



Anti-Lobbying Provisions in City Procurements

City Council Presentation
October 16, 2018



Purchasing/Engineering Anti-lobbying terms in general

“No contact period”

From time City issues the bid invitation/ request for proposals, until the time the contract is executed, no City contact except through designated contact.

- This assists City with efficient management of the procurement process.
- Ensures that all parties receive the same information.
- Promotes level playing field.



Standard Language in Purchasing procurements

Contractor's Ethical Behavior

By submission of its bid/proposal, the Bidder/Proposer promises that Bidder's/Proposer's officers, employees, and agents will not attempt to lobby or influence a vote or recommendation related to the Bidder's bid/Proposer's proposal submitted in response to this RFB/RFP, directly or indirectly, through any contact with City Council members or other City officials between the date this RFB/RFP is released to the public and the date a Contract is executed by the City Manager or designee. Such behavior will be cause for rejection of the Bidder's bid at the discretion of the City Manager or designee.



Purchasing-Ethical Behavior Form

“By submission of its proposal, the Proposer promises that Proposer’s officers, employees, and agents will not attempt to lobby or influence a vote or recommendation related to the Proposer’s proposal submitted in response to this RFP, directly or indirectly, through any contact with City Council members or other City officials between the date this RFP is released to the public and the date a Contract is executed by the City Manager or designee. Such behavior will be cause for rejection of the Proposer’s proposal at the discretion of the City Manager or designee.”



Purchasing Certification for Federally Funded Projects

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions. 5



Engineering -- Standard “Restriction on Contacts” Provisions

Generally, during “No Contact Period”, Respondent shall make “Representations” through “Authorized Contact” only

“No-Contact Period” means the period of time from the date of issuance of this RFP until a contract is executed. If the City withdraws the RFP or rejects all responses with the stated intention to reissue the same or similar Solicitation for the same or similar project, the No-Contact Period continues during the time period between the withdrawal and reissue.



Engineering -- Standard “Restriction on Contacts” Provisions

“Representation” means a communication, written or oral, from a Respondent or its Agent to a Council Member, City Official, City Employee, or City representative, related to a Response or this RFP that is intended to or that is reasonably likely to:

- A. Provide information about the Response;
 - B. Advance the interests of the Respondent in regards to this RFP;
 - C. Discredit the Response of any other Respondent;
 - D. Encourage the City to withdraw the RFP;
 - E. Encourage the City to reject all of the Responses;
 - F. Convey a complaint about a particular matter related to this RFP; or
 - G. Directly or indirectly ask, influence, or persuade any City official, City employee, or body to favor or oppose, recommend or not recommend, vote for or against, consider or not consider, or take action or refrain from taking action of any vote, decision, or agenda item regarding this RFP.
-



Engineering- Stated Potential results of Violating “Restriction on Contacts” Provisions

Respondent and their response are disqualified for violations.

Disqualified for a reissue of the same or similar RFP for the same or similar project.

Contract voidable by the City Manager.

Opportunity to submit a written appeal or a hearing process with written notice to the Respondent.



City Ordinance 2-316 Lobbyist Registration

Person who engages in “lobbying” for compensation with respect to any client must register as a lobbyist with City Secretary.

Several Exceptions including: Made in response to a public notice soliciting communications from the public and directed to the official specifically designated in the notice to receive such communications;

A Registration form must be completed and filed by a person required to register prior commencement of lobbying for a client



City Ordinance 2-316

Lobbyist Registration

Lobby or lobbying means any oral or written communication (including an electronic communication) to a city official, made directly or indirectly by any person in an effort to influence or persuade an official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any “municipal question”.

“Municipal question” means a **public policy issue of a discretionary nature pending or impending before city council** or any board or commission, including but not limited to proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts. The term municipal question does not include the day-to-day application, administration, or execution of city programs and policies.



Lobbyist Registration Exceptions

The term lobby or lobbying does not include a communication:

- (1) Merely requesting information or inquiring about the facts or status of any municipal question, matter, or procedure, and not attempting to influence a city official;
- (2) Made by a public official or employee acting in his or her official capacity;
- (3) Made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;
- (4) Made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television, or any other medium of mass communication;
- (5) Made at a meeting open to the public under the Open Meetings Act;
- (6) Made in the form of a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;



Lobbyist Registration Exceptions cont'd

The term lobby or lobbying does not include a communication:

- (7) Made in writing as a petition for official action and required to be a public record pursuant to established city procedures;
 - (8) Made in writing to provide information in response to an oral or written request by a city official for specific information;
 - (9) The content of which is compelled by law;
 - (10) Made in response to a public notice soliciting communications from the public and directed to the official specifically designated in the notice to receive such communications;
 - (11) Made on behalf of an individual with regard to that individual's employment or benefits;
 - (12) Made by a fact witness or expert witness at an official proceeding; or
 - (13) Made by a person solely on behalf of that individual, his or her spouse, or his or her minor children.
-