



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of September 26, 2009**

DATE: August 31, 2009

SUBJECT: Amendments to the County Purchasing Resolution

C. M. RECOMMENDATION:

Adopt the proposed attached Amendments to the Arlington County Purchasing Resolution to be effective upon the date of adoption by the County Board.

ISSUE: Changes to the Purchasing Resolution are proposed, to include amendments adopted by the 2009 General Assembly to the Virginia Public Procurement Act. No issues have been identified.

SUMMARY: The Arlington County Purchasing Resolution (“Resolution”) is authorized by the Virginia Public Procurement Act (“Act”). The General Assembly enacted several amendments to the Act during the 2009 session, which amendments are applicable to certain localities, including the County. Two of these amendments relate to corresponding existing sections of the Resolution. The text of the proposed amendments to the Resolution is attached.

DISCUSSION: During the 2009 session, the General Assembly amended the following two sections of the Code of Virginia (“Va. Code”). These Va. Code amendments permit amendments to the corresponding sections of the Resolution.

Va. Code §2.2-4303, entitled “Methods of Procurement”. This amendment is reflected in the attached amendment to §4-102 (2) A. of the Resolution. It increases, from \$30,000 to \$50,000, the dollar threshold when use of competitive negotiation for professional services is required. This amendment to the Resolution is permitted, but not required, by State law. Because this change allows the County greater flexibility in choosing the method of source selection for contracts of \$50,000 or under, adoption is recommended.

Va. Code §2.2-4301, entitled “Definitions”. Two Va. Code amendments are reflected in the attached amendment to §4-102 (2) B. of the Resolution, and the attached amendment to §4-102 (2) F. of the Resolution, respectively.

The amendment to §4-102 (2) B. of the Resolution increases, from two to four years, the maximum number of years a contract for multiple architectural or professional engineering services projects

County Manager: _____

County Attorney: _____

Staff: Richard D. Warren, Jr., Department of Management and Finance

relating to construction projects may be renewed. This amendment is permitted, but not required, by State law. Because this change will reduce burden on County staff by allowing the County to renew a contract for up to two additional years before a new solicitation must be issued, adoption is recommended.

The amendment to §4-102 (2) F. of the Resolution requires the County to inform offerors of specific ranking criteria that will be used in the selection of firms to provide professional services. This amendment is permitted, but not required, by State law. Although this is currently standard practice by the County, staff strongly supports the practice and believes adding it to the Resolution would reinforce that practice. Therefore, adoption is recommended.

For the reasons stated above, it is recommended that the County Board adopt the attached amendments to the Resolution.

FISCAL IMPACT: None.

AMENDMENTS TO
ARLINGTON COUNTY PURCHASING RESOLUTION
TO BE EFFECTIVE UPON ADOPTION BY THE COUNTY BOARD
TEXT OF PROPOSED AMENDMENTS

(New text is bold and underlined. Deleted text is lined through.)

AMENDMENTS TO PURCHASING RESOLUTION

I. The following sections and subsections of the Purchasing Resolution are amended to read, in pertinent part, as follows:

§4-102 Competitive Negotiation

* * *

(2) Competitive Negotiation For Professional Services

A. Conditions for Use: Contracts for professional services, as defined in section 1-201 (16) of this Resolution, the cost of which is expected to exceed ~~\$30,000~~ **\$50,000** in the aggregate or for the sum of all phases of a contract or project, shall be entered into by use of the Competitive Negotiations For Professional Services method. Services estimated to cost ~~less than \$30,000~~ **\$50,000 or less** may be procured in accordance with the procedures for Competitive Sealed Bidding, Competitive Negotiation for Goods and Services Other Than Professional Services, Competitive Negotiation for Professional Services or any other method that is authorized by this Resolution, at the discretion of the Purchasing Agent.

B. Professional Service Contracts For Multiple Projects: A contract for professional architectural or engineering services relating to construction projects may be negotiated by the County, for multiple projects provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in the Request for Proposal, and (iii) the contract term is limited to one year or when the cumulative total project fees reach the maximum cost authorized in this paragraph, whichever occurs first. Such contract may be renewable for ~~two~~ **four** additional one-year terms at the option of the County. Under such contract, (a) the fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed; (b) the sum of all projects performed in one contract term shall not exceed five million dollars (\$5,000,000); and (c) the project fee of any single project shall not exceed one million dollars (\$1,000,000). Any unused amounts from the first contract term shall not be carried forward to the additional term. Competitive negotiations for such contracts may result in awards to more than one offeror provided (1) the Request for Proposal so states and (2) the County has established procedures for distributing multiple projects among the selected contractors during the contract term.

* * *

F. Selection and Award: The County shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial response and

with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. **In addition, offerors shall be informed of any ranking criteria that will be used by the County in addition to the review of the professional competence of the offeror.** The Request for Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the County may discuss non-binding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, non-binding estimates of prices for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this paragraph above, on the basis of evaluation factors published in the request for proposal and all information developed in the selection process to this point, the County shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed the most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the County can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

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- II. The sections and subsections of the Purchasing Resolution not specifically amended above shall remain in full force and effect.