



The Philadelphia Procurement Department

Regulations Governing the Purchase of Goods and Non-professional Services Other Than By Awarding of Contracts to the Lowest Responsible Bidder

Section 1. Authority.

These Regulations governing the purchase of goods and non-professional services other than by awarding of contracts to the lowest responsible bidder (“Regulations”) are promulgated pursuant to Section 8-200 of The Philadelphia Home Rule Charter (“PHRC”) and Title 17 of The Philadelphia Code.

Section 2. Purpose.

(a) The taxpayers and residents of the City of Philadelphia (“City”) should receive the best value possible from the City’s procurement system. The goods and services that will provide the best values for the City cannot always be selected on the basis of lowest price. These Regulations are promulgated to ensure that when the City takes into consideration other important factors in addition to the price of goods and services, the award of the contract will be made in an open, fair and transparent process providing the best value for the City.

Section 3. Definitions

(a) In these Regulations, the following definitions shall apply:

Best Value means the award of contracts for goods, construction, alterations, repairs, maintenance or other services using selection criteria in addition to the price of the goods and services offered following an open, competitive solicitation of proposals.

City means the City of Philadelphia acting in its capacity as a municipal government.

City Department means any City department, agency, board or other unit of government that is subject to PHRC Section 8-200.

Commissioner means the Procurement Commissioner or the person designated to act for the Commissioner in the Commissioner's absence.

Committee means the selection committee formed with the approval of the Commissioner for evaluating and recommending the award of a Best Value contract.

Department Head shall mean the commissioner, director or other person responsible for the City Department.

EOP means an Economic Opportunity Plan as may be required by Section 17-1600 of The Philadelphia Code.

Goods and Services means collectively the goods, construction, alterations, repairs, maintenance or other services that would be purchased by the City from the lowest responsible bidder unless otherwise determined by the Commissioner in accordance with this Regulation.

OEO means the Office of Economic Opportunity or another office designated by the Mayor for review and compliance with City requirements for diversity and inclusion.

PHL Contracts means an on-line system for public notification of contract opportunities and the award of contracts and the solicitation of proposals and bids, including a successor system or as designated by the Procurement Commissioner.

Price Scoring means the evaluation of a proposal's price or cost.

Proposer means a respondent to a Request for Proposals.

RFP means a Request for Proposals.

Technical Scoring means the evaluation of a proposal's attributes that do not include price.

Section 4. Commissioner's Determination that Best Value Should be Used

(a) Certain Goods and Services have qualitative characteristics that make them better suited to Best Value instead of awarding a contract to the lowest responsible bidder. Such characteristics may include the integration of technical or professional service elements, quality differences among proprietary products and services, incorporation of City contracting

objectives, including but not limited to, participation in City contracts by disadvantaged business enterprises pursuant to Article 6-109 of the PHRC (related to participation goals), or other attributes that make price alone a poor indicator of best value.

(b) City Department Recommendation. When a City Department determines that Goods or Services can be better purchased using Best Value, the City Department shall submit its recommendation to the Commissioner using forms issued by the Procurement Department. The recommendation must be approved by the Department Head. The City Department shall provide a description of the proposed purchase and the components of the Goods and Services that have the characteristics identified in Section 4 (a). The City Department recommendation shall propose a relative weight for Price Scoring and Technical Scoring to be used in the evaluation of the Goods and Services to be selected. The minimum Price Scoring shall be 30% of the total evaluation. Price Scoring may include the life cycle cost. The minimum Technical Scoring shall be 50% of the total evaluation. The combined scoring must equal 100%. The proposed Technical Scoring shall be based on some or all of the following criteria:

- (1) The qualities of the Goods or Services proposed, including the product and service characteristics that meet the particular requirements of the requesting City Department;
- (2) The technical, administrative and financial experience and capacity of the Proposer;
- (3) Proposer's management plan and proposed schedule;
- (4) Proposer's experience providing similar products and services;
- (5) The experience and capacity of Proposer's identified staff and subcontractors;
- (6) Proposer's diversity and inclusion plan;
- (7) Proposer's past performance on City and other contracts;
- (8) Proposer's history and plan for work safety;

- (9) Benefits to the City of supporting growth of new or small businesses, including those owned by minority or disabled persons or women;
- (10) Anticipated job creation, particularly in low and moderate-income neighborhoods in Philadelphia;
- (11) Proposer's certification as a Local Business Entity;
- (12) Additional economic, environmental, and social benefits of the proposed Goods or Services that support the City Department's objectives, and may include the flexibility to adapt to possible changes over the life-cycle.

The City Department shall propose weights for all proposed criteria.

(c) Commissioner's Determination. The Commissioner may agree or disagree with the City Department's recommendation, or may require additional information or modifications. If the Commissioner approves the recommendation it will be the Commissioner's determination for Best Value and posted with the contract opportunity documents.

(d) Selection Committee. If the Commissioner approves the purchase of Goods and Services using Best Value, the City Department shall propose a Committee and a Committee chair or co-chairs for the development of an RFP (including the selection criteria and weighting factors), the review of proposals and the recommendation for award of a contract. The Committee must be composed of diverse persons having familiarity with the required Goods and Services and appropriate technical, financial or other expertise for addressing cost and the qualitative factors of the proposals. Committee members may be drawn from other City Departments having additional or supporting expertise. The Commissioner shall review the proposed Committee and may agree, disagree or propose additional members. Each Committee shall be assigned employees from the Procurement Department and the Office of Economic Opportunity as members.

(1) No Conflicts/Confidentiality. All members of a Committee must affirm that they have no conflict of interest in the recommendation of a contract award, and agree that they will not disclose confidential information about the selection process. Committee members will sign standard forms prior to their involvement on the Committee. The forms shall be kept by the Procurement Department in the contract file.

Section 5. Solicitation of Proposals

(a) PHL Contracts. The City will solicit proposals for purchases approved for Best Value through PHL Contracts using an RFP. The contract opportunity posting on PHL Contracts will identify the contract opportunity as using Best Value for selection.

(b) Request for Proposals. The RFP will be prepared by the City Department using a standard PHL Contracts template and reviewed by the Procurement Department prior to posting on PHL Contracts. It will be posted for at least 14 days. The RFP will provide the following information: (1) the name of the City Department seeking to enter into the contract; (2) a detailed description of the nature of the Goods and Services being sought; (3) the requirement that no party may be awarded the contract unless it submits a proposal in accordance with the submission format and deadlines established by the RFP; (4) the requirements of Section 6 (b) below relating to mandatory disclosures by Proposers to a contract opportunity; (5) all required information that a Proposer needs to submit and how to submit such information; and (6) the selection criteria and weightings that will be used to evaluate proposals.

(c) Prequalifications. The City may require that Proposers submit qualification information in advance of submitting a proposal. If such a pre-qualification process is required the City shall identify the requirement in the contract opportunity posting on PHL Contracts.

(d) Submittal Deadlines. The posting on PHL Contracts will identify all submittal deadlines. Prequalification information and Proposals submitted after the deadline may be rejected without further review.

Section 6. Proposal Submission

(a) Prequalification Submittals. If prequalification is required by the PHL Contracts opportunity posting, each Proposer must submit certain business information in advance of qualifying to submit a proposal. If the Proposer's prequalification information is not submitted the City shall not accept the proposal.

(b) Mandatory Disclosures. All Proposers are subject to Chapter 17-1400 of The Philadelphia Code including the disclosure requirements and the eligibility requirements of that Chapter. The disclosure requirements of those provisions are summarized here; to the extent

there is any discrepancy between this summary and the requirements of Chapter 17-1400, the requirements of that Chapter shall control. Proposers must disclose the following information as part of their application to the contract opportunity: (1) the names and contact information of any Consultants paid by the Proposer in the last year to assist in obtaining the contract opportunity, including the amount paid or, alternatively, a certification stating that no such Consultants (as defined in Chapter 17-1400) were used; (2) campaign contributions made in the preceding two years by either the Proposer or any of their aforementioned Consultants or by any persons whose contributions are attributable to the Proposer pursuant to Phila. Code sec. 17-1405 to political candidates and incumbents who are running for, or currently serving in, a local (Philadelphia) or state-wide elected office anywhere within the Commonwealth (federal campaign contributions are not included) or to any political committee organized in support of any such candidate or incumbent; (3) the names and contact information of prospective subcontractors which the Proposer intends to use during the term of the contract and the amount or percentage to be paid to each subcontractor; (4) whether the Proposer or any representative of the Proposer has received any requests from City officials or employees in the preceding two years for money or other items of value and, if so, the name of each official, the date of the request, the amount requested and, if payment was made in response to the request, the dates and amounts of any such payments; and, (5) the names and titles of any City officers or employees who advised the Proposer in the preceding two years on satisfying minority-, women- or disabled-owned business participation goals, the date any such advice was given and the names of any particular persons whom the City officer(s) or employee(s) recommended to use in satisfying participation goals. Such disclosure shall be made on a form provided by the City.

Proposers must commit to meeting the requirements of Chapter 17-1400 during the term of the contract, which includes updating the disclosures throughout the term of the contract and for one year following the expiration of the contract, and covenanting not to make certain disqualifying political contributions.

(c) Tax and Licensing Compliance. Each Proposer shall be required to submit a certification of City of Philadelphia tax and regulatory compliance. If the Proposer is not in compliance with the City's tax and regulatory codes, an opportunity will be provided to enter into satisfactory arrangements with the City. If satisfactory arrangements cannot be made, the City will not enter into a contract with that Proposer. If a proposed subcontractor is not in

compliance and fails to enter into satisfactory arrangements with the City, the non-compliant subcontractor will be ineligible to work on a City contract.

(d) Proposal Format. Proposals must be submitted in the format prescribed in the RFP and address all RFP sections as required. Proposals that do not conform to the required format may be rejected by the City without additional review.

Section 7. Proposal Review

(a) Technical and Price Evaluation. Prior to the proposal submittal deadline, the Committee shall finalize Technical Scoring based on the criteria and weighting described in the RFP. When evaluating each proposal, the Committee members will complete Technical Scoring before considering the price of each proposal. The Committee shall also develop a price evaluation formula which will incorporate any factoring which was established in the RFP. The price factors that correspond with each proposal will not be considered until all of the Technical Scorings have been completed, unless the Commissioner's determination for Best Value states that price will be considered concurrently or first. Technical Scoring and Price Scoring may vary by opportunity.

(1) Technical Scoring. Committee members may consider all information included in the proposal, any information that is obtained during the prequalification, Proposer interviews, or reference checks to score each proposal. The Technical Scoring shall include scoring of the criteria that were posted with the contract opportunity. The criteria will be assigned points consistent with the weighting. The total number of points received in the criteria will be added together and the proposal will receive the number of points awarded out of the total possible points. Some elements of the technical evaluation may require review by individuals or departments that are not members of the Committee. Any such review will be limited to the information essential for the review and subject to confidentiality.

(i) Economic Opportunity Plan and Participation Ranges. All proposals shall be reviewed by the City's Office of Economic Opportunity and the Office of Labor Standards to determine whether the requirements of the RFP relating to an Economic Opportunity Plan or to the submission of information related to the participation by Minority Business Enterprises ("MBE"), Woman Business Enterprises ("WBE") and Disabled Business Enterprises ("DSBE") (collectively, "M/W/DSBE") have been met.

(2) Price Evaluation. The price may be factored so that the lowest price is given the highest score, subsequent prices may be assigned a point value based on their relationship to the lowest score. This will depend on the criteria and weighting established in the RFP. Further detail on price evaluation is detailed in a guidance document to be issued and posted by the Procurement Department.

(b) Review by Committee Members. Following the proposal submittal deadline, the proposals will be distributed to the Committee members for their review. Proposals will only be released to committee members following the submission of a conflict of interest and confidentiality statement by all Committee members to the Procurement Department. Each Committee member shall also receive the score sheet. Following review of the proposals, the Committee members shall inform the committee chair as to whether additional information from the Proposers is necessary or beneficial prior to completing the evaluation. If additional information is requested, the information may be provided to the Committee as written addenda to the proposals or in an interview format. Committee members may also ask the chair to schedule interviews if the evaluation process would benefit from meeting with the proposers.

(c) Review by Committee. After all Committee members have completed their reviews of the proposals, the Committee will meet to discuss their evaluations. Following discussion, the Committee members will submit their scores. The representative from the Procurement Department will tally all scores. The proposals will be ranked by their Technical Scoring combined with the Price Scoring to determine an overall ranking of the proposals.

Section 8. Recommendation by Committee.

(a) The Committee will recommend the Proposer receiving the highest overall score to the Commissioner either for the award of a contract or for additional negotiations of price and other terms. Where the overall scores of two or more Proposers are substantially similar, the Committee may recommend more than one Proposer for further negotiations. The Commissioner shall review the recommendation of the Committee and accept or reject the recommendation or require additional actions on the part of the Committee.

(1) If the Commissioner rejects the recommendation of the Committee no contract will be awarded.

(2) If the Commissioner accepts the recommendation of the Committee, the Commissioner may award a contract or award it subject to further approvals that may be required by City Council or other approving bodies.

(3) If the Commissioner determines that additional negotiations are appropriate, the Commissioner in cooperation with the department may negotiate or may request the assistance of other City personnel or City contractors to assist in finalizing the negotiations. Following additional negotiations the Commissioner may either: (i) award the contract or award it subject to further approvals that may be required by City Council or other approving body; (ii) terminate negotiations with the Proposer and begin with the Proposer with the next highest overall score; or (iii) terminate the proposed purchase.

Section 9. Contract Award.

(a) If the Commissioner determines it is in the best interest of the City to award a contract, the notice of intent to contract shall be posted on PHL Contracts for a minimum of 8 days prior to executing the contract.

(b) Pursuant to Section 17-1402(1)(b)(iii) of The Philadelphia Code, no contract shall be awarded unless all required disclosure forms are completed, signed and attached to the proposal for the contract opportunity. Further, no contract shall be awarded until a determination is made that the Proposer meets the eligibility requirements established in Section 17-1404 of The Philadelphia Code relating to campaign contributions.

(c) The City reserves the right to award contracts to multiple vendors. This will be posted up front in the opportunity.

(d) The notice of intent to contract posting shall include the following information:

- (1) the name of the proposed contract recipient;
- (2) the reason for the selection of a Proposer, including the overall evaluation score of the proposed contract recipient;
- (3) the names of all other Proposers to the RFP
- (4) the price(s) offered in the proposed contract;
- (5) the proposed contract recipient's commitments to subcontractor and workforce diversity.

Section 10. Guidance Documents

(a) The Procurement Department shall issue and distribute guidance to City Departments for the development of Best Value procedures and recommendations for ensuring compliance with these Regulations and other laws. The Guidance will include information on developing appropriate selection criteria and weighting. Sample Technical Scoring and Pricing Scoring sheets will be provided.

Section 11. Severability

(a) If any clause, sentence, paragraph or part of this Regulation, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this regulation nor the application of such clause, sentence, paragraph or part to other persons or circumstances but shall be confined in its operation to the clause, sentence, paragraph or part thereof and to the persons or circumstances directly involved in the controversy in which such judgment shall have been rendered.

Section 12. Effective Date

These Regulations shall be effective immediately following the completion of the procedures required by Section 8-407 of the Philadelphia Home Rule Charter.



TREVOR DAY
Procurement Commissioner