

COUNCIL ACTION FORM

SUBJECT: REPORT OF PROPOSED IMPROVEMENTS RELATED TO BIDDING AND CHANGES TO PURCHASING POLICIES RELATING TO CHANGE ORDERS

BACKGROUND:

On November 7, 2007, City Council identified six issues relating to purchasing activities as needing improvement. Staff explored these improvements in three categories: subcontractor issues, performance bond issues, and other insurance issues. Attached is a report discussing the issues and proposing improvements. Following is a summary of the proposed improvements:

A new section in the Standard Terms, Conditions, and Definitions of bidding documents is proposed that would require that general contractors provide a list of proposed major subcontractor names with their proposed scopes of work and subcontract amounts prior to the start of work. This section would also require that the contractor provide a certification from each major subcontractor prior to the start of work documenting that it agrees to the conditions of the contract between the City and the contractor. These requirements may be waived for subcontractors and suppliers pre-approved by another governmental entity as is the case with suppliers pre-approved by the IDOT for Public Works projects.

Insurance issues will continue to be researched. In the interim, it is proposed that requirements continue to focus on the strength of the general contractor. Project-specific risks would be assessed by the Risk Manager, in consultation with the Engineer, for larger and more complex projects. The required base limits of coverage would be increased when appropriate. The limits for consequential damages not specifically identified would be the limits of insurance or as determined appropriate by the Risk Manager. Contractors would be required to provide insurance certificates from major subcontractors prior to the start of work. Limits of insurance for subcontractors on large projects would be determined by the Risk Manager based on their scope of work for the project.

Since August 2007, the required performance bond is more than the base contract amount when extra work is anticipated on a project. The percentage is adjusted upward from 100% of the base contract amount dependent upon the amount of extra work that is anticipated. For example, this method is used when the base bid is to provide an inspection of older equipment and the Engineer anticipates that some repair work might be necessary. Some "extra" tasks can be defined, included in the technical specifications, and bid prices obtained. If one of those tasks, or other work, is determined to be necessary and added to the contract by change order, it is intended that the additional bond amount would cover the extra work.

It is proposed that the Standard Terms, Conditions, and Definitions state that an additional performance bond be required in conjunction with change orders when the total of change orders exceeds the existing performance bond amount by more than \$100,000. Including the additional bond, the total of bonds would be 100% of the revised contract price. Obtaining an additional bond may result in a work stoppage while the contractor secures the additional bond. As a result, the Engineer may need to authorize standby or demobilization/re-mobilization charges. Both the additional bond requirement and the ability to authorize costs associated with a work stoppage require revisions to the purchasing policies.

For large and complex projects, particularly for Electric Services, a project team including the Engineer, Electric Services management, the Risk Manager, the Assistant City Manager, the buyer assigned from Purchasing, and others as appropriate will meet during the planning phase of the project to begin an assessment of issues including risk. This team will communicate throughout the project to insure that risk issues are identified and minimized.

Training options in the area of contract administration and management are being researched for staff working directly with contracts. A preliminary list of subject content has been developed. Information about seminars and on-line classes offered by the National Association of Governmental Purchasing (NIGP) on this subject will be made available to departments who work with contracts. Other options for this training are being explored, and staff is working through Human Resources to identify training components that can be offered through the Employee Development Center (EDC).

ALTERNATIVES:

1. Approve the proposed improvements related to bidding as outlined in the attached report and changes to the purchasing policies relating to change orders.
2. Direct staff to further review these issues.
3. Reject the report and the proposed changes to the purchasing policies.

MANAGER'S RECOMMENDED ACTION:

Improvements relating to bidding are proposed in the areas of subcontractors, performance bonds, and insurance. The proposed changes are intended to improve bidding documents and evaluation processes and to provide clear standards for contract management.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, thereby approving the proposed improvements related to bidding and changes to the purchasing policies relating to change orders.

CAF APPROVAL

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DM dy JP _____

To be sent to:

