

**Office of
The City Attorney
City of San Diego**

MEMORANDUM

DATE: October 23, 2012

TO: Pari Ryan, Legislative Coordinator
Public Policy & Legislative Services, San Diego Housing Commission

FROM: City Attorney

SUBJECT: **Item-HAR12-046 Council Mtg. 10/08/12** A Resolution of the Housing Authority of the City of San Diego Approving Amendment of the San Diego Housing Commission's Statement of Procurement Policy

STAFF'S RECOMMENDATION:

Adopt the following resolution: (HA-2013-5) Adopted as amended as Resolution HA-1568.

COUNCIL ACTION WAS:

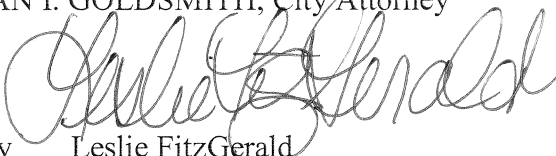
Approve the item and require compliance with the terms of the recently enacted Proposition A (codified in San Diego Municipal Code section 22.4401, *et seq.*), which requires all construction contracts entered into by the San Diego Housing Commission valued at more than \$25,000 to be posted on the Housing Commission's website.

COUNCIL VOTE WAS:

Motion by Mr. Gloria, second by Ms. Emerald and amendment requested by Mr. DeMaio.
Passed unanimously.

The Statement of Procurement Policy has been revised to reflect Council's Action using the appropriate language. Attached is a red-lined copy of the Statement of Procurement Policy, showing (1) changes to Sections 10.4.5 and 18.1 to comply with Council's Action and (2) a minor non-substantive change to Section 20.6 at the request of the Housing Commission's General Counsel. A clean copy of the Statement of Procurement Policy is also attached. The matter is being returned to the San Diego Housing Commission for further processing.

JAN I. GOLDSMITH, City Attorney

By 
Leslie FitzGerald
Chief Deputy City Attorney

APPENDIX A

GUIDELINES FOR CONDUCTING COST ANALYSIS

A cost or price analysis must be performed in connection with every procurement action including contract modifications. The following lists the basic steps in conducting a cost analysis (please refer to Section 4.2 for more when a cost analysis is required):

- A. Verify cost and price information, including:
 - 1. The necessity for, and reasonableness of, the proposed cost;
 - 2. Technical evaluation or appraisal of the proposed direct cost elements;
 - 3. Application of audited or pre-negotiated indirect cost rates, direct labor rates, etc.;
- B. Evaluate the effect of the offeror/contractor's current practices on future costs;
- C. Compare costs proposed by the offeror/contractor with the following:
 - 1. Actual costs previously incurred by the same firm;
 - 2. Previous cost estimates from the same firm or other firms for the same or similar items;
 - 3. The methodology to be used to perform the work (are the costs consistent with the technical approach being proposed?);
 - 4. The independent cost estimate (ICE).
- D. Verify that the offeror/contractor's cost proposal complies with the appropriate cost principles;
- E. Verify that costs are allowable, allocable, and reasonable.

The major categories of costs are:

- A. Direct Costs, which include:
 - 1. Direct Labor (personnel)
 - 2. Equipment
 - 3. Supplies
 - 4. Travel and Per Diem
 - 5. Subcontractors
 - 6. Other Direct Costs

| Cost Proposal | Cost Principle |
|---------------------------------------|--------------------|
| For-Profit or commercial organization | FAR Part 31 |
| State or local governments | OMB Circular A-87 |
| Private, non-profit organizations | OMB Circular A-122 |
| Educational institutions | OMB Circular A-21 |

- B. Indirect Costs, which includes:
 - 1. Overhead
 - 2. General and Administrative Expenses

3. Profit (or Fee)

In the process of analyzing costs, profit should be analyzed separately. In analyzing profit, consideration should be given to:

- A. Complexity of the work to be performed;
- B. Contractor's risk in performing the contract;
- C. Contractor's investment in the contracted effort;
- D. Amount of subcontracting;
- E. Contractor's record of past performance; and
- F. Industry profit rates in the general area for similar work.

Remember: The objective is to establish overall cost reasonableness and not individual components.

APPENDIX B
NONCOLLUSION DECLARATION

[TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID]

The undersigned declares:

I am the _____ of _____, the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____[date], at _____[city], _____[state].