

Sec. 2-10.4. - Acquisition of professional architectural, engineering, landscape architectural or land surveying and mapping services.

(1) *Definitions.*

- (a) "Professional services" shall mean those services within the scope of the practice of architecture, professional engineering, landscape architecture, registered land surveying and mapping, as defined by the laws of the state, or those performed by any registered architect, professional engineer, registered landscape architect or registered land surveyor in connection with his professional employment or practice.
- (b) The term "firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering, landscape architectural or land surveying services.
- (c) The term "compensation" means the total amount paid for a particular professional service to a firm by Miami-Dade County.
- (d) The term "departments and agencies" means departments, instrumentalities or branches of County government.
- (e) The term "project" shall mean that fixed capital outlay study or planning activity described in the public notice of Miami-Dade County pursuant to Section 2-10.4(2). The County Mayor or County Mayor's designee shall prescribe by Implementing Order, subject to approval of the Board of County Commissioners, procedures for the determination of a project under its jurisdiction. Such procedures may include:

- 1. Determination of a project which constitutes a grouping of minor construction, rehabilitation or renovation activities;
- 2. Determination of a project which constitutes a grouping of substantially similar construction, rehabilitation or renovation activities.

All project grouping contracts shall be subject to the approval of the County Manager or his designated representative to ensure compatibility and compliance with the Equitable Distribution Program.

- (f) The term "continuing contract" shall mean a contract for professional services entered into in accordance with all the procedures of Chapter 287, Florida Statutes, as amended, and this section, as amended, between departments and agencies of Miami-Dade County and a firm whereby the firm provides continuing professional services to Miami-Dade County for separate project assignments in which construction costs do not exceed the limit established by Chapter 287.055, Florida Statutes, as amended, or for separate study activities in which the fee for professional services does not exceed the limit established by Chapter 287.055, Florida Statutes, as amended, work of a specified nature as outlined in the contract required by Miami-Dade County with no time limitation except that the contract shall provide a termination clause. Firms seeking to provide professional services under continuing contracts for separate project assignments projects in which construction costs do not exceed the limit established by Section 287.055, Florida Statutes, as amended, or for separate study activities in which the fee for professional services does not exceed the limit established by Section 287.055, Florida Statutes, as amended, may be engaged and assigned work through means of an Equitable Distribution Pool established as provided in the Implementing Order which implements this Section.
- (g) The term "design-build contract" shall mean a single contract for the design and construction of a public construction project.
- (h) The term "value-analysis" means an organized approach to optimizing both cost and performance in a new or existing facility or to eliminating items that add cost without contributing to required function.

- (i) The term "life-cycle costing" means that process whereby all the expenses associated with the operation, maintenance, repair, replacement and alteration costs of a facility or piece of equipment are identified and analyzed.
- (2) *Public announcement.* The County Mayor or County Mayor's designee shall publicly announce as required by Section 287.055, Florida Statutes, as amended, each occasion when professional services are required as specified in the Implementing Order which implements this Section. Such announcement shall be made by publishing the same in a newspaper of general circulation setting forth a general description of the project or projects requiring professional services, the type of services, and prescribing the procedure to be followed by any firm wishing to be employed to perform such services. The public announcement shall be made in the manner provided by law and as specified in the Implementing Order which implements this Section.
- (3) *Submission of qualifications.* The County Mayor or County Mayor's designee shall encourage firms engaged in the lawful practice of their profession who desire to provide professional services to the County to submit on or before January 1, 1977, and annually on that date thereafter, a statement of qualifications. Such statements shall be on a form provided by the County Mayor or County Mayor's designee who also may require additional information, and which shall be kept on file with the Clerk of the Board.
- (4) *Certification committee; guidelines.*
  - (a) The County Mayor or County Mayor's designee shall appoint a certification committee consisting of not less than three (3) members, all of whom shall be professionals in the field of endeavor or practice involved. The duty of such certification committee shall be to review the statement of qualifications submitted by each firm requesting certification and to ascertain whether the firm is fully qualified to render the required services according to law and the regulations which the County Mayor or County Mayor's designee shall cause to be prepared. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, and experience record of the firm. The committee may accept certification of the firm by the State of Florida Department of Transportation or the State of Florida Department of General Services as prima facie evidence of such qualification; provided, no changes in technical and professional personnel have occurred that may affect the firm's qualifications since the date of State certification.
  - (b) Certification shall specify the particular category of professional work in which the firm is found qualified. The certification committee shall evaluate the experience of each certified firm that seeks to render professional services and shall make that evaluation part of the permanent record to be considered then and whenever the firm is again in consideration.
  - (c) Amendments to qualification statements and data shall be submitted to the County by firms immediately after any changes in technical or professional personnel that may affect the firm's qualifications or capabilities. Upon receipt of any such amendment the certification committee shall again review the qualifications of the firm to ascertain whether the firm is still qualified. If it is found not to be qualified, the committee shall revoke the certification for the particular category of service for which the firm had been previously certified.
- (5) *Competitive selection committees for publicly announced projects or planning or study activities which are not provided under continuing contracts.*
  - (a) For each project or planning or study activity required to be publicly announced under subsection (2) of this Section, the County Mayor or County Mayor's designee shall appoint a competitive selection committee as set forth in the Administrative Order which implements this section.
  - (b) For each such project, the competitive selection committee shall evaluate current statements of qualifications and performance data on each firm which has requested consideration for that project and shall select several of the candidate firms based on their qualifications, approach to the project and the ability to furnish the required services, in the manner more particularly identified in the Administrative Order which implements this Section. The competitive selection

committee shall then identify, after a properly noticed public hearing, at which public hearing each of the several selected candidate firms shall be given reasonable time to make their presentations, no less than three (3) firms, in order of preference, found to be the most highly qualified to perform the required services. If less than three (3) firms are found most highly qualified then each such firm, in order of preference, shall be identified.

- (c) The competitive selection committee shall report its findings, together with supporting data, to the County Mayor or County Mayor's designee and shall file a copy of its findings with the Clerk of the Board of County Commissioners.
- (d) The County Manager shall select no less than three (3) firms, in the order of preference (provided that at least three (3) firms are identified in accordance with subsection (b) above) by the competitive selection committee to be the most highly qualified to perform the required services. The competitive selection committee shall rank the firms in the order of their competence and qualification after considering such factors as the ability of professional personnel, past performance, willingness to meet time and budget requirements, locations of the firms, the recent, current, and projected workloads of the firms, and the volume of work previously awarded to the firm by the agency with the object of effecting an equitable distribution of contracts among qualified firms. The competitive selection committee shall score the firms based on a qualitative evaluation of the selection criteria (the "Qualitative Score") but shall base its recommended ranking on the aggregate ranking provided by members of the selection committee (the "Ordinal Score") all as more particularly described in the Implementing Order. The competitive selection committee shall report to the County Mayor or the County Mayor's designee the recommended ranking of the firms including both Qualitative Scores and Ordinal Scores. The competitive selection committee shall report no fewer than three (3) firms determined to be the most highly qualified, provided at least three (3) qualified firms have responded to the solicitation.

Following the review of the selection committee's report, the County Mayor or County Mayor's designee shall determine the final ranking of firms in the order of competence and qualification upon application of the criteria set forth in subsection (d) above and the local preference considerations set forth in subsection (e) below. The County Mayor or County Mayor's designee shall at all times abide by the principle of selection of the most highly qualified firms. The County Mayor or County Mayor's designee shall file the names of the firms he selects together with his order of preference with the Clerk of the Board of County Commissioners. The County shall then negotiate a contract in accordance with the procedures set forth hereafter.

- (e) If two firms, one local and one nonlocal are within five (5) percent of each other's total Qualitative Scores, and for design build solicitations, the adjusted low bid, as defined in the corresponding Implementing Order, the local firm shall be ranked higher than the nonlocal firm in the final ranking of the County Mayor or Mayor's designee made in accordance with this subsection. In case of a two-tiered evaluation process, the local preference shall also apply at the conclusion of the first tier to allow eligible local proposers within five percent of the points assigned to those recommended to participate in the second tier evaluation. For purposes of this subsection, the term local firm shall have the same meaning as local business in Section 2-8.5 of this Code.
  - (f) The provisions of this subsection shall not apply to continuing contracts.
- (6) *Competitive negotiations.*
- (a) The County Mayor or County Mayor's designee shall appoint a negotiation committee who shall attempt to negotiate a professional services contract for each project or planning or study activity required to be publicly announced under subsection (2) of this Section with the firm which he has ranked first for a compensation which the negotiation committee has determined to be fair, competitive, and reasonable. In arriving at a compensation figure the negotiation committee shall conduct a detailed analysis of the cost of the professional services required, and shall give full consideration to the extent and complexity of the services required. For all lump sum or cost plus a fixed fee contracts in which the fee will exceed fifty thousand dollars

(\$50,000.00), the County will require the firm receiving the award to execute a truth-in-negotiation certificate as required by Chapter 287, Florida Statutes.

- (b) Should the negotiation committee be unable to negotiate a satisfactory contract with the firm that has ranked first at a price which the negotiation committee believes to be fair, competitive, and reasonable, negotiations with that firm shall be formally terminated. The negotiation committee shall then undertake negotiations with the firm which the County Mayor or County Mayor's designee ranked second. Failing accord with this firm, such negotiations shall terminate, and negotiators shall then undertake negotiations with the firm ranked third by the County Mayor or County Mayor's designee.
  - (c) Should the negotiation committee be unable to negotiate a satisfactory contract with any of the selected firms, additional firms shall be selected in accordance with the procedure set forth herein. Negotiations shall continue in accordance with this section until an agreement is reached. The negotiated agreement shall be presented to the Board of County Commissioners for approval.
- (7) *Prohibition against contingent fees.* Each contract for professional services shall contain a prohibition against contingent fees, as required by Chapter 287, Florida Statutes. For the breach or violation of this provision the County Commission may terminate the agreement without liability or, at its discretion, deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.
- (8) *Miscellaneous provisions and exceptions.*
- (a) Nothing herein shall affect the validity or effect of any contracts in existence at the effective date hereof.
  - (b) The procedures of this Section shall not apply:
    - (i) When the County Mayor is of the opinion and certifies that a valid public emergency exists.
    - (ii) To continuing contracts as defined herein.
    - (iii) To projects in which the County is able to reuse existing plans from a prior project; provided, however, subsequent to July 1, 1975, public notice for any plans which are intended to be reused at some future time shall contain a statement which provides that the plans are subject to reuse in accordance with the provisions of this subsection.
  - (c) Miami-Dade County agencies and instrumentalities with the independent power to contract, such as the Public Health Trust, shall adopt rules and procedures implementing this Section. For the purposes of such rules and procedures, where this section provides the Board of County Commissioners with implementing authority, the Board of Trustees shall exercise such authority, and where this section provides the County Mayor with authority, the President or Executive Director shall exercise such authority.
- (9) *Design-build contracts.* Selection of firms to perform design-build contracts shall be in accordance with the procedures set forth in the Implementing Order which implements this Section.
- (10) *Implementing Order.* The provisions of this Section shall be implemented by an Implementing Order approved by the Board of County Commissioners.
- (11) *Value analysis.* Whenever the County purchases design services for certain public facilities and improvements which exceed the thresholds set by Administrative Order promulgated by the County Mayor and approved by County Commission, the following value analysis shall be performed by a firm or entity separate from the design firm and shall be included as part of the overall design costs for such facilities or improvements:
- (a) Gathering and tabulating information concerning the facility as designed, in order to understand the specific use or function requirements of the items under study.
  - (b) Developing alternative recommendations that fulfill the facility's basic function(s).

- (c) Evaluating, critiquing, and ranking feasible alternatives developed in (b) above. An estimated dollar value shall be applied to all feasible alternatives and a determination made of the alternatives that offer the greatest potential for savings.
  - (d) Selecting only the best alternatives and developing firm information and cost estimates on them.
  - (e) Presenting the written value analysis study, which incorporates the best alternatives, to County staff for approval at stages identified in the professional services agreement.
  - (f) Providing assistance and recommendation in incorporating the selected alternatives into the project. The costs considered in the value analysis shall include initial construction costs. At the election of the County department, and as indicated in the professional service agreement, the costs may include both initial and continuing costs. Where continuing costs are analyzed, the value analysis shall include life cycle costing.
  - (g) Providing value analysis services, upon request of the County department, for additional or changed work required after award to the contractor.
- (12) *Community Business Enterprise Program*. The provisions of this section shall be applied in accordance with Section 2-10.4.01.

(Ord. No. 76-42, § 1, 5-4-76; Ord. No. 76-111, §§ 1, 2, 12-21-76; Ord. No. 82-37, §§ 2, 3, 5-4-82; Ord. No. 93-03, § 1, 1-26-93; Ord. No. 94-73, § 1, 5-5-94; Ord. No. 94-94, § 3, 5-17-94; Ord. No. 94-95, § 3, 5-17-94; Ord. No. 94-96, § 3, 5-17-94; Ord. No. 97-172, § 1, 10-7-97; Ord. No. 01-103, § 2, 6-5-01; Ord. No. 01-105, § 1, 6-5-01; Ord. No. 02-38, § 1, 2-26-02; Ord. No. 04-121, § 1, 6-8-04; Ord. No. 06-62, § 1, 5-9-06; Ord. No. 10-23, § 1, 4-6-10)

**State Law reference**— Consultant's Competitive Negotiation Act, F.S. § 287.055.