



City of San Antonio

Agenda Memorandum

File Number:

Agenda Item Number: 32

Agenda Date: January 26, 2023

In Control: City Council A Session

DEPARTMENT: Public Works Department

DEPARTMENT HEAD: Razi Hosseini

COUNCIL DISTRICTS IMPACTED: Citywide

SUBJECT:

Responsible Bidder for Low Bids for Construction Contracts

SUMMARY:

An ordinance establishing responsible bidder for low bids for construction contracts, including best value criteria and authorizing the City to refuse to enter into a contract or other transaction with a person deemed not a responsible bidder.

BACKGROUND INFORMATION:

On March 17, 2021, Councilmember Melissa Cabello Havrda issued a Council Consideration Request (CCR) requesting the development of a process that can be used to determine a contractor's ability to perform additional "low bid" contract work for the City such that the City does not hire contractors that perform poorly, are not able to complete contracts in a timely manner and any other lawful criteria at the City's disposal.

The Public Works, Finance and City Attorney's Office worked together to create an ordinance and a refined process for establishing the best value criteria to determine who is a responsible bidder or who provides the best value for the City. The criterion will ensure City does not award contracts to contractors indebted to the City or those with a history of failure to perform its contractual

obligations.

Staff briefed the Small Business Economic Development Advocacy (SBEDA) Committee on November 29, 2022, and the Audit and Accountability Committee on December 6, 2022. These briefings provided opportunities for input from committee members and both committees were positively supportive of staff presenting recommended ordinance for full City Council consideration.

ISSUE:

This ordinance establishes a responsible bidder for low bids for construction contracts, including best value criteria and authorizing the City to refuse to enter into a contract or other transaction with a person deemed not a responsible bidder.

According to Local Government Code §252.043 (“Chapter 252”), if the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder (“Responsible Bidder”) or to the bidder who provides goods or services at the best value for the City. Chapter 252 Section 252.0436 provides that the City by ordinance may establish regulations permitting the City to refuse to enter into a contract or other transaction with a person indebted to the City, and it is not a violation of this chapter for the City, under such regulations, to refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the City.

The Public Works, Finance and City Attorney’s Office worked together to create an ordinance and a refined process for establishing the best value criteria to determine who is a responsible bidder or who provides the best value for the City.

The following criterion will be used for the purposes of determining who is a responsible bidder and provides the best value for the City and ensures the City awards contracts to contractors:

- Not in indebted to the City;
- Not in current litigation with the City;
- Contractors in which the City has not had to terminate a contract with cause;
- Does not have a history of poor performance of contractual obligations, including any noncompliance with project requirements and any project scorecards rated below 70% within the past three (3) years; or
- Failed to disclose a violation of criminal law

ALTERNATIVES:

As an alternative, City Council could choose not to authorize this ordinance. However, in doing so, the City will only be able to award low-bid contracts based on the lowest responsive bid proposal and no other criteria.

FISCAL IMPACT:

There is no fiscal impact associated with this action.

RECOMMENDATION:

Staff recommends approval of this ordinance establishing a responsible bidder for low bids for construction contracts, including best value criteria and authorizing the City to refuse to enter into a contract or other transaction with a person deemed not a responsible bidder.