

MITCHELL J. LANDRIEU, MAYOR  
**CITY OF NEW ORLEANS**

**OFFICE OF THE MAYOR**

**MITCHELL J. LANDRIEU**  
**MAYOR**

**EXECUTIVE ORDER**  
**MJL 10-05**

**WHEREAS**, the Home Rule Charter of the City of New Orleans requires the Mayor to establish, by Executive Order, a competitive selection procedure for the procurement and award of professional service contracts;

**WHEREAS**, it is in the interest of the City to create a process that is open, honest, fair, transparent, just, and inclusive;

**WHEREAS**, it is in the interest of the City to ensure the fair and equitable treatment of all persons and entities that utilize the procurement system of the City of New Orleans;

**WHEREAS**, it is in the interest of the City to maximize competition and ensure accountability at all stages of the contracting process;

**WHEREAS**, it is in the interest of the City to create a process that increases public confidence in the City's procurement procedures and provides safeguards for the maintenance of a procurement system of quality and integrity;

**WHEREAS**, it is in the interest of the City to develop a process to maximize the use of socially and economically disadvantaged business enterprises in accordance with applicable law; and

**WHEREAS**, the City seeks to maximize the use of local businesses;

**NOW, THEREFORE, I, MITCHELL J. LANDRIEU**, by the authority vested in me as Mayor of the City of New Orleans by the Constitution and laws of the State of Louisiana and the Home Rule Charter and laws of the City of New Orleans, **HEREBY ORDER AS FOLLOWS:**

1. Effective Date; Repeal of Prior Order

This Executive Order is effective upon the date of its issuance. Previously issued Executive Order CRN 09-01 is hereby revoked.

2. Purpose



These guidelines and procedures are promulgated in accordance with the provisions of the Home Rule Charter of the City of New Orleans to govern the procurement of professional services by contract for the Executive Branch of city government.

### 3. Scope

These guidelines and procedures apply to any department, agency, board, commission, public benefit corporation, or other entity of the Executive Branch of city government in the procurement of all "professional services," as defined below, with a contract amount in excess of the threshold amount established by ordinance, regardless of the funding source, including, without limitation, the operating and capital budgets and grants, unless such grants clearly specify and mandate as a condition of the grant award, the City's use of (a) a particular contractor(s) or (b) a particular contractor selection process. This Executive Order does not apply to the procurement of professional service contracts by the City Council; such contracts are covered by a competitive selection process promulgated by Council Rule. This Executive Order applies to all departments, agencies, boards, commissions, public benefit corporations, and other entities of the Executive Branch of city government, including but not limited to:

#### a. Departments

- Department of Law
- Department of Police
- Department of Fire
- Department of Safety and Permits
- Department of Sanitation
- Department of Public Works
- Department of Recreation
- Department of Human Services
- Department of Health
- Department of Finance
- Department of Property Management
- Department of City Civil Service
- Department of Parks and Parkways

#### b. Boards and Commissions

- Departmental:
  - In the Department of Safety and Permits:
    - Board of Electrical Examiners
    - Board of Mechanical Examiners
    - Board of Examiners of Operating Engineers
- Attached to Departments or Commissions:
  - To the Department of Safety and Permits:
    - Board of Building Standards and Appeals
  - To the City Planning Commission:
    - Board of Zoning Adjustments

- To the Department of Property Management:
  - Delgado Albania Plantation Commission
- c. Other
  - City Planning Commission
  - Board of City Trusts
  - Central Business District Historic District Landmarks Commission
  - New Orleans Historic District Landmarks Commission
  - New Orleans Building Corporation
  - Mosquito Control Board
  - Piazza d'Italia Development Corporation
  - Upper Pontalba Restoration Corporation
  - Municipal Yacht Harbor Development Corporation
  - New Orleans Museum of Art
- d. Unattached Boards and Commissions
  - Public Library Board
  - Vieux Carre Commission
  - New Orleans Alcoholic Beverage Control Board
- e. Contingent
  - City Civil Service Commission
  - Board of Liquidation, City Debt
  - Public Belt Railroad Commission
  - Sewerage and Water Board of New Orleans
  - New Orleans Aviation Board
  - Audubon Commission
  - Board of Trustees of the Municipal Employees Retirement System
  - Board of Trustees of the Firemen's Pension and Relief Fund
  - Rivergate Development Corporation
  - French Market Corporation

Any entity to which this Executive Order applies may promulgate procedures for a competitive selection process that is consistent with the purposes and intent of the City Charter mandating a competitive selection process for professional services. Upon certification by the Mayor that such procedures are consistent with the purposes and intent of the City Charter, the entity may use those procedures and this Executive Order shall not apply to such entity. Any such alternative competitive procedure must be annually reviewed and recertified in writing by the Mayor, pursuant to an annual written request by the entity. Any proposed amendment to the entity's competitive selection procedure must be approved in writing by the Mayor before becoming effective.

- f. All offices, departments, boards, commissions, agencies, public benefit corporations, or other entities of the Executive Branch, including but not limited to, the Office of the Mayor and the Chief Administrative Office.

These guidelines and procedures do not apply to selection of recipients of funding from the Economic Development Fund and the Neighborhood Housing Improvement Fund. Those awards are subject to specific requirements established pursuant to tax referenda approved by the voters of New Orleans.

#### 4. Legal Authority

The legal authority for the procurement of professional services by contract is cited below:

- a. Article IV, Chapter 2, Section 4-206(1)(h) and (i) of the Home Rule Charter of the City of New Orleans empowers the Mayor to sign contracts and to see that the terms and conditions of all contracts are faithfully executed.
- b. Article VI, Chapter 3, Section 6-308(5)(b) of the Home Rule Charter of the City of New Orleans requires that professional services for the Executive Branch be awarded on the basis of a competitive selection process established by Executive Order of the Mayor.

#### 5. Definition

For the purpose of this Executive Order, "professional services" are defined as follows:

Professional services are those that include work rendered by an independent contractor who has a professed knowledge of some department of learning or science used by its practical application to the affairs of others or in the practice of an art founded on it, which independent contractor shall include but not be limited to attorneys, doctors, dentists, nurses, veterinarians, architects, engineers, land surveyors, landscape architects, accountants, actuaries, appraisers, business consultants, investment advisors, and claims adjusters. A profession is a vocation founded upon prolonged and specialized intellectual training which enables a particular service to be rendered. The word "professional" implies professed attainments in special knowledge as distinguished from mere skill. Standards for recognition of status as a professional service include the following:

- a. completion of training or advanced study in a specialized field;
- b. exercise of skills based on experience and competence in a recognized discipline; and
- c. adherence to technical standards and practices in a learned discipline that confers status and may espouse and endorse codes of common practice and use of recognized methods.

Evidence of professional status may include diplomas, certificates of education and training, licenses, or membership in organizations that endorse ethical standards and practices.

#### 6. Guidelines

- a. In accordance with Article VI, Chapter 3, Section 6-308(5)(d) of the Home Rule Charter of the City of New Orleans, the threshold value of professional service contracts subject to this Order is as provided by ordinance.
- b. All new professional services procured by the Executive Branch of city government are subject to this Order.
- c. Preference or first consideration will be given to businesses and individuals located in Orleans Parish to the maximum extent permitted by applicable law.

7. Administrative Procedure for Professional Service Contracts

The Chief Procurement Officer ("CPO") must promulgate written procedures for the awarding of professional service contracts. The procedure must require a preliminary determination by the CPO that the procurement is for an authentic professional service in accordance with the definition of professional services set forth in this Order and is therefore eligible for the professional service contracting process. The procedures must also require a demonstration of the need to use outside contractors instead of in-house staff and must provide penalties for corrupt practices, a procedure for notification of selection of a proposal, and a procedure for contesting decisions selecting a winning proposal.

8. Request for Proposals and Request for Qualifications

The CPO must create and publish on the City's web site a standardized Request for Proposals ("RFP") and Request for Qualifications ("RFQ") template.

- a. The entity requesting the contract ("User Entity") must submit a draft RFP or RFQ to the CPO for fiscal review and preliminary approval. The entity requesting the contract shall indicate the manager of the User Entity and the employee who will primarily monitor or manage the contract. The User Entity and CPO must strive to eliminate ambiguity from the proposed draft so that all prospective respondents will have an equivalent understanding of the document's contents.
- b. The User Entity must adhere to a standardized RFP or RFQ instrument, but the instrument may be adapted appropriately. The request must contain a clear description of the scope of services to be performed, description of the work to be performed and objectives to be met, the deadline for proposals, the identity of a contact person, the timetable for selection, the criteria for evaluation, and the relative weight attached to each. Weighted criteria may include but are not limited to cost; specialized experience and technical competence; performance history, including cost control, work quality, and ability to meet schedules and deadlines; the applicants' current workload; maintenance of an office, residence, or domicile within Orleans Parish, to the extent permitted by law; and willingness to promote full and equal business opportunities in accordance with the City's State-Local Disadvantaged Business Enterprise Program.

- c. The request must also contain the standardized disclosure form for respondents to use in identifying any possible conflicts that might impair their ability to perform if awarded the contract, including any familial or business relationships that the firm, the proposed subcontractors, and their principals have with city officials or employees.
- d. The request must contain a second disclosure form for respondents to use in identifying proposed subcontractors. When circumstances require a change in the proposed subcontractors, the successful firm must expeditiously inform the awarding party of such changes. When new subcontractors not previously named are added to the project, they must be promptly identified to the User Entity within 48 hours of the change and subsequently accepted by the City pursuant to the rules promulgated by the CPO.
- e. After fiscal review and authorization by the CPO, the CPO must prepare and disseminate an advertisement to request proposals or qualifications from contractors.
  - i. Advertisements must be published at least once during each of two consecutive weeks in the Official Journal of the City and in such supplemental publications or journals, both print and online, as the CPO and requesting department describe as necessary. Additionally, each invitation to contract must be advertised on the City's web site for a minimum of two consecutive weeks.
  - ii. Publication as provided in this section constitutes the minimally acceptable notification. Departments, agencies, boards, commissions, public benefit corporations, or other entities of the Executive Branch of city government are encouraged to use whatever reasonable means will ensure the widest possible dissemination of the invitation to submit proposals.
  - iii. The CPO shall develop, on the City's web site, an opportunity for any interested party to be added to an e-mail list for professional services procurements. The CPO shall send an e-mail each time the City commences a procurement for a professional service.
- f. Departments, agencies, boards, commissions, public benefit corporations, or other entities of the Executive Branch of city government must attempt to obtain at least three proposals from qualified contractors. If fewer than three proposals are received, the CPO should require additional advertisement, unless the CPO explains in a written justification why additional advertisement is not likely to produce additional submissions.
- g. For more complex projects, the User Entity may request the CPO authorize use of an RFQ to determine a group of qualified firms before issuing an RFP. An RFQ must include a summary of the project and request for specific information regarding the firm's experience, ability, and capacity to complete the project. Pursuant to the written procedure promulgated by the CPO, the RFQ process must be designed to maximize the number of qualified firms able to compete for the project.

## 9. Selection Committee

The Chief Procurement Officer must establish Selection Committees with relevant subject-matter expertise in reviewing and evaluating responses to a solicitation. Each response to a solicitation for the award of a professional service contract must be evaluated by a committee of five individuals consisting of:

- the manager of the User Entity requesting the service, or his designee;
- the First Deputy Mayor-Chief Administrative Officer, or his designee;
- the employee who will manage and monitor the contract;
- a professional from within local government who possesses expertise in the relevant field; and
- the Chief Financial Officer or his designee.

For complex procurements, the members of the Selection Committee, through a majority vote, may add one non-voting member to the Selection Committee from outside city government with expertise in the relevant field.

The purpose of the Selection Committee is to conduct an independent, objective evaluation of applicants for the provision of professional services. All members of the Selection Committee must execute a disclosure certifying that they do not possess a conflict with any of the respondents.

All meetings of the Selection Committee shall be open to the public and in compliance with the Louisiana Open Meetings law.

## 10. Selection Criteria

In reviewing the qualifications of professional services applicants and evaluating proposals, the Selection Committee must use the criteria advertised in the RFP or RFQ. Such criteria, as advertised in an RFP or RFQ, may either utilize a numerical grading system with explanations for the rating or a wholly qualitative evaluation system. Regardless of which system is used, the Selection Committee shall state the reasons for its rating. All members of the Selection Committee shall complete an individual evaluation which shall be compiled to produce a composite rating.

The members on the Selection Committee shall first evaluate the proposals on the basis of criteria other than price. The members on the Selection Committee shall either complete the numerical grading and provide a written explanation stating the reasons for the rating for each criteria, or if using the wholly qualitative evaluation criteria, the members shall provide a rating of a proposal as highly advantageous, advantageous, not advantageous, or unacceptable and state the reasons for the rating for each criteria. The committee shall then indicate a composite rating for each proposal. The Selection Committee shall then review the price offered by each proposer and, taking into consideration both the proposed price and the composite rating, shall select the

proposal that provides the best value to the City. If the Selection Committee does not select the proposal offering the lowest price, the committee shall explain the reasons for the award in writing. The committee shall also state revisions, if any, to each proposed plan for providing services which should be obtained by negotiation prior to awarding the contract to the offeror of the proposal.

#### 11. Contract Negotiation

Subsequent to the selection of the respondent offering the best value, the User Entity may negotiate a lower price and other terms identified by the Selection Committee between the winning respondent and the head of the User Entity or his designee, however, the services offered must remain strictly within the scope of the solicitation. If no agreement can be reached, the User Entity can so inform the Selection Committee who may select the respondent offering the next best value, taking into consideration both the proposed price and the composite rating, or choose to terminate the procurement.

#### 12. Written Evaluations Preserved

The Selection Committee must evaluate applicants in writing. Every Selection Committee meeting must be conducted in a central location and in accordance with the State's Open Meetings Law, and all individual and composite evaluations must be preserved and handled in accordance with the State's Public Records Act.

#### 13. Mayoral Involvement

The Mayor shall execute a contract with the successful respondent or terminate the procurement. Should the procurement be terminated, the Mayor shall, in writing, inform the CPO why the procurement was terminated.

#### 14. DBE Participation

The City shall at all times maintain a policy to maximize the use of socially and economically disadvantaged business enterprises in accordance with applicable laws and goals. DBE participation is a component of the RFP and RFQ process. All firms qualifying under an RFP or RFQ solicitation must submit with their proposals a statement as to how they intend to meet the City's DBE goals.

#### 15. Penalties for Corrupt Practices

Penalties for corrupt practices will be determined in accordance with procedures promulgated by the CPO. The CPO may from time to time convey to the City Council, the Ethics Review Board, and the Office of the Inspector General suggested revisions to the City Code of Ethics governing noncompliance with city contracting procedures.

#### 16. Opportunity to Contest

In accordance with procedures promulgated by the CPO, applicants will receive notice of the final selection and be given an opportunity to contest the award.

#### 17. Monitoring and Accountability

The User Entity will monitor the progress of all contract work and file written, standardized progress reports with the Procurement Office. The User Entity will also file a written, standardized evaluation upon completion of the contract. Such reports, all professional service contract awards, and other relevant documents will be maintained by the CPO in a central location and cross-referenced by contractor's name, officers, and principals. This information shall be provided to all Selection Committees should a contractor, officer, or principal be involved in a future procurement.

In rare circumstances when public disclosure is not advisable (*e.g.* litigation, development of proprietary software, or other similar circumstances), the CPO may require disclosure of information to a party in the City Law Department who can maintain confidentiality.

All city contractors must also file an after-the-fact disclosure of appropriate information for comparison by the CPO to the initial proposal. Such information, including a list of subcontractors used, shall be part of the information provided to future Selection Committees involving contractors, principals, or officers who have received past city contracts.

#### 18. Penalties for Non-Compliance

The Chief Procurement Officer shall promulgate written rules for the institution of penalties which may include monetary damages or termination of a contract, in accordance with applicable law, for failure of a contractor to comply with rules or laws of the City, or contracts with the City, including but not limited to disclosure requirements, change of subcontractor rules, DBE goals, or local participation requirements.

#### 19. Office of Inspector General

The Chief Procurement Officer is directed to notify the Office of Inspector General, electronically or in writing, at the commencement of each procurement. The CPO must also give advance notice to the Office of Inspector General of any meeting that is part of a particular procurement process including but not limited to meetings to evaluate proposals and hear protests of awards.

The Chief Procurement Officer is directed to send the standardized forms, including the RFP and RFQ templates, to the Office of Inspector General for review at least once per year.

The Chief Procurement Officer is also directed to cooperate with the Office of Inspector General and promptly transmit any documentation requested by the Office of Inspector General that is

necessary for it to carry out its functions provided in Section 9-401(2) of the Home Rule Charter and Section 2-1120 and other applicable provisions of the City Code.

20. Exceptions

The Mayor or the CPO may make or authorize others to make emergency procurements which deviate from the procedures detailed in this Executive Order when there exists a threat to public health, welfare, or safety under emergency conditions as defined in regulations, provided that any emergency procurement must be made with as much competition as is practicable under the circumstances and in compliance with the Home Rule Charter and applicable law. A written determination of the basis for the circumstances and for selection of the particular contractor must be included in the contract file.

The CPO or Mayor with the written concurrence of the City Attorney may make additional written exceptions to the procedures promulgated herein as required to meet emergency situations or as are otherwise in the City's best interests. The CPO must provide written notice to the City Council within seven days of granting the exception, explaining why the exception was granted.

21. Transition to Professional Services Contracting under MJL 10-05

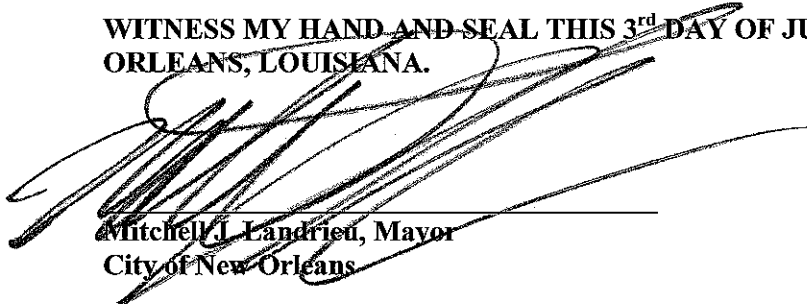
From the Effective Date of this Executive Order until such time that a Chief Procurement Officer is hired, the First Deputy Mayor-Chief Administrative Officer shall designate an employee of the City of New Orleans with expertise in contracting to serve as the acting Chief Procurement Officer. Paragraphs of this Executive Order requiring utilization of procedures, rules, or documents not yet created shall be declared inoperative until such documents and procedures exist.

22. Duration

This Executive Order will remain in effect until amended or suspended by a subsequent order approved in accordance with Section 4-206(3)(c) of the Charter.

**FURTHERMORE, IT IS HEREBY ORDERED** that rules and regulations be designed and promulgated by the CPO to implement this Executive Order within 60 days of its signing.

**WITNESS MY HAND AND SEAL THIS 3<sup>rd</sup> DAY OF JUNE, 2010 AT NEW ORLEANS, LOUISIANA.**



Mitchell J. Landrieu, Mayor  
City of New Orleans