

COMPETITIVE BIDDING AND GENERAL REQUIREMENTS OF CITY CONTRACTS

Office of the City Attorney – Neighborhood Council Advice Division

AB 1234 ETHICS TRAINING

Basic Overview

Neighborhood councils have been given the authority to engage in financial transactions by making expenditures of \$1000 or less per transaction via their “shared value card.” However, neighborhood councils have not been given the authority to enter (“execute”) contracts for certain types of vendor contracts, leases or personal services agreements. Those should be executed on behalf by the General Manager of the Department of Neighborhood Empowerment (“DONE”) for the benefit of neighborhood councils (as in the case of neighborhood council leases, via the Neighborhood Council Leasing program) and in compliance with the rules and regulations on City contracts as provided for in the City Charter, the Los Angeles Administrative Code or other authorities.

Nonetheless, neighborhood councils should have a basic understanding of the City’s contract rules to understand how they should expend their funds and when they should seek assistance from the DONE. The following represents a *brief* summary of selected City Charter (“CC”) and Administrative Code (“LAAC”) sections regarding competitive bidding and general requirements of City contracts. These rules are very complex and this summary touches upon only the basic components of the City’s rules.

General City Contracting Rules

The City’s contracting rules basically apply to any contract over \$1000. City contracts over \$1,000 must be in writing and must be approved by the City Attorney as to form. CC § 370; LAAC § 10.2. They must be signed on behalf of the City by the Mayor, board, or the officer/employee *authorized* to enter into the contract, or for contracts authorized by the Council, by the person authorized by the Council. CC § 370; LAAC § 10.2. As noted above, neighborhood council board members are *not* authorized to execute contracts on their own, and should request assistance of the DONE for any contract that they wish to enter into amounts over \$1000.¹

¹ Expenditures over \$1000 for certain types of services could be provided by the use of a “Letter Agreement” or simple invoice. Neighborhood councils should consult with the DONE before utilizing these types of agreements to determine the appropriateness of this vehicle.

City Not Bound

Compliance with the City's rules is important because the City is not bound by any contract unless it complies with the requirements of the Charter and the City's Administrative Code. CC § 370; LAAC § 10.2. Thus, the City is not bound by a contract entered into for over \$1000 that is not a) in writing, b) signed by the General Manager of the DONE on a neighborhood council's behalf² and c) approved as to form by the City Attorney. There are also certain standard contractual provisions that must accompany every City contract, depending upon its length and/or monetary amount.

Contracts Longer Than Three Years

There are additional rules for lengthy contracts. In addition to the requirements of the contract needing to be in writing, signed, and approved as to form by the City Attorney, City contracts for longer than three years, including renewal options, must also be approved by the City Council. CC § 373; LAAC § 10.5.

Competitive Bidding Requirements

Although there are several exceptions, certain types of City contracts are subject to competitive bidding requirements or must be awarded based on competitive proposals. CC §§ 371 and 372; LAAC §§ 10.15 and 10.17. City contracts subject to competitive bidding requirements are awarded to the lowest responsive and responsible bidder furnishing satisfactory security for performance. CC § 371 (a). City contracts subject to competitive proposals are awarded following the review and evaluation of competitive proposals submitted by prospective contractors. Price is not the only factor used in the evaluation of competitive proposals.

Exceptions to Competitive Bidding Requirements

There are some City contracts that are allowed to be executed without complying with the formal competitive bidding requirements. Many neighborhood council contracts may fall within those categories; however, you should contact your DONE Advocate to determine whether your proposed contract meets these requirements, and satisfies all other City rules before attempting to finalize an agreement with a contracting party. The following categories are the type of contracts that are allowed to be executed without complying with the competitive bidding rules:

Contract less than \$25,000. City contracts for less than \$25,000 or contracts for the purchase of materials, supplies, equipment, or the rental, repair or

² However, a board representative of the neighborhood councils may also be a signatory on a contract made on behalf of a neighborhood council, along with the signature of the General Manager of DONE, as is the process for neighborhood council leases.

maintenance of same for an amount not to exceed \$100,000. CC § 371 (e)(1); LAAC § 10.15 (a)(1).

Professional Expertise. City contracts for professional, scientific, expert, technical, or other special services of a temporary and occasional character where competitive bidding is not practical or advantageous. CC § 371 (e)(2); LAAC § 10.15 (a)(2).

United States Patent. City contracts for the furnishing of articles covered by a United States patent. CC § 371 (e)(3); LAAC § 10.15 (a)(3).

Leasing. City contracts for leasing (where City is the lessee) or the purchase of real property when approved by majority vote of the City Council. CC § 371 (e)(4); LAAC § (a)(4). As noted, the City has developed a special program for neighborhood council leases. If your neighborhood council is interested in leasing office space, you should contact your DONE Advocate for assistance. A standard lease has been designed just for neighborhood council office space.

Urgent Necessity. City contracts for repairs, alterations, work or improvements declared to be of urgent necessity for the preservation of life, health or property. CC § 371 (e)(5); LAAC § 10.15 (a)(5).

Declaration of War. City contracts entered during declared war or declared federal, state or local emergency where the City Council has suspended the competitive bidding requirements. CC § 371 (e)(6); LAAC § 10.15 (a)(6).

Exclusivity. City contracts for repair or parts obtained from the manufacturer or its exclusive agent. CC § 371 (e)(7); LAAC § 10.15 (a)(7).

Cooperative Arrangement. City contracts for cooperative arrangement with other governmental entities for the utilization of the purchasing or professional service contracts of those agencies. CC § 371 (e)(8); LAAC § 10.15 (a)(8).

Competitive Bidding Impractical. City contracts for services where competitive bidding would be undesirable, impractical or impossible or otherwise permitted by law. CC § 371 (e)(10); LAAC § 10.15 (a)(10).

Competitive Bidding/Proposals Preferred.

Notwithstanding the above exceptions, where competitive bids are not required for a City contract, the City's policy is that competitive proposals or bids shall be obtained as far as reasonably practicable and compatible with the City's interest. CC § 372; LAAC § 10.17. Other provisions of the City's contracting program require the City to seek Requests for Proposals (also known as "RFP's") before entering into certain agreements.

Practice Tip:

Because of the complexities of the City's contracting process, if your neighborhood council is contemplating spending funds in ways other than using the stored value card, you should contact, as early as possible, your DONE Advocate or the DONE Funding Program Director to determine whether a contract needs to be executed and how to comply with the City's contracting rules.