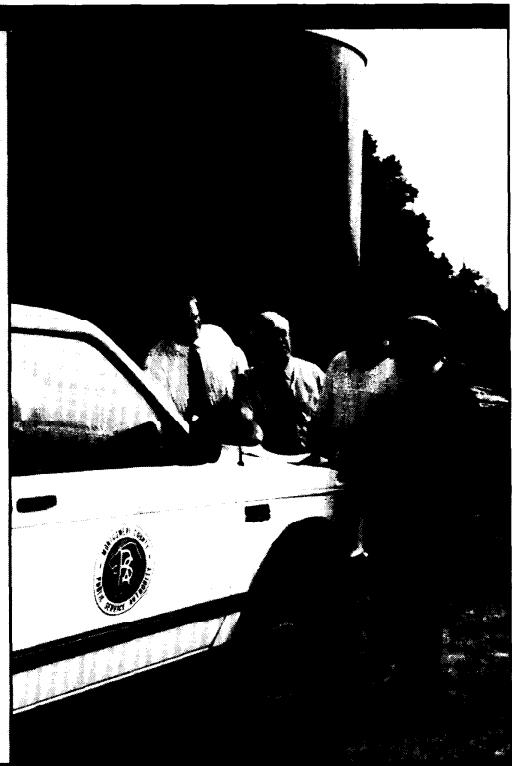


Term Contracts: A Win-Win Relationship Through Virginia's Public Procurement Act

By Ken Anderson



Government decisionmakers, as well as those in business, are finding that using term contracts for engineering services is a money saver and a quality enhancer. Far from locking local government agencies into a rigid relationship, today's term contracts have a great deal of flexibility. Used properly, they can save both the local government and the engineer a great deal of time and money.

Term contracts are allowable under Virginia's Public Procurement Act through the use of the "procurement of professional services" option of the "competitive negotiation" method. You must use this method in counties, cities and towns with populations over 3,500, and where the services are expected to exceed \$20,000. This process is defined in Chapter 7, article 1, section 11-37 3 a. of the *Code of Virginia*. The suggestions presented here to refine and simplify the proposal process, are based on over a decade of use.

RFPs

A request for proposal (RFP) issued by a local government should describe the anticipated scope of the project. It should give descriptions

of typical tasks where possible, but not limit the services to those tasks. The RFP should also limit the submittal to unmodified standard forms (SF) 254 and 255. Normally the SF 255 is used for a specific project but it can be used on term contracts by having the engineer list ten projects that the firm wants to highlight. Using the SF 254 allows the reviewers of the RFP to quickly understand where the proposed firm has the most and least experience.

The RFP should discourage site visits prior to short listing. This will save you time and will certainly save the time of the many firms interested in your projects. If one firm makes a visit, then all firms feel that they too must visit to stay in the game. In almost all cases, you will have enough information to prepare the short list without having to spend time with all of the firms. In the long run, discouraging visits at this point will translate into lower engineering costs.

Finally, specify that you will use the "Professional Selection" procedure in the Virginia Public Procurement Act and all engineers will know exactly what you mean.

SHORT LISTING

When making a decision on which firm should be short listed, check references for the ten projects listed on the SF 255. This is the most important part of the procurement process, but is the one most neglected. All of us know of firms that can put on a great presentation but consistently do poor work. Which is more important to you?



The author is the president of Anderson & Assoc., Inc. based in Blacks-

Pictured above: Montgomery County Public Service Authority Term Contract. (l to r) Chip Worley, A & A Exec. VP; PSA Utilities Director Gary Gibson; A & A Inspector

Paul West, and Ira Long, chair of the PSA have a meeting on site.

burg, VA.

Short list to only three firms, please. If you have contacted the references, you should be able to narrow the field to three. In many cases you will know, first hand, the majority of the firms submitting proposals. Asking more than three firms to an interview where they may spend thousands of dollars on a presentation runs up the cost of the process for all parties involved.

SELECTING

When beginning the selection process, rank first for negotiation, the firm that you feel most comfortable with, based on all factors up to the selection point. Some selection panels seem to put all firms interviewed on the same level at the interview; thus presentation quality becomes the deciding factor. This favors the firm that presents best, not necessarily the best firm for the job. All factors should be considered in the final ranking.

The top ranked firm should then be brought in for the final negotiation of a term contract. There is no specific project to do in most cases so terms, not costs, will usually be the points negotiated. Hourly rates

should be presented and discussed but it is impossible to compare one firm's hourly rates and another since the individual capabilities will be so different. My engineer, Level A, will undoubtedly have different abilities and productivity than another firm's engineer, Level A.

CONTRACTING

Make the contract nonexclusive. Provide for procuring another firm for specific projects if you think it is to your benefit or if you can't come to terms with the contracted firm.

Try not to be too limiting on the type or scope of services. Wording to the effect of "work within the scope of professional engineering" gives you maximum flexibility.

Hourly rates are usually the basis for establishing compensation for individual projects. By using hourly rates you can leave it open or you can require a lump sum agreement for each individual project. Be sure you understand what is covered by the hourly rates. Remember that the firm must cover all of its costs with this rate.

A one year term contract with the option to renew for up to two years

is a good target. This allows you to continue a good working relationship without having to go through the time consuming and costly selection process each year.

SATISFACTION

Do term contracts work? One client said "Having a term contract gives us someone we can call on at any time for situations which may arise." Another client commented, "This relationship has saved us time and money." Yet another client said "It's much easier to get those small projects going without spending the time required to go through the selection process."

A term contract is a way to put added staff at your disposal when you need them. Term contracts can be the "win-win" relationship that we all seek. ☐

For more information:
Ken Anderson
President
Anderson & Assoc., Inc.
100 Ardmore St.
Blacksburg, VA 24060
(703) 552-5592

Term Contract Tips

1

RFP'S

- ◆ Describe the anticipated scope of the term contract.
- ◆ Ask for unmodified Standard Forms 254 and 255.
- ◆ Discourage site visits prior to short listing.
- ◆ Specify that you will use the "Professional Selection" procedure in the Virginia Public Procurement Act.

2

SHORT LISTING

- ◆ Check references for the ten projects listed in section 8 of the SF 255.
- ◆ Short list to only three firms.

3

SELECTING

- ◆ Don't be swayed by presentation only. After interviews, rank the firm you feel will do the best job on your project.
- ◆ Bring in top ranked firms for negotiation.
- ◆ Understand what hourly rates include. point where you understand what they represent.

4

CONTRACTING

- ◆ Contract should be non-exclusive.
- ◆ Avoid limiting the type or scope of services which could be provided.
- ◆ Provide a one year term contract with the option to renew for up to two years.

Competitive bidding for engineering and architectural services is not in the best public interest because it may lead to employment of the least qualified rather than the best qualified, as should be the objective. ~American Public Works Association: Selection and Use of A/E Services / Guidelines for Public Agencies.