



CITY OF HOUSTON
HCD Purchasing Unit 3200

PO NUMBER MUST APPEAR ON ALL PAYMENT AND
DELIVERY CORRESPONDENCE

**POSSIBLE DUPLICATE COPY DO NOT DUPLICATE SHIPMENT
OR SERVICE**

PURCHASE ORDER

Vendor Address
Vendor Address Number 135687
TETRA TECH INC
1500 CITYWEST BOULEVARD SUITE 1000
HOUSTON TX 77042
USA

Mail Invoice to
COH HOUSING & COMMUNITY DEV
FINANCIAL SERVICES SEC, ACCT PAY
PO Box 1562
HOUSTON TX 77251-1562

Information
Purchase Order Number/Date 4500303489-1 / 06/03/2019
CoH Vendor Number 135687
Page 1 of 2
Buyer's Name Clarence Moton 454
Buyer's Telephone Number 832-394-6212
Buyer's Fax Number
Buyer's E-mail Address clarence.moton@houstontx.gov

CONFIRM RECEIPT AND ACCEPTANCE OF PURCHASE ORDER
TO BUYER'S E-MAIL ADDRESS

Shipping Address HOUSING & COMMUNITY DEVELOPMENT
PROCUREMENT SERVICES
2100 TRAVIS, 9TH FLOOR
HOUSTON TX 77002
USA

Terms of payment : Pay immediately w/o deduction Currency USD

Shipping Terms FOB(Free on board) /DESTINATION

Our reference: 2017-0080

Your person responsible: KRYSTEN MARSHALL

Your reference: 2017-0080

Item	Quantity	UM	Material # / Description	Unit Cost	Extended Cost
10	1.00	AU	91827 COMMUNITY DEVELOPMEN CDBG DR HARVEY Release Order against contract 4600014152 Item 00020 Construction Management Procurement and MPM RFP Review Services. Invoice Number: 51426430	19,117.70 / AU	19,117.70
	Gross Price		19,117.70 USD	1 AU	19,117.70
			*** Item partially delivered *** Expected value of unplanned services: 19,117.70		
			Delivery Date: 06/03/2019		
20	1.00	AU	91827 COMMUNITY DEVELOPMEN CDBG DR HARVEY Release Order against contract 4600014152 Item 00020 ICF RFP Review Services - Invoice Number:51426432	9,533.30 / AU	9,533.30



CITY OF HOUSTON

HCD Purchasing Unit 3200

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PURCHASE ORDER

PO number/date 4500303489 -1 / 06/03/2019 Page 2 of 2

Item	Quantity	UM	Material # / Description	Unit Cost	Extended Cost
	Gross Price		9,533.30 USD	1 AU	1.000 9,533.30
			*** Item partially delivered ***		
			Expected value of unplanned services:	9,533.30	
			Delivery Date: 06/03/2019		
Total ****					USD 28,651.00
2017-0080 ORD PASSED 2/08/2017 EXECUTED					
BY MAYOR 2/10/2017 CS 2/15/2017					

The Terms and Conditions specified on <http://purchasing.houstontx.gov> will apply.

I hereby certify a certificate of the necessity of this expenditure is on file in this department.

I hereby certify that the expenditure for the above goods has been duly authorized and appropriated and that sufficient funds are available to liquidate same.

Subsecretary Turner

Jerry Adams

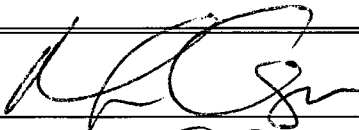
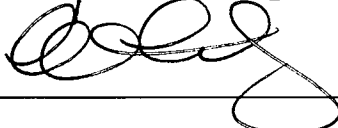
C. B. Brown

CITY OF HOUSTON HOUSING & COMMUNITY DEVELOPMENT DEPARTMENT

RECORD OF CONCURRENCE FOR APPROVAL

Vendor #:	PO #:	GrantCare DOC ID: N/A	OnBase DOC ID: <i>2026445</i>
Payee: Tetra Tech, Inc.		Service Period: 11/30/2018-2/22/2019	
ORIGINATOR/ RELATIONSHIP MANAGER / Contact Info <i>Mayra Bontemps x46115</i>	DATE COMPLETE PACKAGE SUBMITTED TO COH: <i>5/31/19</i>	DATE ORIGINATED 5/31/2019	AMOUNT OF PAYMENT: \$19,117.70

SUBJECT: *Review and approve CDBG DR Harvey Construction Management Procurement and MPM RFP review services.*

ROUTING SEQUENCE	APPROVING AUTHORITY	SIGNATURE	DATE	COMMENTS
1.	<i>Mayra Bontemps</i>		<i>5/31/19</i>	
2.	<i>COH Finance Department Director or Designee</i>		<i>6/3/19</i>	
3.	<i>HCDD Director or Designee</i>	<i>Keith W. Bynam</i>	<i>6/3/19</i>	*If payment is submitted/ resubmitted over 45 days and all travel requires Director's or Deputy Director Signature*
4.	<i>Andrea Smith</i>			
5.	<i>HCDD Finance Accounts Payable</i>			
6.				
7.				

City of Houston Housing and Community Development

Project Manager Certification of Service Contract Payment Requests

Vendor:	Tetra Tech, Inc.	Vendor #:	
Date of Request:	5/31/2019	PO #:	
Payment Amount:	\$19,117.70		

By signature below, I certify a full understanding of my accountability for having performed the following procedures and do not expect them to be validated again:

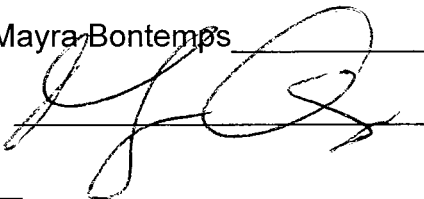
- Confirmed that all invoices and service periods to be within the month to which the Payment Request applies.
- Confirmed that all invoices and service periods are within (not more than) 45 days prior to the Payment Request submission date.
- Removed all invoices or expenses for service periods that are stale dated and notified the Agency of the removal or will notify the Agency within the next 5 business days.
- Confirmed that all invoices are in compliance with OMB Super Circular 2 CFR 200, if applicable.
- Confirmed that all expenditures are eligible under the contract between COH HCD and the Agency including contract period, budget availability, expense type, non-duplication of billing, appropriate proof of payment, advances have been liquidated if applicable, and all other contract requirements.
- Confirm that all required documentation is included with this Payment Request.

Is this the final draw request? (Alerts the Financial Services staff that the project should be closing in IDIS within the next 120 days):

Check or circle the appropriate answer.

Yes No

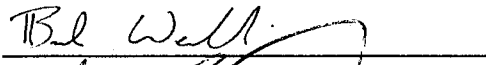
Project Manager Name: Mayra Bontemps

Project Manager Signature: 

Date: 5/31/2019

OMB Super Circular:
2 CFR 200

CITY OF HOUSTON
HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT
FINANCIAL SERVICES SECTION
Request for Payment

Vendor:		Mailing Address:	Vendor Number:	PO Number:
Tetra Tech, Inc.		2301 Lucien Way, Suite 120, Maitland, FL 32751		
Service Period Start Date:		Service Period End Date:	Date complete package submitted to HCDD:	Date invoice approved:
11/30/2018		2/22/2019	5/31/19	
INVOICE NUMBER	DATE OF INVOICE	PAYEE AND DESCRIPTION OF GOODS OR SERVICES	AMOUNT OF INVOICE	
51426430	4/3/2019	Construction Management Procurement and MPM RFP Review Services	\$19,117.70	
Total invoice amount to be paid from CDBG DR funds			\$19,117.70	
We hereby certify that the above-mentioned goods and servies have been received, that the quantity and price thereof have been verified and that they were for use solely on the project and contract shown.				
PREPARED BY:	Andrea Smith	DATE:	5/31/2019	
SIGNATURE OF VENDOR:		DATE:	5/31/2019	
PROJECT MANAGER, HCDD:		DATE:	5/31/19	
FINANCIAL SERVICES SECTION, HCDD:		DATE:		

Smith, Andrea - HCD

From: Bontemps, Mayra - HCD
Sent: Friday, May 24, 2019 5:37 AM
To: Smith, Andrea - HCD
Cc: Eudy, Ellen - HCD; Desai, Krupa - HCD; Garcia, Rebecca - HCD; Luetel, Prakash - HCD; Owens, Mary - HCD
Subject: RE: Submittal of Tetra Tech invoice number 51426430 for Task Order TT-008-2017-HCD

Both the number of billing hours and the rate are approved.

Thank you,

Mayra Guevara Bontemps
Assistant Director
Disaster Recovery and Public Services

City of Houston
Housing and Community Development Dept.
2100 Travis Street | 9th Floor | Houston TX 77002
832.394.6115 (office)
832.394.6200 (main)
www.recovery.houstontx.gov
www.houstontx.gov/housing
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www.recovery.houstontx.gov

From: Smith, Andrea - HCD
Sent: Thursday, May 23, 2019 2:40 PM
To: Bontemps, Mayra - HCD <Mayra.Bontemps@houstontx.gov>
Cc: Eudy, Ellen - HCD <Ellen.Eudy@houstontx.gov>; Desai, Krupa - HCD <Krupa.Desai@houstontx.gov>; Garcia, Rebecca - HCD <Rebecca.Garcia@houstontx.gov>; Luetel, Prakash - HCD <Prakash.Luetel@houstontx.gov>; Owens, Mary - HCD <Mary.Owens@houstontx.gov>
Subject: RE: Submittal of Tetra Tech invoice number 51426430 for Task Order TT-008-2017-HCD

Hi Mayra,

Please provide a response for items 2c and 2d below.

Thanks,
Andrea Smith

From: Smith, Andrea - HCD
Sent: Wednesday, May 15, 2019 1:40 PM
To: Bontemps, Mayra - HCD <Mayra.Bontemps@houstontx.gov>
Cc: Eudy, Ellen - HCD <Ellen.Eudy@houstontx.gov>; Desai, Krupa - HCD <Krupa.Desai@houstontx.gov>; Garcia, Rebecca - HCD <Rebecca.Garcia@houstontx.gov>; Luetel, Prakash - HCD <Prakash.Luetel@houstontx.gov>; Owens, Mary - HCD

<Mary.Owens@houstontx.gov>

Subject: RE: Submittal of Tetra Tech invoice number 51426430 for Task Order TT-008-2017-HCD

Hi Mayra,

Thanks for sending deliverables. Please provide a response for items 2c and 2d below.

Andrea Smith

From: Bontemps, Mayra - HCD

Sent: Wednesday, May 15, 2019 6:08 AM

To: Smith, Andrea - HCD <Andrea.Smith@houstontx.gov>

Cc: Eudy, Ellen - HCD <Ellen.Eudy@houstontx.gov>; Desai, Krupa - HCD <Krupa.Desai@houstontx.gov>; Garcia, Rebecca - HCD <Rebecca.Garcia@houstontx.gov>; Luetel, Prakash - HCD <Prakash.Luetel@houstontx.gov>

Subject: RE: Submittal of Tetra Tech invoice number 51426430 for Task Order TT-008-2017-HCD

Andrea,

Please see attached deliverables.

Thank you,

Mayra Guevara Bontemps

Assistant Director

Disaster Recovery and Public Services

City of Houston

Housing and Community Development Dept.

2100 Travis Street | 9th Floor | Houston TX 77002

832.394.6115 (office)

832.394.6200 (main)

www.recovery.houstontx.gov

www.houstontx.gov/housing

Follow us: [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)

www.recovery.houstontx.gov

From: Smith, Andrea - HCD

Sent: Monday, May 6, 2019 1:54 PM

To: Bontemps, Mayra - HCD <Mayra.Bontemps@houstontx.gov>

Cc: Eudy, Ellen - HCD <Ellen.Eudy@houstontx.gov>; Desai, Krupa - HCD <Krupa.Desai@houstontx.gov>; Garcia, Rebecca - HCD <Rebecca.Garcia@houstontx.gov>; Luetel, Prakash - HCD <Prakash.Luetel@houstontx.gov>

Subject: RE: Submittal of Tetra Tech invoice number 51426430 for Task Order TT-008-2017-HCD

Following up on requested items below.

Thanks,

Andrea Smith

From: Smith, Andrea - HCD

Sent: Monday, April 29, 2019 10:19 AM

To: Bontemps, Mayra - HCD <Mayra.Bontemps@houstontx.gov>

Cc: Eudy, Ellen - HCD <Ellen.Eudy@houstontx.gov>; Desai, Krupa - HCD <Krupa.Desai@houstontx.gov>; Garcia, Rebecca - HCD <Rebecca.Garcia@houstontx.gov>; Luetel, Prakash - HCD <Prakash.Luetel@houstontx.gov>

Subject: RE: Submittal of Tetra Tech invoice number 51426430 for Task Order TT-008-2017-HCD

Hi Mayra,

I reviewed the Tetra Tech contract, invoices, and support documents this weekend. My comments below with requests in red:

1. Engagement Letter No. TT-007-2017-FIN, Amendment No.1, requires a memorandum summarizing findings and related concerns. **This deliverable is required with the invoice.**

II. Scope of Work

Task 1 - RFP Review

TETRA TECH will be responsible for management and oversight of the project, including coordination with team members. Primary responsibilities include tracking of resources, budget, schedule and invoicing.

> **Activities Include:**

- Review of documents attached to emails forwarded by the City on September 25, 2018 and October 8, 2018 to Tetra Tech team members.
 - o Current draft of the contract
 - o Executive summary
 - o Scoring
 - o RFP documents are available for download at - http://purchasing.houstontx.gov/Bid_Display.aspx?id=T26599
 - o Draft RCA
 - o GLO Harvey Housing Guidelines -- this document contains procurement requirements and other items that may impact the procurement/contract review (email on 10/8/18)
 - o Cost Estimate [sent in 9/25/18 email]
 - o Price Analysis [sent in 9/25/18 email]
- Provide an assessment of the likely risk(s) related to issues such as reimbursement and recommendations to mitigate that risk(s).
- Schedule and conduct a finding meeting with COH LGL and other applicable departments to discuss our observations after release of the memorandum.

> **Deliverables (hard copy and/or Electronic):**

- Memorandum summarizing findings and related concerns.

2. Engagement Letter No. TT-008-2017-HCD, Amendment No. 1:

- a) Task 1 requires an emailed analysis regarding the RFP/solicitation. Memorandum summarizing overall findings and related concerns. **These deliverables are required with the invoice.**

II. Scope of Work

Task 1 - Construction Management Procurement Review - 30 hours Jordan Corbett, Legal I; 10 hours Wendy Ellard, Legal IV OR Michelle Zaltsberg, Legal III; 5 hours Ernie Abbott, Subject Matter Expert; 3 hours John Earl, Subject Matter Expert; 3 hours Asad Khan, Subject Matter Expert; 2 hours Dona Olson, Project Manager - Total Not-to-Exceed of \$15,890

TETRA TECH will be responsible for management and oversight of the project, including coordination with team members. Primary responsibilities include tracking of resources, budget, schedule and invoicing.

> **Activities Include:**

- Review of solicitation to ensure compliance with applicable federal regulations.
- Review of entire procurement process from advertisement to award, including evaluation process, evaluation & scoring, and award to 8 different construction manager firms.
- Review of draft Contract/Agreement for Housing Construction and Repair Services.
- Review of draft Harvey Homeowner Assistance Program Homeowner-Contractor Agreement.
- Provide an assessment of the likely risk(s) related to issues such as reimbursement and recommendations to mitigate that risk(s).
- Schedule and conduct a finding meeting with COH LGL and other applicable departments to discuss our observations after release of the memorandum.

> **Deliverables (hard copy and/or Electronic):**

- Emailed analysis regarding the RFP/solicitation. Memorandum summarizing overall findings and related concerns.

- b) Task 2 requires a summary analysis via email. **This deliverable is required with the invoice.**

Exhibit B

Consultant's Maximum Hourly Rates

LABOR CATEGORY	YEARS OF EXPERIENCE	HOURLY LABOR RATE
Project Executive/Principal-In-Charge	10+ years	\$0.00 ¹
Subject Expert	10+ years	\$240.00
Project Manager	5+ years	\$145.00
Assistant Project Manager	5+ years	\$135.00
Grant Manager	5+ years	\$163.00
Senior Engineer/Scientist	5+ years	\$145.00
Mid-Level Engineer/Scientist	3-5 years	\$140.00
Engineer/Scientist	0-3 years	\$130.00
Senior Accounting Specialist	5+ years	\$110.00
Accounting Specialist	2+ years	\$85.00
Senior Closeout Specialist	3+ years	\$105.00
Closeout Specialist	0-5 years	\$75.00
Senior Cost Estimator	5+ years	\$120.00
Cost Estimator	2+ years	\$95.00
PA Consultant IV	10+ years	\$135.00
PA Consultant III	5-10 years	\$115.00
PA Consultant II	1-5 years	\$95.00
PA Consultant I	0-1 years	\$80.00
Administrative	0-2 years	\$40.00
Legal Counsel	10+ years	\$350.00
FEMA PA Trainee	6+ years	\$140.00

¹Tetra Tech has proposed a "zero dollar" rate for time associated with the Project Executive in an effort to reduce the amount of indirect cost associated with this project. This position is generally tasked with oversight of the contract, high-level meetings with City staff and resolution of purchasing issues associated with the project, all classified as indirect costs. Based on our understanding of the State of Texas Administrative Plan required by 2 CFR 206.207(c) for recent disasters, the State will not pass down any indirect costs to subgrantees, and therefore will be a cost paid directly by the City.

Once I receive the items requested, I'll route payment for approval. Please note the contract requires the Finance Director's approval of the payment.

Thanks,
Andrea Smith

From: Bontemps, Mayra - HCD

Sent: Tuesday, April 23, 2019 5:24 AM

To: Desai, Krupa - HCD <Krupa.Desai@houstontx.gov>; Smith, Andrea - HCD <Andrea.Smith@houstontx.gov>; Garcia, Rebecca - HCD <Rebecca.Garcia@houstontx.gov>

Cc: Eudy, Ellen - HCD <Ellen.Eudy@houstontx.gov>

Subject: RE: Submittal of Tetra Tech invoice number 51426430 for Task Order TT-008-2017-HCD

Thank you Krupa.

Andrea, please route as needed.

Thank you,

Mayra Guevara Bontemps
Assistant Director
Disaster Recovery and Public Services

City of Houston
Housing and Community Development Dept.
We've moved - please note our new address!
2100 Travis Street | 9th Floor | Houston TX 77002
832.394.6115 (office)
832.394.6200 (main)
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Follow us: [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)
www.recovery.houstontx.gov

From: Desai, Krupa - HCD
Sent: Thursday, April 18, 2019 11:48 AM
To: Bontemps, Mayra - HCD <Mayra.Bontemps@houstontx.gov>; Smith, Andrea - HCD <Andrea.Smith@houstontx.gov>; Garcia, Rebecca - HCD <Rebecca.Garcia@houstontx.gov>
Cc: Eudy, Ellen - HCD <Ellen.Eudy@houstontx.gov>
Subject: FW: Submittal of Tetra Tech invoice number 51426430 for Task Order TT-008-2017-HCD

Mayra,

Can you or your team please review the Tetra Tech invoices attached to this email and submit for payment to Finance?

Thanks,

Krupa Desai
Division Manager
City of Houston
Housing and Community Development Department
E-mail: krupa.desai@houstontx.gov
Phone # 832-394-6148



From: FIN Accounts Payable
Sent: Thursday, April 18, 2019 8:01 AM
To: Desai, Krupa - HCD <Krupa.Desai@houstontx.gov>
Cc: Greene, Yolanda - FIN <Yolanda.Greene@houstontx.gov>; Leija, Lorena - FIN <Lorena.Leija@houstontx.gov>
Subject: FW: Submittal of Tetra Tech invoice number 51426430 for Task Order TT-008-2017-HCD

Good Morning,

The attached invoice belongs to your department.

Best Regards,
Perlina Hernandez
City of Houston
Finance Department
Financial Reporting & Operations
832-393-6029

Perlina.Hernandez@houstontx.gov



From: Greene, Yolanda - FIN
Sent: Wednesday, April 17, 2019 3:06 PM
To: FIN Accounts Payable <finaccountspayable@houstontx.gov>
Subject: FW: Submittal of Tetra Tech invoice number 51426430 for Task Order TT-008-2017-HCD

Please remove from FIN log it belongs to HCD. The invoices have already been forwarded.

From: Sanders, Meridith - FIN
Sent: Thursday, April 4, 2019 11:53 AM
To: Eudy, Ellen - HCD <Ellen.Eudy@houstontx.gov>
Cc: Qasim, Bobby - FIN <Bobby.Qasim@houstontx.gov>; Greene, Yolanda - FIN <Yolanda.Greene@houstontx.gov>; Harris, Izine - FIN <Izine.Harris@houstontx.gov>; Aaron, Veda - FIN <Veda.Aaron@houstontx.gov>; Howard, Corine - FIN <Corine.Howard@houstontx.gov>
Subject: FW: Submittal of Tetra Tech invoice number 51426430 for Task Order TT-008-2017-HCD

Good Morning Ellen,

We received the attached invoices for services performed by TetraTech under the HCD task order. Please let me know the appropriate person(s) at HCD to send any future invoices to. I appreciate your prompt attention to this matter as payment is due within a short time period. Please let me know if you have any questions.

Warm Regards,

Meridith Sanders, JD, MBA

Financial Analyst

Finance Department

City of Houston

611 Walker St. 10th Floor

Houston, TX 77002

(832) 393-9023

Meridith.Sanders@houstontx.gov

From: Qasim, Bobby - FIN
Sent: Wednesday, April 3, 2019 5:46 PM
To: Sanders, Meridith - FIN <Meridith.Sanders@houstontx.gov>; Harris, Izine - FIN <Izine.Harris@houstontx.gov>
Subject: FW: Submittal of Tetra Tech invoice number 51426430 for Task Order TT-008-2017-HCD

Can you please make sure it gets to the right person.

From: Carrington, Greg - HAS
Sent: Wednesday, April 03, 2019 3:17 PM
To: Harris, IZINE - FIN <Izine.Harris@houstontx.gov>; Qasim, Bobby - FIN <Bobby.Qasim@houstontx.gov>
Subject: FW: Submittal of Tetra Tech invoice number 51426430 for Task Order TT-008-2017-HCD

From: Mutschler, Richard <Richard.Mutschler@tetrattech.com>
Sent: Wednesday, April 3, 2019 3:12 PM
To: FIN Accounts Payable <finaccountspayable@houstontx.gov>
Cc: Buri, John <John.Buri@tetrattech.com>; Hendrick, Christina <christina.hendrick@tetrattech.com>; Moreno, Gloria - FIN <Gloria.Moreno@houstontx.gov>; Rasheed, Arif - FIN <Arif.Rasheed@houstontx.gov>; Carrington, Greg - HAS <greg.carrington@houstontx.gov>; TDR.Billing <tdr.billing@tetrattechinc.onmicrosoft.com>
Subject: Submittal of Tetra Tech invoice number 51426430 for Task Order TT-008-2017-HCD

[Message Came from Outside the City of Houston Mail System]

Please accept the attached invoice number 51426430 for Tetra Tech services through February 22, 2019 on contract number 4600014152 task order TT-008-2017-HCD. Also attached is an excel version of the invoice.

Let us know if there are any questions,

Thank you,

Richard Mutschler | Financial Manager
Direct: 281.394.7745 | Main: 678.775.3080
richard.mutschler@tetrattech.com

Tetra Tech, Inc.
1955 Evergreen Blvd., Building 200, Suite 300 | Duluth, GA 30096 | www.tetrattech.com

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Smith, Andrea - HCD

From: Rhone, Tywana - HCD
Sent: Thursday, May 30, 2019 2:57 PM
To: Owens, Mary - HCD; Mok, Wilson - HCD
Cc: Desai, Krupa - HCD; Smith, Andrea - HCD
Subject: FW: Spending Authority Transfer 4600014152
Attachments: Spending Authority Trans.460014152.PDF

FYI

From: Rhone, Tywana - HCD
Sent: Thursday, May 30, 2019 2:48 PM
To: Rasheed, Arif - FIN <Arif.Rasheed@houstontx.gov>
Cc: Chagoya, Brenda - FIN <Brenda.Chagoya@houstontx.gov>
Subject: Spending Authority Transfer 4600014152
Importance: High

Good Afternoon Arif,

See attached. The Housing Department is requesting spending authority for the subject contract with Tetra Tech Inc.

Thanks in advance for your assistance.

Tywana L. Rhone

Division Manager

Procurement Services

tywana.rhone@houstontx.gov

2100 Travis Street | 9th Floor | Houston TX 77002

832.394.6204 (office)

www.houstontx.gov/housing

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Smith, Andrea - HCD

From: Rhone, Tywana - HCD
Sent: Thursday, May 30, 2019 3:39 PM
To: Owens, Mary - HCD
Cc: Smith, Andrea - HCD; Desai, Krupa - HCD; Mok, Wilson - HCD
Subject: FW: Spending Authority Transfer 4600014152

Importance: High

FYI below, Where is the Procurement Request?

Tywana

From: Chagoya, Brenda - FIN
Sent: Thursday, May 30, 2019 3:33 PM
To: Rhone, Tywana - HCD <Tywana.Rhone@houstontx.gov>
Cc: Gambrell, Candice - FIN <Candice.Gambrell@houstontx.gov>; Adams, Jerry - FIN <Jerry.Adams@houstontx.gov>
Subject: RE: Spending Authority Transfer 4600014152

Tywana,

Please note that the transfer has been completed. Also, in the near future, please insure that you provide ample time to process request.

Brenda

From: Rhone, Tywana - HCD
Sent: Thursday, May 30, 2019 3:24 PM
To: Chagoya, Brenda - FIN <Brenda.Chagoya@houstontx.gov>
Subject: FW: Spending Authority Transfer 4600014152
Importance: High

Good Afternoon Brenda,

This is a rush item that was brought to me today, can you please process this request at your earliest convenience as the payment is due immediately.

Thank you in advance for your assistance.

Tywana

From: Rasheed, Arif - FIN
Sent: Thursday, May 30, 2019 3:11 PM
To: Rhone, Tywana - HCD <Tywana.Rhone@houstontx.gov>
Cc: Chagoya, Brenda - FIN <Brenda.Chagoya@houstontx.gov>
Subject: Re: Spending Authority Transfer 4600014152

Please see attached.

ENGAGEMENT LETTER

**TO AGREEMENT FOR PROFESSIONAL SERVICES
FOR DISASTER RECOVERY AND CONSULTING SERVICES**

**Between
THE CITY OF HOUSTON, TEXAS
AND
TETRA TECH, INC.**

(Contract Number 4600014152)

Date: January 4, 2019


Engagement Letter No. TT-008-2017-HCD, Amendment No. 1, Construction Management Procurement and MPM RFP Review Services

This Engagement Letter (EL Number #TT-008-2017) is entered between the **City of Houston, Texas ("City")** and **Tetra Tech, Inc. ("Contractor")** as provided in the Contract for Professional Services for Disaster Recovery and Consulting Services (the "Contract") between the Parties, effective August 23, 2017.

1. The terms and conditions of the Agreement are incorporated into this Engagement Letter as though set forth herein in their entirety, except as expressly modified by this Engagement Letter, including any revisions and amendments by the Parties in the attached "Attachment 1 - Scope of Task Order" attached hereto and incorporated herein for all purposes. Unless expressly provided herein, the Task Order or any attachments, exhibits or additional documents are not intended to and shall not change, add, delete, or modify terms in the Agreement.
2. Scope of Services. Contractor shall provide all labor, material, and supervision necessary to perform the Task Order described in the attached "Attachment 1" excluding specialized equipment.
3. The City hereby assigns to Contractor the Tasks as described in the attached "Attachment I". Compensation the City shall pay and other financial terms are specified in Attachment 1, which is incorporated herein for all purposes, upon the same terms and conditions, subject to allocation of funding by the City in accordance with the terms of Agreement, including but not limited to Exhibit A-1.
4. Task Order Instructions are set out in "Attachment 2".
5. The termination provisions of this Engagement Letter shall be in accordance with the termination sections of Section V of the Agreement.

Please signify your acceptance of this engagement and your agreement to this Engagement Letter by Signing below where indicated.

TETRA TECH, INC.

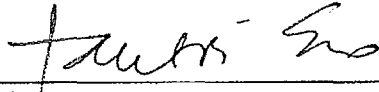

Signature

Name: Jonathan Burgiel

Title: Business Unit President

Date: March 28, 2019

CITY OF HOUSTON


Signature

Name: Tantri Emo

Title: Finance Director

Date: 3/28/19

“Attachment” 1

SCOPE OF TASK ORDER

Provide description of Scope of work, Deliverables, personnel assigned, fees paid for this Task Order.

See Attachment “A”

Finance Department Director Initials: JB

Date: 3/28/19

Housing and Community Development
Department Director (or Designee) Initials: KW

Date: 3/28/19

Contractor Initials: JB

Date: 03/28/2019

"Attachment 2"

TASK ORDER INSTRUCTIONS

Steps:

1. Finance Department's Project Administrator completes general information on Task Order Form, which includes:
 - a. City Department Name
 - b. Task Order Description
 - c. Contract No.
 - d. Purchase Order No.
 - e. Project or Task Start and End Dates
 - f. Task Order Cost and applicable hourly fee
2. Task Order Approval Form is sent to Contractor.
3. Contractor provides detailed proposal to Finance Director including tasks to be performed, deliverables, personnel to be assigned, schedule for performance of services, price proposal.
4. Contractor completes the Task Order Approval Form:
 - a. Project Start and End Dates
 - b. Estimated Task Order Cost and corresponding hourly fees, as set out in Exhibit A-1 of the Agreement.
 - c. Scope of Services
 - d. Personnel Assigned and number of hours worked
5. Contractor signs Task Order and returns it with a proposal to Finance Director.
6. Finance Department reviews and accepts or rejects proposal
7. If the proposal is accepted, the Finance Director or his representative provides a copy of the accepted Task Order to the Contractor to commence Task
8. City will make payment to Contractor upon completion of the project or task, or based on the milestones agreed to by both parties and accepted by the Finance Director or designee

**PROFESSIONAL SERVICES
FOR DISASTER COST RECOVERY AND CONSULTING SERVICES**

TASK ORDER APPROVAL FORM

City Department Name: FINANCE

Task Order Description:

Construction Management Procurement and MPM RFP Review Services

Contract No: 4600014152 PO No.: _____ Task Order No. TT-008-2017-HCD (Amend-1)

Project Start Date: December 7, 2018 Estimated Project End Date: February 28, 2019

Funding: 2409/3200030002/520114

Estimated Cost for TT-008-2017-HCD (include hourly fees): Total (MAXIMUM) Fee \$20,436.00

Scope of Services: (attach details, as necessary)

See Attachment

Tetra Tech shall not commence work until this task order is fully executed.

Gloria Moreno 3.28.19
City Project Manager Date

Jonathan Burgiel 03/28/2019
Contractor's Representative Date

Task Proposal accepted by: [Signature] 3/28/19
Date

The purpose of the Task Order is to further specify project details covered under the original Scope of services approved by the Finance Director of the City of Houston. Such details may include, but are not limited to, deliverables, personnel assigned, hourly fees, costs, and Tasks to be performed by Contractor.

ATTACHMENT 'A'
Task Order# TT-008-2017-HCD

Scope of Services - Construction Management Procurement and MPM RFP Review Services

I. Introduction

The City of Houston (COH) Legal Department (LGL) has requested through the Finance Department (FIN) that the Tetra Tech team review the Construction Management procurement including the associated RFP and draft contract, and the MPM "re-procurement" RFP prior to finalization by City Council.

II. Scope of Work

Task 1 – Construction Management Procurement Review - 30 hours Jordan Corbitt, Legal I; 10 hours Wendy Ellard, Legal IV OR Michelle Zaltsberg, Legal III; 5 hours Ernie Abbott, Subject Matter Expert; 3 hours John Buri, Subject Matter Expert; 3 hours Asad Khan, Subject Matter Expert; 2 hours Donn Olson, Project Manager - Total Not-to-Exceed of \$15,890

TETRA TECH will be responsible for management and oversight of the project, including coordination with team members. Primary responsibilities include tracking of resources, budget, schedule and invoicing.

➤ **Activities Include:**

- Review of solicitation to ensure compliance with applicable federal regulations.
- Review of entire procurement process from advertisement to award, including evaluation process, evaluation & scoring, and award to 8 different construction manager firms.
- Review of draft Contract/Agreement for Housing Construction and Repair Services.
- Review of draft Harvey Homeowner Assistance Program Homeowner-Contractor Agreement.
- Provide an assessment of the likely risk(s) related to issues such as reimbursement and recommendations to mitigate that risk(s).
- Schedule and conduct a finding meeting with COH LGL and other applicable departments to discuss our observations after release of the memorandum.

➤ **Deliverables (hard copy and/or Electronic):**

- Emailed analysis regarding the RFP/solicitation. Memorandum summarizing overall findings and related concerns.

Task 2 – MPM Re-Procurement RFP Review - 8 hours Jordan Corbitt, Legal I; 3 hours Wendy Ellard, Legal IV OR Michelle Zaltsberg, Legal III; 1-hour Ernie Abbott, Subject Matter Expert; 1-hour John Buri, Subject Matter Expert; 1-hour Asad Khan, Subject Matter Expert; 2 hours Donn Olson, Project Manager- Total Not-to-Exceed of \$4,546.

TETRA TECH will be responsible for management and oversight of the project, including coordination with team members. Primary responsibilities include tracking of resources, budget, schedule and invoicing.

➤ **Activities Include:**

- Review of solicitation to ensure compliance with applicable federal regulations before being advertised.
- COH LGL has advised it will not request review of the draft Contract or other aspects of the procurement including the evaluation, selection, and award aspects of this project.
- Provide an assessment of the likely risk(s) related to issues such as reimbursement and recommendations to mitigate that risk(s).

- Schedule and conduct a finding meeting with COH LGL and other applicable departments to discuss our observations after release of the memorandum.
- Deliverables (hard copy and/or Electronic):
 - Provide summary analysis via email; COH LGL has advised it will not request a formal Memorandum.

III. Project Assumptions

The scope of services and project costs shown above were developed with the following assumptions and exclusions:

- **Project Sponsor.** The City will assign a primary point of contact to serve as project sponsor to address administrative and functional issues.
- **Access to Materials.** Documentation pertinent to the execution of this project should be made available to Baker Donelson for review in electronic format immediately upon request.
- **Access to Key Personnel.** Availability of City key personnel is critical to obtaining the information required for the overall success of this project. Information presented by key personnel will be accepted as factual and no confirmation will be made.
- **Project Term:** Tetra Tech anticipates a period of performance of approximately two (2) weeks from the date of execution of this Task Order to deliver the initial Memorandum regarding the Construction Management RFP and emailed analysis regarding the MPM Re-procurement. The timeframe required to complete the full procurement review regarding the Construction Management RFP (including evaluation, selection, etc.) will depend on timing of the City's conduct of the evaluation and provision of the necessary associated documents.



Tetra Tech, Inc.
2301 Lucien Way
Ste. 110, 120
Maitland, FL 32751
(321) 441-8500

Bill To: Finance Department
ATTN: Financial Reporting Operations
611 Walker, Ste. 1010
Houston, TX 77002

INVOICE NUMBER: 51426430
INVOICE DATE: 4/3/2019
FEDERAL TAX ID#: 95-4148514
BILLING PERIOD TO: 2/22/2019

PROFESSIONAL SERVICES: City of Houston, Texas, Contract Number 4600014152, dated February 15, 2017
Construction Management Procurement and MPM RFP Review Services
Task Order No. TT-008-2017-HCD

<u>Billing Title</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
Legal Counsel IV	17.20	\$ 350.00	\$ 6,020.00
Legal Counsel I	44.10	\$ 297.00	\$ 13,097.70
Grand Total	61.30		\$ 19,117.70

TOTAL AMOUNT DUE THIS INVOICE: \$ 19,117.70

Net Contract Summary	
Contract Amount	\$ 20,436.00
Previously Billed	\$ -
Current Billing	\$ 19,117.70
Total Billed to Date	\$ 19,117.70
Contract Balance Remaining	\$ 1,318.30

REMIT PAYMENT TO:

Wells Fargo Bank
ROUTING TRANSIT #121000248
TETRA TECH ACCOUNT #41331-60325

OR

Tetra Tech Inc.
PO BOX 911642
DENVER, CO 80291-1642

To ensure accurate posting, please note the invoice number on your check. Interest will be charged on all past-due amounts per contract terms and conditions.



Tetra Tech, Inc.
2301 Lucien Way
Ste. 110, 120
Maitland, FL 32751
(321) 441-8500

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<u>Billing Title</u>	<u>Emp Name</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
Legal Counsel IV	Huff Ellard, Wendy	17.20	\$350.00	\$6,020.00
Legal Counsel IV Total		17.20		\$6,020.00
Legal Counsel I	Corbitt, Jordan	44.10	\$297.00	\$13,097.70
Legal Counsel I Total		44.10		\$13,097.70
Grand Total		61.30		\$19,117.70



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<u>Project Number</u>	<u>Item Date</u>	<u>Task No.</u>	<u>Billing Title</u>	<u>Employee Name</u>	<u>Hours</u>	<u>Bill Rate</u>	<u>Bill Amount</u>
105S0066	3-Dec-18	2000	Legal Counsel I	Corbitt, Jordan	4.00	\$297.00	\$1,188.00
105S0066	8-Dec-18	1000	Legal Counsel I	Corbitt, Jordan	1.10	\$297.00	\$326.70
105S0066	12-Dec-18	1000	Legal Counsel I	Corbitt, Jordan	1.00	\$297.00	\$297.00
105S0066	13-Dec-18	1000	Legal Counsel I	Corbitt, Jordan	3.30	\$297.00	\$980.10
105S0066	18-Dec-18	2000	Legal Counsel I	Corbitt, Jordan	4.10	\$297.00	\$1,217.70
105S0066	19-Dec-18	2000	Legal Counsel I	Corbitt, Jordan	0.50	\$297.00	\$148.50
105S0066	27-Dec-18	1000	Legal Counsel I	Corbitt, Jordan	1.10	\$297.00	\$326.70
105S0066	27-Dec-18	2000	Legal Counsel I	Corbitt, Jordan	1.00	\$297.00	\$297.00
105S0066	5-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	1.10	\$297.00	\$326.70
105S0066	6-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	0.50	\$297.00	\$148.50
105S0066	7-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	5.30	\$297.00	\$1,574.10
105S0066	8-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	2.60	\$297.00	\$772.20
105S0066	14-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	4.10	\$297.00	\$1,217.70
105S0066	15-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	0.20	\$297.00	\$59.40
105S0066	16-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	2.40	\$297.00	\$712.80
105S0066	17-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	1.00	\$297.00	\$297.00
105S0066	18-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	2.50	\$297.00	\$742.50
105S0066	22-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	3.10	\$297.00	\$920.70
105S0066	23-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	1.40	\$297.00	\$415.80
105S0066	24-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	0.60	\$297.00	\$178.20
105S0066	29-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	0.50	\$297.00	\$148.50
105S0066	30-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	0.90	\$297.00	\$267.30
105S0066	18-Feb-19	2000	Legal Counsel I	Corbitt, Jordan	0.40	\$297.00	\$118.80
105S0066	19-Feb-19	2000	Legal Counsel I	Corbitt, Jordan	0.90	\$297.00	\$267.30
105S0066	21-Feb-19	2000	Legal Counsel I	Corbitt, Jordan	0.50	\$297.00	\$148.50
105S0066	19-Nov-18	2000	Legal Counsel IV	Huff Ellard, Wendy	0.50	\$350.00	\$175.00
105S0066	13-Dec-18	2000	Legal Counsel IV	Huff Ellard, Wendy	0.20	\$350.00	\$70.00
105S0066	18-Dec-18	2000	Legal Counsel IV	Huff Ellard, Wendy	0.10	\$350.00	\$35.00
105S0066	19-Dec-18	2000	Legal Counsel IV	Huff Ellard, Wendy	2.80	\$350.00	\$980.00
105S0066	20-Dec-18	2000	Legal Counsel IV	Huff Ellard, Wendy	0.10	\$350.00	\$35.00
105S0066	27-Dec-18	1000	Legal Counsel IV	Huff Ellard, Wendy	0.20	\$350.00	\$70.00
105S0066	27-Dec-18	2000	Legal Counsel IV	Huff Ellard, Wendy	0.40	\$350.00	\$140.00
105S0066	28-Dec-18	2000	Legal Counsel IV	Huff Ellard, Wendy	0.10	\$350.00	\$35.00
105S0066	3-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.20	\$350.00	\$70.00
105S0066	3-Jan-19	2000	Legal Counsel IV	Huff Ellard, Wendy	0.30	\$350.00	\$105.00
105S0066	4-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.30	\$350.00	\$105.00
105S0066	5-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.10	\$350.00	\$35.00
105S0066	6-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	3.20	\$350.00	\$1,120.00
105S0066	7-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.30	\$350.00	\$105.00
105S0066	8-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.60	\$350.00	\$210.00
105S0066	10-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.70	\$350.00	\$245.00
105S0066	11-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.30	\$350.00	\$105.00
105S0066	14-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	1.40	\$350.00	\$490.00
105S0066	16-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.90	\$350.00	\$315.00
105S0066	25-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.30	\$350.00	\$105.00
105S0066	29-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	1.80	\$350.00	\$630.00
105S0066	30-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.90	\$350.00	\$315.00
105S0066	19-Feb-19	2000	Legal Counsel IV	Huff Ellard, Wendy	0.60	\$350.00	\$210.00
105S0066	19-Feb-19	2000	Legal Counsel IV	Huff Ellard, Wendy	0.60	\$350.00	\$210.00
105S0066	21-Feb-19	2000	Legal Counsel IV	Huff Ellard, Wendy	0.30	\$350.00	\$105.00
					61.30		\$19,117.70

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Item Date	Task No.	Billable Title	Emp Name	Hours	Comment
3-Dec-18	2000	Legal Counsel I	Corbitt, Jordan	4.00	Briefing with Carolyn Hanahan regarding second MPM solicitation and obtaining documentation (.2); Call with Wendy Ellard regarding upcoming MPM Procurement conference (.2); Prepare for and attend Conference call with Houston Legal, Finance, HCD, and SPD regarding new MPM solicitation (1.8); Review and analyze MPM Procurement documentation in order to advise of federal reimbursement risks and provide analysis regarding same (1.8)
8-Dec-18	1000	Legal Counsel I	Corbitt, Jordan	1.10	Begin review of Construction Manager Contract and homeowner contract in order to advise regarding compliance with FEMA regulations (1.1)
12-Dec-18	1000	Legal Counsel I	Corbitt, Jordan	1.00	Receive and review correspondence from Christina Hendrick regarding notice to proceed with new task order and forward to Wendy Ellard (.1); Continue review of construction manager documentation to ensure compliance with applicable federal regulations (.9)
13-Dec-18	1000	Legal Counsel I	Corbitt, Jordan	3.30	Review and analyze recent CDBG-DR guidance regarding maintaining adequate documentation to comply with federal regulations and review and analyze construction documents related to procurement in order to reconcile any potential missing documentation(3.3)
18-Dec-18	2000	Legal Counsel I	Corbitt, Jordan	4.10	Conference call with Deidra Penny regarding MPM solicitation and whether additional details regarding scope of work should be added to procurement (.2); Draft correspondence to Deidra Penny regarding MPM sample contract (.1); Review and analyze MPM solicitation, HCDD organizational chart, Task Order examples, and other pertinent procurement documentation and draft analysis regarding same (3.8)
19-Dec-18	2000	Legal Counsel I	Corbitt, Jordan	0.50	Confer with Wendy Ellard regarding prohibition of set-asides for MWBEs in order to advise regarding reconciliation between FEMA's MWBE affirmative steps and City's MWBE program (.3); Submit analysis regarding MPM Procurement solicitation to City personnel (.2)
27-Dec-18	1000	Legal Counsel I	Corbitt, Jordan	1.10	Continue to review construction contract and homeowner contract in order to draft analysis regarding same (1.1)
27-Dec-18	2000	Legal Counsel I	Corbitt, Jordan	1.00	Review and analyze updated MPM procurement and draft analysis regarding additional potential issues identified (1.0)
5-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	1.10	Review and analyze Construction Manager Contract and Homeowner Contract and draft analysis regarding same; submit to Wendy Ellard for review (1.1)
6-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	0.50	Revise Construction Contract analysis and submit analysis correspondence to City Legal personnel (.5)

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Item Date	Task No.	Billing Title	Emp Name	Hours	Description
7-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	5.30	Review and analyze entire solicitation file for Construction Manager Procurement, including solicitation documentation, bid proposals from eight of the eleven shortlisted firms, and other pertinent documentation in order to draft memorandum regarding same (3.5); Briefings with Yvette Smith regarding necessary documentation to facilitate review, including City's cost analysis, independent cost estimate, evaluation documents, and other pertinent documentation (.9); Review and analyze applicability of Davis-Bacon and Copeland Anti-Kickback provisions to construction manager procurement and draft analysis regarding same (.9)
8-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	2.60	Receive and review correspondence from Deidra Penny regarding citation for applicability of Davis-Bacon act to housing contract and respond to same (.3); Receive and review correspondence from Asad Khan regarding status of housing procurement review and respond to same (.1); Review and analyze City revisions to breach of contract language in construction manager contract and provide analysis regarding same (.9); Review and analyze City's MWBE outreach efforts and begin drafting analysis regarding same (1.3)
14-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	4.10	Draft correspondence to Yvette Smith regarding necessary documentation for evaluation process and briefing with Yvette Smith regarding same (.5); Review and analyze City's composite pricing summary and spreadsheet in order to determine whether pricing strategy complied with applicable federal regulations (.4); Briefing with Wendy Ellard regarding the use of RFQ for mixed solicitation with A/E services and non-A/E services (.4); Prepare first draft of Compliance Memorandum and revise accordingly based on review by Wendy Ellard (1.8)
15-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	0.20	Briefing with Yvette Smith regarding necessary documentation to substantiate evaluation procedure and selection (.2)
16-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	2.40	Draft analysis to Yvette Smith and Houston Legal regarding documentation necessary for determining proper procurement method (.5); Draft analysis to Deidra Penny regarding potential procurement pitfalls and issues that may arise if documentation is not maintained regarding procurement type (.6); Revise Procurement Compliance Memorandum and add sections regarding pricing, the City's price reasonableness determination, and procurement choice (.9); Participate in call regarding procurement type chosen for A/E services (.4)
17-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	1.00	Receive and review correspondence from Yvette Smith regarding City of Houston RCA and Ordinance regarding CM procurement and review attachments regarding same and respond to same (.5); Revise Procurement Memorandum to include sections based on COH Procurement and Evaluation methods (.5)

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Key/Day	Task No.	Billable Title	Emp Name	Hours	Comments
18-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	2.50	Composed correspondence to Deidra Penny (City of Houston Legal Department), Martin Buzak (City of Houston Legal Department), Asad Khan (Tetra Tech Inc.), John Buri (Tetra Tech Inc.): RE: Homebuilder Composite Pricing Sheet and City's method of ensuring contractor pricing is reasonable (.3); Draft correspondence to Deidra Penny and Martin Buzak regarding upcoming call regarding composite pricing sheet and summarizing current findings for CM Procurement Memo (.2); Prepare for and attend Conference Call with Martin Buzak, SPD, and HCDD regarding elements for cost-plus-percentage-of-cost contracts, specifically discussing how including a markup amount into a unit price would not be prohibited so long as profits do not rise if costs rise (.7); Drafted bullet point summary highlighting findings based on documentation as received by the City for Construction Manager Compliance Memorandum and submitted to Houston Legal (1.3)
22-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	3.10	Receive and review updated procurement and evaluation documents from Yvette Smith and incorporate findings into Procurement Compliance Memorandum (1.2); Receive and review correspondence from Carolyn Hanahan regarding missing evaluation documentation and respond to same (.2); Incorporate into memorandum City's normal evaluation policy and process as it relates to individual score cards and consensus meetings (1.7)
23-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	1.40	Finalize first draft of Procurement Memorandum and submit to Wendy Ellard for review
24-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	0.60	Revise Compliance Memorandum based on information from Executive Summary and submit to Wendy Ellard for review
29-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	0.50	Conference call with Wendy Ellard discussing City's evaluation and procurement process in order to update Memorandum regarding same (.2); Briefing with Yvette Smith regarding Procurement Compliance Memorandum and findings (.3)
30-Jan-19	1000	Legal Counsel I	Corbitt, Jordan	0.90	Draft updated Compliance Memorandum including section on cost-plus-percentage-of-cost contracting and send to Wendy Ellard for review
18-Feb-19	2000	Legal Counsel I	Corbitt, Jordan	0.40	Receive and review correspondence from Bridget Cormier and Carolyn Hanahan regarding full and open competition and respond to same (.4)
19-Feb-19	2000	Legal Counsel I	Corbitt, Jordan	0.90	Conference call with Wendy Ellard and John Buri regarding MPM re-solicitation (.5); Briefing with Deidra Penny and Martin Buzak regarding MPM re-procurement (.4)
21-Feb-19	2000	Legal Counsel I	Corbitt, Jordan	0.50	Participate in conference call with Tetra Tech, Houston Finance, and Houston Legal regarding full and open competition for MPM procurement (.3); Draft correspondence to Deidra Penny regarding guidance on full and open competition (.2)
19-Nov-18	2000	Legal Counsel IV	Huff Ellard, Wendy	0.50	Review inquiry from Deidra Penny re possible conflicts concern with follow-up MPM re-procurement; respond to Penny

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Item Date	Bill No	Billin Title	Emp Name	Hours	Comments
13-Dec-18	2000	Legal Counsel IV	Huff Ellard, Wendy	0.20	Call with Jordan Corbitt re updated documents for review of MPM solicitation and Construction Management procurement; correspond with Corbitt and Christina Hendrick re status; confirm deliverable and updated procurement schedule
18-Dec-18	2000	Legal Counsel IV	Huff Ellard, Wendy	0.10	Review status update re MPM procurement as received from Deidra Penny; correspond with Jordan Corbitt on review, send additional focus points
19-Dec-18	2000	Legal Counsel IV	Huff Ellard, Wendy	2.80	Work to review draft MPM solicitation, insert comments including recommendations to adjust evaluation process, confirm HUD CDBG-DR guidance regarding MWBE requirements, revise accordingly, send edits to Jordan Corbitt; review draft summary analysis, work with Corbitt to complete; call with Corbitt on status and confirmation of handling of recommendations
20-Dec-18	2000	Legal Counsel IV	Huff Ellard, Wendy	0.10	Review additional correspondence between City Legal and HCDD re information to attach to MPM RFP and further revisions to ensure transparency; correspond with Jordan Corbitt on status
27-Dec-18	1000	Legal Counsel IV	Huff Ellard, Wendy	0.20	Call with Jordan Corbitt re anticipated timeline for Construction Management work related to HCDD projects, discuss documents received to-date with Corbitt; prepare and send status report to Christina Hendrick
27-Dec-18	2000	Legal Counsel IV	Huff Ellard, Wendy	0.40	Review Deidra Penny summary of outstanding items for MPM procurement and revised/clean RFP; confirm revised schedule for issuance; correspond with Jordan Corbitt on completion of final review; review outstanding points as noted and responses of Mayra Bontemps (HCDD)
28-Dec-18	2000	Legal Counsel IV	Huff Ellard, Wendy	0.10	Review final points re MPM solicitation including clarifying comments re scope of work required for call center
3-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.20	Call with Jordan Corbitt re status of Construction Management procurement review, discuss revised City timeline and possible issues; prepare and send status update to Christina Hendrick (no charge)
3-Jan-19	2000	Legal Counsel IV	Huff Ellard, Wendy	0.30	Review multiple emails from City Legal, HCDD, and Finance re attachments for MPM solicitation; prepare and send status update to Christina Hendrick (no charge)
4-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.30	Review updates from Deidra Penny re Construction Management solicitation schedule, correspond with Jordan Corbitt on plan for review; review update from Penny and Martin Buzak, confirm schedule with Corbitt
5-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.10	Receipt and review of Jordan Corbitt's summary comments re draft Construction Manager Contract and Homeowner Contract
6-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	3.20	Work to review draft Construction Manager Contract and Homeowner Contract for HCDD; insert suggested edits and comments; review and respond to comments from Jordan Corbitt; work with Corbitt to finalize and send analysis to City

INVOICE NUMBER: 51426430
 INVOICE DATE: 4/3/2019
 FEDERAL TAX ID#: 95-4148514
 BILLING PERIOD TO: 2/22/2019



Item Date	Task No.	Billable Title	Bill Name	Hours	Comments
7-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.30	Review inquiry from Deidra Penny re applicability of Davis Bacon Act requirements to work covered under Construction Management Contract; work with Jordan Corbitt to confirm method to determine trigger (8 homes per contract), review Corbitt research, confirm correct application
8-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.60	Receipt of Martin Buzak's request to review City revision to recoupment provisions of Construction Management Contract per comments submitted; correspond with Jordan Corbitt re allowability of language, review suggested revision from Corbitt, send further revision to language; review Deidra penny request for update, confirm response; correspond with Corbitt re status of documentation for procurement review, confirm SPD status and advisement of Penny re timeline
10-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.70	Correspond with Jordan Corbitt re review of procurement documents for Construction Management contract, review update on pending documents from SPD; prepare and send weekly status report; review inquiry from Martin Buzak re specific questions of applicability of Davis Bacon Act requirements, review draft response from Corbitt, send revisions/clarifications, review and confirm final transmittal to City
11-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.30	Review updates from Martin Buzak and Bridget Cormier re draft Contract for Construction Management; send instruction to Jordan Corbitt re additional confirmation of applicability of Davis Bacon Act provisions prior to distribution of draft Contract; review research update form Corbitt, confirm recommended revision to guidance
14-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	1.40	Review first draft Construction Management Memo as completed prior to receipt of all documentation at the special request of Deidra Penny, send edits and comments to Jordan Corbitt; review follow-up clarification from Corbitt re City procurement policy and restrictions applicable to RFQ solicitations, send comments to Corbitt with additional recommended revisions to Memo
16-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.90	Review additional information received from Jordan Corbitt regarding analysis of the City's use of an RFQ process to procure the Construction Manager including letter from ACEC, Texas Attorney General Opinion JC-0374, and City prior cancellation of procurement; review information pertaining to City Legal position; send comments and organization of arguments for Memo to Corbitt
25-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.30	Call with Jordan Corbitt on status of Memo to review Construction Management contract award, discuss cost data provided to support unit pricing, confirm acceptable as support of cost analysis
29-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	1.80	Review documentation from City to support evaluation of Construction Management contract selection; work to revise Memo; call with Jordan Corbitt re evaluation documentation, process to shortlist vendors, and pricing clarification; finalize Memo, distribute to City Legal's Deidra Penny and Tetra Tech

INVOICE NUMBER: 51426430
 INVOICE DATE: 4/3/2019
 FEDERAL TAX ID#: 95-4148514
 BILLING PERIOD TO: 2/22/2019



Item Date	Item No.	Billable Title	Billable Name	Hours	Comments
30-Jan-19	1000	Legal Counsel IV	Huff Ellard, Wendy	0.90	Review City Legal Department request for revision to Memo for Construction Management procurement; work with Jordan Corbitt to review pricing documentation; review and revise second version of Memo
19-Feb-19	2000	Legal Counsel IV	Huff Ellard, Wendy	0.60	Review information received from City SPD re research following MPM re-procurement; conference with John Buri and Jordan Corbitt re MPM re-solicitation and impact of research results, provide recommendations for handling (.4)
19-Feb-19	2000	Legal Counsel IV	Huff Ellard, Wendy	0.60	Review information received from Jordan Corbitt and City SPD re MPM re-procurement; call with Corbitt and Tetra Tech lead, provide guidance re FEMA review factors for competitive solicitation and impact of two bidder scenario; discuss recommendations for process forward
21-Feb-19	2000	Legal Counsel IV	Huff Ellard, Wendy	0.30	Participate in weekly call with City Legal and Finance; provide recommendations for handling information submitted by potential respondent to MPM solicitation; discuss options forward and recommendations to mitigate risks

MEMORANDUM

TO: Deidra Penny; City of Houston Legal Department

FROM: Ernest B. Abbott, Wendy Huff Ellard, and Jordan Corbitt;
Baker, Donelson, Bearman, Caldwell, & Berkowitz, P.C.

DATE: January 30, 2019

RE: Analysis of City of Houston Procurement of Housing Construction and Repair Services

Task

The City of Houston ("City") has asked Baker Donelson, as part of the Tetra Tech team, to review the City's Request for Qualifications for Housing Construction and Repair Services (the "RFQ/Solicitation") for its housing programs managed through the City's Housing and Community Development Department (HCDD). The RFQ involves Solicitation No.: S72-Q26671, as issued by the City on June 22, 2018. We understand the City/HCDD has completed an evaluation of responses and identified numerous winning bidders. We have been asked specifically to review the RFQ/Solicitation, Letters of Clarification, evaluation and scoring documentation, and draft contracts to identify risk(s) of noncompliance with respect to federal requirements and provide recommendations to mitigate any risk(s).

Summary

The City has identified at least 27,000 single-family residential structures as well as at least 43,000 multi-family structures that suffered flood damage as a result of Hurricane Harvey. Based on these findings, the City estimates that more than 100,000 housing units were damaged by flooding caused by Hurricane Harvey.

To help address the extreme and unmet needs of these individuals, the City applied for and expects to receive federal grant funding through the Department of Housing and Urban Development's (HUD) Community Development Block Grant Program (CDBG or CDBG-DR). This program is administered through the Texas General Land Office (GLO). As of now, HUD has allocated \$7.39 billion in CDBG-DR funding for Disaster Relief Requirements for the purpose of assisting in long-term recovery from 2017 disasters. From the \$7.39 billion, HUD allocated \$5.024 billion in CDBG-DR funds to the State of Texas specifically for providing response to Hurricane Harvey, DR-4332. The City expects to receive \$1.2 billion of CDBG-DR funding of the \$5.024 billion allocated to the State of Texas.

Analysis of City Procurement of Housing Construction and Repair Services
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The City intends to allocate part of the available funding to provide housing construction and repair services to the estimated 100,000 owner-occupied and renter-occupied single-family and multi-family homes affected by Hurricane Harvey and previous disasters. On June 22, 2018, the City issued the RFQ/Solicitation. In the RFQ/Solicitation, the City sought firms experienced in affordable, disaster recovery housing repairs to provide construction and construction management services for eligible homeowners through the City's HCDD.

The City received numerous bids in response to the RFQ/Solicitation. An evaluation committee evaluated the proposals based on identified criteria and rated each proposer in accordance with the City's pre-established procedure. Ultimately eleven firms were shortlisted and asked to prepare presentations where each evaluator was given the opportunity to adjust scores accordingly. One member of the evaluation committee was unable to participate in the oral presentations, and therefore this member's first-round score was removed from consideration. After final evaluation, including due diligence to determine whether and to what extent the respondents were considered to be "responsible contractors," the City selected eight firms - JWTC, SLS, DSW, Burglhi, Moss, Yates, AECOM, and Tegrity - as the apparent winning contractors.

The City then worked to negotiate reasonable pricing with the apparent winning contractors. The City requested price estimates from each to establish a fair and reasonable price for the scope of work. The estimates received from each contractor exceeded the City's independent cost estimate significantly. The City then requested another round of cost estimates from the contractors. The City received revised estimates from each contractor and determined that the revised estimates were fair and reasonable in relation to each contractors' qualifications and experience. We understand that the City now seeks to enter into contracts with six of the eight winning firms. Note that we do not have confirmation as to whether the City has executed contracts with any of the selected firms.

After reviewing available, relevant documentation, as received from the City, we have concluded that the City has substantially complied with the Uniform Rules as these Rules are read in conjunction with State law, including interpretations of applicable State regulations. Therefore, the City acted reasonably and was prudent to proceed with this procurement. However, we have identified multiple issues that may potentially impact reimbursement for otherwise eligible costs. We provide our recommendations for actions to mitigate the identified risks but cannot guarantee to what extent the GLO and/or HUD would question costs with or without completion of the recommended mitigating actions.

Governing Regulations Applicable to Federal Grant Funded Contracting

The City must use its own documented procurement procedures which reflect applicable state and City laws and regulations, provided the procurement conforms to applicable Federal law and the standards set forth in 2 C.F.R. Part 200, including regulations found at 2 C.F.R. §§ 200.318-326.

Of note here, the City is required to: (1) maintain records sufficient to detail the history of the procurement, including evaluations and decisions regarding the award of the contract and the contract price; (2) ensure adequate competition; (3) ensure evaluation of bids received is in accordance with criteria listed in the RFQ/Solicitation; and (4) perform a cost analysis, which at minimum, requires an independent cost estimate.

Observation #1 - Full and Open Competition

HUD requires subrecipients, such as the City, to comply with the procurement standards in 2 CFR §§ 200.318-326 when procuring property and services to be funded under its CDBG-DR grants. Section 200.319(d), entitled Procurement by Competitive Proposals, requires the City to publicize the RFQ/Solicitation and solicit proposals from an adequate number of sources. What is an adequate number of sources depends on the circumstances of the procurement. Here, the RFQ/Solicitation was advertised for a minimum of two weeks, and the City held a pre-bid meeting that was attended by numerous interested firms. Further, the bid submission deadline was extended several times, by over a month, ensuring any interested firm had time to prepare and submit a bid. The City received over thirty bids in response to its RFQ/Solicitation, eleven of which were shortlisted to provide oral presentations. Although the adequacy of competition can differ based on particular circumstances, the City's efforts appears to have generated adequate competition considering the scope of work and magnitude of this procurement, and the number of interested bidders and responses ultimately received.

Affirmative Steps

Pursuant to 2 C.F.R. § 200.321, the City is required to take "all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used **when possible**."¹ The section then lists six "affirmative steps" that must be taken. Completion of these steps is a typical focus area in federal audits; however, our experience reflects some flexibility in how the steps are completed and in the responsible federal agency's imposition of any penalty for imperfect compliance.

The first and second affirmative steps require that the City place qualified Minority and Women Business Enterprises (MWBES) on its solicitation lists and solicit these firms when they are potential sources. The fifth factor requires use of such organizations as the SBA and the Minority Business Development Agency of the Department of Commerce to identify and help ensure that these firms are aware of the procurement and solicited. We have not received detailed information regarding the City's publication process or information as to who or how the City contacted or solicited sources. Based on our general understanding of the City's usual process, the City would have publicly advertised the RFQ/Solicitation both on the Strategic Procurement Division (SPD)'s e-bid website and in the Houston Business Journal for a minimum of two weeks. Procurement personnel would have reached out to the Office of Business Opportunity (OBO) to ensure MWBES were solicited in accordance with applicable Federal

¹ Emphasis added.

regulations. However, in this case, we understand OBO did not specifically take the six affirmative steps to solicit MWBEs per 2 C.F.R. § 200.321(b).

Nevertheless, the City took steps to ensure it obtained adequate competition for this RFQ/Solicitation. For instance, the City hosted a Housing Construction and Repair Services Outreach Event, which included support from OBO and HCDD, whereby it provided attendee contractors with information on important dates and MWBE outreach. The City also prepared a PowerPoint presentation for its contractors, explaining the importance of MWBE outreach and the requirements that each contractor use good faith efforts to comply with the City's own MWBE-participation goals. In response to the RFQ/Solicitation, the City received interest from 85 solicited contractors, 17 of which (20% of all respondents) identified themselves as MWBEs. While the City may not have directly added MWBE contractors to the solicitation list or actively pursued responses from these contractors, the City's public advertisement, solicitation, and outreach efforts nonetheless resulted in fairly high participation of MWBEs. This mitigates the risk of any adverse findings based on compliance with the initial steps required by 2 C.F.R. § 200.321. The City's use of its own program established to encourage and support contractor MWBEs also weighs in favor of reasonable compliance; however, the City should specifically consult outside agencies for future procurements and document all efforts to help ensure full compliance.

The next two steps require that the procurement have been divided into smaller pieces "when economically feasible" and that delivery schedules are established "where the requirement permits" in such a manner as to potentially allow for greater participation by MWBE contractors. The RFQ states that multiple firms will be awarded a contract for this work, and the City plans to execute contracts with at least six of the eight selected firms. Regardless of the intent, the City is breaking the work into more manageable components, and the RFQ advised such, thereby encouraging and allowing for greater participation consistent with this required step. We recommend the City maintain documentation evidencing the determination to break up the work, and continue to document how the work is divided amongst the six contractors that execute contracts with the City.

The final step requires that the City require the prime contractor to itself take the first five affirmative steps if/when soliciting subcontractors. We understand that the City has placed this requirement in its contracts with the selected prime contractors. This satisfies the final step and further mitigates this risk of any finding of general noncompliance by increasing the possible opportunities for participation by MWBEs.

Observation #2 - Use of RFQ for Professional Services

There appears to be a conflict between the Uniform Rules and Texas State law regarding the use of RFQs when procuring A/E services. Federal regulations allow the City to use an RFQ, where qualifications serve as the key factor in determining an award and consideration of price is not required during the evaluation process, to procure architectural/engineering (A/E)

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professional services.² However, when non-A/E services are included in the scope of work, the Federal regulations require price to be considered during the evaluation process. This method, where price is not used as a selection factor, can *only* be used in procurement of A/E professional services.³

Up to this point, the Federal regulations are consistent with the Texas law and the City Administrative Policy 5-10, which states that solicitations for architectural, engineering, and land surveying services “must first be evaluated on the basis of demonstrated competence and qualifications with no consideration of price.” Once the highest rated professional is identified, negotiations may be initiated for a fair and reasonable price. However, unlike the Federal Regulations, the Texas Procurement Act was interpreted by the Texas Attorney General to apply to any governmental contract that includes architectural and engineering services *as a component part* of the work, whether those professional services are “integral to a contract [or] those that are merely ancillary to a contract. . . .”⁴ In fact, Attorney General Opinion No. JC-0374 *prohibits professional service providers from submitting competitive bids* in connection with a governmental contract.⁵ The Texas Procurement Act requires that A/E services be procured via RFQ, without the consideration of price, even if A/E services only comprise a portion of the solicitation scope of work.⁶

Though HUD has not provided guidance on what constitutes A/E services, FEMA has provided instructive guidance as to the scope of architectural/engineering professional services:

- Professional services of an architectural or engineering nature, as defined by applicable state law, and which the state law requires to be performed or approved by a registered architect or engineer.
- Professional services of an architectural or engineering nature associated with design or construction of real property.
- Other professional services of an architectural or engineering nature or services incidental thereto (including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals and other related services) that logically or justifiably require performance by registered architects or engineers or their employees.
- Professional surveying and mapping services of an architectural or engineering nature.⁷

² 2 C.F.R. §200.320(d)(5).

³ *Id.* (emphasis added).

⁴ Texas Attorney General Opinion No. JC-0374, p. 1, 4 (May 1, 2001).

⁵ *Id.* (Emphasis added).

⁶ Tex. Gov't. Code Ann. § 2254.003 (Professional Services Procurement Act prohibits a governmental entity from awarding a contract for professional services on the basis of competitive bids); Houston Administrative Policy 5-10, Sec. 5.1.1.

⁷ Supplement to the Public Assistance Procurement Disaster Assistance Team (PDAT) Field Manual, p. V-15 (June 21, 2016).

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Pursuant to the Uniform Rules, price must be evaluated when the solicitation is for work that does not fit wholly within what is considered A/E professional services.⁸

Here, it is our understanding that the City initially sought to use an RFP to procure the scope of work described in the solicitation in accordance with applicable Federal guidelines, but was challenged in doing so by the American Council of Engineering Companies ("ACEC") because the scope of work included A/E services.⁹ Many of the duties listed in the RFQ scope of work would reasonably require the use of a licensed A/E, i.e. designing floor plans, preparing environmental, health, and safety plans, and developing as-built surveys. Although it is less clear that other duties listed in the scope of work would require the use of a licensed architect or engineer, because A/E services are at least a component of the work, the City's Legal Department agreed with ACEC and determined that Texas law prohibited the City from utilizing an RFP for this work. As mentioned above, Opinion No. JC-0374 also prohibits any professional service provider from submitting "any monetary cost information" during the initial step of the procurement, which means that not only is the City disallowed from using an RFP for this work, but also that contractors are prohibited from responding to an RFP for this work.¹⁰

Therefore, the City published an RFQ, where price is not considered during the evaluation process, in accordance with City Administrative Policy and State law for the construction manager services for all construction phases, starting from site prep/grading, foundation, and demolition, to finish (electrical, plumbing, mechanical & gas), hookup and punch list review. The winning contractor would also provide A/E services in accordance with the applicable State statutes, "and furnish design of floor plans and other required A/E services for construction, elevation, and surveying activities." Reading in conjunction City Administrative Policy 5-10, Texas law, and applicable Federal regulations, the City acted reasonably when it issued an RFQ for this work; however, the City must be prepared to defend its position by demonstrating it obtained fair and reasonable pricing.

Even if a reviewing agency -- HUD, OIG, GLO, etc. -- determined that price must be considered as not all of the services in the RFQ can be categorized as professional A/E services, it appears the City sufficiently contemplated price when determining which contractors should be ultimately awarded a contract in compliance with applicable terms and the intent of the Federal regulations. Before the City issued the RFQ, it developed an internal and independent cost estimate for each aspect of the scope of work and prepared a cost estimate form requesting cost estimates for various phases of the work from each shortlisted contractor. The City established a mathematical approach to evaluate price estimates and determined that, on average, the respondents' proposed prices for New Home Constructions and Manufactured Home Units were approximately 10% above the adjusted average cost estimate developed by the City. Therefore, the City requested the respondents to submit revised cost estimates more

⁸*Buying Right*, CDBG-DR and Procurement: A Guide to Recovery, p. 71 (September 2017).

⁹ See Letter from the American Council of Engineering Companies, dated June 15, 2018, challenging the use of an RFP for this scope of work.

¹⁰ *Id.* at 2, 6.

in line with the City's initial estimate. After review of the respondents' revised estimates, the City determined that each respondent's costs for each bid item was fair and reasonable.

Although price was not specifically identified as an evaluation criterion, the RFQ/Solicitation allowed for consideration of price to re-evaluate responses and further ensured the City was obtaining the best value in relation to a given contractor's qualifications and experience. The City considered price pursuant to the intent of the Federal regulations when it rejected prices it deemed unreasonable and requested that respondents revise their initial cost estimates to more closely conform to the City's independent cost estimate. The City took multiple steps to ensure it was obtaining a fair and reasonable price from contractors who possessed the qualifications and experience to perform the work.

In sum, we are aware of no official guidance from HUD that confirms how an inconsistency between the Uniform Rules and applicable State law will be treated on this issue; further, there does not appear to be clear guidance on how a "mixed" contract would be evaluated under the Uniform Rules. For instance, in 2015 HUD-OIG opined that the State of New York failed to comply with Federal and state regulations when it used a qualification-only procurement for a scope of work that did not include architectural or engineering services.¹¹ Similarly, FEMA-OIG found that the City of Biloxi, Mississippi violated Federal procurement regulations for utilizing a qualification-only procurement for a scope of work that "included no A/E services."¹² Here, however, the Solicitation/RFQ does in fact include numerous A/E services.¹³ The use of an RFQ was not intended to allow the City to circumvent considering price during its evaluation, but rather was necessary to comply with State law and ensure a qualified contractor was selected to perform the work. Therefore, the City was prudent and reasonable in using the RFQ method of procurement for this work. The City has taken multiple steps to ensure that it is receiving reasonable pricing for the contemplated work and did in fact consider pricing before confirming its final selection of contractors. The City appears to have materially complied with the requirements of the Uniform Rules, and did comply with the intent to ensure a reasonable price for work performed and to be claimed for reimbursement under a Federal grant.

Observation #3 - Potential Conflict of Interest

Procurement regulations require that local governments and subrecipients maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts.¹⁴ This includes

¹¹ OIG Audit Report Number 2015-NY-1011, The State of New York, Governor's Office of Storm Recovery; Community Development Block Grant, Disaster Recovery Assistance, New York Rising Housing Recovery Program (September 17, 2015).

¹² "FEMA Should Recover \$21.7 Million of \$376 Million in Public Assistance Grant Funds Awarded to the City of Biloxi, Mississippi, for Hurricane Katrina Damages," OIG-15-131-D (Aug. 21, 2015) (Actual services performed did not include A/E services, and contract was amended to remove any mention of A/E services).

¹³ Section 4.2 of the RFQ; note also that Section 5.1 requires selected firms to use licensed Texas A/E and land surveying firms for designing floor plans, foundation repairs, and elevations.

¹⁴ 2 CFR 200.318(c)(2).

potential conflicts of interest that may arise when a construction manager is also tasked with performing design work throughout the project.

A portion of the scope of work detailed in the Solicitation requires selected respondents to “utilize properly-licensed Texas A/E and land surveying firms for designing floor plans for reconstruction and new constructions, and design services for foundation repairs, repairs for damaged structures, and homes needing elevations that may be required for rehabilitation.” Further, selected respondents must also procure materials, equipment, and supplies as well as early trade work during the preconstruction phase of work. This presents two potential issues where a conflict of interest may arise: (1) in the event that an affiliate of the selected respondent is awarded a contract in which the selected respondent has help developed the scope of work; and (2) if in his construction management work the A/E finds an issue with the design for which he is liable.

Here, both risks may be mitigated by consistent overview of the selected respondents’ work and ensuring that the City’s project manager maintains oversight over all procurements associated with this work, the costs associated with the work from preconstruction through construction, and regularly meets with the selected respondents to ensure that design services and construction work are performed in compliance with the Solicitation and Contract. We also recommend the City prohibit the selected respondent from awarding any work to affiliates or subsidiaries and require the selected respondent to abide by the City’s conflict of interest policies. It is imperative the City not put themselves in a situation in which the construction manager has sole oversight on construction work related to his or her design work.

Observation #4 - Evaluation Process

The City must comply with its own policies and procedures when evaluating submissions and ultimately selecting the winning contractor so long as these policies are consistent with the Uniform Rules. Specifically for competitive proposals procurement based on qualifications, the City of Houston Administrative Policy 5-10, subsection 5.1.1.1. *first* requires evaluation on the basis of demonstrated competence and qualifications.

The City utilized a two-tier evaluation procedure whereby an evaluation committee evaluated thirty-plus bid submissions according to the criteria listed in the RFQ. The City then developed a shortlist of eleven contractors meeting the technical requirements and scheduled those contractors for oral presentations.¹⁵ The evaluators adjusted their scores to reflect their observations and findings during oral presentations. The City then selected the top eight proposals that best met the City’s needs subject to negotiation of fair and reasonable pricing based on the Contractors’ experience and qualifications.¹⁶

¹⁵ Note that the City initially sought to shortlist the top ten contractors, but because the 10th and 11th contractors were tied with scores of 408 each, both were shortlisted, bringing the total number of shortlisted firms to eleven.

¹⁶ Although the RFQ appeared to allow the evaluators to again re-evaluate scores based on BAFOs from each contractor, we understand this did not happen here.

Although this evaluation method may have been compliant with City policy and State law, we have identified certain practices that may present risks to the City's funding or raise additional questions if not properly justified, addressed and documented.

Ambiguity regarding BAFO Evaluation

The RFQ states that:

The city intends to enter into negotiations with the top-ranked Respondent(s) (i.e. the most highly qualified) and attempt to negotiate a fair and reasonable price; if negotiations fail, the city shall formally end negotiations with that respondent and attempt to negotiate with the next most highly qualified provider. The city shall proceed in like manner until it has contracted with a sufficient number of entities to respond to the needs of this RFQ.

However Part IV, Section 4.0 allows the City to request Best and Final Offers ("BAFOs") and allows the evaluation committee to "re-evaluate final responses" upon receipt of all BAFOs. As such, it appears evaluators could have considered price in "re-evaluating final responses."

It is our understanding that the City initially requested BAFOs from the shortlisted contractors, but the pricing received from each contractor was far higher than the City's independent estimate.¹⁷ The City conveyed this to the contractors and requested an updated BAFO more in line with the City's estimate from each contractor. On January 3, 2019, each of the eight selected contractors submitted an updated BAFO, each of which the City, based on its independent cost estimate, determined fair and reasonable based on the respondents' qualifications and experience. As the scope of work included A/E services, the City's evaluation process is consistent with State law and City policy, but there is a risk that a reviewing agency will determine that the scope also includes non-A/E services, which require the consideration of price during the evaluation process pursuant to the Uniform Rules. If so, the City must document its efforts to evaluate pricing throughout the evaluation process. The City should also maintain documentation of binding State law and guidance requiring it to evaluate the bids consistent with the Texas Procurement Act (as stated above).

Development of Short-List

The RFQ advises that the Evaluation Committee may develop a short list of proposers meeting the technical competence requirements to move to the interview round of evaluations.

The City shortlisted eleven firms to the second round of evaluations, but there are no applicable City policies or procedures that define how shortlisted contractors are determined. We understand that the City planned to execute contracts with an estimated six firms to perform the scope of work. Based on this estimate, the City sought to shortlist ten firms for oral

¹⁷ Note that we have not yet been provided with the City's independent estimate or cost/price analysis.

interviews. Note that because the 10th and 11th firm had a tie score of 408, both were shortlisted, which brought the final shortlisted number of contractors to eleven.

We understand from our discussions with the City that the oral presentations resulted in selection of eight apparent winning contractors. The City then worked with these contractors to negotiate fair and reasonable pricing and agreeable contract terms. Based on these negotiations, we understand the City intends to enter into contracts with six vendors.

The City should explain in its Evaluation Summary why certain firms were shortlisted while others were not and in the future should include in solicitations more detail regarding the process that will be used to shortlist contractors so that all are aware during the initial phase and can respond accordingly. The City should also ensure it has strong documentation regarding its selection of the preferred eight apparently winning contractors, and likewise for its ultimate determination to enter into contracts with six vendors.

The City appeared to evaluate Respondents' references first on pass/fail basis

The RFQ reserved the right of the City to check references on any projects performed by the Respondent, whether provided by the Respondent or known by the City, and required each proposer to submit references in accordance with the evaluation criteria. References were included as a part of the "Experience" criteria worth an overall thirty points, with references representing five of the total thirty points available. Evaluation documentation shows that the Evaluation Committee reviewed and evaluated references based on the relevance, applicability, size, and scope of work included in the form reference bid sheets submitted by each contractor, awarding 1-5 points based upon the same. However, in the shortlist evaluation summary, it appears as if reference checks were performed on a pass/fail basis, as all eleven shortlisted firms were placed on equal ground with each receiving a "✓" for the reference section, which appears inconsistent with the RFQ. It is our understanding that after the evaluation and interviews took place, the City contacted references for each contractor to ensure that the selected contractors were responsible and qualified to perform the work.

Importantly, the Uniform Rules encourage the review of references. Pursuant to 2 C.F.R. § 200.318(h), the City must "award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement." The section states explicitly that "Consideration will be given to such matters as contractor integrity, compliance with public policy, *record of past performance*, and financial and technical resources."¹⁸ The City's contact of the Respondents' references would seem not only consistent with the mandate of 200.318(h) but is also consistent with the language of the RFQ/Solicitation.

Notwithstanding, the City must well-document the entire evaluation process, including specifically the determination to contact references and the information gained through this process. We have now received the Executive Summary, which details the procurement

¹⁸ Emphasis added.

process, but the Executive Summary does not address specifically how references were contacted or actually evaluated. Further, the City must ensure it has consistently reviewed references of all of the contractors who submitted bids in accordance with the Solicitation, and similar responses from references must have garnered similar results, i.e. every contractor must be treated equally.

Excluded Evaluator Score

The Uniform Rules provide that the City “must use its own documented procurement procedures which reflect applicable state, local, and tribal laws and regulations, provided the procurement conforms to applicable Federal law and the standards set forth in 2 C.F.R. Part 200.”¹⁹ The City’s administrative policy applicable at the time to RFQs provided that “an evaluation committee of three to five individuals with relevant experience shall be appointed to evaluate responsive proposals.”²⁰

It is our understanding that the City initially established an evaluation committee consisting of five voting members and a chairperson in accordance with City policy. All five members attended the first round of scoring, but an unforeseen medical emergency precluded EC1 from attending oral presentations. EC1’s score was removed and the City moved forward with oral presentations.²¹ We understand the four remaining evaluators had experience with the HCDD or with contract compliance and were qualified to evaluate the short-list bids. We have also received documentation demonstrating how the removal of EC1’s scores ensured the evaluation process was fairly conducted. The City should document the circumstances of the change in the evaluation process in a revised Executive Summary including an analysis of the impact of removal of EC1’s scores as entered during the first round. Assuming the City concludes that this had no impact on the outcome, we do not see this as an issue.

Observation #5 - Wide Variance in Respondents’ Pricing

As discussed above, each selected contractor was asked to submit a reconfigured fee proposal more in line with the City’s independent cost estimate. The City developed cost estimate sheets, which include individual tabs for specific estimates associated with new home construction, elevation & demolition, manufactured housing units, unit bid items, typical upgrades, and rehabilitation. For rehabilitation, the City employed a program called Xactimate, which generates estimated pricing for labor, equipment, and materials associated with the rehabilitation of a given home. The City asked each contractor to propose a percentage markup to cover costs associated with overhead, profit, bonding, permitting, and general conditions

¹⁹ See 2 C.F.R. § 200.318(a).

²⁰ City’s Administrative Policy (AP) 5-10 (2017).

²¹ Note that there is not a current City Administrative Policy detailing what is to be done with an evaluator’s scores when they can no longer participate in the evaluation process.

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that would be applied to the Xactimate estimate to determine the total price for rehabilitation of a given home.²²

The firms each submitted a cost estimate based on the City's form-cost proposal sheet, taking into account each category of work/pricing requested by the City including the rehabilitation markup percentages. Each firm submitted an updated cost proposal in response, as summarized below²³:

- Burglhi - \$117,500; 47.5% markup
- SLS - \$131,000; 48% markup
- Tegrity - \$133,000; 18.5% markup
- DSW - \$164,000; 30.5% markup
- Yates - \$171,000; 49% markup
- JWTC - \$189,500; 30% markup
- AECOM - \$202,100; 41.5% markup
- Moss - \$207,500; 67.43% markup

Considering the approximate difference of \$90,000 between the cheapest and most expensive bid proposals, the City may find it difficult to determine that the more expensive costs are reasonable under the circumstances considering there are qualified contractors available who can purportedly perform the same tasks, but for a lower cost. Further, most of these costs include an over 40% markup covering overhead, profit, bonding requirements, permitting, and general site conditions. The City will have to again show that these markup amounts are reasonable, but may have trouble doing so when other contractors with lower markup percentages are available to perform the same work.

Additionally, the use of the term "markup" may raise concern. Pursuant to 2 C.F.R. § 200.323(d), cost-plus-percentage-of-cost ("CPPC") fee structures are prohibited for federally-funded projects, including those to be reimbursed in whole or in part using CDBG-DR funds. CPPC contracts are generally those that contain some element that obligates the owner to pay the contractor an amount (in the form of either profit or cost), undetermined at the time the contract was made and to be incurred in the future, based on a percentage of future costs. The concern is that this payment structure may provide an incentive for a contractor to incur additional costs in order to receive a higher profit.

City personnel have advised that the rehabilitation markup amount will be included in each contractor's price, which will then be converted into a fixed unit price for the rehabilitation costs of each home. Once the price is established, the contractor's compensation is set, and the contractor cannot maximize profits by increasing costs. Therefore this fee structure does not constitute a prohibited CPPC contract. The use of a percentage to calculate a profit amount

²² It is unclear why markup percentages were only included for rehabilitation costs as opposed to new construction.

²³ Comparisons are from smallest to largest based on approximate total amounts for the Unit Bid Item and Rehab Markup Percentages tabs.

is allowable when that profit amount is then “locked in” - in essence, this structure is then instead an allowable cost-plus-a-flat-fee. This appears to be the more appropriate classification of the payment structure being presented as long as this is the case and the contractor’s entitlement does not increase commensurately with increased costs of the underlying work. As such, the flat fee amount billed for profit is eligible as part of the total cost billed as long as reasonable and otherwise eligible.

Observation #6 - Davis-Bacon Provision

When required by Federal program legislation, the City must include the Davis-Bacon provision (and Copeland Anti-Kickback provision) in any contract in excess of \$2,000 which is entered into for the *actual construction, alteration and/or repair*, including painting and decorating, of a public building or public work, *or building or work financed in whole or in part from Federal funds*.²⁴ However, applicable guidance provides that these requirements apply to the rehabilitation of residential property only if such property contains not less than 8 units.²⁵

When applicable, the Davis-Bacon provision requires contractors to pay wages to laborers and mechanics at a rate consistent with the prevailing wages specified in a wage determination made by the Secretary of Labor, amongst other requirements. Importantly, the decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. Further, the Copeland “Anti-Kickback” Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

Here, the RFQ does not mention the Davis-Bacon or Copeland Anti-Kickback Acts and the City affirmatively informed contractors that the Davis-Bacon Act did not apply to the work covered under the solicitation.²⁶ It is unlikely the City will run into a situation in which an individual property owner would be contracting for work on a property of more than 8 units, so these contracts should be fine without the Davis-Bacon and Copeland Anti-Kickback provisions included. However, as previously advised, HCDD must thoroughly monitor the work to ensure a contractor doesn't begin work on an 8+ unit without the Davis-Bacon provision in place.

Observation #7 - Necessary Documentation

Regulation 2 CFR 200.318(i) requires the City to maintain documentation of the procurement history for any procurements secured by federal funds. Here, the City provided ample documentation regarding the procurement process, but we have not been provided the following documentation in performance of our review, and therefore cannot opine as to whether the City has complied with applicable federal regulations pertaining to the below list of documents.

²⁴ 2 C.F.R. § 200.326; 29 CFR Part 5 (emphasis added).

²⁵ Housing and Community Development (“HCD”) Act of 1974, Sec. 5310.

²⁶ See Letters of Clarification #3 (dated July 27, 2018) and #4 (dated August 10, 2018).

- ***All Independent Evaluations Not Provided***

The City's Evaluation process began with a kick-off meeting led by the lead buyer where evaluators were provided instruction regarding the evaluation process and provided with bid documentation from the over thirty vendors that submitted a bid in response to the RFQ. The evaluators then independently evaluated each vendor's qualifications listed in the RFQ and provided a score for each criterion. The Evaluation Committee then assembled again to discuss and finalize the first round scores provided by each evaluator, with those scores being incorporated into the group evaluation matrix. It is our understanding that this procedure was repeated for those vendors who were shortlisted and interviewed. The second-round scoring was then incorporated into the evaluation matrix, showing how each evaluators' first-round score was increased/decreased depending on the contractor's performance during the interview. There is currently no State law or City Policy guidance that requires the City to maintain the independent evaluation scorecards for each round, which is reasonable under the circumstances as the evaluators' scores are captured and consolidated in the evaluation matrix.

Nevertheless, and although we maintain that nothing in the Texas Procurement and Contract Management Guide (or applicable Federal regulations) requires the City to preserve individual scoring sheets, we have seen this issue arise before in an earlier GLO review.

The City has provided evaluation documentation, including the evaluation matrix showing each evaluator's score for each criterion for each contractor and a spreadsheet evidencing pros and cons for all of the shortlisted contractors after interviews. We have however not been provided individual score sheets for each evaluator. We recommend the City obtain signatures from its evaluators verifying that the scores are true and correct, especially for those whose independent scoring sheets are unavailable. We also recommend the City maintain individual scoresheets to the extent possible, to add further documentation and support for the resulting evaluation matrix.

- ***Price/Cost Analysis***

The City must perform a cost or price analysis in connection with every procurement action in excess of the simplified acquisition threshold, including contract modifications, and all procurement actions where competition is lacking.²⁷ As a starting point, the City developed a thorough independent cost estimate before receiving bids or proposals via a Composite Pricing Methodology that would help determine cost reasonableness.²⁸

We have not however received a copy of the City's full price or cost analysis as would have been completed following receipt of the bids or proposals to substantiate the reasonableness of the fee proposals received. We understand the City enforced its right to receive BAFOs (in the form of price estimates) from each contractor and required each contractor to revise and lower their estimates to be more in line with the City's own analysis. We recommend the City

²⁷ 2 C.F.R. § 200.323(a).

²⁸ *Id.*

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document all efforts completed to evaluate the reasonableness of the cost, including all work done and materials reviewed as part of completion of a thorough cost analysis. This should include documentation of an evaluation of separate cost elements and profit, and comparison to the City's initial independent cost estimate, to verify that all costs proposed by each contractor are reasonable compared to other contractors charging for similar services and any other pricing comparisons the City has on file or is able to obtain.

Conclusion

Based on our review of the record of this procurement and the applicable federal regulations, we believe the City has substantially complied with applicable federal regulations. We cannot however opine on whether the City complied with applicable Federal regulations regarding the missing documentation identified above. If it has not already done so, the City should conduct and document a full cost analysis to ensure each contractors' proposed costs are reasonable under the circumstances and ensure it has documentation evidencing the procurement process.

Smith, Andrea - HCD

From: Corbitt, Jordan
Sent: Wednesday, December 19, 2018 3:36 PM
To: Penny, Deidra - LGL; Hanahan, Carolyn - FIN
Cc: Cormier, Bridget - FIN; Santiago, Brunilda - LGL; Buzak, Martin - LGL; Bontemps, Mayra - HCD; Moreno, Gloria - FIN; Khan, Asad; Buri, John
Subject: MPM Re-Procurement Review and Analysis
Attachments: 4818-6653-4787 v.2 Revised - RFP MPM2_12_18_18.docx

Afternoon All,

The City has asked Baker Donelson to review the City's Request for Proposals (the "RFP") for the second phase of Master Program Manager ("MPM") services for its housing programs managed through the City's Housing and Community Development Department ("HCDD"). Baker Donelson is being asked specifically to review the RFP/Solicitation to identify risk(s) of noncompliance with respect to federal requirements and provide recommendations to mitigate any risk(s) before the City advertises this solicitation. Please see below areas of potential concern. Considering some revisions/comments may require substantive changes in the document, please forward a final version once all comments are addressed.

Full and Open Competition

Advertisement and Time to Respond

HUD requires subrecipients, such as the City, to comply with the procurement standards in 2 CFR §§ 200.318-326 when procuring property and services to be funded under its CDBG-DR grants. Section 200.319(d), Procurement by competitive proposals, requires the City to publicize the RFP and solicit proposals from an adequate number of sources. However, what is an adequate number of sources depends on the circumstances of the procurement. The City must follow its own policies and procedures when advertising the RFP, but should, at a minimum, ensure the RFP is widely published for a reasonable amount of time to ensure that an adequate number of qualified sources are informed of the solicitation and have time to prepare their submissions. Allowing sufficient time to respond may be especially prudent under the circumstances considering the detailed nature of the solicitation and the timing of the advertisement, i.e. at the end of the year and during the Holiday season when potential respondents may be out of town or otherwise unavailable. In the event that, after advertisement, only a limited number of bids are received due to lack of sufficient time to adequately respond to the RFP, this may be deemed an improper noncompetitive procurement. To mitigate this risk, we recommend extending the response deadline for at least one week beyond January 1.

Affirmative Steps & HUD Section 3 Program

Pursuant to 2 CFR. § 200.321, the City is required to take "all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used **when possible**." Further, HUD's Section 3 Provision requires **to the greatest extent feasible**, contracts be awarded to eligible business concerns located in or owned by residents of the target area. Completion of these steps is a typical focus area in federal audits. The RFP includes the affirmative steps pursuant to § 200.321, but did not include the Section 3 Provision (although there were references to HUD's Section 3 Provision throughout the RFP). We have included the entire provision at Part VI, Section 4.0.

Based on our general understanding of the City's usual process, the City will publicly advertised the RFP both on the Strategic Procurement Division ("SPD")'s e-bid website and in the Houston Business Journal for a minimum of two weeks (although likelier longer under the circumstances). Tifney Green-Scott, the point of contact with the Office of Business Opportunity ("OBO") will ensure MWBEs are solicited in accordance with applicable Federal regulations. The City must document its efforts to solicit MWBEs and maintain this documentation in the contract file. We further recommend the City document its active efforts to evaluate options regarding affirmative steps 3 and 4, which require that the

procurement have been divided into smaller pieces “when economically feasible” and that delivery schedules are established “where the requirement permits” in such a manner as to potentially allow for greater participation by MWBE vendors. The GLO previously questioned whether the City sufficiently evaluated whether it was feasible to divide MPM services into smaller procurements, so this documentation is especially critical. We advise the City include documentation in the procurement file evidencing any factors that weighed against adjustment of the delivery method chosen for this work. The final step requires that the City require the prime contractor to itself take the first five affirmative steps if/when soliciting subcontractors. We understand that the City plans to include this requirement, along with the other required and applicable federal provisions, in its contract with the selected contractor.

Cost/Price Analysis

Independent Cost Estimate

Pursuant to 2 C.F.R. § 200.323, the City is required to prepare an independent estimate before receiving bids and also complete a cost analysis of the bids received to confirm the reasonableness of the winning bidder's price. An independent cost estimate serves as a yardstick for evaluating the reasonableness of the contractor's proposed costs or prices. We have not received documentation evidencing the City's independent cost estimate. We advise the City to evaluate the separate elements of the costs, establishing an estimate for labor rates associated with each position provided for in the RFP **before bids are received** and then comparing the estimated labor rates to those provided in each proposal. Note that the City's estimate must be independent of any potential bidder and use of the bids themselves as a basis of the City's estimated costs is prohibited.

Evaluation and Selection Process

Criteria & Evaluation

The City must comply with its own policies and procedures when evaluating submissions and ultimately selecting the winning contractor. Specifically for competitive proposals procurement, 2 C.F.R. § 200.320(d) requires that the RFP identify all evaluation factors and their relative importance. The RFP identifies a two-tier evaluation procedure whereby bidders are first evaluated according to the criteria listed in the RFP, and then the City hears oral presentations from those vendors who meet the technical requirements of the RFP, possibly including only those making the City's “short-list”. The evaluators may adjust their scores to reflect their observations during oral presentations. The City then selects the proposal that best meets the City's needs and provides the best overall value. We have identified the following areas of concern regarding the evaluation criteria.

- The City has not confirmed whether price will be evaluated during the first round of scoring. The RFP includes comments stating that SPD will make this determination. The GLO has previously expressed concern with not evaluating price during the initial phase and HUD guidance/2 C.F.R. 200.320(d)(4) requires that price is considered. To mitigate risks, we recommend that the City evaluate price during the initial phase of the evaluation process.
- Further to the above, the evaluation process as currently included is not as clear as we feel it could be. Unless the City has a strong reason to the contrary, we would recommend evaluating all proposals using all factors as part of the initial evaluation phase and confirming this practice in the RFP. This will remove any doubt as to what will be evaluated and when and also provide greater clarity regarding how a short-list, if any, will be determined.
- Part III, Section B states, in part, that “the CPO, in his sole discretion, may disqualify a proposer on the basis of negative references.” However, references are included as an evaluation factor under “Technical Competence/Requirements” and assigned only a minimal 3 points. This creates an ambiguity regarding the effect of negative references, i.e. will negative references disqualify a respondent or only result in a loss of points? HUD guidance and the Uniform Rules require that all evaluation factors be stated and selection can only be based on those. We recommend the City determine how references will be evaluated during the evaluation process and clearly indicate this in the RFP.
- The RFP identifies all evaluation factors and their relative importance; however CDBG-DR Guidance advises that “ideally each category will have detailed components,” with points associated with each component. Although the RFP is likely sufficient regarding identifying evaluation factors and their relevant weight, in an abundance of caution we advise the City to allocate points to the detailed components under each major evaluation criterion (added to RFP as example).

- We recommend the City document and maintain independent scoring sheets for each evaluator. This was also a point made by GLO during its prior review of the earlier MPM solicitation.

Documentation

In addition to the above and based on the RFP, we have identified the following that should be documented and maintained in the procurement file.

- Given the prior concerns expressed by the GLO regarding the City's award of a prior MPM contract, the City should prepare a summary of the evaluation process and the rationale for selection of the winning vendor and include this in its procurement file.
- The RFP contemplates a time and materials contract. As such, the City must document its determination that no other contract is suitable and a ceiling price that the contractor exceeds at its own risk. The documentation should detail how the ceiling price was developed, and the City's efforts in maintaining oversight to confirm the contractor is performing in compliance with the contract.
- The City must document a supported independent cost estimate and include this in its procurement file prior to receipt of the proposals.
- The City must document a full cost analysis, evidencing that the winning bidder's prices are reasonable under the circumstances.
- All milestones the City will require the contractor to meet.

If you have any additional questions, please let us know. Please forward this as appropriate.

Thank You,

Jordan Corbitt

Associate

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