

City of Gillette		Administrative Policy/Procedures (APP)
Number: 5.4.2		Subject: Professional Service Contract
Original Issue: 11-13-2000	Effective: 04-01-2015	
Current Issue: 04-01-2015	Effective:04-01-2015	Category: Purchasing
Supersedes: Revised policy dated 09-01-2005		

1. PURPOSE

The purpose of this policy is to establish criteria for selecting a consulting engineer, architect or other professional that may be necessary to complete a project. A Consultant is selected based on qualifications needed to perform the work and best serve the needs of the City; therefore, competitive bidding of professional services is not required.

2. SELECTING THE CONSULTANT

The selection of the consultant for professional services is an important process because it will ultimately determine the characteristics of the project, the construction cost, and the operating and maintenance costs for many years. The first step in selecting a consultant is to describe the general project, scope of work and set a timetable for completion. Normally, the scope of services would include construction administration along with design. Often the exact extent of construction is unknown at the outset, so it may be necessary to negotiate design services and then negotiate construction administration services after the design is complete.

Qualification statements are not required for local firms if staff is aware of their qualifications. Consultants shall be selected to submit proposals based on their knowledge of the area of town in question and their ability to perform the service needed. It is in the City's best interest to pass the work around, but not to the point of accepting unreasonable fees or compromising quality design and construction.

Staff shall solicit Qualification Statements from three (3) or more consultants or joint ventures that are capable of doing the desired work. The City may advertise or request qualification statements from selected firms based on known qualifications. Once the qualification statements have been received, reviewed and the field narrowed to three (3) to six (6) firms, proposals may be requested from those firms.

3. QUALIFICATION STATEMENTS

The City may request that the qualification statement and proposals include the project title, the general scope of work, submission deadline and the name of the City's contact.

4. PROPOSAL

The proposal, as submitted by the consultant, shall include profiles on the firm's ability to perform the work, demonstration of understanding of the project as well as references. A financial statement may be required if the City so desires. The City's selection committee shall then hold interviews. The consultants are ranked according to the following criteria: education, experience, expertise of the firm, its key personnel, the firm's approach to planning, organization and management of the project, present workload, proximity of the firm to the project location, financial stability, reputation and references.

5. NEGOTIATIONS

Negotiations shall then begin with the top ranked firm. At this time, cost will be discussed along with the specific scope of services necessary. The cost may be determined by one of the following ways:

- A. Salary cost times a multiplier plus direct non-salary costs.
- B. Cost plus a fixed fee.
- C. Lump sum.
- D. Hourly rate with maximum fee.
- E. Percentage of construction cost.

These methods are described fully in the American Society of Civil Engineers (ASCE) Manual No. 45. If the contract cannot be negotiated with the top-ranked firm, negotiations should be terminated and the City should begin discussion with the next ranked firm until a contract is negotiated. Under no circumstances shall staff negotiate with more than one consultant at a time. If negotiations cease, they must be terminated prior to negotiations being started with the next firm on the list. All professional service contracts over \$35,000 are then submitted to City Council for approval and signature. Contracts under \$35,000 will be processed in accordance with section 5.3.7, Receipt of Materials or Service Supplier's Invoice and Payment, excluding the three-quote rule.

6. ACCEPTANCE

The above procedure of competitive negotiation is generally accepted by such professional organizations as the National Society of Professional Engineers (NSPE), American Society of Civil Engineers (ASCE) and the American Consulting Engineering Council (ACEC). These organizations also supply standard forms of contracts between the City and the construction contractor. While Wyoming does not have a statute to cover the hiring of consultants, The Brooks Law (PL92-582 located in Appendix A), which has been adopted by several states, is generally followed.

7. ADMINISTERING THE PROFESSIONAL SERVICES CONTRACT

After Council approval, the Mayor must sign the contract and copies shall be given to the City Clerk, the Finance Director, the consultant and the Project Administrator. The consultant must be notified to proceed and informed of the name of the contact with the City (this is normally done by the Project Administrator). The Project Administrator shall provide all pertinent information to the consultant, monitor their work, render decisions on behalf of the City and authorize payments to the consultant.

- 8.** Projects financed with funds from the State of Wyoming that are governed by W.S. 16-6-1001(b) shall follow the attached plan.

Plan to Promote the Employment of Responsible Wyoming Resident Design Firms

1. Whenever a project is financed with funds from the State of Wyoming that are governed by W.S. §16-6-1001(b), the City of Gillette will follow its Administrative Policy/Procedures (APP) for Professional Service Contracts (APP 5.4.2 – copy attached). In addition to the criteria identified in Section 4 of the City's APP 5.4.2, the Selection Committee shall consider Wyoming Residency in the evaluation of the proposal as follows:
 - A. Wyoming Residency Status. The Selection Committee will determine whether the consultant is a Wyoming Resident Design Firm after consideration of the following:
 - a. Whether the services are supervised and performed under the authority of a professional engineer/architect/geologist/professional land surveyor licensed in the State of Wyoming
 - b. Whether the design plans and specifications and planning reports must be sealed by a professional engineer/architect/geologist licensed in the State of Wyoming.
 - c. The extent to which the work will be performed by individuals whose primary place of work is located within the State of Wyoming.
 - B. Partnerships between responsible Wyoming design firms, including professional engineering and architectural services, and non-resident firms when necessary to secure specialized services required for a project are allowable. If the partnership wishes to be considered as a Wyoming Resident Design Firm, the proposal must specifically request such consideration and must identify the extent to which services are provided by each affiliated firm. Additional consideration will be provided to those partnerships that increase the technical capacity of the Wyoming Partner.
 - C. Members of the Selection Committee are advised that if they are having difficulty deciding between a resident firm and a non-resident firm, the resident firm will receive preference.

Definition:

Wyoming Resident Firm: A professional engineering, architecture, geology, or surveying company which has a working office located in Wyoming with the capabilities to complete a substantial percentage of the project work.