

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

CITY CLERK DEPT.
2016 MAY 12 AM 11:35

DEPARTMENT: Purchasing & Strategic Sourcing
AGENDA DATE: May 17, 2016
CONTACT PERSON/PHONE: Bruce D. Collins, Purchasing Director, 212-1181
DISTRICT (S) AFFECTED: ALL

STRATEGIC GOAL: NO. 6: Set the Standard for Sound Governance and Fiscal Management

SUBJECT:

Staff is requesting to revise the practices for Payment and Performance Bonds requirements and update Termination Practices for Janitorial Services, Security Guard Services and Land Management.

BACKGROUND / DISCUSSION:

As of 2013 the City of El Paso began requiring payment and performance bonds on janitorial, security and land maintenance contracts to protect citizens, suppliers and the City's collective interest. Upon receipt of award the contractor(s) is required to supply a payment and performance bond equal to the value of one year of the contract. If the value of one year is \$100,000 dollars, the payment and performance bond must be equal to \$100,000 dollars; and the payment and performance bonds are to be renewed each year the contract is place.

The existing Termination for Default is as follows: A contractor is be deemed non-responsible when the contractor is terminated for default due to an inability to perform or provide the services pursuant to the terms and conditions of the contract. The determination of non-responsible would be for a three year period from the date of the termination. As a practice the City of El Paso will not award a contract to a contractor previously deemed non-responsible.

SELECTION SUMMARY:

NA

PROTEST

There was no protest received for this requirement.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD: _____

Date

COUNCIL PROJECT FORM
(RESOLUTION)

CITY CLERK DEPT.
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*****POSTING LANGUAGE BELOW*****

Please place the following item on the **REGULAR** agenda for the Council Meeting of **MAY 17, 2016**.

STRATEGIC GOAL: NO. 6: Set the Standard for Sound Governance and Fiscal Management

Discussion and action that City Council approve the recommendation to revise the practices for Payment and Performance Bonds requirements and update Termination Practices for Janitorial Services, Security Guard Services and Land Management.

Department: Purchasing & Strategic Sourcing

Districts(s): ALL

*****ADDITIONAL INFO BELOW*****



Payment and Performance Bonds and Termination Practices

**City Council Meeting
May 17, 2016**

Presented by
Purchasing & Strategic Sourcing Department

"Delivering Outstanding Services"



Objective

The four objectives of this presentation are as follows:

- ❖ *Identify key definitions associated with bonding types and applications*
- ❖ *Provide definition and clarification of the termination processes used by the City*
- ❖ *Identify the historical practices for terminating a contractor and the resultant time frame in which the contractor is deemed non-responsible*
- ❖ *Identify staff recommendations to update the existing practices*



Key Definitions

Payment Bonds - A promise of a surety assuring payment to all persons supplying labor or materials in the prosecution of the work provided for in the contract.

Performance Bonds - A promise of a Surety, sometimes referred to as a “completion bond” to assure the City that once the contract is awarded, the contractor will perform its obligations under the contract. If a contractor fails to perform its obligations under the contract the surety company which issued the bond is obligated to fulfill the term of the contract at no additional cost to the City.

Responsibility – The status of contractor determining that it has the capability, tenacity and perseverance to perform a contract.

Sourcing – The process of selecting a contractor through competitive procurement or negotiation.

Termination for Default – The exercise of the government’s right to completely or partially terminate a contract because of the contractor’s actual or anticipated failure to perform its contractual obligations. Typical causes are if the contractor fail to (i) deliver goods or services within the time specified; (ii) perform any other provision of the contractor (insurance lapse); (iii) make sufficient progress, if the failure endangers performance of the contract.

Termination for Convenience - The exercise of the government’s right to completely or partially terminate a contract when it is in the government’s best interest.



Existing Practice

Payment & Performance Bonds

Payment and Performance Bonds:

As of 2013 the City of El Paso began requiring payment and performance bonds on janitorial, security and land maintenance contracts to protect citizens, suppliers and the City's collective interest.

- 1) Upon receipt of award, the contractor(s) is required to supply a payment and performance bonds equal to the value of one year of the contract. If the value of one year is \$100,000 the payment and performance bond must be equal to \$100,000; and
- 2) The payment and performance bonds are to be renewed each year the contract is place

The above reference practice is not applicable to public works projects. The bonding requirements for public works/capital projects are established by State Law.



Existing Practice Termination for Default

Termination for Default:

- 1) A contractor is deemed non-responsible when the contractor is terminated for default due to an inability to perform or provide the services pursuant to the terms and conditions of the contract;
- 2) The determination of non-responsible would be for a three year period from the date of the termination;
- 3) As a practice, the City of El Paso will not award a contract to a contractor previously deemed non-responsible.

The above reference practice is not applicable to public works projects. The bonding requirements for public works/capital projects are established by State Law.



Staff Recommendations Changes to Existing Practices

Payment & Performance Bonds — The primary change is as follows:

- 1) Reduce the amount of the bonding requirement to equal a four (4) month value of the contract. Example: if the contract is awarded for \$120,000. The month cost would be billed at \$10,000 per month. The bonding requirement would be $4 \text{ months} \times \$10,000 = \$40,000$.



Staff Recommendations Changes to Existing Practices

Termination for Default – The primary changes are as follows:

Create two classification for default termination

- **Level One** – Contractors terminated for default and the City has to engage the surety company to complete the contract. A Level One default would result in a contractor retaining the non-responsible designation for three years from the date of the termination. Said contractor would be placed on the “Ineligible Source List” for three years.
- **Level Two** – Contractors which are terminated for default due to their inability to obtain the appropriate level of bonding. A Level Two default would result in a contractor having the non-responsible designation for one year or until they provide written confirmation from a surety company that the contractor’s bonding capacity has been increased or said contractor has obtained bonding to mitigate the condition for which they were terminated.



**WINNING
WEDNESDAYS**

BONDING 101

Identifying Bonding Resources & Requirements*

*Training conducted by the SBA



MAY 25, 2015
7:30 - 9:00 AM
2401 E. MISSOURI AVE
RSVP MIRIAM ORTIZ
915.566.4066



Questions?