

ORDINANCE NO. 5344

AN ORDINANCE to amend and reordain Article D (CONTRACT FORMATION AND METHODS OF SOURCE SELECTION): Division 2 (COMPETITIVE NEGOTIATION), Section 3-3-69 (CONTRACTING FOR PROFESSIONAL SERVICES BY COMPETITIVE NEGOTIATION); and Division 1 (COMPETITIVE SEALED BIDDING), Section 3-3-53 (ACTIONS ON PERFORMANCE BOND), all of Chapter 3 (PURCHASES AND CONTRACTUAL SERVICES) of Title 3 (FINANCE, TAXATION, AND PROCUREMENT), of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 3-3-69 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by deleting the text shown in strikethrough and adding the text shown in underline as follows:

Sec. 3-3-69 - Contracting for professional services by competitive negotiation.

- (a) Professional services shall be procured by competitive negotiation. The purchasing agent may establish purchase procedures, if adopted in writing, not requiring competitive negotiation for single or term contracts for professional services if the aggregate or the sum of all phases is not expected to exceed the amounts set by the city manager [and] not to exceed the stated thresholds of the VPPA; however, such small purchase procedures shall provide for competition wherever practicable.
- (b) The purchasing agent shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence to provide the required services. Repetitive informal interviews shall be permissible. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project and to explore alternative concepts of performance of the contract. In addition, offerors shall be informed of any ranking criteria that will be used by the purchasing agent in addition to the review of professional competence of the offeror. The request for proposals shall not seek estimates of person hours or costs for services. However, these discussions may encompass nonbinding estimates of total project costs, including, but not limited to, where appropriate design, construction, life cycle costs and nonbinding estimates of price for services. Proprietary information from competitive offerors shall not be disclosed to the public or to competitors. At the conclusion of the discussions and on the basis of evaluation factors published in the request for proposals and all information developed in the selection process to this point, the purchasing agent shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the city can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations shall be conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price.

Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the request for proposal, the city may award contracts to more than one offeror. If, at the conclusion of the discussions, the purchasing agent determines in writing and in his sole discretion that only one offeror is fully qualified or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror. Once formally terminated, negotiations may not be reopened with any offeror.

- (c) A contract for architectural or professional engineering services relating to multiple construction projects may be awarded by the purchasing agent, provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in the request for proposal, and (iii) the contract is limited to a term of one year or when the cumulative total project fees reach the maximum cost authorized in this subsection, whichever occurs first.
 - (1) Such contracts may be renewable for four additional one-year terms at the option of the purchasing agent. The fair and reasonable prices as negotiated shall be used in determining the cost of each project performed.
 - (2) The sum of all projects performed in a one-year contract term shall not exceed ~~\$6~~ \$8 million.
 - (3) Competitive negotiations for such contracts may result in awards to more than one offeror provided (i) the request for proposal so states and (ii) the purchasing agent has established procedures for distributing multiple projects among the selected contractors during the contract term.
 - (4) The fee for any single project shall not exceed \$2.5 million.
 - (5) Any unused amounts from one contract term shall not be carried forward to any additional term.
- (d) Multiphase professional services contracts satisfactory and advantageous to the completion of large, phased, or long-term projects may be negotiated and awarded based on a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the entering into of any such contract, the purchasing agent shall state the anticipated intended total scope of the project and determine in writing that the nature of the work is such that the best interests of the city require awarding the contract. (Ord. No. 2757, 1/22/83, Sec. 1; Ord. No. 2817, 6/28/83, Sec. 1; Ord. No. 3225, 6/13/87, Sec. 9; Ord. No. 4004, 6/13/98, Sec. 14; Ord. No. 4208, 6/16/01, Sec. 3; Ord. No. 4470, 12/16/06, Sec. 3; Ord. No. 4567, 12/13/08, Sec. 2; Ord. No. 4750, 2/25/12, Sec. 8; Ord. No. 4953, 6/13/15, Sec. 5; Ord. No. 5260, 12/14/19, Sec. 5)

Section 2. That Section 3-3-53 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by deleting the text shown in strikethrough and adding the text shown in underline as follows:

Sec. 3-3-53 – Action on performance bond.

No action against the surety on a performance bond shall be brought unless within ~~one year~~ five years after:

(1) Completion of the contract, including the expiration of all warranties and guarantees, or

(2) Discovery of the defect or breach of warranty, if the action be for such. (Ord. No. 2757, 1/22/83, Sec. 1)

Section 3. That Article D as amended pursuant to Sections 1 and 2 of this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria City Code.

Section 4. That this ordinance shall become effective upon the date and at the time of its final passage.

JUSTIN M. WILSON
Mayor

Final Passage: May 15, 2021