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Title: AN ORDINANCE creating a small business accelerator for small contractors and suppliers seeking contracting opportunities with King County as prime contractors, and amending Ordinance 13983, Section 3, as amended, and K.C.C. 4.19.030, Ordinance 13983, Section 7, as amended, and K.C.C. 4.19.070, Ordinance 12138, Section 11, as amended, and K.C.C. 4.16.080 and Ordinance 12138, Section 22, as amended, and K.C.C. 4.16.155.

Sponsors: Larry Phillips, Larry Gossett, Joe McDermott, Bob Ferguson

Indexes: Contracts

Code sections:

Attachments: 1. Ordinance 17198.pdf, 2. A. Public Rules and Regulations Small Business Accelerator, 3. 2011-0380 transmittal letter.doc, 4. 2011-0380 fiscal note.xls, 5. Revised Staff Report 2011-0380 Small Business.doc, 6. Staff Report 2011-0380 Small Business.doc

Date	Ver.	Action By	Action	Result
9/26/2011	2	Metropolitan King County Council	Hearing Held	
9/26/2011	2	Metropolitan King County Council	Passed	Pass
9/20/2011	1	Government Accountability and Oversight Committee	Recommended Do Pass Substitute	Pass
9/19/2011	1	Metropolitan King County Council	Introduced and Referred	

Clerk 09/13/2011

AN ORDINANCE creating a small business accelerator for small contractors and suppliers seeking contracting opportunities with King County as prime contractors, and amending Ordinance 13983, Section 3, as amended, and K.C.C. 4.19.030, Ordinance 13983, Section 7, as amended, and K.C.C. 4.19.070, Ordinance 12138, Section 11, as amended, and K.C.C. 4.16.080 and Ordinance 12138, Section 22, as amended, and K.C.C. 4.16.155.

STATEMENT OF FACTS:

1. Small businesses represent a significant portion of all enterprises in King County and employ

a large segment of the workforce in the Puget Sound region. King County's economic health and well being is directly tied to the success of small businesses.

2. It is King County's policy to encourage the creation of new businesses, support the growth of existing businesses, and promote more small businesses contracting with the county.

3. King County currently certifies small businesses as small contractors and suppliers under the contracting opportunities program. Over the last three years, the number of certified small businesses participating as subcontractors and subconsultants on county contracts has increased thirty-three percent. Participation in the contracting opportunities programs has helped these firms build their capacity, establish a track record and improve their ability to compete.

4. To build on this success, the county continues to seek ways to enhance the contracting opportunities program and work with the contracting community to expand participation in the program and enhance certified small contractors and suppliers competition for county contracts.

5. Establishment of a small business accelerator within the contracting opportunities program will provide access to new contracting opportunities for certified small contractors and suppliers to compete only against other certified small contractors and suppliers to obtain county contracts as prime contractors.

6. Establishment of a small business accelerator will further help certified small contractors and suppliers grow their revenues, expand their capacity and increase their competitiveness. This, in turn, helps spur investment, job creation and economic growth within King County.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 13983, Section 3, as amended, and K.C.C. 4.19.030 are each hereby amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A. "~~((Administrator))~~ Manager" means the ~~(([manager of the] office of))~~ manager of the finance and business ~~((relations and economic development))~~ operations division.

B. "Small business accelerator" means a competitive procurement program that allows certified small contractors and suppliers to only compete against other certified small contractors and suppliers on selected county contracts.

C. "Small ~~(([economically disadvantaged business] [contractor and supplier]))~~ contractor and supplier" means that a business and the person or persons who own and control it are in a financial condition ~~(([that] [which]))~~ that puts the business at a substantial disadvantage in attempting to compete for public contracts. In assessing these financial conditions, the administrator shall substantially adopt the approach used by the federal Small Business Administration, but the administrator shall adjust the Small Business Administration's maximum revenue standards for various standard business classifications and levels for owners' personal net worth to account for local market conditions. However, the maximum revenue standard for standard business classifications ~~(([may]))~~ may not be ~~(([more than]))~~ more than fifty percent of the Small Business Administration's thresholds, as now existing or hereafter amended.

SECTION 2. Ordinance 13983, Section 7, as amended, and K.C.C. 4.19.070 are hereby amended as follows:

A. The King County contracting opportunities program shall use one or more methods to create ~~((an))~~ incentives to promote the use of businesses owned by certified small contractors and suppliers. ~~((This))~~ These incentives shall be produced either through a bonus system in which the increased participation of certified small contractors and suppliers is a factor in the award of contracts; or through a set-aside system under which contractors are required to achieve a specified level of participation by King County contracting opportunities program businesses. If the bonus system is used, the ~~(([contract] [solicitation document]))~~ solicitation document shall state the maximum incentive available for the participation of certified small contractors and suppliers and the possible methods for making use of the incentive. If a set-aside system is used, the ((

~~[contract] [solicitation document])~~) solicitation document shall state a required minimum utilization for participation by certified small contractors and suppliers.

B. As a matter of policy, opportunities for certified small contractors and suppliers to act as prime contractors will be identified on an ongoing basis.

C. The specific methods used to provide incentives to certified small contractors and suppliers and for them to be prime contractors, as opportunities arise, shall be fully addressed in the rule-making process.

D.1. The contracting opportunities program is authorized to use a small business accelerator to solicit and award contracts for all county departments and offices in the following areas, as defined in K.C.C.

4.16.010: services, professional and technical services, except contracts for architecture and engineering services, as well as tangible personal property acquired in furtherance of metropolitan functions. The small business accelerator shall be available for contracts having an estimated value of twenty-five thousand dollars or more, where sufficient certified small contractors and suppliers are available, and allow businesses certified as small contractors or suppliers under K.C.C. 4.19.040 to compete against other certified small contractors and suppliers for those county contracts.

2. The manager shall ensure the following actions are taken in selecting contracts for the small business accelerator:

a. development of specifications or a project description in the form of a request for proposal or invitation to bid in concert with the requesting department or office;

b. the conduct by the business development and contract compliance section of an analysis to determine the availability of at least three or more certified small contractors and/or suppliers to provide the goods or services requested; and

c. if at least three or more certified small contractors or suppliers, or both are determined to be available, and the manager determines it is in the best interest of the county, the solicitation may be conducted under the small business accelerator among the certified small contractors and suppliers;

3. The manager shall develop written criteria for use in determining which written proposals or bids the county shall accept as the basis for recommending contract award in consultation with the requesting department or office.

4. The manager shall advertise publicly at least once, the purpose, scheduled date, location and time of a preconference, if applicable, or the name of a contact person from whom the specifications or project description shall be available. The purposes of the notification are to distribute and discuss the specifications in the form of a request for proposal or invitation to bid to certified small contractors and suppliers, and to inform of the time and due date for the submission of proposal or bid.

5. If the county does not receive any responsive and responsible proposals or bids from small contractors and suppliers, the manager may cancel the procurement and conduct the solicitation again in accordance with the procedures for tangible personal property, services, professional or technical services, as described in K.C.C. chapter 4.16.

6. The manager may reject any or all bids for good cause or request for proposal if it is in the best interest of the county.

E. ((Beginning in 2008, t))The administrator shall by June 30 of every year, file, in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all council members and the lead staff for the government accountability and oversight committee or its successor, a report to council on the progress of the King County contracting opportunities program during the previous year, January through December. The report shall include:

1. The total amounts awarded by contract category;
2. The total amount awarded by contract category for which an incentive was available;
3. The total amounts awarded to certified small contractors and suppliers reported by contract category and by race and gender, to the extent businesses voluntarily provide this race and gender information;
4. For goods and services contracts, the total amount awarded to certified small contractors and

suppliers by race and gender to the extent businesses voluntarily provide this race and gender information, for those contractors for which the certified small contractor or supplier was not the low bidder;

5. For goods and services, the total amount paid by the county((-);

6. A listing of all participating certified small contractors and suppliers by contract category, race and gender to the extent businesses voluntarily provide this race and gender information, their location by city and ((zip)) ZIP code, and the specific contracts including dollar amounts awarded;

7. A listing of the number of certified small contractors and suppliers by race and gender, to the extent businesses voluntarily provide this race and gender information, in each of the following revenue categories that was certified in the program:

a. for goods and services:

- (1) zero to five hundred thousand dollars;
- (2) five hundred thousand to one million dollars;
- (3) one million to two million dollars; and
- (4) two million dollars to the maximum revenue amount allowed by the program rules;

b. for consulting:

- (1) zero to two hundred fifty thousand dollars;
- (2) two hundred fifty to five hundred thousand dollars;
- (3) five hundred thousand to one million dollars; and
- (4) one million dollars to the maximum revenue amount allowed under the program rules;

c. for construction:

- (1) zero to five hundred thousand dollars;
- (2) five hundred thousand to three million dollars;
- (3) three million to eight million dollars; and
- (4) eight million to the maximum revenue amount allowed under the program rules((-);

8. A listing of the number of small contractors and suppliers by race and gender, to the extent businesses voluntarily provide this race and gender information, in each of the following revenue categories that was awarded a contract:

a. for goods and services:

- (1) zero to five hundred thousand dollars;
- (2) five hundred thousand to one million dollars;
- (3) one million to two million dollars; and
- (4) two million dollars to the maximum revenue amount allowed by the program rules;

b. for consulting:

- (1) zero to two hundred fifty thousand dollars;
- (2) two hundred fifty thousand to five hundred thousand dollars;
- (3) five hundred thousand to one million dollars;
- (4) one million dollars to the maximum revenue amount allowed under the program rules;

c. for construction:

- (1) zero to five hundred thousand dollars;
- (2) five hundred thousand to three million dollars;
- (3) three million to eight million dollars; and
- (4) eight million to the maximum revenue amount allowed under the program rules; and

9. A listing of the number and firm name of certified small contractors and suppliers by race and gender, to the extent businesses voluntarily provide this race and gender information, awarded contracts through the small business accelerator program under subsection D. of this section, by contract category, their location by city and ZIP code and the specific contracts including dollar amounts awarded.

SECTION 3. Ordinance 12138, Section 11, as amended, and K.C.C. 4.16.080 are hereby amended as follows:

A. The rules and regulations stipulated in this section shall apply only to professional or technical service contracts.

B. Consultant contracts for preparation of environmental documents prepared as required by the state Environmental Policy Act, chapter 43.21C RCW, are exempt from the requirements of this chapter.

C. Contracts for architect and engineering services shall be let in accordance with the requirements of chapter 39.80 RCW.

D. In soliciting and recommending award of a professional or technical services contract having a value to the contractor in excess of twenty-five thousand dollars, the manager shall have the operational authority and responsibility to:

1. Determine when it is in the best interest of the county to designate a contract for procurement under the small business accelerator authorized in K.C.C. chapter 4.19;

2. Develop proposal specifications or a project description in the form of a request for proposal in concert with the requesting department or office~~((-))~~;

~~((2-))~~ 3. Develop, with the requesting department or office, the written criteria ~~((which))~~ that will be used to determine which written proposal~~((s))~~ or proposals shall be accepted as the basis for recommending contract award. ~~((Such))~~ The determination at a minimum shall include:

a. quality;

b. known and documented expertise of the applicant;

c. documentation, as required, and demonstration of the financial capability of the party to perform specified work;

d. special consideration of the impact of ~~((affirmative action))~~ equal employment opportunity efforts, including certified small contractors and suppliers and minority and women's business enterprise participation~~((-~~)):

~~((3-))~~ 4. Publicly advertise at least once the purpose, scheduled date, location~~((,))~~ and time of a

preproposal conference if applicable, or the name of a contact person from whom the project specifications shall be available. The purposes of prior notification shall be to distribute and discuss the project specifications in the form of a request for proposal to interested parties, and inform applicants of the stated time frame for submission((-));

((4-)) 5. Recommend to the executive which proposal or proposals should be awarded a contract(((s))) or contracts as being in the best interests of the county((-));

((5-)) 6. Be responsible to address all necessary comments to other proposers, interested parties or the general public regarding the decision by the county to contract for services from a party to the exclusion of other proposers ((-)); and

((6-)) 7. Include in contracts that provide for reimbursement of contractor travel and meal expenses a provision that limits such reimbursements to eligible costs based on the rates and criteria established in K.C.C. chapter 3.24.

SECTION 4. Ordinance 12138, Section 19, as amended, and K.C.C. 4.16.155 are hereby amended as follows:

A. ~~((The provisions of t))~~ This section ((shall apply)) applies to contracts or procurements for services and professional or technical services for departments and offices. In addition, ~~((the provisions of))~~ this section ~~((shall apply))~~ applies to contracts or procurements for tangible personal property acquired in furtherance of metropolitan functions. Unless otherwise provided ~~((herein))~~ in this section, all other ordinances relating to procurement, bidding or contract procedures shall apply to contracts or procurements which are in furtherance of metropolitan functions. In the event there are inconsistencies between this section and any other ordinance, this section shall control.

B. For tangible personal property in furtherance of metropolitan functions, the estimated cost of which is twenty-five thousand dollars or more, the manager may use the small business accelerator established in K.C.C. chapter 4.19 to solicit and obtain competitive sealed bids or proposals from only certified small

contractors and suppliers.

C. For tangible personal property and services other than public works, the estimated cost of which is twenty-five thousand dollars or more, ((F))if the manager determines that soliciting competitive sealed bids is not in the best interest of the county, ((tangible personal property and services other than public works, the estimated cost of which is in excess of twenty-five thousand dollars,)) the contract shall be let ((by contract)) under the following competitive sealed proposals procedures((-));

1. The manager shall cause a notice inviting statements of qualifications or statements of proposals to be published in a newspaper of general circulation throughout King County. The notice shall state generally the tangible personal property or services to be purchased and shall call for statements of qualifications or statements of proposals to be submitted to the county on or before the day and hour named ((therein)) in the notice. The notice may be published in such additional newspapers or magazines and for such additional period of time as the manager shall deem to be in the best interest of the county. The request for statements of qualifications or statements of proposals shall state the relative importance of price and all other evaluation factors((-);

2. Discussions may be conducted with responsible offerors to determine which proposals should be evaluated in more detail or which offerors should be requested to enter into negotiations, or both. Negotiations may be conducted concurrently or sequentially. The county may request clarifications and consider minor adjustments in the proposals in order to better understand the proposals and to qualify them for further consideration((; provided, that)), though information discussed or obtained from one offeror shall not be disclosed to competing offerors during the discussions and negotiations. Except to the extent protected by either or both state and((/or)) federal laws and regulations, proposals shall be considered public documents and available for review and copying by the public after a decision to award the contract is made((-); and

3. Award shall be made, if at all, to a responsible offeror or offerors whose proposal or proposals are determined to be the most advantageous to the county, taking into consideration price

and the other established evaluation factors.