

CITY OF DANA POINT
AGENDA REPORT

Reviewed By:	
DH	X
CM	X
CA	

DATE: APRIL 23, 2003

TO: CITY MANAGER/CITY COUNCIL

FROM: ROBERT A. WARREN, DIRECTOR OF PUBLIC WORKS AND ENGINEERING SERVICES

SUBJECT: ADOPTION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT ADOPTING A PROGRAM FOR THE PRE-QUALIFICATION OF CONTRACTORS SEEKING TO BID ON PUBLIC WORKS PROJECTS WITHIN THE CITY OF DANA POINT.

RECOMMENDED ACTION:

That the City Council (1) adopt a resolution entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING A PROGRAM FOR THE PRE-QUALIFICATION OF CONTRACTORS SEEKING TO BID ON PUBLIC WORKS PROJECTS WITHIN THE CITY OF DANA POINT

ISSUES:

Under certain circumstances it is difficult, through the competitive bidding process, to obtain a good, reliable and responsive contractor for the construction of a capital project. Although a pre-qualification process cannot rule out borderline contractors who meet State minimums for licensing purposes, it can provide greater opportunity to involve the better contractors in the City's bidding process, particularly for larger or more complex projects.

BACKGROUND:

Public agencies are required to competitively bid all Public Works projects that involve the use of public funds. As a result, the City of Dana Point has had problems with a number of contractors over the past several years. Examples of the types of problems that have occurred are as follows:

1. For the Crystal Lantern Storm Drain Phase I Project, the contractor defaulted on the contract and abandoned the project.
2. For the Crystal Lantern Storm Drain Phase II Project, the contractor finished the project, but struggled to do so. In addition, the contractor

- still has numerous pending stop payment notices that still need to be resolved.
3. For the Crown Valley Storm Drain Improvement Project, the contractor abandoned the project.

The City has also had problems on other projects besides the ones listed. In an effort to try to minimize problems of this type, the City Council has expressed a desire to pre-qualify contractors prior to moving forward with projects. A proposed pre-qualification program is included herein as Exhibit A of the resolution, included as Action Document A, that could be utilized for pre-qualification of contractors for the construction of public works projects.

This pre-qualification program would allow staff to administer and pre-qualify contractors specifically by projects. While no contractor is generally excluded from bidding on any project, this process will help ensure that contractors have the technical experience and resources to bring the quality the City desires to its Public Works projects. There is a standardized appeals process incorporated into the program that will provide contractors flexibility in the process. Finally, whether or not a contractor is pre-qualified for any one project has no bearing on their qualifications for another.

DISCUSSION:

To start a pre-qualification program, state law requires a public agency to do the following:

- Use a “standard questionnaire and financial statement in a form specified by the public entity”. A usable questionnaire is provided in the package included as Supporting Document C, based on the Assembly Bill 574 legislation.
- Adopt and apply a uniform system of rating bidders on objective criteria, on the basis of the completed questionnaires and financial statements. The interview questions and scoring system meets the requirement.
- Create an appeal procedure by which a contractor that is denied pre-qualification may seek a reversal of that determination. A pre-qualification process and an appeal procedure have been developed as part of the program.

While there are several ways of implementing a pre-qualification program, each way brings its own advantages and disadvantages. The two most typical methods are to either pre-qualify contractors on a specific project basis, or to pre-qualify contractors on an annual or recurring basis. Staff is recommending that the process be started gradually by pre-qualifying contractors on a project-by-project basis, so that the City is not indefinitely committed to additional and permanent administrative activities. For information and discussion purposes, however, the following provides a brief analysis of the ‘pros’ and ‘cons’ of each method:

Contractor Pre-Qualification for Specific Projects**Pros:**

- Can be set up and implemented for large or key projects where the City has the most exposure.
- Would not require year- round management of the pre-qualification program.
- Questionnaire can be tailored for each specific project (i.e. roadways, landscaping, storm drains, etc.)
- Will help ensure that the contractors bidding on the project are qualified to do the work.

Cons:

- The questionnaire may deter contractors from bidding on smaller jobs, possibly limiting the number of contractors bidding.
- The cost of bidding may be increased, if contractors try to pass on costs of participating in the pre-qualification process.
- The process will require some City activities: management of all contractor requests for pre-qualification, including interviews of references, written responses to status of each request, and documentation of appeals; formation of an appeal panel (typically 3 persons) and procedures to evaluate contractor appeals in a timely manner (a 5-10 day process for a contractor's appeal – 1 day for the Appeal Panel to notify contractor of results of the appeal).

Contractor Pre-Qualification on an Annual Basis**Pros:**

- Once established, this method streamlines the bidding process, as a bidder list will already be established.
- Very few modifications to the AB 574 forms would be required, so implementation could proceed quickly.
- It will help ensure that all contractors bidding on projects are qualified to do the work.

Cons:

- Requires year-round management, as there are four (4) times per year in which contractors may apply for pre-qualification (January, April, July, October).
- Since it is not project-specific, it may also require separate contractor pre-qualifications for types of projects for roadways, landscaping, storm drains, etc.
- The questionnaire may deter contractors from bidding on smaller jobs, possibly limiting the number of contractors bidding.
- The cost of bidding may be increased, as contractors may pass on costs of participating in the pre-qualification process.
- The process will require some City activities: management of all contractor requests for pre-qualification, including interviews of references, written responses to status of each request, and documentation of appeals; formation of an appeal panel (typically 3 persons) and procedures to evaluate contractor appeals in a timely manner (a 5-10 day process for a contractor's appeal – 1 day for the Appeal Panel to notify contractor of results of the appeal).

Not Implementing a Contractor Pre-Qualification Program (Do Nothing Option)**Pros:**

- No program management required.
- No additional bidding costs.
- Legal protections already in place to protect public agencies from contractors who default on projects (bonds, insurance, and requirement for a current contractor's license).

Cons:

- City continues to assume the risk that unqualified contractors will be the low bidder on any specific project.
- More difficult to ensure quality of public works projects built.

Recommendation

That the City implement a project-specific pre-qualification program at this time, and evaluate the program's effectiveness after several projects. Not all projects may be of such cost or complexity that pre-qualification would always be required. The City may

then also later elect to consider an annual program. Therefore, staff recommends that the City Council approve the recommended action.

NOTIFICATION/FOLLOW-UP:

None

STRATEGIC PLAN IMPLEMENTATION:

This action is in compliance with the Strategic Plan Initiative to achieve total excellence in municipal services and City administration/planning with excellent customer service and cost effectiveness.

FISCAL IMPACT:

The pre-qualification process involves additional project management that would tend to increase the costs of projects. However, securing good, reliable and responsive contractors will tend to reduce the need for intensive project management, thus, reducing the overall cost of projects.

ALTERNATIVE ACTIONS:

- 1. Other Council directed alternative actions.

ACTION DOCUMENTS:

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- A. [Resolution](#)..... 6

SUPPORTING DOCUMENTS:

None

RESOLUTION NO. _____**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING A PROGRAM FOR THE PRE-QUALIFICATION OF CONTRATORS SEEKING TO BID ON PUBLIC WORKS PROJECTS WITHIN THE CITY OF DANA POINT**

The City Council for the City of Dana Point does hereby resolve as follows:

WHEREAS, the City of Dana Point publicly bids all public works projects;
and

WHEREAS, the City of Dana Point has prepared a program, included as Exhibit A herein, for the pre-qualification of contractors; and

WHEREAS, the City of Dana Point's prequalification program uses a standard questionnaire and financial statement per Assembly Bill 574 legislation; and

WHEREAS, the City of Dana Point proposes to adopt and apply a uniform system of rating bidders on objective criteria as part of the prequalification program; and

WHEREAS, the City of Dana Point is required to create an appeal procedure, by which a contractor that is denied pre-qualification may seek a reversal of that determination as part of the pre-qualification program.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Dana Point as follows:

- A) That the above recitations are true and correct.
- B) That the City Council adopt the prequalification program for the pre-qualification of Contractor's seeking to bid on Public Works projects within the City of Dana Point.
- C) That the City Council direct city staff to implement the program on a project specific basis only, and provide discretion to the City Manager, based upon recommendations by the Director of Public Works, to implement the program on a project by project basis.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Dana Point, California, held on this 23rd day of April, 2003, by the following vote, to wit:

WILLIAM OSSENMACHER, MAYOR

ATTEST:

Susan A. Ramos, City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, SUSAN A. RAMOS, City Clerk of the City of Dana Point, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No.
_____ adopted by the City Council of the City of Dana Point, California, at a
regular meeting thereof held on the 23rd day of April, 2003, by the following vote:

AYES:

NOES:

ABSENT:

SUSAN A. RAMOS, CITY CLERK

Exhibit A: Pre-Qualification Program

Hard copy provided