

Tahoe City Public Utility District Financial Policy

Technical Consultant Selection Policy Policy Number: 2070

I. PURPOSE

This Policy is established to provide guidelines for the solicitation, selection, negotiation and administration of contracts with Technical Consultants.

II. POLICY OVERVIEW

In order to efficiently complete many of the projects of the District, it is necessary and beneficial for the District to employ Technical Consultants, including but not limited to Engineers, Architects, Land Surveyors, Landscape Architects, Environmental Planners, and Construction Managers. Financial consultants are not included in this Policy. The establishment of this Policy sets forth guidance for the solicitation, selection, negotiation, and administration of Technical Consultant contracts and to ensure internal checks and balances in the process.

Technical Consultants are generally employed to provide a technical or professional service when the work proposed is not on-going or where staff resources are insufficient to complete the work in a timely and efficient manner. Technical Consultants may also be employed in areas where staff does not possess the required expertise; the work requires third-party objectivity; it is a requirement of funding grants or law; or in an emergency. In these instances, the Technical Consultants are independent contractors who function similar to District employees.

It is the intent of the District to select consultants based on demonstrated competence and professional qualifications. The District intends for this Policy to comply with the philosophical and legal requirements of Local Agencies under the California Mini-Brooks Act. The Mini-Brooks Act requires Local Agencies to select Technical Consultants *"on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required"* and *"...at fair and reasonable prices"*. The Mini-Brooks Act requires that State Agencies follow certain procedural requirements constituting a Qualifications-Based Selection (QBS) process. Local Agencies are not required to, but may, adopt these procedural requirements. The District is not adopting these procedural requirements.

The use of competitive bidding for the selection of Technical Consultants is prohibited by the Mini-Brooks Act, except in limited circumstances where it is determined that the services needed are more of a technical nature and involve little professional judgement, and is not in the interest of the District for several reasons. At the selection stage, the work to be performed by the Technical Consultant is not sufficiently defined to allow for competitive bidding. More importantly, it is in the interest of the District to choose the most qualified consultant, not the least expensive. Selecting based on qualifications results in a higher-quality product, facilitates the investigation of alternatives or cost-saving solutions, establishes a team-effort, and allows for flexibility. Finally, the cost of the service provided by the Technical Consultant, while an important factor, is usually a small portion of the total project cost. Cost proposals may be solicited and considered in the selection of the Technical Consultant, but are not required and if utilized, shall not be the sole determining selection criteria.

The District will show a preference for selecting local firms that are qualified or capable of providing the proposed services. Local firms are those with an office occupied by one or more full-time employees located within the greater North Tahoe/Truckee area. Location within or distance to the District

boundaries and whether a majority of the ownership interest of the firm is owned by a person whose primary residence is located within the greater North Tahoe/Truckee area or an entity which has its principal place of business located within the greater North Tahoe/Truckee area will be considered. Employing local firms is a benefit to the area in general and the District specifically. Local firms typically have a better knowledge of the environmental, regulatory, and political setting where the work will be performed. In addition, they are proximate to the District and its staff facilitating direct communication and teamwork.

It is a goal of the District to produce the highest quality and most consistent work product. In order to help achieve this goal, it is in the interest of the District to employ a limited number of consultants with expertise to complete the typical work of the District. Consultants who perform this work for the District will become more knowledgeable about the District's planning, priorities and projects, more familiar with the District's standards and procedures and will better coordinate their work with District staff. Greater efficiency will be achieved throughout project delivery.

The Board of Directors reserves the right to review and amend this Policy at any time, or to alter or modify the process at their discretion for any particular circumstance.

III. DEFINITIONS

As used in this Policy, the following terms shall have the meanings specified below:

- a. Board – The lawfully elected or appointed governing body of the TCPUD.
- b. Committee – The Standing Committee of the Board with responsibility most directly related to the proposed work.
- c. District – The Tahoe City Public Utility District (District or TCPUD).
- d. Mini-Brooks Act – Chapter 10 of California Government Code, Sections 4525-4529.5.
- e. Policy – This “Technical Consultant Selection Policy.”
- f. Qualification Based Selection (QBS) – A procurement process that focuses on the qualifications of potential firms rather than their fees or the price of the contract.
- g. Technical Consultant – An individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, landscape architecture, engineering, environmental services, land surveying, or construction project management [California Government Code, Section 4525.(a)].

IV. PROCESS

The selection of Technical Consultants shall be performed by a Selection Team consisting of:

- The Department Manager of the operating department most directly related to the proposed work;
- The District Engineer;
- The Engineering Manager; and
- One other member within the District staff that has an understanding of the project.

The Selection Team shall have the authority to choose the method of selection, choose the firms to be considered, review submitted information, and determine the most-qualified Technical Consultant following the guidelines presented below. The General Manager shall approve all Technical Consultant selections prior to initiation of contract negotiations.

After General Manager approval of the selection, staff shall be responsible for negotiating the contract, including the Scope of Work and Fee Estimate, with the Technical Consultant. If the Scope cannot be

agreed upon or the Fee Estimate is not considered fair and reasonable, then staff shall negotiate with the next most qualified Technical Consultant.

If the Selection Team recommends exceptions to this Policy, the exception shall be presented to the appropriate Committee for approval. If approved, the exception shall be reported to the Board when the Technical Consultant contract is presented for approval.

All Technical Consultant contracts or contract amendments in excess of \$25,000 shall be approved by the Board. The Board report requesting approval shall include a summary (including any exceptions) of the selection procedure and the basis for the selection of the most-qualified Technical Consultant.

Selection Guidelines

Staff shall maintain and periodically update a list of Technical Consultants interested in working for the District. This list should include information on the location and capabilities of the consultant. The list can be used by the Selection Team to determine solicitation distribution or for direct selection.

The following are guidelines for selection of Technical Consultants by the Selection Team. The Selection Team may use a more stringent procedure depending on project needs without approval from the appropriate Committee. Exceptions allowing less stringent procedures require approval of the appropriate Committee as defined above:

- **Estimated Contract Value \$25,000 or less:**
Provided the Board has already approved the project and budget, District staff may select the most-qualified Technical Consultant based on the proposed work. Staff should then negotiate the Scope of Work and Fee Estimate directly with the selected Technical Consultant. The General Manager is authorized to execute the Technical Consultant contract. The selection and contract shall be reported to the appropriate Committee at its next regularly scheduled meeting (no Committee or Board approval required).
- **Estimated Contract Value \$25,001 - \$200,000:**
The Selection Team may select the most-qualified Technical Consultant utilizing a simplified selection process determined by the Selection Team to be appropriate for the proposed work. This process, depending on the nature and complexity of the proposed work, may consist of a direct selection or solicitation of Statements of Qualifications (SOQs) or resumes from a short list of potential Technical Consultants. For complex work or work that is likely to lead to a larger or longer-term contract, the Selection Team may, at their discretion, utilize more formal selection procedures.
- **Estimated Contract Value \$200,000 and up:**
The Selection Team shall determine an appropriate QBS method. The selection method could include any or all of the following, at the Selection Team's discretion: solicitation and review of SOQs; short-listing of qualified Technical Consultants; solicitation and review of formal proposals; interviews; and sealed fee estimates.

A typical process for more complex projects might include, staff preparing a draft Request for Proposals (RFP) for review and approval by the Selection Team. Elements of the RFP to be reviewed and determined by the Selection Team include; project description, preliminary scope, selection criteria, distribution of solicitation, whether to interview, and schedule. The Selection Team would then review all submitted proposals based on the determined criteria and select the most-qualified and second most-qualified Technical Consultants. The following are examples of selection criteria that may be chosen by the Selection Team:

- Project understanding and approach to key issues
- Completeness of the proposed Scope of Work

- Responsiveness to the Request for Proposals or Request for Qualifications
- Innovative approaches
- Qualifications and experience of Consultant's Team
- Specific experience of Consultant Team with projects of the same nature
- Experience with implementing and permitting projects within the Lake Tahoe area
- References
- Cost (may be considered if no clear decision is reached after consideration of the Technical Proposal or the cost is considered not fair and reasonable)

Contract Administration

Upon Board approval (for contracts exceeding \$25,000) of the final Technical Consultant contract, the General Manager shall execute the contract and District Engineer or the appropriate Department Manager shall serve as Contract Administrator. The Contract Administrator shall review and approve all invoices and shall be responsible for reviewing conformance with the contract terms and budget.

➤ **Contract Amendment procedure:**

During the process of completing the scope of work, contract amendments are sometimes required. Contract amendments can be the result of many factors, including, but not limited to additional work required to address changing conditions or criteria; regulatory issues; requests of the District; and delays not caused by the Technical Consultant.

Contract amendments in excess of \$25,000 shall be presented to the Board for approval. Contract amendments of \$25,000 or less may be approved by the General Manager, provided they are within the approved project budget.

➤ **Additional Services:**

Frequently, as a project develops, additional services are required or additional phases or expansions of the work are contemplated. These can be for engineering services during construction, additional phases of the same project, or expansions to the originally contemplated work.

In these cases and provided that the previously selected Technical Consultant has performed the originally contracted work satisfactorily, the District may employ the same Technical Consultant for these additional services without additional selection review.

The decision to use the same consultant shall be reviewed with the Selection Team and approved by the General Manager. Either a new contract or a contract amendment will be prepared by staff and presented to the Board for approval according to the procedures outlined above.