

Not Adopted

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING METRO)	ORDINANCE NO. 88-259
CODE SECTION 2.04.030 RELATING TO)	
RULES AND PROCEDURES GOVERNING)	Introduced by Rena Cusma,
ALL PERSONAL SERVICES AND PUBLIC)	Executive Officer
CONTRACTS/BID/REQUEST FOR PROPOSAL)	
PROJECTS)	

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

That the following Metro Code Section 2.04.030 is amended to read as follows:

(a) Applicability: All personal services and public contracts are subject to the applicable selection, review and approval procedures of this Chapter.

(b) Initiating a Contract: When a department initiates a contract not in the form of a purchase order, it must first notify the Department of Finance and Administration of its intention and request the issuance of a contract number which shall appear on all copies of the contract. The department must complete a Contract Summary form indicating the specifics of the contract. This form must be forwarded to the Department of Finance and Administration either with a fully executed contract (one copy) if the amount is estimated to be \$2,500 or under, or with an unexecuted contract (three copies) for review, approval and signature if the amount is over \$2,500.

(c) Documentation Required for Contract Files: The Department of Finance and Administration will maintain central files for all contracts. An original copy should be given to each contractor. All correspondence relating to a contract which alters conditions or amounts must be included in the central files as should all papers which document the process of obtaining competitive bids, quotes, or proposals. In any case where a low bid, quote, or proposal is not accepted, a detailed justification must be included with the contract file. Other documentation, if applicable, that should be included in the file includes:

- Mailing lists
- Affidavits of Publication
- Insurance endorsements and certificates
- Amendments
- Extensions
- Related Correspondence
- Quotes, Proposals, and Bids
- Bonds
- WBE/DBE information
- Contract closure form
- Personal Services Evaluation form

(d) Contract Review: Prior to approval by the appropriate person or body, contracts shall be reviewed as follows:

(1) Any contract which deviates from a standard contract form, exceeds \$10,000, or is with another public agency must be reviewed by [legal counsel].

(2) Contracts involving federal or state grant funds must be reviewed by the Deputy Executive Officer.

(e) Disadvantaged Business Program: All contracting and purchasing is subject to the Metro Disadvantaged Business Enterprise Program. Metro will take affirmative action to do business with Disadvantaged Business Enterprises. The Director of Finance and Administration will maintain a directory of disadvantaged businesses which shall be consulted and used in all contracting and purchasing of goods and services. If a disadvantaged business is included in the directory that appears capable of providing needed goods or services, that business should be contacted and given an opportunity to compete for Metro business. Contracts awarded subject to the program may be exempted from the competitive bidding process by resolution of the Contract Review Board.

(f) Monthly Contract Report: The Executive Officer shall provide a monthly report to the Council of all contracts, including extensions and amendments, which have been executed during the preceding month; provided, however, that such monthly report need not include purchase orders under \$500.

(g) Code of Conduct:

(1) No employee, elected official or agent of Metro shall participate in the selection, award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, elected official or agent, any member of his/her immediate family, his or her partner, or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. No Metro elected official, employee or agent shall solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

(2) Violations of this Code of Conduct shall subject an employee to disciplinary action pursuant to the Metro Personnel Rules and may be grounds for other civil or criminal penalties provided by law.

(h) Federal/State Agency Approval: When required by federal or state law or regulations, review and approval of

Metro contracts shall include prior concurrence or approval by appropriate federal or state agencies.

(i) Bid/Request For Proposal Protest Procedure: The following procedure applies to aggrieved bidders and proposers who wish to appeal an award of contract for bids above \$15,000 and RFPs above \$10,000. The appeal process for bids is the same as RFPs. Appellants may only appeal deviations from law, rules, regulations or procedures. In the case of proposals, disagreement with the judgment exercised in scoring by evaluators is not a basis for appeal.

- (1) Appeals shall be in the writing and shall be delivered to the Contracts Administrator at Metro's main office within five (5) working days of the postmarked date on the Notice of Award. The written appeal must describe specific citation of law, rule, regulation, or procedure upon which the appeal is based.
- (2) The Contracts Administrator will forward a copy of the appeal to the appropriate department head and receive a written response within ten (10) working days of the date an appeal is received.
- (3) Within ten (10) working days of receipt of the appeal, the Contracts Administrator will forward the written response of the appropriate department head to the Director of Finance & Administration along with a recommendation. The Director of Finance & Administration will send a Notice of Rejection of Appeal or a Notice of Acceptance of Appeal as applicable to the appellant. The appellant may appeal the Director's decision to reject the appeal by submitting an appeal in writing to the Executive Officer within five (5) working days from the postmarked date on the Notice of Rejection.
- (4) The Executive Officer will review the grounds for the appeal submitted by the contractor and, based on the record, will affirm or reject the decision of the Director of Finance & Administration. The Executive Officer will send a Notice of Rejection of Appeal or Notice of Acceptance of Appeal, as applicable to appellant. If the appellant wishes to appeal the Executive Officer's decision, an appeal must be submitted in writing to the Metro Contract Review Board within five (5) working days from the postmarked date on the Notice of Rejection.
- (5) The Metro Contract Review Board will review the grounds for appeal, the record and the Executive Officer's recommendation and make a decision. The

Metro Contract Review Board decision is final.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1988.

Mike Ragsdale, Presiding Officer

ATTEST:

Clerk of the Council

AH/sm
9909C/545
08/15/88

Agenda Item No. 3

Meeting Date Sept. 22, 1988

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 88-259 AMENDING METRO CODE SECTION 2.04.030 RELATING TO RULES AND PROCEDURES GOVERNING ALL PERSONAL SERVICES AND PUBLIC CONTRACTS TO ADD PROCEDURES FOR BID/REQUEST FOR PROPOSAL PROTESTS

Date: August 15, 1988

Presented by: Ray Phelps

FACTUAL BACKGROUND AND ANALYSIS

The attached ordinance provides procedures for protests from aggrieved bidders and proposers who wish to appeal an award of contract for bids above \$15,000 and RFPs above \$10,000.

The proposed Bid/RFP protest procedure, Metro Code 2.04.30i, is underlined and found on pages 3 and 4.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 88-259.