rec. #3	City staff should immediately request a formal City Attorney opinion when any conflict of interest issues arise. (Priority 1)	Staff has been directed to obtain input from the City Attorney's Office during the various levels of the RFP process. This recommendation will be formalized more so during the development of the new RFP guidelines.
CUSP Rec. #4	City staff level future vendor cost proposals only for budgeting purposes and after the City has selected a vendor. (Priority 3)	This recommendation is under consideration and will be responded to as part of the development of the new RFP guidelines.
CUSP Rec. #5	The City develop a formal policy regarding when it is appropriate for City staff to question and/or communicate with respondents to City RFPs. (Priority 3)	This recommendation will be formalized during the development of the new RFP guidelines. Given the current events, staff has proceeded with carefulness.
CUSP Rec. #6	The General Services Purchasing Division should be the City's primary point of contact and the manager of the RFP process for all RFPs in which general services and commodities are being procured. (Priority 3)	This recommendation is under consideration and will be responded to as part of the development of the new RFP guidelines. Staffing capacity greatly impacts the ability of the Purchasing Division to serve as primary point of contact. Under consideration is other options that address staffing capacity and achieve overall goal of having one primary point of contact.
NCH-CN Rec. #1	The City Attorney review with the City Manger's Office and the General Services Department the need for clarification or other amendments to the SJMC standardization provisions. (Priority 2)	The City Attorney's Office, City Manager's Office, and Department of General Services staff have been meeting weekly to review standardization best practices and potential amendments to the current San Jose Municipal Code.
NCH-CN Rec. #2	The Administration develop a policy to require a formal contract with scope of service and nondisclosure provisions for non-compensated outside parties who are providing technical or specialized assistance to the City. (Priority 3)	The City Manager's Office, City Attorney's Office, and Department of General Services staff is working on such a policy. This recommendation will be formalized during the development of the new RFP guidelines.
NCH-CN Rec. #3	The City structure its RFPs to facilitate the evaluations of minimum qualifications requirements. (Priority 3)	This recommendation will be formalized or addressed during the development of the new RFP guidelines.
NCH-CN Rec. #4	The City include in its RFPs the relative importance of price and other factors and sub factors. (Priority 3)	This recommendation will be formalized or addressed during the development of the new RFP guidelines.
NCH-CN Rec. #5	The General Services Department work with the City Attorney to look for ways to improve how the City evaluates and scores responses to RFPs and considers price relative to other evaluative factors. (Priority 3)	The City Manager's Office, City Attorney's Office and Department of General Services is conducting research, some of which is attached, to benchmark other agencies and best practices. This recommendation will be formalized or addressed during the development of the new RFP guidelines.
NCH-CN Rec. #6	SJMC Section 4.13.010 be amended to clarify that the request for proposal method of procurement is authorized where the provision of services and the purchase of equipment are integral to each other in accomplishing the purpose of the project and the services are not merely incidental to the equipment purchase. (Priority 3)	The City Attorney's Office, City Manager's Office, and Department of General Services will be working on this directive as part of developing the new RFP guidelines.