

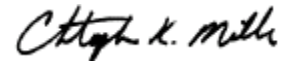
REQUEST FOR COUNCIL ACTION

Date: 8/10/09
Item No.: 13.b

Department Approval

Acting City Manager Approval





Item Description: Discussion of Revised Professional Services Policy

1 **BACKGROUND**

2 The City Council has discussed possible revisions to the Professional Services Policy.
3 Councilmember Pust presented suggested changes at the June 8, 2009 meeting. Councilmember
4 Roe had previously provided revisions for consideration. Attached for Council discussion is a
5 draft of the City Manager recommended policy reflecting Councilmembers' suggested revisions.

6 **STAFF RECOMMENDATION**

7 Discuss revisions to the Professional Services Policy.

8 **REQUESTED COUNCIL ACTION**

9 Discuss revisions to the Professional Services Policy.

Prepared by: William J. Malinen

Attachments: A: City Manager recommended revised Professional Services Policy
B: Minutes of June 8, 2009 Council Meeting regarding Professional Services Policy
C: Councilmember Pust Professional Services Policy revisions
D: Councilmember Roe Professional Services Policy revisions

Professional Services Policy

Background

The City of Roseville retains outside firms or individuals to provide professional services in many areas, including:

- ☐ Legal (Prosecution, Civil, Economic Development, and Bond Counsel)
- ☐ Appraisal
- ☐ Planning and Landscape Design
- ☐ Audit
- ☐ Engineering, Architectural, and Environmental

The City enters into professional services contracts for specific projects or services, for a specific period of time.

Purpose

The City of Roseville has determined that it is good public policy to utilize a method of selecting and retaining professional services in order to:

- ☐ Ensure Citywide consistency in the process of selecting and retaining professional services.
- ☐ Ensure public confidence in the integrity of the professional services provided to the City.
- ☐ Ensure that the City obtains the best overall value for its investment when retaining professional services.
- ☐ Ensure a regular, consistent fiscal review of professional services.

Policy

Contracts for professional services shall be for terms of not more than three (3) years. Term based contracts shall not be renewed at their expiration, except as a result of a competitive selection process consistent with this policy, unless this requirement is waived by a vote of the City Council.

Multi-year contracts shall include a performance review to ensure that the purposes of the contract are being met. All contracts shall, by their terms, allow the City to terminate the contract prior to completion if the City determines that the contract does not continue to serve the City's purposes.

Selection of firms shall be through a competitive process, using the "best-value" procurement process whenever applicable and appropriate.

All professional services contracts shall be approved by the City Council.

The City Council should be represented in the interviews and evaluation of candidate forms for Civil Attorney services, including the determination of evaluation criteria.

1 Firms selected to provide professional services to the City of Roseville:
2

- 3 ☐ Will avoid any conflicts of interest and commit to the principles of the Professional
4 Code of Ethics for their profession and the City of Roseville Code of Ethics for
5 Public Officials.
- 6 ☐ Will conduct their business through designated Roseville City staff as approved by
7 the City Manager.
- 8 ☐ Will not represent any individual or corporation involved in litigation against the
9 City of Roseville.
- 10 ☐ Will comply with all applicable state and federal laws and local ordinances.
11
12

Excerpt - 6/30/09 Roseville City Council Minutes

Discuss Professional Services Policy

Councilmember Pust introduced proposed revisions to the City's Professional Services Policy and apologized that the information was not included in the initial agenda packets. Councilmember Pust detailed proposed revisions to allow further discussion among Councilmembers, as she would not be in attendance at the next two regular Council meetings.

Councilmember Pust reviewed the redlined "Attachment A" to the Request for Council Action dated June 8, 2009 and identified as Item 13.d on the revised June 8, 2009 agenda.

Discussion included preferred outlined numerical format; and rationale for proposed language revisions to remove confusion and provide maximum transparency.

Further policy discussion included whether allowing previous service providers to bid again based on recognizing that their expertise may be the best value for the City if their costs are comparable; and whether to allow them to bid again based on the market; need for mid-term review of any and all contracts and depending on their actual term; terms of contracts; Code of Ethics and avoidance of conflicts of interest; staff contacts at the discretion of the City Manager; and additional procedures.

Councilmember Pust advised that she had attempted to incorporate Councilmember Johnson's suggested revisions in their entirety without changing his original intent, while refining those suggestions; with Councilmember Johnson in agreement with the resulting outcome.

Acting Mayor Roe questioned whether other individual Councilmember comments were incorporated into the process.

Councilmember Pust advised that, to her knowledge, she had not received any additional comments from other Councilmembers. Councilmember Pust advised that she had thoroughly reviewed the League of Minnesota Cities (LMC) memo regarding professional services and reviewed referenced statutes and applications to municipalities.

Acting Mayor Roe advised that he had submitted comments through City Manager Malinen, but that they were consistent with those proposed by Councilmember Pust.

Councilmember Pust apologized that she was not in receipt of those suggestions from Acting Mayor Roe, and requested that the City Manager resubmit them to her for review.

Further discussion included language related to "best value contracting" versus "best overall value" and implications of both.

Councilmember Ihlan spoke in support of the proposed additions; noting that her main concern remained with removal of previous provisions that consulting firms not be

engaged for more than two consecutive three year terms; and basing her concern on actual experience in seeking bids for City Attorney and/or City Prosecutor services and a process discouraging open competition from firms not wanting to bid against established firms due to their desire to preserve their professional relationships.

Acting Mayor Roe noted that he had previously spoken in support of the six years and out provision, based on the concerns expressed by Councilmember Ihlan. However, he had heard the concerns expressed by others about that provision during the recent City Attorney and Prosecutor contract process, and now expressed support for a process without the six-and-out provision, as long as there was a market-place point of view and best value approach, and emphasized an open process.

Acting City Manager/Finance Director Miller suggested Councilmembers consider, under added language to the policy section, that subsequent or extended contracts with the same firm be allowed, since there was a potential for more cost-savings to the City through negotiating a bid extension rather than a full-blown new contract and related expenses to the provider in submitting a new proposal (i.e., CPA firms) and built into the proposal to the City's detriment and increased costs.

Further discussion included whether to include flexibility in the policy to allow deviation at the City Council level.

City Manager Bill Malinen

City Manager Malinen addressed whether to include a monetary threshold for staff to determine when to implement the policy and when administrative discretion was sufficient for day-to-day quotes by phone or in writing.

Councilmember Pust suggested that the intent of the proposed language was to allow the City Manager that discretion, rather than adherence to a set threshold, depending on economies and market conditions, and under applicable State Statute; with the City Manager using that discretion and providing frequent reporting to the City Council.

Acting Mayor Roe noted that there was some precedent in staff using their discretion (i.e., building maintenance and auditors); and suggested further consideration and review by Councilmembers to determine if the proposed language addressed the Council's intent.

Councilmember Pust noted that the current language did not provide for such specificity either and no problems had become apparent to-date.

Councilmember Johnson thanked Councilmember Pust for her review of the Policy and suggested language.

(Councilmember Pust)

Professional Services Policy

Background

The City of Roseville retains outside professional services in the many areas of including:

- ☐ Legal (Prosecution, Civil, Economic Development, and Bond Counsel)
- ☐ Appraisal
- ☐ Planning and Landscape Design
- ☐ Audit
- ☐ Engineering, Architectural, and Environmental

The City enters into Agreements contracts for the above services ~~have been through contracts~~ either for specific projects or services, or for a given period of time. ~~For legal services, written agreements are completed annually.~~

Purpose

It is ~~desirable~~ good public policy to ~~amend the current~~ utilize a methods of selecting and retaining consulting services ~~to~~ that:

- ☐ Consolidates significant professional service policies into one uniform policy;
- ☐ Provides Citywide consistency in the procedure of selecting and retaining professional services;
- ☐ Ensures public confidence in process integrity by providing maximum transparency and avoiding long-term relationships that are insulated from the economic market forces of open competition; ~~by limiting the amount of time professional services are provided;~~
- ☐ ~~Ensure a fresh perspective and new approach to professional services.~~ Ensures that the City obtains the best overall value for its investment when retaining professional services; and
- ☐ Ensures a regular, consistent fiscal review of professional services.

Policy

It is the policy of the City to employ a ~~consistent~~ practice for selecting and retaining professional services that attains the purposes set forth herein. Contracts for professional services shall be for a period not to exceed three (3) years. All contracts, shall and include a mid-term review process designed to ensure that the purposes of the contract are being met. All contracts shall, by their terms, allow the City to terminate the contract prior to completion, upon payment of just compensation, if the City determines that the contract does not continue to serve the City's purposes. Subsequent contracts may be awarded to the same consulting firm if the firm is selected following an appropriate competitive or best value contracting process. ~~Consulting firms shall be engaged for a period of not more than two (2) consecutive three (3) year periods. After six (6) years, they shall not be allowed to renew consulting services for a period of three (3) years. If deemed in the City's best interests, the City Manager may continue professional services for longer than six (6) years. If the need arises, the City Manager may solicit proposals~~

~~and select firms for special projects or services. Contracts will be reviewed on a case by case basis.~~

Selection of all firms, and terms of all professional services contracts, shall be approved by the City Council.

Consulting firms selected to provide professional services to the City of Roseville:

- ☐ Shall avoid any conflicts of interest and commit to the principles of the Professional Code of Ethics for their profession and the City of Roseville Code of Ethics for Public Officials;
- ☐ May contact only designated Roseville City staff as approved by the City Manager:
- ☐ Will not represent any individual or corporation involved in litigation against the City of Roseville; and
- ☐ Will comply with all applicable state and federal law and local ordinances.

Procedure

1. The City Manager or designated staff will invite firms to submit proposals for providing professional services to the City of Roseville. The proposals shall include all information necessary to allow the City to select either the lowest responsible bidder or the best value contractor, not limited to the following:
 - ☐ Description of firm
 - ☐ Technical qualifications
 - ☐ Work experience
 - ☐ Prior city experience
 - ☐ References
 - ☐ Fee schedule for all personnel
2. The City Manager will appoint a Selection Committee that will interview firms, if necessary. The Committee will recommend to the City Council ~~that~~ the firms ~~are~~ to be selected. A proposed contract will be included with the recommendation.
3. The City Council will select the firms and approve the contracts at a regular Council meeting.

Implementation

~~All service areas will be on the same time cycle effective in 2000. This can best accommodate overlap and service areas, and provide additional consistency.~~

Professional Services Policy - ROE DRAFT (*with notes*) 4/1/09

Background

The City of Roseville retains outside firms to provide professional services in the areas of: (*added language for clarity*)

- ☐ Legal (Prosecution, Civil, Economic Development, and Bond Counsel)
- ☐ Appraisal
- ☐ Planning and Landscape Design
- ☐ Audit
- ☐ Engineering, Architectural, and Environmental

Agreements for the above services ~~have been~~ are through contracts, either for specific projects or services, or for a given specific period of time. (*modified language for clarity*) ~~For legal services, written agreements are completed annually. (this should be covered under the Policies section)~~

Purpose

~~It is~~ The City of Roseville has determined that it is desirable ~~to amend the current methods of selecting and retaining consulting services~~ to: (*modified language for clarity*)

- ~~☐ Consolidate significant professional service policies into one uniform policy (not relevant anymore in a modification to an already-consolidated policy)~~
- ☐ Provide Citywide consistency in the ~~procedure~~ process of selecting and retaining professional services (*modified language for clarity*)
- ☐ Ensure public confidence in ~~process~~ the integrity of the professional services provided to the City by limiting the amount of time professional services are provided (*adjusted the meaning of this bullet, and eliminated "policy" type language from a "purpose" statement*)
- ☐ Ensure a fresh perspective and new approach to professional services
- ☐ Ensure a regular, consistent fiscal review of professional services

Policy Policies

~~It is the policy of the City to employ a consistent practice for selecting and retaining professional services. (removed redundant "purpose" type language)~~ Contracts for professional services shall be for terms of not more than three (3) years, ~~and~~ Time period based contracts shall not be renewed at their expiration, except as the result of a competitive selection process consistent with this policy, unless this requirement is waived by a vote of the City Council. (*clarified that all contracts are for 1 term, and that renewal is not automatic*)

Multi-year contracts shall include a annual performance reviews process, with reporting of results to the City Council, and shall include termination clauses. (*added language based on suggestions of the City Manager*) ~~Consulting firms shall be engaged for a period of not more than two (2) consecutive three (3) year periods. After six (6) years, they shall not be allowed to renew consulting services for a period of three (3) years. If~~

~~deemed in the City's best interests, the City Manager may continue professional services for longer than six (6) years. If the need arises, the City Manager may solicit proposals and select firms for special projects or services. Contracts will be reviewed on a case by case basis.~~ *(deleted 2-term limit language and "City Manager" exception that overwhelms the rule)*

Selection of all firms shall be through a competitive process, using the "best value" approach. *(added requirement for competitive, "best value" selection process)*

The City Council should be represented in the interviews and evaluation of candidate firms for Civil Attorney services, including the determination of evaluation criteria. *(added language including City Council members in civil attorney process)*

All professional services contracts shall be approved by the City Council. *(made this a distinct paragraph, related to the contracts, not the selection, being approved by the Council)*

Consulting firms under contract with the City of Roseville: *(added clarifying language)*

- ☐ Shall commit to the principles of the Professional Code of Ethics for their profession and the City of Roseville Code of Ethics for Public Officials
- ☐ ~~May contact only~~ Must conduct their business through designated Roseville City staff *(amended the language for clarity)*
- ☐ Will not represent any individual or corporation involved in litigation against the City of Roseville

~~Procedure~~ *(deleted this section as not being necessary with the inclusion of the "best value" policy above)*

~~1. The City Manager or designated staff will invite firms to submit proposals for providing professional services to the City of Roseville. The proposals shall include the following:~~

- ~~☐ Description of firm~~
- ~~☐ Technical qualifications~~
- ~~☐ Work experience~~
- ~~☐ Prior city experience~~
- ~~☐ References~~
- ~~☐ Fee schedule for all personnel~~

~~2. The City Manager will appoint a Selection Committee that will interview firms, if necessary. The Committee will recommend to the City Council that firms are to be selected. A proposed contract will be included with the recommendation.~~

~~3. The City Council will select the firms and approve the contracts at a regular Council meeting.~~ *(deleted as redundant of policy language above)*

- 1 Implementation *(deleted this section as not being relevant to a modification of an*
- 2 *already-implemented policy)*
- 3 ~~All service areas will be on the same time cycle effective in 2000. This can best~~
- 4 ~~accommodate overlap and service areas, and provide additional consistency.~~
- 5