

*as amended*

R E S O L U T I O N

A RESOLUTION ADOPTING STANDARDS AND PRESCRIBING PROCEDURES FOR THE SELECTION OF AND THE NEGOTIATIONS OF CONTRACTS WITH ARCHITECTS, ENGINEERS AND PLANNERS FOR ALL PUBLIC IMPROVEMENT WORK, AND ESTABLISHING A PROFESSIONAL LIAISON COMMITTEE.

WHEREAS, the ultimate values of architect, engineer and planner services are derived from the creative judgment, skill and technical abilities of professional consultants, it is deemed necessary, advisable and in the best interest of The City of Oklahoma City and the public generally, to establish open selection procedures for obtaining qualified, experienced and competent consultants in a manner that will merit public confidence, with the object of effecting an equitable distribution of contracts among qualified firms, providing that such distribution does not violate the principle of selection of the most qualified firms.

NOW, THEREFORE, BE IT RESOLVED by the Council of The City of Oklahoma City for the purposes of this resolution:

(a) "Public Improvement Work" is defined to be any improvement or structure which is constructed, altered, repaired or maintained under contract with The City of Oklahoma City.

(b) "Consultant" is defined to be any individual, firm, corporation, association, partnership, co-partnership or any other organization possessing the required qualifications to provide architectural, engineering and/or planning services for any public improvement work project.

(c) "Director" is defined to be the Director of ~~Public Works/City-Engineer~~ Community Development Department for The City of Oklahoma City.

(d) "Department" is defined to be any Agency or Department of The City of Oklahoma City responsible for a Public Improvement Work Project.

(e) "City" is defined to be The City of Oklahoma City, and all Departments thereof.

(f) "Consultant Review Committee" shall be a committee composed of a representative of the City Manager's Office other than the City Manager, the Department Representative and the Director, who shall act as Chairman.

BE IT FURTHER RESOLVED that the following procedures be utilized in the selection of Consultants for all public improvements works projects:

1. CONSULTANT INFORMATION FILES

- A comprehensive file for each Consultant interested in and capable of performing Architectural, Engineering and/or Planning services

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for The City shall be maintained by the Director. These files shall include a completed Architect-Engineer Questionnaire, G.S.A. Stand. Form <sup>254 TH</sup> ~~251~~, latest edition, with supplemental information as required by the Director; completed Evaluation Report for past projects on which the Consultant provided professional services (Appendix A), and a list of past contracts with The City. An Evaluation Report shall be completed for each project within 30 days after final acceptance of the project. A copy shall be sent to the Consultant with a 30 day period for review and comments, if any, and shall be incorporated in the file.

## 2. DEPARTMENT RESPONSIBILITY

It is recognized that the Department is the User/Client and therefore shall have certain primary functions such as defining the scope of a proposed project, determining the various project components, phases and timetables, and then prepare detailed project descriptions to guide prospective Consultants. The scope of a Consultant's work for a proposed project shall include all public improvement work related to the project which can reasonably be bid in one construction contract or which can be designed by one Consultant with less technical effort than would be required if the scope was divided between more than one Consultant.

## 3. ADVERTISEMENT FOR CONSULTANTS

~~"Legal-Notice"~~ regarding The City's intent to secure Consultant services shall be published at least one time in a daily newspaper of general circulation published in Oklahoma City and by first class letter to all Consultants listed in the file required at paragraph 1, above, to be maintained by the Director and shall contain the following information:

- A. Description and scope of the project or projects (as per paragraph 2 above).
- B. Estimated construction cost and time schedule for project.
- C. Funds available (Federal or State participation, etc.).
- D. Last date for submitting letter of interest in performing services to Director.
- E. Other pertinent data.

#### 4. CONSULTANT RESPONSE

Consultants desiring consideration must meet the requirements of this Resolution and to be considered must submit a letter to the Director within fourteen (14) days of the last day of publication and mailing of the "~~Legal-Notice~~" notice and must have on file an Architect-Engineer Questionnaire not over twelve (12) months old.

#### 5. DIRECTOR TABULATION AND ELIGIBILITY

After expiration of the period for expression of interest, the Director shall tabulate the names of the Consultants submitting letters of interest and having current questionnaires on file. The tabulation shall also indicate the eligibility or ineligibility of each Consultant with respect to the criteria in paragraph 6D. below. (Consultants who have submitted letters of interest but who are ineligible shall be notified by letter from the Director.) The Director shall furnish the tabulation and each listed Consultant's comprehensive file (or pertinent extracts thereof) to the Department responsible for the project. He may include such other data, information, or comments that he thinks will be beneficial to the Department. Should there be an inadequate expression of interest in a project, the Department and the Director shall confer to add additional Consultants for consideration which are known to be eligible and qualified for the project.

#### 6. DEPARTMENT EVALUATION

The Department shall evaluate the Consultant files forwarded by the Director. This initial evaluation should consider the requirements of the Consultant Interview Evaluation Sheet (Appendix "B") as well as the following factors to be determined from the Consultant file, ~~Public-Works-Staff~~ Community Development Staff, and if less than three (3) Evaluation Reports are available, replies to inquiries to former clients:

- A. Specialized experience in the type of work contemplated.
- B. Capacity of the Consultant to accomplish the work in the required time.
- C. Past performance (from Evaluation Report - Appendix A).
- D. ~~Fair-and-equitable-distribution-of-Consultant-contracts among-all-qualified-Consultants-to-be-determined-by the-following.~~ Development of a reservoir of well-qualified and experienced professional design firms ready to serve the City.

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(1) To reap the benefits of a good continuing service, Departments are encouraged to employ the same firm that gave them service worthy of continuity. To also benefit from an occasional variation and to avoid uninspired sterile design and service each Department is encouraged to try another firm occasionally. Therefore:

Each Department may hire a Consultant for no more than three consecutive projects, but then must hire another Consultant for at least one project prior to hiring the original Consultant again, except in the case of additions to an existing structure, site adaptations, or planning contracts not resulting directly in construction of a Public Improvement Work.

~~(2) No individual or Consultant having active contracts, the sum of which exceeds 20 percent of The City's current (2) active (3) Consultant contracts shall be eligible for any additional contracts.~~

(2) The Director shall, on a <sup>quarterly</sup> ~~semi-annual~~ basis, tabulate all Consultant Contracts issued by the City of Oklahoma City, and its agencies and Trusts by Consultant, including the amount of fees as established by those Contracts and shall compute the percentage of fees of each Consultant, considering all Contracts issued within the past five years, using the depreciated value of those Contracts. Depreciated value is defined as the dollar value of Consultant fees based on full value for fees awarded within the previous twelve months and reducing twenty percent per year for the previous four years. Provided, that when Contracts are for services where Federal funds are involved that the firms are to be charged with the contractual fees at such time as the funds are available and the work ordered issued.

~~(3) No individual or Consultant who has had contracts, the sum of which exceeds 10 percent of the City's total consulting contracts within the past five years, using the depreciated value (4) shall be eligible for any additional contracts.~~

(3) No Consultant shall be considered as eligible for consideration of a Consultant Contract with fees below the following schedule where his percentage as defined under D(2) above is above the following schedule:

<u>Percentages at or exceed</u>	<u>Contract fee at or below</u>
5%	\$100,000
2.0%	25,000

- (1) Consultant as used in this paragraph specifically means the particular ~~firm or individual~~ business entity being evaluated including ~~their~~ its pro-rata percent participation in any and all previous joint ventures, consortiums or other forms of amalgamation if the previous pro-rata is available to The City. If pro-rata information is not available to The City the entire value of previous services involving Consultant being evaluated shall be included in determining their eligibility. Percentage determinations shall include the value of all fees for Consultant and Planning services performed for any Agency, Municipal Trust or Department of The City.
- (2) ~~Current Consultant contracts is defined to be all contracts entered into in the immediate past twelve (12) months.~~
- (3) ~~Active Consultant contract is defined to be any Consultant contract in the design or construction document phase, from~~

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the-time-of-"letter-to-proceed"-to-the-letting-of-a-construction-contract-or-"stop-work-order".

- (4) Depreciated-value-is-defined-to-be-the-dollar-value-of-Consultant-fees-based-on-full-value-for-current-fees-and-reducing-twenty-percent-(20%)-per-year-for-the-previous-four-years.

#### 7. DEPARTMENT SELECTIONS

The Department, upon completion of the initial evaluation, shall select no less than three (3) nor more than five (5) Consultants for more detailed consideration. In the event interviews selections for more than one contract are being considered at the same time, the number of Consultants selected for more detailed consideration should be at least twice the number of contracts contemplated. The-Consultants-selected-for-further-consideration-should-be-notified-in-writing-of-the-time-and-place-for-interviews-by-the-Consultant-Review-Committee. All Consultants who responded to the notice shall be notified of their selection, or non-selection for detailed consideration. Consultants selected for detailed consideration shall provide such additional information, in writing, as the Director may prescribe.

#### 8. CONSULTANT INTERVIEWS AND SELECTIONS

All of the Consultants submitted by the Department shall be interviewed given detailed consideration by the Consultant Review Committee, with particular attention being given to the considerations contained in the Consultant Interview Evaluation Sheet.

On projects for which the estimated cost of construction exceeds \$2.5 million, the Consultants selected for detailed consideration shall be interviewed by the Consultant Review Committee.

On projects for which the estimated cost of construction exceeds \$250,000 but is less than \$2.5 million, interviews will be conducted if requested by any Consultant selected for detailed consideration. Any such request shall be included in the response to the request for additional information required by paragraph 7, above.

On all projects, regardless of estimated cost of construction, interviews will be conducted whenever the City Manager deems such interviews appropriate.

Consultants shall be notified in writing of whether interviews will be conducted, and, if there are to be interviews, of the time and place.

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Interviews will be open to the public, however, once the interviews commence, they shall run continuously until all Consultants have been interviewed and the Consultant representatives shall be sequestered from the public. Any Consultant violating sequestration shall be disqualified from further consideration.

In order to insure an objective evaluation, those considerations have been given numerical values, which when all evaluation sheet scores are totalled, will provide a ranking of the Consultants interviewed, listing the first, second, and third choice for negotiation. ~~Section 6-D of this Resolution shall be further considered in making the final selection to insure a fair and equitable distribution of these Consultant contracts.~~ Where interviews are not conducted then the files maintained by the Director together with the additional written information obtained in accordance with paragraph 7, above, shall be evaluated by the Committee for purposes of ranking the Consultants.

9. CONSULTANT REVIEW COMMITTEE REPORT

A full report of the evaluation procedures and recommendations of the Consultant Review Committee shall be prepared by the Director and submitted to the City Manager for his independent review. This report shall be in the form of a Memo, generally containing the following information:

- A. Subject Project.
- B. Scope of Project.
- C. Summary of findings and recommendations of Consultant Review Committee.
- D. Consultant Review Committee's certification that procedure was followed.
- E. The Director's tabulation of Consultants submitting letters of interest including the indications of eligibility and ineligibility.

10. CITY MANAGER'S RECOMMENDATION

The City Manager shall then transmit the report of the Consultant Review Committee, together with his comments and recommendations, to the City Council. The City Manager shall advise the Consultants interviewed by the Consultant Review Committee of his recommendation and shall advise the Consultants not recommended that they may submit any comments on the Consultant selection procedure

*Reso. #2779*

to the Professional Liaison Committee. The City Manager shall supply preprinted cards, with postage paid, and addressed to the Professional Liaison Committee for such purpose with questions as follows:

In your opinion did the Consultant Review Committee follow the intent of the Consultant selection procedures outlined by the City Council of Oklahoma City?

Yes                      No

Do you feel you were given a fair consideration by the City of Oklahoma City?

Yes                      No

Do you wish to appear before the Professional Liaison Committee on this matter?

Yes                      No

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Consultant

11. COUNCIL AUTHORIZATION

The City Council may then authorize contract negotiations between the Director and the recommended Consultant.

12. CONTRACT NEGOTIATION

Upon authorization by the Council, the Director shall negotiate the contract scope with the selected Consultant. The fee for the project shall be determined from the City Consultant Fee Schedule. If the contract scope is materially different than the work scope on which the fee schedule is based, then an appropriate adjustment in the fee shall be negotiated. If the Director and the first choice Consultant cannot reach agreement, their negotiations should be terminated by obtaining the Consultant's best and final offer in writing. This offer, along with a request for authority to begin negotiations with the second choice shall be sent to the Council for action.

13. COUNCIL APPROVAL

The negotiated contract shall be submitted to the Council for approval of the award.

14. ADMINISTRATIVE PROVISIONS

- A. Nothing in this act shall affect the validity of any contracts in existence at the effective date hereof.
- B. The requirements of this Resolution may be waived by the Department and the Director for Public Improvement Work contracts of \$10,000 or less.

- C. Interviews-required-by-Section-8-of-this-Resolution may-be-waived-for-Public-Improvement-Work-contracts of-\$50,000-or-less-by-unanimous-agreement-of-the-Consultant-Review-Committee, if-the-waiver-is-made-a-part of-the-Committee's-report.
- C. It is hereby recognized that it may be in the City's best interest to group several small contracts together into a single contract, in order to attract qualified firms.
- D. If any section, sub-section, paragraph, phrase, clause or work of this Resolution is held to be invalid, the remainder of the Resolution shall not be affected.
- E. Any resolutions, or parts thereof, in conflict with the provisions of this Resolution, are hereby repealed.
- F. In the case of special projects having unique engineering or architectural considerations where it is deemed desirable by the City Council to have citizen involvement in all stages of the project, two citizens may be appointed by the Mayor to become members of the Consultant Review Committee, in addition to those hereinabove named, for the special project only.
- G. If the Department evaluation of the Consultant files reveals less than three (3) qualified, eligible Consultants and reveals that ineligible, qualified Consultants are included on the Director's Consultant tabulation, the Department may request the City Council to permit inclusion of enough ineligible, qualified Consultants to provide three (3) Consultants for detailed consideration. The City Council ~~Manager~~ Manager shall seek comments and recommendations from the Professional Liaison Committee as to the Department's evaluation for the necessity of including additional Consultants.

15. PROHIBITION AGAINST CONTINGENT FEES

Each contract entered into by The City for professional services shall contain a prohibition against contingent fees as follows:

"The Architect, Planner or Professional Engineer (as applicable) warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Architect, Planner, or Professional Engineer, to solicit or secure this agreement, and that he has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Architect, Planner or Professional Engineer any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this agreement". For the breach or violation of this provision, the City shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

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16. PROFESSIONAL LIAISON COMMITTEE

There is hereby established a Professional Liaison Committee to aid and assist in the orderly implementation and application of the standards and procedure heretofore prescribed. The composition and duties of said Liaison Committee shall be as hereinafter set forth.

Membership and Appointment

A. City appointments by the Mayor and confirmed by the City Council:

One Architect

~~One~~ Two Consulting Engineers

One Lay Member

B. Professional appointments:

One Architect by the Oklahoma City Section of the American Institute of Architects

~~One~~ Two Consulting Engineers by the Consulting Engineering Council of Oklahoma

One Planner by the Oklahoma Section of the American Institute of Planners

Committee members shall serve without compensation for a term of two (2) calendar years, and should any vacancy occur, the appointing organization shall fill the vacancy for the remainder of the term. However, the initial term of appointment for the City Council's Consulting Engineers and the Professional Societies' Architect and Planner shall be for one (1) calendar year, and the expiration of those appointments shall continue to occur one year apart from the other appointments. The Committee shall select a Chairman who shall serve for one (1) calendar year. Membership on this Committee shall not disqualify a Consultant from eligibility to perform professional services for the City. However, should a matter involving a member of this Committee come before the Committee the member involved shall not participate as a Committee member in the processes or voting related to the matter.

Meetings: The Committee shall meet upon the call of the City Council or of the City Manager or of the Chairman thereof.

Duties: It shall be the duty of the Committee to review any written complaint or inquiry submitted to it concerning the application or lack of same of the terms, conditions, or standards imposed by this Resolution.

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Upon completion of its review, the Chairman of the Committee shall file a written report with the Mayor, each member of the City Council and the City Manager and with each Professional Society named heretofore.

Such report shall contain the findings and recommendations of the Committee.

Upon receipt of the Committee's report, the City shall take such action as it deems appropriate.

Annual Report will be made at the end of each year to contain:

- (1) Summary of year's activities resulting from requests and reviews, findings and results or corrections.
- (2) Recommendations for improvements.
- (3) Verification that procedures are working properly.
- (4) A review of the year's distribution figures.
- (5) Review of the fee schedule.

A copy of this report shall be sent to the Mayor, each Councilman, City Manager, and to each professional society.

ADOPTED by the Council and APPROVED by the Mayor of The City of Oklahoma City, Oklahoma, this 21 day of February, 1978.

Patience J. Long  
MAYOR

ATTEST:

Thomas P. Hurley  
CITY CLERK

APPROVED as to form and legality this 16<sup>th</sup> day of February, 1978.

Giles Klatt  
Assistant Municipal Counselor

Reso. #2779

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attach to: Res. # 3.779

of  
2-21-78

MEMORANDUM

Dated: January 6, 1978

To: CITY COUNCIL, CITY OF OKLAHOMA CITY

Patience Latting, Mayor  
Bob McCoy, Ward 1  
Eric Groves, Ward 2  
Jack Cornett, Ward 3  
Bill Bishop, Ward 4  
Harold McEwen, Ward 5  
Jerry Gilbert, Ward 6  
Ben Tipton, Ward 7  
Merle McCollum, Ward 8

cc: City Manager  
Oklahoma Chapter, American Institute of Planners  
Consulting Engineers' Council  
Oklahoma Chapter, American Institute of Architects

From: PROFESSIONAL LIAISON COMMITTEE

Glen R. Turner, Chairman, AIP Representative  
Ross Relph, CEC Representative  
Tommy Jay Shaw, AIA Representative  
Bill E. Peavler, Architect  
Curt Guernsey, Jr., Consulting Engineer  
Mrs. Perry A. (Mona S.) Lambird, Attorney

Re: ANNUAL REPORT

This is the report of the Professional Liaison Committee's review of consulting contracting activity of the City of Oklahoma City during 1977 as required under Paragraph 16 of the Resolution of the City Council adopted the 23rd day of July, 1974.

BACKGROUND

The Resolution setting forth Architect and Engineer selection procedures was the result of a year's efforts on the part of a Special Committee appointed by the Mayor in May, 1973. This Committee had been appointed to look into recommending "appropriate procedures and guidelines for City architectural and engineering consulting contracts and fees." Prior to this time, there had been much criticism concerning these matters, both at the Municipal, State and National levels and in Oklahoma City, in particular.

January 6, 1978

The City Manager and Council in 1968 had attempted without success to meet this issue through the establishment of an Administrative Consultant Review Committee composed of staff personnel and with brief consultant selection procedures. The Special Committee appointed in 1973 drew upon the experience of the City of Oklahoma City, other municipalities and national studies by the professional organizations represented. The City staff was consulted at length.

The Resolution finally adopted by the Council in 1974 provided for a Professional Liaison Committee, one-half appointed by the City and one-half by independent professional organizations to monitor the process set forth in the Resolution and to review any complaints on the process which was designed to:

1. Assure that the City of Oklahoma City has access always to a reservoir of well-qualified professional design firms;
2. Assure that the City obtains the best qualified consulting talent available; and
3. Assure that all qualified firms are given an equal opportunity to provide consulting services to the City.

#### I. SUMMARY OF YEAR'S ACTIVITIES

It is the unanimous finding of the Committee that the consultant selection procedure set forth in the Council Resolution has been very successful during 1977. The City Staff has maintained an excellent record of the proceedings which have been open to the Committee for inspection. The Committee is not aware of any complaints from any firm regarding this process.

The number of firms prequalified for consideration has grown from 95, on the original list in February 1975, to 149 at the current time. This, in our opinion, represents an increasing reservoir of talent which is a real asset to the City when special selectivity of design disciplines is required, or when a number of projects must be commissioned for action simultaneously. Of the \$6,143,047.40 in consulting fees commissioned in 1977, a total of 36 individual firms were used. This indicates to the Committee that this procedure has opened the process and widened the base for professional design services. Inspection of the record of the grading of firms conducted during the interview process indicated that the staff committees were operating in an objective manner in selecting the most qualified firms for the assignment.

In summary, the Committee commends the City Council and staff on compliance, not only with the letter, but also the spirit of the Resolution. The Committee also believes the action of the City to establish a revolving fund for consultant fees assists in avoiding the practice of "contingent contracts" which is undesirable from both the municipal and private practice points of view.

W/Reso. # 3779

## II. RECOMMENDATIONS FOR IMPROVEMENT

The Resolution calls for the Committee's recommendations for improvement. While we feel the overall process is working well, the Committee makes the following recommendations for improvement for your consideration:

1. The Resolution should be amended to provide that no two firms or individual consultants shall list the same principals, employees or the same past projects on the completed Architect-Engineer Questionnaire on file with the City. To do so shall make the firms or individual consultants ineligible for selection under the selection procedures, except that a joint venture, consortium or other form of amalgamation which fully discloses the nature and extent of the amalgamation shall not be ineligible by reason of such duplication.

This recommendation is designed to prevent abuse of the intent of the Resolution to distribute consulting work among the available qualified firms.

2. The Resolution should also be amended for purposes of determining eligibility under the 1 year/5 year formula contained in Paragraph 6 of the Resolution, that when the Contracts are for services where Federal funds are involved that the firms are to be charged with the contractual fees at such time as the funds are available and the workorder issued.

The purpose of this recommendation is to provide that there be no penalty to the City, or Consultants involved, in the selection of firms for projects which are delayed due to the timing of project funding.

3. That Section "C" of Paragraph "14" of the Resolution be amended to raise from \$50,000.00 to \$250,000.00 the size of Public Improvement Work Contracts where the Consultant Review Committee can waive the requirement of the interviewing of consultants.

The purpose of this is to reduce the cost to the City and firms involved in the selection of design consultants for small jobs.

## III. VERIFICATION THAT THE PROCESS IS WORKING

The Committee herewith affirms that it is their unanimous opinion that the process as established in the Council Resolution adopted July 23, 1974, and amended December 31, 1974, is working, as intended, and is a fair and equitable procedure for the procuring of professional design services by the City of Oklahoma City.

W/Res. #3779

IV. A REVIEW OF DISTRIBUTION FIGURES

Of the 57 firms receiving Contracts from the City of Oklahoma City since the selection process has been in effect, only one is currently ineligible for consideration at this time. This firm is Benham-Blair and Affiliates, whose percentage is as follows: 29.56% for the five (5) years and 45.17% for the current year.

A review of the computer tabulations maintained by the Department of Public Works reveals the following distribution of consulting fees:

<u>Current Year</u>				<u>5-Year Depreciation</u>			
20	and	above	1	10	and	above	1
15	-	20%	0	8	-	10%	3
10	-	15%	3	6	-	8%	1
5	-	10%	0	4	-	6%	1
0	-	5%	53	0	-	4%	51

It appears to the Committee that there exists a sufficient reservoir of professional design consultant firms currently eligible for the forecasted workload anticipated to be commissioned by the City of Oklahoma City in the current year.

V. REVIEW OF FEE SCHEDULE

The Council Resolution also calls for the Committee's review of the fee schedule for professional services. The Committee has looked into fees recently contracted to Architects and Engineers, and has further discussed current fees with both the AIA and CEC. It is the consensus that with one exception, the fees have been fair and are generally in line with fees Architects and Engineers are charging for similar work for other agencies and the private sector. However, there is an exception, and that exception is in a difficult area. Furnishing appropriate and adequate professional services for small projects, additions, or remodels for a reasonable fee is very difficult if the Architect or Engineer expects to cover his true costs, let alone make a profit. The Committee, as well as the AIA and CEC, would recommend that possibly small A/E firms should be selected for the smaller projects and negotiations should be open to higher fees for these projects. If possible, the fees for some projects might be based on hourly rates.

In summary, we find that professional fees currently being contracted by the City of Oklahoma City are proper with the suggestion that thought be given to negotiating fees on more difficult or smaller projects based upon per diem rates or other appropriate bases.

*W/Reso. #3779*

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COUNCIL MEMO NO. 466-78

February 17, 1978

*as amended*

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Resolution for Architect and Engineer Selection Procedure

This memo presents for your consideration modification to the present consultant selection procedures as discussed during the Oklahoma City Council Planning Committee meeting of February 14, 1978.

The substantive changes are:

1. Section 3, Advertisement for consultants is modified to provide for solicitation by advertisement and mail as follows:  
Legal notice regarding the City's intent to secure consultant services shall be published and by first class letter to all Consultants listed in the file required at Paragraph 1, above, to be maintained by the Director and shall contain the following information:
  - A. Description and scope of the project or project (as per Paragraph 2 above).
  - B. Estimated construction cost and time schedule for project.
  - C. Funds available (Federal or State participation, etc.)
  - D. Last date for submitting letter of interest in performing services to Director.
  - E. Other pertinent data.
2. Item concerning rotation of firms. Section 6D, Subsection 1, Page 4 will remain as is.
3. The ceiling on the amount of work one firm may have has been deleted.
4. A procedure to assist firms in gaining experience has been added. The words "individual or" have been deleted from Section 6D. Subsection 3, Page 4.
5. The number of mandatory interviews has been reduced but consultants are afforded the opportunity to require some interviews.

*W/Reso. # 3779*

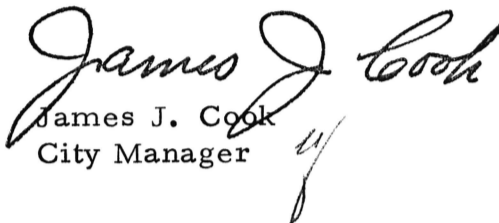
February 17, 1978

Page 2

6. The grievance and review procedures have been changed by providing for automatic solicitation of consultant's opinions, also, additional representation from the professional group most directly affected has been added. Item approved with modification; providing appointment of two consulting engineers by the Mayor and City Council, and two consulting engineers by the "Consultant Engineer's Council of Oklahoma to the Professional Liaison Committee."

The above information is provided for your review and consideration. Also, attached is a letter from Mr. Glen R. Turner, Chairman of the Professional Liaison Committee. He includes his list of recommended additional minor changes to the original draft resolution.

Respectfully submitted,

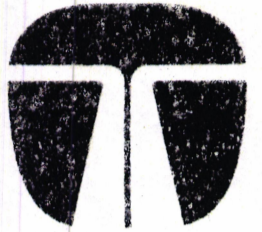
  
James J. Cook  
City Manager

Attachments

*W/Reso. #3779*

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Inc.

February 14, 1978



Mr. Bob McCoy  
Suite 213  
Investors Capital Building  
Oklahoma City, Oklahoma 73102

Dear Bob:

We appreciate your efforts toward maintaining a fair and workable consultant selection procedure. We will continue to support you in this struggle.

Thank you for your consideration of our comments and recommendations. Attached are the "house keeping" amendments we did not have time to discuss at the elongated Council session. If you have any questions, please do not hesitate to call. I do not know how we should handle the issue of dispersed ownership of AE among several firms. The draft language that was not discussed, which we handed you, should be addressed somehow. Do you want the Professional Liaison Committee to attend next Tuesday's Council meeting? If so, please advise.

Sincerely,

Glen R. Turner AIP, PE

GRT:bt  
Encl.

✓ cc: Members of the Professional Liaison Committee

*w/ Reso. # 377*

MINOR AMENDMENTS NOT AFFECTING SUBSTANCE  
TO CLARIFY INTENT AND OPERATION

<u>Page</u>	<u>Item</u>	<u>Amendment</u>
2	1	Change to: Form "254"
3	2	Add "together with a completed Architect Engineer Questionnaire GSA Standard Form 255, latest edition, with supplemental information as required by the Director,"
3	3	Add "GSA Standard Form 254, latest edition, with supplemental information as required by the Director,"
3	4	Change to "6"
3	5	Leave in language in ( )
3	6	Add "and shall send by first class mail a copy of a summary tabulation of such information to all consultants listed in the file required under Paragraph 1, CONSULTANT INFORMATION FILES, to be maintained by the Director."
5	7	Add "Those selected for consideration shall be advised of the right, if any, to request an interview as provided in Paragraph 8, below, said request to be in writing to the Director not less than 14 days of the mailing of the Notice."
6	8	Leave in "Section 6 of this Resolution shall be further considered in making the final selection to insure a fair and equitable distribution of these consultant contracts."
6	9	Change from "interviewed" to "considered".



*W/Reso. # 2779*

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R E S O L U T I O N

A RESOLUTION ADOPTING STANDARDS AND PRESCRIBING PROCEDURES FOR THE SELECTION OF AND THE NEGOTIATIONS OF CONTRACTS WITH ARCHITECTS, ENGINEERS AND PLANNERS FOR ALL PUBLIC IMPROVEMENT WORK, AND ESTABLISHING A PROFESSIONAL LIAISON COMMITTEE.

WHEREAS, the ultimate values of architect, engineer and planner services are derived from the creative judgment, skill and technical abilities of professional consultants, it is deemed necessary, advisable and in the best interest of The City of Oklahoma City and the public generally, to establish open selection procedures for obtaining qualified, experienced and competent consultants in a manner that will merit public confidence, with the object of effecting an equitable distribution of contracts among qualified firms, providing that such distribution does not violate the principle of selection of the most qualified firms.

NOW, THEREFORE, BE IT RESOLVED by the Council of The City of Oklahoma City for the purposes of this resolution:

(a) "Public Improvement Work" is defined to be any improvement or structure which is constructed, altered, repaired or maintained under contract with The City of Oklahoma City.

(b) "Consultant" is defined to be any individual, firm, corporation, association, partnership, co-partnership or any other organization possessing the required qualifications to provide architectural, engineering and/or planning services for any public improvement work project.

(c) "Director" is defined to be the Director of ~~Public Works/City-Engineer~~ Community Development Department for The City of Oklahoma City.

(d) "Department" is defined to be any Agency or Department of The City of Oklahoma City responsible for a Public Improvement Work Project.

(e) "City" is defined to be The City of Oklahoma City, and all Departments thereof.

(f) "Consultant Review Committee" shall be a committee composed of a representative of the City Manager's Office other than the City Manager, the Department Representative and the Director, who shall act as Chairman.

BE IT FURTHER RESOLVED that the following procedures be utilized in the selection of Consultants for all public improvements works projects:

1. CONSULTANT INFORMATION FILES

A comprehensive file for each Consultant interested in and capable of performing Architectural, Engineering and/or Planning services

*W/Res. # 377.*

for The City shall be maintained by the Director. These files shall include a completed Architect-Engineer Questionnaire, G.S.A. Stand. Form 251, latest edition, with supplemental information as required by the Director; completed Evaluation Report for past projects on which the Consultant provided professional services (Appendix A), and a list of past contracts with The City. An Evaluation Report shall be completed for each project within 30 days after final acceptance of the project. A copy shall be sent to the Consultant with a 30 day period for review and comments, if any, and shall be incorporated in the file.

## 2. DEPARTMENT RESPONSIBILITY

It is recognized that the Department is the User/Client and therefore shall have certain primary functions such as defining the scope of a proposed project, determining the various project components, phases and timetables, and then prepare detailed project descriptions to guide prospective Consultants. The scope of a Consultant's work for a proposed project shall include all public improvement work related to the project which can reasonably be bid in one construction contract or which can be designed by one Consultant with less technical effort than would be required if the scope was divided between more than one Consultant.

## 3. ADVERTISEMENT FOR CONSULTANTS

~~"Legal-Notice"~~-regarding The City's intent to secure Consultant services shall be published ~~at-least-one-time-in-a-daily-newspaper~~ of-general-circulation-published-in-Oklahoma-City by first class letter to all Consultants listed in the file required at paragraph 1, above, to be maintained by the Director and shall contain the following information:

- A. Description and scope of the project or projects (as per paragraph 2 above).
- B. Estimated construction cost and time schedule for project.
- C. Funds available (Federal or State participation, etc.).
- D. Last date for submitting letter of interest in performing services to Director.
- E. Other pertinent data.

4. CONSULTANT RESPONSE

Consultants desiring consideration must meet the requirements of this Resolution and to be considered must submit a letter <sup>(2)</sup> to the Director within fourteen (14) days of the last day of ~~publi~~ <sup>1</sup> ~~cation~~ mailing of the "~~Legal-Notice~~" notice and must have on file an Architect-Engineer Questionnaire <sup>(3)</sup> not over twelve (12) months <sup>1</sup> old.

5. DIRECTOR TABULATION AND ELIGIBILITY

After expiration of the period for expression of interest, the Director shall tabulate the names of the Consultants submitting letters of interest and having current questionnaires on file. The tabulation shall also indicate the eligibility or ineligibility of each Consultant with respect to the criteria in paragraph <sup>(4)</sup> 6D. <sup>1</sup> below. (Consultants who have submitted letters of interest but who are ineligible shall be notified by letter from the Director.) The Director shall furnish the tabulation and each listed Consultant's comprehensive file (or pertinent extracts thereof) to the Department responsible for the project. He may include such other data, information, or comments that he thinks will be beneficial to the Department. Should there be an inadequate expression of interest in a project, the Department and the Director shall confer to add additional Consultants for consideration which are known to be eligible and qualified for the project.

6. DEPARTMENT EVALUATION

The Department shall evaluate the Consultant files forwarded by the Director. This initial evaluation should consider the requirements of the Consultant Interview Evaluation Sheet (Appendix "B") as well as the following factors to be determined from the Consultant file, ~~Public-Works-Staff~~ Community Development Staff, and if less than three (3) Evaluation Reports are available, replies to inquiries to former clients:

- A. Specialized experience in the type of work contemplated.
- B. Capacity of the Consultant to accomplish the work in the required time.
- C. Past performance (from Evaluation Report - Appendix A).
- D. (<sup>(5)</sup> ~~Fair-and-equitable-distribution-of-Consultant-contracts-among-all-qualified-Consultants-to-be-determined-by-the-following.~~) Development of a reservoir of well-quali-

fied and experienced professional design firms ready to serve the City.

(1) To reap the benefits of a good continuing service, Departments are encouraged to employ the same firm that gave them service worthy of continuity. To also benefit from an occasional variation and to avoid uninspired sterile design and service (1), each Department is encouraged to try another firm occasionally. Therefore:

~~Each Department may hire a Consultant for no more than three consecutive projects, but then must hire another Consultant for at least one project prior to hiring the original Consultant again, except in the case of additions to an existing structure, site adaptations, or planning contracts not resulting directly in construction of a Public Improvement Work.~~

~~(2) No individual or Consultant having active contracts, the sum of which exceeds 20 percent of The City's current (2), active (3) Consultant contracts shall be eligible for any additional contracts.~~

(2) The Director shall, on a <sup>quarterly</sup> ~~semi-annual~~ basis, tabulate all Consultant Contracts issued by the City of Oklahoma City, and its agencies and Trusts by Consultant, including the amount of fees as established by those Contracts and shall compute the percentage of fees of each Consultant, considering all Contracts issued within the past five years, using the depreciated value of those Contracts. (6) Depreciated value is defined as the dollar value of Consultant fees based on full value for fees awarded within the previous twelve months and reducing twenty percent per year for the previous four years. Provided, that when Contracts are for services where Federal funds are involved that the firms are to be charged with the contractual fees at such time as the funds are available and the work ordered issued.

~~(3) No individual or Consultant who has had contracts, the sum of which exceeds 10 percent of the City's total consulting contracts within the past five years, using the depreciated value (4) shall be eligible for any additional contracts.~~

(3) No individual or Consultant shall be considered as eligible for consideration of a Consultant Contract with fees below the following schedule where his percentage as defined under D(2) above is above the following schedule:

<u>Percentages at or exceed</u>	<u>Contract fee at or below</u>
5%	\$100,000
2.0%	25,000

(1) Consultant as used in this paragraph specifically means the particular ~~firm or individual~~ business entity being evaluated including ~~their~~ its pro-rata percent participation in any and all previous joint ventures, consortiums or other forms of amalgamation if the previous pro-rata is available to The City. If pro-rata information is not available to The City the entire value of previous services involving Consultant being evaluated shall be included in determining their eligibility. Percentage determinations shall include the value of all fees for Consultant and Planning services performed for any Agency, Municipal Trust or Department of The City.

W/Res. #3779

- 22  
245
- (2) ~~Current-Consultant-contracts-is-defined-to-be-all-contracts entered-into-in-the-immediate-past-twelve-(12)-months.~~
  - (3) ~~Active-Consultant-contract-is-defined-to-be-any-Consultant contract-in-the-design-or-construction-document-phase, from the-time-of-"letter-to-proceed"-to-the-letting-of-a-construction-contract-or-"stop-work-order".~~
  - (4) ~~Depreciated-value-is-defined-to-be-the-dollar-value-of-Consultant-fees-based-on-full-value-for-current-fees-and-reducing-twenty-percent-(20%) per-year-for-the-previous-four-years.~~

#### 7. DEPARTMENT SELECTIONS

The Department, upon completion of the initial evaluation, shall select no less than three (3) nor more than five (5) Consultants for more detailed consideration. In the event interviews selections for more than one contract are being considered at the same time, the number of Consultants selected for more detailed consideration should be at least twice the number of contracts contemplated. ~~The-Consultants-selected-for-further-consideration-should be-notified-in-writing-of-the-time-and-place-for-interviews-by the-Consultant-Review-Committee.~~ All Consultants who responded to the notice shall be notified of their selection, or non-selection for detailed consideration ⑦ Consultants selected for detailed consideration shall provide such additional information, in writing, as the Director may prescribe.

#### 8. CONSULTANT INTERVIEWS AND SELECTIONS

All of the Consultants submitted by the Department shall be interviewed given detailed consideration by the Consultant Review Committee, with particular attention being given to the considerations contained in the Consultant Interview Evaluation Sheet.

On projects for which the estimated cost of construction exceeds \$2.5 million, the Consultants selected for detailed consideration shall be interviewed by the Consultant Review Committee.

On projects for which the estimated cost of construction exceeds \$250,000 but is less than \$2.5 million, interviews will be conducted if requested by any Consultant selected for detailed consideration. Any such request shall be included in the response to the request for additional information required by paragraph 7, above.

On all projects, regardless of estimated cost of construction, interviews will be conducted whenever the City Manager deems such interviews appropriate.

Consultants shall be notified in writing of whether interviews will be conducted, and, if there are to be interviews, of the time and place.

Interviews will be open to the public, however, once the interviews commence, they shall run continuously until all Consultants have been interviewed and the Consultant representatives shall be sequestered from the public. Any Consultant violating sequestration shall be disqualified from further consideration.

In order to insure an objective evaluation, those considerations have been given numerical values, which when all evaluation sheet scores are totalled, will provide a ranking of the Consultants interviewed, listing the first, second, and third choice for negotiation. ~~Section 6-B of this Resolution shall be further considered in making the final selection to insure a fair and equitable distribution of these Consultant contracts.~~ Where interviews are not conducted then the files maintained by the Director together with the additional written information obtained in accordance with paragraph 7, above, shall be evaluated by the Committee for purposes of ranking the Consultants.

9. CONSULTANT REVIEW COMMITTEE REPORT

A full report of the evaluation procedures and recommendations of the Consultant Review Committee shall be prepared by the Director and submitted to the City Manager for his independent review. This report shall be in the form of a Memo, generally containing the following information:

- A. Subject Project.
- B. Scope of Project.
- C. Summary of findings and recommendations of Consultant Review Committee.
- D. Consultant Review Committee's certification that procedure was followed.
- E. The Director's tabulation of Consultants submitting letters of interest including the indications of eligibility and ineligibility.

10. CITY MANAGER'S RECOMMENDATION

The City Manager shall then transmit the report of the Consultant Review Committee, together with his comments and recommendations, to the City Council. The City Manager shall advise the Consultants

9

interviewed by the Consultant Review Committee of his recommendation and shall advise the Consultants not recommended that they may submit any comments on the Consultant selection procedure to the Professional Liaison Committee. The City Manager shall supply pre-printed cards, with postage paid, and addressed to the Professional Liaison Committee for such purpose with questions as follows:

In your opinion did the Consultant Review Committee follow the intent of the Consultant selection procedures outlined by the City Council of Oklahoma City?

Yes                      No

Do you feel you were given a fair consideration by the City of Oklahoma City?

Yes                      No

Do you wish to appear before the Professional Liaison Committee on this matter?

Yes                      No

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Consultant

11. COUNCIL AUTHORIZATION

The City Council may then authorize contract negotiations between the Director and the recommended Consultant.

12. CONTRACT NEGOTIATION

Upon authorization by the Council, the Director shall negotiate the contract scope with the selected Consultant. The fee for the project shall be determined from the City Consultant Fee Schedule. If the contract scope is materially different than the work scope on which the fee schedule is based, then an appropriate adjustment in the fee shall be negotiated. If the Director and the first choice Consultant cannot reach agreement, their negotiations should be terminated by obtaining the Consultant's best and final offer in writing. This offer, along with a request for authority to begin negotiations with the second choice shall be sent to the Council for action.

13. COUNCIL APPROVAL

The negotiated contract shall be submitted to the Council for approval of the award.

W/Reas. #377

14. ADMINISTRATIVE PROVISIONS

- A. Nothing in this act shall affect the validity of any contracts in existence at the effective date hereof.
- B. The requirements of this Resolution may be waived by the Department and the Director for Public Improvement Work contracts of \$10,000 or less.
- ~~C. Interviews required by Section 8 of this Resolution may be waived for Public Improvement Work contracts of \$50,000 or less by unanimous agreement of the Consultant Review Committee, if the waiver is made a part of the Committee's report.~~
- C. It is hereby recognized that it may be in the City's best interest to group several small contracts together into a single contract, in order to attract qualified firms.
- D. If any section, sub-section, paragraph, phrase, clause or work of this Resolution is held to be invalid, the remainder of the Resolution shall not be affected.
- E. Any resolutions, or parts thereof, in conflict with the provisions of this Resolution, are hereby repealed.
- F. In the case of special projects having unique engineering or architectural considerations where it is deemed desirable by the City Council to have citizen involvement in all stages of the project, two citizens may be appointed by the Mayor to become members of the Consultant Review Committee, in addition to those hereinabove named, for the special project only.
- G. If the Department evaluation of the Consultant files reveals less than three (3) qualified, eligible Consultants and reveals that ineligible, qualified Consultants are included on the Director's Consultant tabulation, the Department may request the City Council to permit inclusion of enough ineligible, qualified Consultants to provide three (3) Consultants for detailed consideration. The City Council ~~Manager~~ shall seek comments and recommendations from the Professional Liaison Committee as to the Department's evaluation for the necessity of including additional Consultants.

15. PROHIBITION AGAINST CONTINGENT FEES

Each contract entered into by The City for professional services shall contain a prohibition against contingent fees as follows:

"The Architect, Planner or Professional Engineer (as applicable) warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Architect, Planner, or Professional Engineer, to solicit or secure this agreement, and that he has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Architect, Planner or Professional Engineer any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the

award or making of this agreement". For the breach or violation of this provision, the City shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

16. PROFESSIONAL LIAISON COMMITTEE

There is hereby established a Professional Liaison Committee to aid and assist in the orderly implementation and application of the standards and procedure heretofore prescribed. The composition and duties of said Liaison Committee shall be as hereinafter set forth.

Membership and Appointment

A. City appointments by the Mayor and confirmed by the City Council:

One Architect

One Four Consulting Engineers

One Lay Member

B. Professional appointments:

One Architect by the Oklahoma City Section of the American Institute of Architects

One Consulting Engineer by the Consulting Engineering Council of Oklahoma

One Planner by the Oklahoma Section of the American Institute of Planners

Committee members shall serve without compensation for a term of two (2) calendar years, and should any vacancy occur, the appointing organization shall fill the vacancy for the remainder of the term. However, the initial term of appointment for the City Council's Consulting Engineers and the Professional Societies' Architect and Planner shall be for one (1) calendar year, and the expiration of those appointments shall continue to occur one year apart from the other appointments. The Committee shall select a Chairman who shall serve for one (1) calendar year. Membership on this Committee shall not disqualify a Consultant from eligibility to perform professional services for the City. However, should a matter involving a member of this Committee come before the Committee the member involved shall not participate as a Committee member in the processes or voting related to the matter.

**Meetings:** The Committee shall meet upon the call of the City Council or of the City Manager or of the Chairman thereof.

**Duties:** It shall be the duty of the Committee to review any written complaint or inquiry submitted to it concerning the application or lack of same of the terms, conditions, or standards imposed by this Resolution.

Upon completion of its review, the Chairman of the Committee shall file a written report with the Mayor, each member of the City Council and the City Manager and with each Professional Society named heretofore.

Such report shall contain the findings and recommendations of the Committee.

Upon receipt of the Committee's report, the City shall take such action as it deems appropriate.

Annual Report will be made at the end of each year to contain:

- (1) Summary of year's activities resulting from requests and reviews, findings and results or corrections.
- (2) Recommendations for improvements.
- (3) Verification that procedures are working properly.
- (4) A review of the year's distribution figures.
- (5) Review of the fee schedule.

A copy of this report shall be sent to the Mayor, each Councilman, City Manager, and to each professional society.

ADOPTED by the Council and APPROVED by the Mayor of The City of Oklahoma City, Oklahoma, this \_\_\_\_\_ day of \_\_\_\_\_, 1978.

\_\_\_\_\_  
M A Y O R

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED as to form and legality this \_\_\_\_\_ day of \_\_\_\_\_, 1978.

\_\_\_\_\_  
Assistant Municipal Counselor

*w/Res. #377*