




<small>Title</small> Procurement for Capital Projects	<small>Document Code No.</small> CON 7-7-2 (AEP)
<small>Department/Issuing Agency</small> King County Executive	<small>Effective Date.</small> May 15, 2009
<small>Approved</small> 	

**1.0 SUBJECT TITLE:** Procurement for Capital Projects

- 1.1 EFFECTIVE DATE: 10 days after approval
- 1.2 TYPE OF ACTION: Supersedes CON 7-7-1 (AEP) "Procurement for Capital Projects" dated, October 1, 2000
- 1.3 KEY WORDS: Procurement, Capital Projects

**2.0 PURPOSE:**

2.1 To establish policies overseeing key elements of the procurement process for CAPITAL PROJECTS.

**3.0 ORGANIZATIONS AFFECTED:**

3.1 All Executive Departments, Offices and Agencies.

**4.0 REFERENCES:**

- 4.1 CON 7-13-1 (AEP) Introduction to Construction Management Policies and Procedures.
- 4.2 CON 7-9-2 (AEP) Capital Project Planning and Management.
- 4.3 CON 7-8-2 (AEP) Change Order / Amendment Administration.
- 4.4 CON 7-14 (AEP) Design Management.
- 4.5 CON 7-10-2 (AEP) Project Control Officer.
- 4.6 CON 7-5-1 (AEP) Project Closeout.
- 4.7 FIN 15-2-1 (AEP) Audits of Construction Management Practices.

**5.0 DEFINITIONS:**

5.1 See CON 7-13-1 (AEP) Appendix A "P&P Defined Terminology".

5.2 Project Control Officer (PCO)

**6.0 POLICIES:**

6.1 Procurement of CONSTRUCTION SERVICES for County CAPITAL PROJECTS shall be in accordance with the policies and procedures established in the PCSS Procurement Manual. The IA's PROJECT REPRESENTATIVE shall work with the Contract Specialist from PCSS to procure all CONSTRUCTION SERVICES.

6.2 Procurement of PROFESSIONAL SERVICES for County CAPITAL PROJECTS shall be in accordance with the policies and procedures established in the PCSS Procurement Manual. The IA's PROJECT REPRESENTATIVE shall work with the Contract Specialist from PCSS to procure all PROFESSIONAL SERVICES. There are two basic approaches to establishing a fee for PROFESSIONAL SERVICES, both of which are acceptable. They are the COST PLUS FIXED FEE CONTRACT and the LUMP SUM or "fixed price" CONTRACT.

6.2.1 Specific policies to control the cost of PROFESSIONAL SERVICES include the following:

A. The cost negotiating process, including all agreements, shall be documented by the IA;

B. The IA shall complete an ESTIMATE of the level of effort required (i.e. resources required, staffing hours, cost, etc.) for each project prior to receiving the CONSULTANT'S proposal;

C. For PROFESSIONAL SERVICE CONTRACTS with a value greater than \$150,000, other than LUMP SUM or per diem billing rate agreements, cost negotiations shall include a Cost/Price Analysis. This process shall be documented by the IA;

D. All CONSULTANTS shall be required to furnish to the County proper DOCUMENTATION to enable a thorough Cost/Price Analysis to be conducted by the IA;

E. All PROFESSIONAL SERVICES CONTRACTS shall include a provision for adequate COST CONTROL, reporting, and invoicing;

F. All PROFESSIONAL SERVICES CONTRACTS shall utilize a PROJECT COST ACCOUNTING SYSTEM for COST CONTROL;

G. CONSULTANTS shall not markup subconsultant costs and OTHER DIRECT COSTS (ODCs);

H. OVERHEAD and PROFIT rates shall be established at a negotiated figure. OVERHEAD and labor rates may be subject to review every 12 months, and ESCALATION may be allowed based upon an appropriate COST INDEX subject to a percentage cap;

I. PROFESSIONAL SERVICE CONTRACT costs to be incurred in future years shall be capped at an amount obtained after ESCALATION by an appropriate COST INDEX, agreed upon by both parties;

J. All PROFESSIONAL SERVICES CONTRACTS involving extended work at a FIELD LOCATION shall be subject to Field OVERHEAD Rates. Such rates shall typically exclude elements of a CONSULTANT'S base OVERHEAD rate such as rent and phone service when such work is performed out of a field office; and

K. When it is anticipated that there will be multiple design phases or future work necessary to complete the project, a description of this work shall be included in the original solicitation of PROFESSIONAL SERVICES.

6.3 Procurement of WORK ORDER CONTRACTS for CONSTRUCTION SERVICES and PROFESSIONAL SERVICES for County CAPITAL PROJECTS shall be in accordance with the policies and procedures established in the PCSS Procurement Manual. The IA's PROJECT REPRESENTATIVE shall work with the Contract Specialist from PCSS to procure all WORK ORDER CONTRACTS.

6.3.1 Specific policies regarding the use of WORK ORDER CONTRACTS include the following:

A. A WORK ORDER CONTRACT is authorized and utilized to meet program needs when:

1. The specific work tasks necessary to meet given project or program objectives cannot be clearly defined in advance to allow normal contracting procedures; and
2. Resources are needed to be available on an "on call" basis to perform the work on schedule.

B. WORK ORDER CONTRACTS are to be procured by a competitive process unless a waiver is obtained.

C. All work authorizations to a CONTRACT'S SCOPE OF WORK shall be documented via an approved WORK ORDER written consistent with the terms set forth forms provided in the CONTRACT.

D. WORK ORDERS may not be used to add work to a CONTRACT that is outside of the CONTRACT'S "General SCOPE OF WORK" unless a PROCUREMENT WAIVER is obtained and a CONTRACT CHANGE ORDER or AMENDMENT is approved prior to initiating the work.

E. The IA is responsible for insuring all WORK ORDERS to the CONTRACT'S SCOPE OF WORK are documented and approved according to these policies and procedures.

6.4 Price/Cost Analyses shall be conducted in accordance with the guidelines established in Appendix B to this P&P, "King County Executive Policies and Procedures Price/Cost Analysis Guidelines for Professional Services".

**7.0 PROCEDURES:**

Action By

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IA

7.1 Each IA PROJECT REPRESENTATIVE should be familiar with the PCSS Procurement Manual and work with the PCSS Contract Specialist to procure CONSULTANT and/or CONTRACTOR services.

7.2 Specific procedures to control the cost of PROFESSIONAL SERVICES include the following:

7.2.1 DOCUMENTATION OF NEGOTIATIONS:

IA

A. Record all CONTRACT negotiations.

B. Document and file all items received from CONSULTANT and subconsultants during CONTRACT negotiations.

C. At the conclusion of CONTRACT negotiations, summarize the negotiation process, interim and final agreements reached, project scope, schedule, basis of price agreements and projected AMENDMENTS, if any.

D. Compile and summarize level of effort ESTIMATES conducted by King County.

7.2.2 COST/PRICE ANALYSIS (not required for LUMP SUM CONTRACTS utilizing the Washington State Office of Financial Management's "Guidelines for Determining Architect/Engineer Fees for Public Works Building Projects" to determine the CONSULTANT'S compensation.):

Price Cost Analyst

Receives, through the IA or directly from the CONSULTANT and subconsultants, all requisite supporting DOCUMENTATION to enable a complete Cost/Price Analysis of the proposed CONTRACT price. Documents the basis, results, and recommendation of a completed cost analysis to the IA.

7.2.3 COST/PRICE NEGOTIATIONS:

A. Negotiates a fair and reasonable price for the CONTRACT under the supervision and direction of the PROJECT REPRESENTATIVE, utilizing the responsible PCO's advice and consultation.

1. PCO review of CONSULTANT CONTRACT scopes and accompanying cost estimates is to assist in determining cost reasonableness and a corresponding well defined scope for CONTRACTS and AMENDMENTS and not with design, engineering or other programmatic decisions.

2. The IA PCO review of CONSULTANT CONTRACT scopes and accompanying cost ESTIMATES may be completed by technical or engineering supervisors per the implementing agencies internal guidelines.

IA

B. For CONSULTANT CONTRACTS and/or AMENDMENTS over the established threshold, the IA PROJECT REPRESENTATIVE shall refer the scope of work and accompanying cost ESTIMATE, at the same time, to the responsible PCO for advice and consultation in advance of the final round of negotiations. See CON 7.10 Project Control Officer for established PCO thresholds.

C. Recognizing that the IA has both the authority and responsibility to negotiate the CONSULTANT CONTRACT and/or AMENDMENT scope and costs which includes internal department processes for review; the IA shall take PCO recommendations under consideration, particularly those identified as significant. The IA PROJECT

REPRESENTATIVE will notify in writing the responsible PCO if he or she is not incorporating or addressing PCO significant recommendations in the final negotiated CONTRACT or AMENDMENT prior to its execution.

#### 7.2.4 CRITICAL ESTIMATE REVIEW

A critical estimate review, in lieu of an ESTIMATE (see 6.2.1 b), is allowed only if clear evidence of a detailed review is properly documented & placed in the amendment/change file. Review documentation may include:

- a. Dated copies of the CONSULTANT or CONTRACTORS estimate *and* accompanying scope. Files contain a minimum of the initial and final scope/cost submissions.
- b. Clear, legible & intelligible notes and calculations directly upon the scope and cost estimate documentation that demonstrates to an independent reviewer that costs were tested. Or, a clear negotiations summary noting the basis for cost changes in each negotiation round.
- c. Dated copies of either the electronic or handwritten edits to scope documents should be present and in sequential order in the change/amendment file.

7.3 Specific procedures regarding the use of WORK ORDER CONTRACTS include the following:

#### 7.3.1 DOCUMENTATION STANDARDS:

A. DOCUMENTATION of all WORK ORDERS shall be in accordance with the CHANGE ORDER/AMENDMENT guidelines.

B. At a minimum, the DOCUMENTATION for each WORK ORDER shall contain the following:

1. CONTRACT Title and Number,
2. Name of the CONTRACTOR or CONSULTANT,
3. Name of the County employee administering the CONTRACT for the IA,
4. Description of the WORK ORDER Scope under the

IA

CONTRACT,

5. Statement as to why the work is necessary,

6. A statement of CONTRACT amounts authorized by all WORK ORDERS against the CONTRACT,

7. An independent price analysis for the work, 8. Statement of the reconciliation between the County's ESTIMATE and the CONTRACTOR or CONSULTANT'S ESTIMATE as the basis for agreeing to the price (not applicable to time and materials construction WORK ORDERS), and

9. Approval signatures.

7.3.2 WORK ORDER PROCESS WITHIN THE CONTRACT'S SCOPE OF WORK:

Project Representative

A. The PROJECT REPRESENTATIVE administering the CONTRACT for the IA is authorized to approve work to begin on WORK ORDERS within the SCOPE OF WORK and consistent with terms and conditions of the CONTRACT.

B. No WORK ORDER shall be approved if there are not sufficient funds appropriated to cover the cost of the WORK ORDER.

C. CONTRACTOR or CONSULTANT'S proposal shall (1) conform with the requirements of the CONTRACT, and (2) contain sufficient detail for the basis of the proposal to be evaluated and understood. For CONSULTANT WORK ORDERS, before a WORK ORDER is approved, a negotiation record must be prepared that fully reconciles the negotiated price with King County's ESTIMATE.

IA

D. Mark up rates for material purchases must be identified and applied separately from mark up on construction activities.

7.3.3 CHANGES OUTSIDE THE SCOPE OF WORK:

IA

A. IA must obtain a PROCUREMENT WAIVER prior to authorizing the CONTRACTOR or CONSULTANT to perform

any work that is outside of the General SCOPE OF WORK.

B. If the PROCUREMENT WAIVER is approved, the work may be added via a CHANGE ORDER/AMENDMENT in accordance with the procedures outlined in the CONTRACT.

C. If the PROCUREMENT WAIVER is not approved, the work that is outside the General SCOPE OF WORK must be competitively solicited or performed by County forces, within statutory guidelines.

#### 7.3.4 DETERMINATION OF EMERGENCY & CONTRACTS:

A. IAD or designee determine an emergency exists in accordance with King County Code 4.16.050 and applicable state statutes. Request emergency waiver from DOF to undertake work to address the emergency. As soon as possible determine SCOPE OF WORK, level of effort and cost.

IA

B. If waiver is granted, as soon as possible execute a CONTRACT, AMENDMENT, or CHANGE ORDER to memorialize agreement between CONTRACTOR/CONSULTANT and the County. IA may instruct work to begin as soon as waiver is granted by the DOF.

C. If no waiver is granted, the work must be competitively procured or completed by County forces, within statutory guidelines.

### 8.0 RESPONSIBILITIES:

8.1 IA is responsible for adhering to policies and procedures of the PCSS Procurement Manual.

8.2 Specific responsibilities to control the cost of PROFESSIONAL SERVICES include the following:

8.2.1 IA is responsible for:

A. Conducting and documenting all PROFESSIONAL SERVICE CONTRACT negotiations in accordance with appropriate procedures;



B. Administering the CONTRACT, including cost and schedule control, approving invoices and issuing work directives; and

C. Ensuring that corrective action is taken when CONTRACT provisions are violated.

8.2.2 PCSS is responsible for:

A. Assisting the IA with CONTRACT negotiations as requested;

B. Assisting the IA with the Cost/Price Analysis, as needed;

C. Compiling and routing the CONTRACT for execution;

D. Ensuring that applicable procurement policies and procedures are adhered to; and

E. Maintaining supporting documentation files for Price/Cost Analysis where they are involved.

8.3 Specific responsibilities regarding the use of WORK ORDER CONTRACTS include the following:

8.3.1 The IA is responsible for ensuring that:

A. WORK ORDER DOCUMENTATION meets the minimum requirements set forth in these policies and procedures;

B. The correct WORK ORDER procedure is used for procurement; and

C. Corrective action is taken when violations of these policies and procedures occur.

## 9.0 APPENDICES:

9.1 Appendix B - King County Executive Policies and Procedures Price/Cost Analysis Guidelines for Professional Services.

## Appendix A

### Price/Cost Analysis Guidelines for Professional Services

**General:** As an overriding principle, the County shall perform price/cost analyses in accordance with these guidelines to ensure that negotiated prices for PROFESSIONAL SERVICES CONTRACTS and AMENDMENTS are fair and reasonable for the County.

**Applicability:** For all PROFESSIONAL SERVICE CONTRACTS or AMENDMENTS with a proposed price greater than \$150,000, a price/cost analysis shall be conducted when the price is based on the reimbursement of cost plus OVERHEAD and PROFIT. A price/cost analysis includes completing an internal cost ESTIMATE for the services to be provided, comparing and analyzing CONSULTANT price proposals against cost ESTIMATES, and documenting the justification for any agreed upon prices.

For all PROFESSIONAL SERVICE CONTRACTS or AMENDMENTS with a proposed price greater than \$150,000, a price/cost analysis shall be conducted when the price is based on the reimbursement of cost plus OVERHEAD and PROFIT. A price/cost analysis includes completing an internal cost ESTIMATE for the services to be provided, comparing and analyzing CONSULTANT price proposals against cost ESTIMATES, and documenting the justification for any agreed upon prices.

For architectural and engineering PROFESSIONAL SERVICE CONTRACTS with pricing based on the Washington State Office of Financial Management's "guidelines for determining architect/engineer fees for public works building projects" ("Guidelines"), a separate price/cost analysis is not necessary. However, if fee (PROFIT) modifications, as defined in the Guidelines, are used, the PROJECT REPRESENTATIVE will confer with the PCO to determine that the fee modifications are fair and reasonable. For all other PROFESSIONAL SERVICE CONTRACTS, when LUMP SUM prices or per diem billing rate agreements are used, a separate negotiation of costs and PROFIT is not necessary.

**Information Sources:** The principal source of information to be used in price/cost analysis is DOCUMENTATION to be supplied by the CONSULTANT. Industry data for assessing the reasonableness of the pricing proposed by the CONSULTANT along with pricing data supplied by other offerors may also be used.

**Responsibility:** It will be the responsibility of the PROJECT REPRESENTATIVE to document the pricing negotiations with the CONSULTANT, including a justification for the price established. This should include references to the price/cost analysis results and justifications for any agreed upon prices exceeding the independent cost ESTIMATES. The guidelines described below along with sound professional judgment shall be used as a basis for documenting the price/cost analysis. Departures from these guidelines must be explained and approved by the Contract Specialist of PCSS.

#### DIRECT COST

**Analysis:** DIRECT COSTS consist of directly reimbursable items such as labor, materials, equipment, subconsultant costs, and OTHER DIRECT COSTS. A cost

**element for each of these items shall be established as part of the independent price ESTIMATE prior to evaluation of the CONSULTANT'S price proposal. The independent price ESTIMATE will be reviewed by the PROJECT REPRESENTATIVE, Contract Specialist, and PCO.**

**Labor:** Labor hours will be estimated by the IA based on an evaluation of the level of effort required to perform the work scope. Labor rates will be estimated by the IA based on experience, industry information and cost estimating guidebooks. Prior to signing the CONTRACT, a pre-CONTRACT audit shall be performed to determine the accuracy of the CONSULTANT'S quoted labor rates based on an audit of the actual labor cost rates including analysis of payroll costs, payroll taxes and fringe benefits.

**Materials:** Materials costs will be estimated by the IA based on evaluation of the SCOPE OF WORK, experience, industry information, cost estimating guidebooks, and approved price lists.

**Equipment:** Equipment costs will be estimated by the IA based on evaluation of the SCOPE OF WORK, experience, industry information, cost estimating guidebooks, and/or information from County CONTRACTS for like equipment.

**Subconsultants:** Subcontract costs will be estimated by the IA based on evaluation of the SCOPE OF WORK, experience, industry information and cost estimating guidebooks.

#### **OTHER DIRECT**

**COSTS:** ODCs will be estimated by the IA based on the project requirements. Examples of ODCs may include, but not be limited to, travel costs, copying costs, office supplies, and other reimbursable costs not included in materials and equipment.

#### **OVERHEAD**

**Analysis:** OVERHEAD consists of cost items common to multiple CONTRACTS. OVERHEAD shall be estimated by the IA based on evaluation of the required work scope. OVERHEAD COSTS will be estimated by the IA based on experience, industry information and cost estimating guidebooks. Prior to signing the CONTRACT, a pre-CONTRACT audit shall be performed to determine the accuracy of the CONSULTANT'S quoted OVERHEAD COSTS. The audited OVERHEAD rate shall be used in the final cost determination used for contracting purposes.

#### **PROFIT**

**Analysis:** PROFIT rates should depend on the level of expertise and resources needed to perform the CONTRACT specifications and the amount of risk assumed by the CONSULTANT and/or County. The negotiated PROFIT shall be established within the range determined from analysis of the following factors and other relevant factors identified during the price/cost analysis:

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1. Analysis of PROFIT rates paid by King County for similar work in the past.
2. Analysis of PROFIT rates typically earned in the industry.
3. Level of cost and performance risk assumed by the CONSULTANT.

**Price Proposal**

**Evaluation: The independent price ESTIMATE will be compared to the CONSULTANT'S price ESTIMATE.**

Written justification must be documented and supplied to the procurement officer for approval if the proposed price to be accepted is greater than the independent price ESTIMATE.