

**CITY OF CHARLOTTE**

**PRIVATIZATION/ COMPETITION  
ADVISORY COMMITTEE**

**Guidelines for Services Contracting**

**Adopted by City Council July 25, 1994**

**Revised September 8, 1997**

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## **CITY COUNCIL POLICY FOR SERVICES CONTRACTING**

The City Council will evaluate whether an individual city service should be considered a public or private service. If the council determines that a service is a public service (involving a City-wide standard of service, determined and administered by the City and paid for by a tax or governmental levy), the following policy shall apply:

The City Council wishes to provide appropriate public services at the highest quality and the lowest cost, whether provided by City forces or by private contracts. In evaluating the most efficient and effective way to provide public services, the City shall use a competitive process in which private service providers are encouraged to compete with City departments for the opportunity to provide such services, and in which the option of delivering services through public employees and departments must be justified through the competitive bidding process. The City shall encourage the provision of public services through contracts with private service providers, wherever this offers the lowest cost, most effective method of service delivery consistent with service level standards and other adopted City policies.

## **CITY COUNCIL GOALS FOR SERVICES CONTRACTING**

1. The City Council will systematically assess current City services to determine the appropriate level of service to be provided, whether by city forces or by private contract.
2. The City Council will assess the relationship of a service being considered for competition with other Council priorities and policies. Council will use this assessment to determine whether the services will be subject to competitive bid and in what amount, to determine any special provisions which may need to be included in specifications and to address other council priorities and policies.
3. Current contracts for city services will be reviewed to ensure that existing private and city service providers are being held accountable and are providing effective and efficient services as specified by individual contracts. This review may result in placing a service out for competitive bidding.
4. The City Council will make an assessment of how to best provide a level playing field for the City and all potential private service providers. This assessment will include defining the public values of city services and how those values will be addressed in the bid process and specifications.

5. Efforts should be made to minimize the impact on current city employees affected by competition. Each competition recommendation should include an assessment of the effect on employees and recommendations for handling any negative impact.

### **GUIDELINES**

#### **Guideline I - Level Playing Field**

The Privatization/Competition Advisory Committee (Committee) is responsible for determining that the services contracting guidelines provide for a level playing field. The definition of a level playing field, for the purposes of these guidelines, is one that neither favors nor disadvantages any bidder (including any City department) to any extent over another party. City management and the Committee shall assure that specific procedures are in place for each specific bid. Certain general guidelines to establish a level-playing field are summarized in Guidelines II through VI that follow.

#### **Guideline II - Organizing For Contracting**

- A. All Key Business Units (KBU) should have a Five (5) Year Competition Plan that will be updated annually. Services to be contracted out or subjected to public/private competition should come from these plans.
- B. Prior to starting a competition process, the City Contracts Administrator should be notified and provided with a proposed schedule of activities.
- C. An Evaluation Team should initially be formed to assist in developing specifications, conducting pre-qualification screening, and evaluating all bids received. This review should include substantiating the reasonableness, completeness and accuracy of cost figures and cost comparisons set forth in the bid contract; evaluating the quality assurance and customer complaint procedures proposed; and reassuring conformity to other elements of the Request For Proposals (RFP). The members of the Evaluation Team will be established based on the annual contract value.
  1. Contracts under \$100,000 - The responsible Key Business Executive (KBE) may establish an Evaluation Team and review process within a Key Business Unit.
  2. Contracts of \$100,000 to \$500,000 - The Evaluation Team shall consist of representatives from Purchasing, Contracts Administration, Budget and Evaluation, and City Attorney. For contracts in support areas, a representative of a major user may also serve.
  3. Contracts over \$500,000 - The Evaluation Team shall consist of at least two (2) members of the Committee, a representative from the City Manager=s

Office and the staff KBE liaison to the Committee.

4. If the evaluation team determines that additional technical expertise is required, they may obtain that expertise from any source including requesting that the KBE of the bidding department serve on the evaluation team. In that case, the bidding KBE must be excluded from the bidding process and demonstrate a wall of separation from the bid team.
5. Contracts for similar work should not be divided to avoid the thresholds stated above.

### **Guideline III - Content of Requests For Proposals**

- A. The scope of the services to be provided, in the form of Awork statements,≡ the length of the contract period, and all other pertinent information should be clearly and explicitly set forth in the Request For Proposals.
- B. Each RFP should specify the desired outcome/result of the service in accordance with City Council Policy and any other governmental mandates. Emphasis should be on describing the desired results in lieu of the means/methods used to obtain the result. RFP=s should encourage responders to demonstrate creativity and innovation in describing their method for delivering the service instead of describing how they would perform the City=s existing program.
- C. Each RFP should include a formalized quality assurance and customer complaint resolution plan, which shall seek to assure quantitative and qualitative measures of service delivery to be followed by the successful bidder during the contract period.
- D. Each RFP should request that all bidders provide their approach to using current city employees who may be displaced by privatization.
- E. Each RFP should include the performance standards and other contact monitoring requirements as described in Guideline IX - Contract Monitoring.

### **Guideline IV - Development of Request For Proposals**

- A. The service providing Key Business Executive is responsible for developing the Request For Proposal.
- B. For contracts less than \$500,000/year, the responsible KBE may use Business

Support Services Key Business, or his/her own department staff to develop the RFP. However, the KBE must demonstrate the Awall of separation≡ between the RFP development team and the in-house City bid team.

- C. The responsible KBE will use the services of Engineering Key Business, Business Support Services Key Business and/or an outside consultant to prepare RFP=s for contracts exceeding \$500,000/year. The responsible KBE should create a Awall of separation≡ between the City bid team and the RFP development team by minimizing his/her department=s involvement in the RFP development. That involvement should be limited to providing the historical data necessary to compete for the service and any technical support necessary to describe the desired outcome.
- D. A draft of each RFP for contracts in excess of \$100,000 should be reviewed by all qualified bidders prior to publication.
- E. There should be a clearly designated staff resource, who is separate from the City=s bid team, responsible for responding to general inquiries about the contracting process from private service providers and other interested citizens. After the issuance of an RFP for a specific service this individual is responsible for making available to private service bidders the information/data relevant to or needed by them in the preparation of bids.
- F. Procedures should be developed for insuring that any information or data which is requested by one bidder is made available to all bidders. Under such procedures, all information which is requested or which is made available to a City department for its use in preparing an Ain-house bid≡ shall also be made available to private bidders: This will not mean that private bidders may request or have access to the working papers prepared or developed by a City department in order to calculate or decide upon or prepare its proposal for performing the service in-house.

#### **Guideline V - Proposal Review**

- A. Where appropriate in relation to the size and scope of the service which is being considered for contracting out, a pre-qualification screening analysis of private sector bidders should be conducted to evaluate the potential bidder=s business plan and resources committed to the plan, prior performance history (if any), financial and organizational ability to perform the scope of services, and the ability to obtain any necessary bonding. The use of pre-qualification screening and the criteria for such screening shall be decided on a case-by-case basis with input from the Committee on the appropriateness of such screening and the criteria for screening.

- B. All bids submitted in response to an RFP shall be sealed and submitted at the same time. The bid evaluation process shall be conducted in accordance with the City's Standards of Conduct set forth in City Code Section 2-73 and in accordance with these guidelines.
- C. Costing for City In-house bids shall be reviewed by Internal Audit prior to bid submittal.
- D. The results of all bids over \$100,000 will be shared with the Committee.
- E. All bid proposals over \$500,000 will be shared with the Committee. The committee may make its own comments and recommendations, if any, on such bid proposals independent of the staff evaluation and recommendation. Such comments and evaluation by the committee will be transmitted to the City Manager and to City Council along with any staff recommendation and report on the bids. In addition, in the event the Committee and City staff are unable to agree on other issues during the course of the process, the Committee may, at its option, seek further guidance and directions from City Council.
- F. In addition, the Committee anticipates that it will make quarterly reports (verified by an internal auditor) to City Council on the overall progress of the contracting out effort, including the selection of services for consideration by the City Manager and City Council, the schedule for consideration of contracting out, and the progress on the cost elimination plans.

**Guideline VI - Costing Methodology**

- A. Cost Methodology for Preparation of In-House Bids
  - 1. Bids submitted by a city department shall include the following cost calculations and components of total cost:
    - a. All direct or variable costs associated with performance of the service which would not be incurred if the service were not provided In-house;
    - b. An allocation for capital costs (including depreciation and actual or imputed financing costs) for capital equipment and assets used or required in order to provide the service; and,
    - c. An allocation for semi-variable and fixed costs whose amount is related to and may be affected by the number, scope and level of

services which the City provides Ain-house.

2. A reconciliation of the Asubmitted bid to the current budget. This reconciliation should be verified by Internal Audit.
3. There shall be excluded from these calculations those fixed costs which, regardless of the extent to which services may be contracted out to private bidders, could not be eliminated. An example of these excludable costs would be allocatable expenses for the Office of the Mayor and City Council, or expenses for services that are purely regulatory functions.
4. Costing for City Ain-house bids shall be reviewed by Internal Audit prior to bid submittal.

B. Comparison of AIn-House and Private Bids

1. In comparing bids prepared by private contractors with Ain-house proposals to provide a service, certain adjustments will be necessary in order to Alevel the playing field. Because these guidelines require that Ain-house proposals include an allocation for certain semi-variable and fixed costs, simple comparison of the bottom line totals for Ain-house proposals with the price quoted in private bids may not be an accurate reflection of the City's possible savings or costs from contracting out a service.

In order for the City to make a proper comparison of Ain-house proposals with private bids, the following possible factors and adjustments may need to be considered:

- a. The extent to which the Ain-house proposal includes an allocation for semi-variable or fixed costs which may not be eliminated or phased out over the short term if the particular service is contracted out. The key to this comparison will be the Acost elimination plan provided in Guideline VII.
- b. Transitional costs and/or savings (i.e., potential gains or losses from the disposal of any capital assets, employee impact costs).
- c. The costs of contract monitoring and oversight. Where these costs are different for Ain-house proposals and private bidders or as between different private bidders, the City should provide full justification and rationale for any such differences



2. Applying these factors in particular instances may have the same effect as an adjustment in the Abid price,≡ either up or down. The goal of such comparison is to ensure that the various proposals and bids are evaluated on a Alevel playing field,≡ regardless of the cost basis used in their preparation and to ensure that the ultimate total costs to the City of providing a service is as low as possible, consistent with the quality and service level standards specified in the approved RFP.

### **Guideline VII - Employee Impact Statement**

- A. Consistent with the goals for services contracting established by the City Council, efforts should be made to minimize the impact on current City employees affected by decisions to contract out services.
- B. After receipt of the bids, the city Manager shall prepare and submit as a part of the evaluation package a personnel impact statement, setting forth for each prospective bid the cost of any personnel severance programs associated with the acceptance of such bid, the potential for absorption of displaced employees by other City agencies, and any other plans for dealing with displaced employees, including the cost of any such plans.
- C. AIn-house≡ bids shall include a statement setting forth the number, grade and pay ranges of current employees assigned to the service which is being put for bid and the number, grades and pay ranges of employees who will be needed for performance of the contract awarded AIn-house≡.
- D. Private sector bids should include a statement of the anticipated needs, if any, of the bidder for additional personnel if selected as the service provider and may include, at the election of the bidder, a proposal for providing qualified AIn-house≡ employees access to future jobs that may be available in connection with the services to be provided.

### **Guideline VIII - Cost Elimination Plan**

- A. In the event the City enters into a contract with a private contractor to provide a service previously provided by the City, the City Manager shall develop and implement a Acost elimination plan≡ to eliminate the avoidable costs related to that service during the first annual budget period of the contract.
- B. The Acost elimination plan≡ shall be based on the concept of variable, semi-variable and fixed costs. This concept recognizes that certain semi-variable costs which cannot be eliminated due to the privatization of a single service will become available in stages when more services are privatized. Whenever practical the Acost

elimination plan should provide an analysis of the next level of semi-variable costs which can be reduced or eliminated and the applicable phase-out period, if specific additional services or combinations thereof are contracted out to the private sector.

### **Guideline IX - Contract Monitoring**

- A. Monitoring is the process of overseeing performance after a contract has been signed to ensure that cost and service specifications are met. Monitoring procedures should address the general requirements for post-award assessments of all contracts and should also address the unique requirements for City-awarded contracts.
- B. The KBE for the contracted services is ultimately responsible for monitoring the contracts for cost compliance and service delivery. The Business Support Services Contract Administrator serves as the central source for the collection and reporting of monitoring data. In addition, effective independent auditing of monitoring activities and verification of compliance with policies and procedures should be part of the internal control system to ensure that the processes put into place are working as intended.
- C. There are additional monitoring considerations when the City is the successful bidder. To encourage competition, the city should be accountable both to the taxpayers and to the non-successful bidders for evidence of compliance with proposed costs and service delivery. This evidence should include an audit (independent of the bidding team) to ensure that cost overruns are not passed on inadvertently to other City departments.
- D. The best way to monitor contracts is to set explicit and quantifiable performance standards in the contract and then clearly state what the city will require of the contractor to ensure that those standards have been met. All contracts should include a mechanism for evaluating the contractor's performance as defined in the RFP. For some contracts, recording satisfactory completion within the time and cost constraints will satisfy the monitoring requirement. Larger multi-year contracts with complex specifications and performance criteria will demand more extensive monitoring procedures.
- E. Monitoring requirements should include some form of contractor-prepared statements of progress which provides information on work completed and information relative to performance standards. These statements of progress should identify problems encountered and any contractual adjustments believed necessary. The size and complexity of the contract will determine the frequency of reporting but

the reports should be verified (audited) for accuracy.

- F. The feasibility of on-site inspections will depend on the contract and on the type of monitoring conducted. Inspection results should be reported comparing the observation and accomplishment of work to prescribed specifications. The contractor should be informed of the nature of these inspections and a standard rating or scorecard should be used to record findings.
- G. The method for obtaining feedback from citizens, user departments, or service recipients should be identified in the contract monitoring requirements.
- H. The PCAC member(s) assigned to a proposal evaluation team (contracts over \$500,000) should receive monitoring reports of the awarded contract.
- I. The full PCAC should be provided an Annual Summary Report on contracts awarded in accordance with these guidelines that will have an annual value over \$100,000.
- J. The information in the Annual Summary Report on City-awarded Contracts should include:
  - 1) Summary of comparisons of current contract performance requirements with work completed to date.
  - 2) A forecast of future contract performance requirements and expected work completion.
  - 3) Expenditures to date and any variances between budget and actual.
  - 4) A narrative description of any problems encountered.
  - 5) Any contract adjustments considered necessary.
  - 6) Summary findings of any independent audits performed.

**Services Contracting Guidelines - Process Matrix**

Process Steps	Annual Contract Amount		
	Under \$100K	\$100K to \$500K	Over \$500K
<b>Prepare schedule of activities for a service identified in the five year plan &amp; advise Contracts Administration</b>	Yes	Yes	Yes
<b>Form Evaluation Team</b>	KBE may establish Team within their KBU	Team shall consist of representatives from: Purchasing, Contracts Admin., Budget & Evaluation and City Attorney Optional: Major internal user	Team shall consist of at least: 2 PCAC members, City Manager representative and/or PCAC KBE liaison Optional: Technical expert
<b>Designate City staff resource to respond to RFQ and RFP inquiries</b>	Yes (may be in bidding KBU)	Yes (may not be in bidding KBU)	Yes (may not be in bidding KBU)
<b>Develop Request for Proposal (RFP)</b>	May use BSS services or own KBU staff if RFP & Bid teams are separated	May use BSS services or own KBU staff if RFP & Bid teams are separated	Must use EPM, BSS, or Consultant services and limit KBU involvement in RFP development. Must separate KBU's RFP & Bid teams
<b>Conduct Pre-Qualification Screening</b>	Use where appropriate in relation to size and scope of service	Use where appropriate in relation to size and scope of service with input from PCAC	Use where appropriate in relation to size and scope of service with input from PCAC
<b>Circulate Draft RFP to potential bidders for review</b>	No	Yes	Yes
<b>Advertise project and issue final RFP</b>	Yes	Yes	Yes
<b>Perform Internal Audit review of City's "in-house" bid/costing prior to submittal</b>	Yes	Yes	Yes

**Services Contracting Guidelines - Process Matrix**

Process Steps	Annual Contract Amount		
	Under \$100K	\$100K to \$500K	Over \$500K
<b>Receive Sealed Bids</b>	Yes	Yes	Yes
<b>Share Bid tabulation with PCAC</b>	No	Yes	Yes
<b>Evaluation of Proposals</b>	KBU Internal Team	Team shall consist of representatives from: Purchasing, Contracts Admin., Budget & Evaluation and City Attorney Optional: Major internal user	Team shall consist of at least: 2 PCAC members, City Manager representative and/or PCAC KBE liaison Optional: Technical expert
<b>PCAC Recommendation for Contract Award</b>	No	No	Yes
<b>Review of Recommendation by City Council’s Restructuring Government Committee</b>	No	-If Staff and PCAC Disagree -If Referred to Committee by City Council	-If Staff and PCAC Disagree -If Referred to Committee by City Council
<b>Council Notification of Award Recommendation</b>	-Council/Manager Memo -All \$50-100K Contracts should appear on the City Manager’s Monthly Contracts Report to City Council	-Council/Manager Memo -City Council Agenda (if Priv. Sector is Recommended for Award of Contract)	-Council/Manager Memo -Dinner Meeting (optional) -City Council Agenda (if Priv. Sector is Recommended for Award of Contract)
<b>Contract Award</b>	-All Under \$50K: KBE -All \$50-100K: City Manager	-Private Sector: City Council -Public Sector: City Manager	-Private Sector: City Council -Public Sector: City Manager
<b>Contract Document</b>	-Informal Contract - Private Sector -Memo of Understanding - City Agencies	-Formal Contract - Private Sector -Memo of Understanding - City Agencies	-Formal Contract - Private Sector -Memo of Understanding - City Agencies
<b>Prepare quarterly Contract Monitoring Reports for “internally” awarded</b>	Yes	Yes	Yes ( provide copy to PCAC

***Services Contracting Guidelines - Process Matrix***

<b>Process Steps</b>	<b>Annual Contract Amount</b>		
	<b>Under \$100K</b>	<b>\$100K to \$500K</b>	<b>Over \$500K</b>
<b>contracts</b>			Monitoring Sub-Committee & Evaluation Team members)
<b>Prepare Annual Contract Report Summary for City Council and PCAC</b>	No (Yes, with Gainsharing)	No (Yes, with Gainsharing)	Yes