



State of New Jersey

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State Comptroller

February 1, 2011

Mr. Arch Liston
Business Administrator
City of Hoboken
94 Washington Street
Hoboken, New Jersey 07030

Re: Review of City of Hoboken Procurements

Dear Mr. Liston:

Pursuant to N.J.S.A. 52:15C-1 et seq., the Office of the State Comptroller ("OSC") is charged with monitoring and reviewing the solicitation process and award of contracts by units of government to ensure that the process complies with applicable public contracting laws, rules, and regulations. In furtherance of this statutory authority, over the past year OSC requested and reviewed selected contract-related documents from the City of Hoboken (the "City") and other municipalities.

As a result of that review, OSC has identified several issues in connection with the City's procurement of its professional services. We write this letter to bring these issues to your attention and to ensure that they are addressed going forward.

The City informed OSC that its professional services procurements are conducted through a "fair and open" process. N.J.S.A. 19:44A-20.7. Specifically, the City used a Request for Qualifications ("RFQ") process in 2008 and 2009 for Labor Counsel (Negotiations), Auditor, Risk Manager and Planner (Joint Municipal Works Facility). In accordance with N.J.S.A. 19:44A-20.5, "a municipality...shall not enter into a contract having an anticipated value in excess of \$17,500...with a business entity, except a contract that is awarded pursuant to a fair and open process, if, during the preceding one-year period, that business entity has made a contribution that is reportable by the recipient under P.L. 1973, c. 83 (C. 19:44A-1 et seq.) ..." A "fair and open process" means at a minimum that the contract shall be: (1) "publicly advertised in newspapers or on the Internet website maintained by the public entity in sufficient

time to give notice in advance of the contract”; (2) “awarded under a process that provides for public solicitation of proposals or qualifications”; (3) “awarded and disclosed under criteria established in writing by the public entity prior to the solicitation of proposals or qualifications”; and (4) “publicly opened and announced when awarded.” N.J.S.A. 19:44A-20.7. In addition, best practices provide for the formation of an evaluation committee to evaluate and score professional services proposals, and further call for such scoring to be documented.

The City did not use a formal evaluation process in determining which vendor would be awarded the aforementioned contracts. For example:

- (a) the City did not convene an evaluation committee to score the competing proposals;
- (b) although the City’s RFQs stated selection criteria, the City did not document any resultant evaluations;
- (c) the City did not use any scoring sheets to document the scoring of the proposals;
- (d) the City officials involved in the award process were not provided with any instructions, guidelines or procedures to guide their award decisions; and
- (e) no written recommendations concerning which vendors should receive the contracts were issued by City officials involved in the evaluation process.

In subsequent correspondence with the OSC, the City acknowledged that in 2008 and 2009 “there was no formal scoring process utilized for selecting vendors to provide these professional services...” Also, no steps were taken to screen City officials involved in the award process for potential conflicts of interest. However, the City has noted that in accordance with the “fair and open” process it has utilized scoring sheets since January 2010 and will continue to use them going forward.

In addition, the City has not been able to locate the responsive submissions for the auditor position. As such, OSC cannot verify whether the procurement process used in selecting the auditor was appropriate. It is recommended that the City improve its retention procedures to better preserve and maintain its pertinent documents.

As a result of these deficiencies, we are unable to confirm whether the City’s procurement of its professional services vendors was actually conducted through a “fair and open” process. Specifically, the lack of a formal evaluation process along with the City’s failure to document its evaluation of competing proposals raises questions as to whether these contracts were in fact “awarded and disclosed under criteria established in writing by the public entity prior to the solicitation of proposals or qualifications.” Moreover, the process used by the City lacked accountability and transparency.

As a result of the issues identified in this letter and in order to ensure compliance with applicable laws, regulations and rules, pursuant to N.J.S.A. 52:15C-11(a) OSC hereby requires that the City:

- (1) Prepare a detailed Action Plan that addresses the steps that the City intends to take to address the issues identified in this letter and provide the Action Plan to OSC no later than March 1, 2011; and
- (2) Provide notice to OSC at least 30 days prior to the advertisement of any of the City's professional services contracts.

If you would like to discuss any of the issues raised in this letter or have any questions, please call me at (609) 984-2888. Thank you for your continued cooperation in this matter.

Very truly yours,



Dorothy Donnelly
Director, Procurement Division

cc: Mayor Dawn Zimmer