

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Procuring Professional Services to Assist with County Acquisition and Leasing of Real Property

Policy Number

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Purpose

The purpose of this policy is to establish guidelines and procedures to be followed when selecting and contracting with private firms or individuals for brokerage and related services in connection with the County's purchase or lease of real property.

Background

The County has on-going requirements to lease and purchase real property to serve County operations. In certain lease or purchase transactions, it may benefit the County to utilize the services of real estate brokers to (i) provide information not available to County staff, (ii) assist the County in locating and evaluating suitable properties, and (iii) assist the County in negotiating its lease and purchase transactions.

The services, which real estate brokers provide, however, and the mechanisms through which they traditionally receive compensation for such services, differ from those of other consultants who provide professional services to the County. These differences necessitate the establishment of a specialized procedure to govern the selection and employment of brokers to work on County projects in order to accomplish several goals, including: (i) creating a framework for analyzing brokers' proposals which allows the County to compare such proposals in a consistent fashion, (ii) ensuring the County receives appropriate value for the fees it pays to real estate brokers, (iii) ensuring that brokers selected to work for the County are properly qualified, and (iv) minimizing the negotiation time required to employ brokers to commence work on County projects, most of which are anticipated to require essentially similar broker services. To accomplish these goals, this policy is instituted to govern selection of, and contracting with, real estate brokers to perform services for the County.

Policy

It is the policy of the Board of Supervisors that:

1. The County may use the services of private, licensed real estate brokers to assist the County to lease and purchase property, as needed, when it is deemed to be in the best interests of the County. Accordingly, the County of San Diego may contract for real estate brokerage and related professional services when the Director of the Department of General Services (Director) determines the need for such services.
2. Selection of firms shall be based upon the capability and qualifications of the firms to satisfactorily perform the required service, with price being a major, but not the sole source selection factor.
3. Selection criteria shall include, but not be limited to:

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- a. Professional qualifications necessary for satisfactory performance of required services;
- b. Specialized experience and technical competence in the type of work required;
- c. Capacity to accomplish the work in the required time;
- d. Satisfactory past performance on contracts with the County, other government agencies, and private industry in terms of cost control, quality of work and compliance with performance schedules;
- e. Familiarity with market conditions in the target area of San Diego County;
- f. Acceptability under other appropriate evaluation criteria; and
- g. Conformance with Board of Supervisors' Policy B-39a Disabled Veterans Business Enterprise Program.

These criteria are not listed in any order of importance, but any solicitation may establish the order of importance.

Contracting Process

The Director shall use the following process to select and enter into a contract (Contract) with a broker to perform brokerage and related professional services for the County.

1. Authority to Contract for Brokerage Services.
 - a. Authority to solicit brokers to enter into a contract for brokerage services shall be solicited by the Director from the Board of Supervisors.
 - b. Pre-selection and selection of brokers shall be accomplished by the Director in accordance with recommendations submitted by a committee (Qualifications Committee) consisting of at least three members approved by the Director.
2. Pre-Selection Process.
 - a. The Purchasing and Contracting Director shall solicit proposals from real estate brokerage firms, in accordance with the County's standard procurement procedures, to determine which firms wish to be considered for providing brokerage services for the County. Such proposals shall initially be limited to each firm's general qualifications to perform work of the sort most likely to be needed by the County, and shall not include any price or fee proposal. The Qualifications Committee shall thereupon recommend from among such applicant real estate brokerage firms those which are qualified to perform brokerage services for the County, and shall place such candidates upon a list (Initial List) of qualified firms.
 - b. Each such request for proposal shall contain a copy of the County's standard form Exclusive Authorization and Agreement to Locate Real Property, CCSF No. 85.59. Each firm submitting a proposal shall include an acknowledgment that it is willing to execute the County's form contract, should it be awarded a project.

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3. Selection Process

- a. From the firms deemed qualified for inclusion on the Initial List, the Purchasing and Contracting Director shall solicit proposals for a price at which each such firm is willing to perform brokerage services for the County. For purposes of making a meaningful comparison between the price proposal submitted by each firm, each request for proposal must conform to the pricing format established by the County.
- b. Price proposals shall be submitted to the Purchasing and Contracting Director and publicly opened. The County will then evaluate the proposals to determine the lowest responsible and responsive bidder. The firm submitting the lowest responsive and responsible price proposal (the Selected Firm) shall be awarded the Contract for up to five years with the County.
- c. If two or more firms submit identical low price proposals, County shall determine the Selected Firm by choosing one of such firms at random.
- d. For purposes of determining if bids received are responsible and responsive, the Purchasing and Contracting Director, or designee, shall employ the following procedure: The three (3) lowest bids received shall be averaged to determine an average low bid: if any bid received is less than 70 percent of such average low bid, it shall be rejected as not responsible and responsive, and the lowest bid received which is equal to 70 percent or more of the average low bid shall be deemed to be the lowest responsible and responsive bid.

4. Assignment Tasking Process.

- a. Award of the Contract to the Selected Firm does not guarantee that such firm will receive any assignments (Tasks) from the County. Tasks may be granted by the County, in its sole discretion, based upon availability of projects and the appropriateness of a project for use of brokerage services.
- b. As projects arise, task orders (Task Orders) for specific assignments shall be issued under the Contract to the Selected Firm; provided, however, that if, in the opinion of the Director, the Selected Firm, due to other commitments, and/or lack of expertise, lacks the capacity to perform satisfactorily on the proposed project at the time the work is needed, or if the Selected Firm is prevented by a conflict of interest from working on the proposed project, then the Director may enter into a separate contract with, and assign the Task to, a qualified alternate firm (Alternate Firm) to perform the Task. County shall select the Alternate Firm by choosing, in order of priority: first, any firm with an identical bid to the Selected Firm, and second, the next lowest bidding firm. Where two or more possible Alternate Firms have identical bids, County shall choose one of such firms at random. Thereafter, unless the Selected Firm is similarly precluded from performing on a subsequent Task, or unless the

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Contract has been terminated pursuant to its terms, subsequent Tasks shall again be offered to the Selected Firm under the Contract.

- c. Any contracts entered into between the County and the Selected Firm, or any Alternate Firm, shall be executed, without negotiation, upon the County's standard form Exclusive Authorization and Agreement to Locate Real Property, CCSF No. 85.59. Thereafter, each individual project assignment shall be memorialized in a Task Order issued by the County to the Selected Firm. If the Selected Firm refuses to execute a Task Order issued by the County for a project, the Contract shall be terminated, and a new Contract entered into with the next lowest bidding qualified firm for the duration of the unexpired three (3) year term with the Selected Firm; provided, however, that, if the Selected Firm presents evidence to the Director that its refusal to execute a Task Order with the County is based solely upon temporary work demands, or personnel shortages, which would inhibit its ability to perform satisfactorily for the County on the project presented to it at that time, then the Director, in his or her sole discretion, may enter into a new Contract with the Alternate Firm for the duration of that Task Order, only, and maintain the Contract with the Selected Firm, to govern subsequent Task Orders.

Protest Procedure

A protest shall be processed in accordance with procedures set forth in Board of Supervisors' Policy A-97, Protest Procedures for Award of Contracts.

Sunset Date

This policy will be reviewed for continuance by December 31, 2023.

Board Action

November 7, 1995 (27)

January 12, 1999 (29)

January 28, 2003 (16)

December 4, 2012 (13)

November 15, 2016 (15)

CAO Reference

1. Department of General Services
2. Department of Purchasing & Contracting