



Meeting Date: 9/22/2022

To: Sanitation and Streets Commission
Maryo Mogannam, Chair
Ike Kwon, Vice Chair
Thomas Harrison
Kimberlee Hartwig-Schulman
Christopher Simi

Through: Carla Short, Interim Public Works Director

From: Rachel Alonso, Prop B Project Director
Alexander Burns, Manager of Contract Administration

Subject: Adopt Competitive Selection Process Communications Policy

Director's Recommendation: Approve resolution adopting a Competitive Selection Process Communications Policy to support the integrity of the competitive selection process for Public Works contracts; authorize the Director to implement this policy through competitive solicitation documents.

Executive Summary: Sanitation and Streets (SAS) awards numerous contracts following a competitive selection process as required by law and policy. The competitive selection process is an important function in SAS' role as a government agency, and the integrity of the process is critical to promote trust and accountability by those who are participated in the process. This process ultimately increases competition and benefits SAS. Public Works, which is providing contract administration services for the first two years of SAS' existence, has long-standing policies and practices in place for contract procurements to ensure integrity at each stage through consistency, transparency, impartiality, and fairness.

On January 11, 2021, the San Francisco Controller's Office issued its Preliminary Assessment of San Francisco City Commissions' and Boards' Ethical Standards for Awarding Contracts, as part of its ongoing public integrity review.¹ Although the report is focused on the Airport Commission in particular, it also made general recommendations for all City commissions and boards.

One of the Controller's recommendations is that City departments should state clearly and in writing the restrictions on communications by and with potential and actual proposers for City contracts. On August 4, 2021, the San Francisco Controller's Office published the Public Integrity Review 12-Month Update, including recommended department actions to be taken to

¹ San Francisco Controller's Office, "Preliminary Assessment of San Francisco City Commissions' and Boards' Ethical Standards for Awarding Contracts as Part of Public Integrity Review," <https://sf.gov/news/part-public-integrity-review-controllers-office-releases-report-ethical-standards-san>

implement a policy prohibiting officials and employees from communicating with contract proposers/bidders and potential proposers/bidders.²

The proposed Competitive Selection Process Communications Policy would formalize many practices Sanitation and Streets already has in place to assure that no party receives selective assistance to confer a competitive advantage to obtain award of a Sanitation and Streets contract.

Attachments:

1. Resolution
2. Projects Advertised and/or Bid but not Awarded

² San Francisco Controller's Office, "Public Integrity Reviews 12-Month Update Implementation Status of Recommendations from Assessments to Date," <https://sfcontroller.org/sites/default/files/Documents/Auditing/Public%20Integrity%20Assessments%20--%20Recommendation%20Implementation%20Status%20-%202008.04.21.pdf>

**SANITATION AND STREETS COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. _____

COMPETITIVE SELECTION PROCESS COMMUNICATIONS POLICY

WHEREAS, The Sanitation and Streets Commission recognizes that, "[p]ublic office is a public trust and all officers and employees of the City and County shall exercise their public duties in a manner consistent with this trust." (Charter §15.103); and

WHEREAS, As the policy body charged with awarding San Francisco Sanitation and Streets contracts, the Sanitation and Streets Commission seeks to assure that the competitive selection process which results in a recommendation for award is fair and impartial; the competitive selection of contractors must reflect the exercise of public duties in a manner that maintains the integrity of the competitive process; and

WHEREAS, To assure that no party shall have greater access to information or influence than any other and to avoid real or perceived selective assistance in a competitive selection process, the Sanitation and Streets Commission finds that adoption of a Competitive Selection Process Communications Policy as set forth below is an important step toward supporting the integrity of the competitive selection process; now, therefore, be it

RESOLVED, That the Sanitation and Streets Commission adopts the following Competitive Selection Process Communications Policy:

Statement of Policy.

"Public office is a public trust and all officers and employees of the City and County shall exercise their public duties in a manner consistent with this trust." (Charter §15.103.) The competitive selection of contractors must reflect the exercise of public duties in a manner that maintains the integrity of the competitive process. Generally, to avoid real or perceived interference in the competitive process, members of the Sanitation and Streets Commission will not engage in communications regarding any specific business opportunity at the Department of Sanitation and Streets at any time except in a public meeting. Specifically, the Sanitation and Streets Commission hereby adopts a Competitive Selection Process Communications Policy to assure that no party receives selective assistance to confer a competitive advantage to obtain award of a Sanitation and Streets contract.

Definitions:

City official/employee: Any member of the Sanitation and Streets Commission; City and County of San Francisco employee, including any Sanitation and Streets employee; Sanitation and Streets consultant or contractor; selection panel member; or other individual participating in the selection, award, or approval process on behalf of the City for the award or potential award by the Sanitation and Streets Commission or Sanitation and Streets Director of a contract.

Proposer: Any potential or actual bidder or proposer; and/or the entity that submits a response to a Request for Proposals (RFP).

Restricted Communications Period: The period of time during which a competitive process for a Sanitation and Streets contract is pending. The Restricted Communications Period for any competitive process shall commence immediately upon advertisement of an RFP and shall expire either: (a) at contract award, or (b) when Sanitation and Streets has otherwise terminated the competitive process.

RFP: Any Sanitation and Streets-issued Request for Qualifications, Request for Proposals, Request for Bids, Advertisement for Bids, or any other type of competitive solicitation for a contract or lease.

Restriction on Communications and Disqualification. During a Restricted Communications Period, no City official or employee shall engage in communication with a Proposer that could constitute selective assistance to confer a competitive advantage. Any Proposer that solicits selective assistance from a City official or employee may, at the sole discretion of Sanitation and Streets, be subject to disqualification from the competitive process. A communication by a lobbyist, representative, agent, subcontractor or subconsultant, or any other party soliciting selective assistance for a Proposer shall be imputed to that Proposer and likewise may be grounds for disqualification. Any person receiving or aware of a communication in violation of this Policy shall promptly report such communication to the Controller's whistleblower program (whistleblower@sfgov.org or (415) 701-2311).

Exceptions. The restriction on communications during the Restricted Communications Period does not apply to the following: communications consistent with RFP instructions; communications initiated by Sanitation and Streets staff regarding the competitive process, including but not limited to RFP addenda, clarification inquiries to a Proposer, rejection of one or all bids or proposals, or contract negotiations; public comment directed to the Sanitation and Streets Commission; or communications regarding business not related to the RFP; and, be it

FURTHER RESOLVED, that the Sanitation and Streets Commission requests the Sanitation and Streets Director to implement this Policy through competitive solicitation documents and other administrative measures as appropriate.

I hereby certify that the foregoing resolution was adopted by the Sanitation and Streets Commission at its meeting of September 22, 2022

Commission Affairs Manager, Sanitation and Streets Commission