

CITY OF SAN DIEGO  
ADMINISTRATIVE REGULATION

SUBJECT  HIRING OF CONSULTANTS OTHER THAN ARCHITECTS AND ENGINEERS	Number 25.70	Issue 8	Page 1 of 18
	Effective Date February 8, 1995		

1. PURPOSE

1.1 To establish procedures and guidelines for the selection and hiring of all consultants other than real estate appraisers, architects, engineers and land surveyors whose work requires professionally licensed skills (see A.R. 25.60), and to augment Council Policy 300-7.

2. POLICY

2.1 Consultants will be used when there is a need for special expertise or time constraint beyond the capability of City staff.

2.2 Consultant selection shall be an open and competitive process, including a comparison of qualifications and output quality. Each step in the process shall be objective and fully documented. The process shall be in accordance with the City of San Diego's Minority (MBE), Women (WBE), Disabled Veteran (DVBE) and Disadvantaged (DBE) Business Enterprise Program.

2.3 The Consultant selection process shall include a specific analysis and review of cost statements. The fee to be paid shall be considered, but shall not be the sole basis for selection.

2.4 When there is a frequent need for consultant services, a consultant may be selected from an authorized list of qualified consultants.

3. DEFINITIONS

3.1 CONSULTANTS shall mean any professional or technician contracting for a fee with the City for the purposes of giving opinions, preparing reports, studies, recommendations or similar services involving finance, planning, personnel, public relations, and other such specialized services.

3.2 DATA PROCESSING SERVICES refer to any equipment, software, databases, and training associated with the generation of automated information as part of the consulting services to be provided.

(Supersedes Administrative Regulation 25.70, Issue 7, effective 12/01/88.)

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Authorized

(Signed by Penelope Culbreth-Graft)

(Signed by Rich Snapper)

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CITY MANAGER

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PERSONNEL DIRECTOR

(Signed by Ed Ryan)

(Signed by Keri Katz)

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AUDITOR & COMPTROLLER

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CITY ATTORNEY

CITY OF SAN DIEGO  
ADMINISTRATIVE REGULATION

SUBJECT	Number 25.70	Issue 8	Page 2 of 18
HIRING OF CONSULTANTS OTHER THAN ARCHITECTS AND ENGINEERS	Effective Date February 8, 1995		

4. RESPONSIBILITY AND PROCEDURE - GENERAL

<u>Responsibility</u>		<u>Action</u>
City Manager/Independent Department Heads	4.1	Approves contracts that are greater than \$25,000 and less than \$250,000.
Personnel Department	4.2	Reviews all proposed contracts for services prior to execution to insure compliance with the personnel-related provisions of the City Charter, Municipal Code, Civil Service Commission Rules and Regulations and Internal Revenue Service regulations. If Personnel believes there is potential conflict with the proposed contract, that comment is to be communicated back to the initiating department. The City Manager will then determine whether to proceed with the proposed contract.
San Diego Data Processing Corporation (SDDPC)	4.3	Reviews those contracts which include data processing services to insure that services are best provided by the consultant. In addition, Information Technology and Communications (IT&C) comments on compatibility with SDDPC systems or equipment and potential need for maintenance and enhancements by SDDPC.
Information Technology and Communications	4.4	Reviews those contract which include data processing to insure that services are best provided by the consultant. In addition, SDDPC comments on compatibility with SDDPC systems or equipment and potential need for maintenance and enhancements by Information Technology and Communications (IT&C)
Initiating Department	4.5	Provides the Personnel Department with copies of the following documents pertaining to consultant contracts. Request for Council Action, Request for City Manager Action, Purchase Order, all amendments thereof, and related significant documents (proposals are excluded).

CITY OF SAN DIEGO  
ADMINISTRATIVE REGULATION

SUBJECT	Number 25.70	Issue 8	Page 3 of 18
HIRING OF CONSULTANTS OTHER THAN ARCHITECTS AND ENGINEERS	Effective Date February 8, 1995		

Equal Opportunity Administration                      4.6      Reviews the information on the selected consultant provided by the initiating department to determine the selected consultant's compliance with the MBE/WBE/DBE/DVBE program. Is responsible for notifying City-certified MB/WB/DB/DVB enterprises of consulting services in excess of \$50,000 that the City is requesting. In addition, insures that the selected consultant is in compliance with the City of San Diego's Equal Opportunity Program for Non-Construction Contractors.

5.      RESPONSIBILITY AND PROCEDURE - CONSULTANT SELECTION FOR CONTRACTS UP TO \$25,000.

Responsibility

Action

Initiating Department	5.1	Pursuant to Policy Section 2.1, selected a consultant by an informal process after receiving comments from the Personnel Department (see Section 4.2). Documents the basis for selection in a permanent job file.
	5.2	May approve contracts up to \$25,000 in a 12-month period (see section 6.5). Receives comments from the Personnel Department (as per Section 4.2), initiates a Purchase Requisition (form PA-2159), attaches the Consultant Award Tracking Form (see Appendix E) and processes as any purchase order. An additional copy of the Consultant Award Tracking Form should be sent to Financial Management. The definition of services and terms may be supplemented in a letter attached to the Purchase Order.
	5.3	If any data processing services will be provided by the Consultant, a letter detailing the services to be provided should be attached to the Purchase Order and routed via SDDPC and IT&C for review prior to issuing Purchase Order.

CITY OF SAN DIEGO  
ADMINISTRATIVE REGULATION

SUBJECT	Number 25.70	Issue 8	Page 4 of 18
HIRING OF CONSULTANTS OTHER THAN ARCHITECTS AND ENGINEERS	Effective Date February 8, 1995		

6. RESPONSIBILITY AND PROCEDURE - CONSULTANT SELECTION FOR CONTRACTS BETWEEN \$25,000 AND \$250,000.

Responsibility

Action

Initiating Department

6.1 When the department has determined the services of a consultant are necessary, requests by memoranda comments by the Personnel Department. In addition, the City Manager's approval is required to employ a consultant. If Data Processing Services will be provided, comments by SDDPC and IT&C will also be requested. The request shall include a description of the service to be provided, and a proposed selection process, as outlined in APPENDIX A.

City Manager

6.2 For projects determined to be feasible for joint participation, invites appropriate government agencies to participate in the execution of a joint consultant contract and notifies the department if consolidation of the consultant contract is to occur.

6.3 Approves the selection procedure suggested by the department or directs changes.

Initiating Department

6.4 Drafts Scope of Work which will be incorporated into the Request for Proposal (RFP). This must be done in specific unambiguous language calling out tasks, products and processes. Includes a requirement for consultants be submit total and component cost analysis, such as hours and rate per hour of specific consultant and specific staff, overhead factors, material costs, testing, and travel, as well as breakdown of subcontracting consultant cost, if they constitute a significant portion of the work to be performed (for example, see APPENDIX B). The initiating department must include in the RFP the "Sub-consultant Information Sheet."

CITY OF SAN DIEGO  
ADMINISTRATIVE REGULATION

SUBJECT	Number 25.70	Issue 8	Page 5 of 18
HIRING OF CONSULTANTS OTHER THAN ARCHITECTS AND ENGINEERS	Effective Date February 8, 1995		

Initiating Department (Cont'd)

Also, includes the closing date for acceptance of proposals and an estimated date of selection committee consideration.

- 6.5 Notice of the intent to seek consulting services and requests for submission of qualifications statements shall be published in the City's official newspaper and three minority focused newspapers for every service in excess of fifty thousand dollars (\$50,000) provided that price quotations are solicited from at least three potential sources for every service up to and including fifty thousand dollars (\$50,000). All advertisements and RFP's shall indicate the City's MBE/WBE/DBE/DVBE goals. An example of wording for such an advertisement is in Appendix D.
- 6.6 Has RFP mailed in accordance with a mailing list on which is recorded the date of mailing and address of consultant. One copy should be sent to the Equal Opportunity Administrator, who in turn will notify City-certified MB, DB, DVB and WB enterprises. RFP should require consultant's proposals "to arrive at (department) offices by close of business on (date)."
- 6.7 May, after the mailing of the RFP and prior to the receipt of consultants' proposals, convene a prospective proposer's conference to be held for all interested parties. At this time, staff will answer any background questions regarding the proposed contract.
- 6.8 Responds to any further inquiry from prospective proposers after this meeting. Such contact will be minimized and will only be utilized to clarify topics specifically discussed at the conference.

CITY OF SAN DIEGO  
ADMINISTRATIVE REGULATION

SUBJECT	Number 25.70	Issue 8	Page 6 of 18
HIRING OF CONSULTANTS OTHER THAN ARCHITECTS AND ENGINEERS	Effective Date February 8, 1995		

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| Initiating Department (Cont'd)     | 6.9  | At the discretion of the initiating department, a Screening Committee may be selected and convened from City staff and outside members, including SDDPC as appropriate, for initial ranking of the proposals received. Provides specific criteria to the Screening Committee members for the initial ranking process in accordance with Council Policy 300-7, paragraph 4. Otherwise, the duties and responsibilities outlined for the Screening Committee should be performed by the department's consultant selection committee. (See 6.13, 6.14, 6.15.) |
| Screening Committee                | 6.10 | If a Screening Committee is utilized, they will screen all applicants. All Committee members will use identical ranking sheets and will rank and record specific comments on each proposal.  |
| Initiating Department              | 6.11 | Summarizes the results of the Screening Committee on a summary form and maintains all rating sheets for the contract file. Proposers will not be informed of the status of their proposals at this point.  |
|                                    | 6.12 | Presents the Screening Committee's findings to a Consultant Selection Committee appointed by the department head and composed of City staff and non-City members as appropriate.   |
| Initiating Department's Consultant | 6.13 | On the basis of Screening Committee's findings, determines finalist applicants and interviews them.  |
|                                    | 6.14 | Evaluates consultants' presentation and provides an absolute ranking according to guidelines provided in APPENDIX B.   |
|                                    | 6.15 | Makes determination as to whether the second and/or third proposals are "acceptable" in case contract negotiations with the recommended consultant fail. Identification of the second and/or third place proposals, if acceptable, will be kept strictly confidential unless and until agreement with the recommended consultant cannot be reached.  |

CITY OF SAN DIEGO  
ADMINISTRATIVE REGULATION

SUBJECT	Number 25.70	Issue 8	Page 7 of 18
HIRING OF CONSULTANTS OTHER THAN ARCHITECTS AND ENGINEERS	Effective Date February 8, 1995		

Initiating Department

- 6.16 Records assessments of each Selection Committee member and the total committee vote. The record will be kept confidential and filed in the appropriate department project records, with all data relevant to the selection process.
- 6.17 Submits name and associated paperwork (Sub-Consultant Information Sheet) to the Equal Opportunity Administration for review. They determine the selected consultant's compliance with the MBE/WBE/DBE/DVBE program, and insure that the selected consultant is in compliance with the City of San Diego's Equal Opportunity Program for Non-Construction contractors.
- 6.18 Completes the Consultant Award Tracking Form. Notifies the City Manager's Office, via the department director, of the Selection Committee's recommendation. Upon the department director's and City Manager's approval, notifies all consultants as to the first place selection.
- 6.19 Opens contract negotiations with the consultant selected, beginning with providing the consultant with any refinements in the scope of work from that shown in the RFP and perhaps requesting a final price proposal. These should lead to a mutually acceptable agreement. If the department is unable to negotiate an acceptable agreement and fee with the initial consultant selected, request the City Manager's approval to open negotiations with the next consultant.
- 6.20 Upon City Manager's confirmation of selection, finalizes the terms and conditions of the agreement with the consultant selected and prepares draft agreement. The contract should include similar language to that listed in Appendix B-1. and F.

CITY OF SAN DIEGO  
ADMINISTRATIVE REGULATION

SUBJECT	Number 25.70	Issue 8	Page 8 of 18
HIRING OF CONSULTANTS OTHER THAN ARCHITECTS AND ENGINEERS	Effective Date February 8, 1995		

- |                                |      |  |
|--------------------------------|------|--|
| Initiating Department (Cont'd) | 6.21 | Prior to sending a copy of the draft agreement to the consultant, distributes a copy to those interested in the services to be provided, including the Personnel Department, Equal Opportunity Contracting Program and City Attorney, and if appropriate, IT&C and SDDPC. (Reviewing Authorities)  |
| Reviewing Authorities          | 6.22 | In accordance with Section 4, these reviewing authorities provide initiating department and Consultant Coordinator with appropriate comments.  |
| Initiating Department          | 6.23 | Prepares final agreement and secures consultant's signature  |
|                                | 6.24 | Prepares Request for City Manager Action, Form CM-1544 and forwards together with the "Consultant Award Tracking Form" to the City Manager for approval. An additional copy of the Consultant Award Tracking Form should be forwarded to Financial Management. Contracts for a "single project" may not exceed \$250,000 with any one consultant during a fiscal year. |
| Auditor and Comptroller        | 6.25 | Issues a certificate of availability of funds.   |
| City Attorney                  | 6.26 | Approves formal agreement submitted by the department. Council action is not required (Ref. Municipal Code Sec. 22.0226).  |
| Initiating Department          | 6.27 | Obtains signatures on the agreement, files two copies of signed agreement and City Manager's Action Form (CM-1544) with the City Clerk and files one copy with the Auditor.  |

CITY OF SAN DIEGO  
ADMINISTRATIVE REGULATION

SUBJECT	Number 25.70	Issue 8	Page 9 of 18
HIRING OF CONSULTANTS OTHER THAN ARCHITECTS AND ENGINEERS	Effective Date February 8, 1995		

7. RESPONSIBILITY AND PROCEDURE - CONTRACTS EXCEEDING \$250,000

<u>Responsibility</u>		<u>Action</u>
Initiating Department	7.1	For contracts exceeding \$250,000, follows 6.1 through 6.20.
Personnel Department	7.2	Indicates concurrence with proposal to contract for services with outside consultant, as per Section 4.2.
Information Technology and Communications	7.3	If any data processing services will be provided by the consultant, the draft agreement will be informally reviewed by IT&C before distributing to consultant.
San Diego Data Processing Corporation (SDDPC)	7.4	If any data processing services will be provided by the consultant, the draft agreement will be informally reviewed by SDDPC before distributing to consultant.
Initiating Department	7.5	Initiates a Request for Council Action (Form 1472) and Report to Council, covering items under Authorization Section of Council Policy 300-7.
	7.6	Process Request for Council Action per AR 3.20 "Requests for Resolution Ordinance and/or Agreement." Completes a copy of the Consultant Award Tracking Form and forwards to Financial Management.

8. REQUESTING QUALIFICATIONS TO PROVIDE CONSULTANT SERVICES (RFQ) ON AN AS NEEDED BASIS

<u>Responsibility</u>		<u>Action</u>
Initiating Department	8.1	Places an advertisement in the City's official as newspaper, as well as three minority focused newspapers. The advertisement should include a statement including the City's MBE/WBE/DBE/DVBE efforts. (See Appendix D for an example.)

CITY OF SAN DIEGO  
ADMINISTRATIVE REGULATION

SUBJECT	Number 25.70	Issue 8	Page 10 of 18
HIRING OF CONSULTANTS OTHER THAN ARCHITECTS AND ENGINEERS	Effective Date February 8, 1995		

- |   |     |  |
|---|-----|--|
| Initiating Department (cont'd)              | 8.2 | Convenes a screening committee per Section 6.9 to establish a list of qualified consultants from which the Consultant Selection Committee shall select as needed.  |
|   | 8.3 | Prepares and mails RFP's per Section 6.6 for each specific project to prequalified consultants.  |
| Department's Consultant Selection Committee | 8.4 | Evaluates proposals and conducts interviews. Ranks and documents consultants in the order of preference based on price and responsiveness to RFP.  |
| Initiating Department                       | 8.5 | Finalizes the terms and conditions of the agreement with the consultant selected and prepares draft agreement.   |
|   | 8.6 | Causes draft agreement to be reviewed by those interested in the services to be provided, and informally reviewed by Personnel, Equal Opportunity Administration, San Diego Data Processing Corporation and IT&C when appropriate, and the Attorney before distributing to consultant.   |
|   | 8.7 | Distributes draft to consultant and obtains consultant's concurrence with draft. Process according to Sections 5.2 - 5.3 if the contract will be less than \$25,000 in a fiscal year. If the contract will be between \$25,000 and \$250,000 process according to Sections 6.17 - 6.27. If the contract will be greater than \$250,000 process according to Section 7. |

CITY OF SAN DIEGO  
ADMINISTRATIVE REGULATION

SUBJECT	Number 25.70	Issue 8	Page 11 of 18
HIRING OF CONSULTANTS OTHER THAN ARCHITECTS AND ENGINEERS	Effective Date February 8, 1995		

9. PROCUREMENT OF SERVICES AS A SOLE SOURCE

Responsibility

Action

Initiating Department

- 9.1 Determines the services are available from only one Source and there is no permissible substitute. Justification for this determination must document the efforts made to identify and/or include alternatives, actual identification of other possible sources, and reason for their exclusion. Justification may include one or more of the following conditions.
- a. Time Constraints. An emergency exists requiring the immediate procurement of the services. More than one firm was contacted. The qualifications, reputation, competence, and costs are comparable to other firms.
  - b. Costs Savings. Proven substantial savings would be realized by utilizing the firm without sacrificing quality of service.
  - d. Unique Expertise. The firm is a proven leader in its field and has expertise no other firms have. Costs, quality, and time of performance factors have been taken into consideration.

- 9.2 Submits request and supporting documentation to the City Manager for approval.

City Manager

- 9.3 Approves or rejects the request.

Initiating Department

- 9.4 Upon approval from the Manager, finalizes terms and conditions of the agreement with the consultant and processes the agreement for approval from the appropriate authority, as applicable by the cost limits of the services.

CITY OF SAN DIEGO  
ADMINISTRATIVE REGULATION

SUBJECT	Number 25.70	Issue 8	Page 12 of 18
HIRING OF CONSULTANTS OTHER THAN ARCHITECTS AND ENGINEERS	Effective Date February 8, 1995		

APPENDIX A

REQUEST FOR CONSULTANT SERVICES

The following information should be included in the request to the City Manager and the Personnel Department for Consultant Services:

1. A description of the services required and their objectives, including a statement explaining why it is proposed to secure the services of a consultant and not use employees in the classified service of the City.
2. A statement where applicable as to the feasibility of joint participation in a consultant contract with other local government agencies. Such statement shall be made with consideration given to the nature and purpose of the work for which a consultant is required and the potential benefits of joint participation in a consultant contract.
3. Method of advertising for statements of interest and qualification.
4. A statement as to how those responding to the advertisement will be screened to determine which ones will be interviewed.
5. Method the City will use to conduct a cost analysis of the consultant's proposal. For those projects where a great amount of innovation and/or conceptualization is required, or where the department feels it is in the best interest of the City, component cost analysis information may not be required. In these cases, City Manager approval will have to be obtained for deletion of this requirement.
6. A statement as to how the Selection Committee is to be constituted and what rating criteria are to be used.
7. A statement as to how the interviews with the consultants provided for in paragraph 6.13 are to be conducted.

CITY OF SAN DIEGO  
ADMINISTRATIVE REGULATION

SUBJECT	Number 25.70	Issue 8	Page 13 of 18
HIRING OF CONSULTANTS OTHER THAN ARCHITECTS AND ENGINEERS	Effective Date February 8, 1995		

APPENDIX B

GUIDELINES FOR CONSULTANT SELECTION COMMITTEE

Consultants' presentations will be evaluated on the basis of:

- a) Consultant's experience in the field.
- b) Capability and experience of the personnel to be assigned or to be subcontractors on the project.
- c) Conformity with the City's Equal Opportunity Program and MB/WB/DB/DVB Enterprise Program.
- d) Ability to complete the project within the required time frame and budget.
- e) The fee to be paid shall be considered but shall not be the sole basis for selection.
- f) References submitted by the consultant and reviewed by the selection committee.

CITY OF SAN DIEGO  
ADMINISTRATIVE REGULATION

SUBJECT	Number 25.70	Issue 8	Page 14 of 18
HIRING OF CONSULTANTS OTHER THAN ARCHITECTS AND ENGINEERS	Effective Date February 8, 1995		

APPENDIX B-1

SAMPLE INDEPENDENT CONTRACTOR LANGUAGE

A CONSULTANT IS AN INDEPENDENT CONTRACTOR

- A. The selected consultant shall perform the services outlined in the contract as an independent contractor and will not be an agent or employee of the City. The consultant shall not represent or otherwise hold out itself or any of its subcontractors, sub-subcontractors, directors, officers, partners, employees, or agents to be an agent or employee of the City. The selected consultant agrees to defend, indemnify, protect and hold the City and its agents, officers and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to consultant's employees, agents or officers which arise from or are connected with or are caused or claimed to be caused by the acts or omissions of the consultant, and its agents, officers, or employees, in performing the work or services herein, and all expenses of investigating and defending against same; provided, however, that consultant's duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of the City, its agents, officers or employees.
  
- B. The selected consultant shall expressly warrant that the work is based upon its expertise and shall be done in accordance with good (audit, professional, etc.) practices. Where approval by the City, or representatives of the City is indicated, it is understood to be conceptual approval only and does not relieve the consultant of responsibility for complying with all laws, codes and good (audit, professional, etc.) practices. Any provisions of this agreement that may appear to give the City the right to direct the consultant as to the details of doing the work or to exercise a measure of control over the work, means that the consultant shall follow the direction of the City as to end results of the work only.

CITY OF SAN DIEGO  
ADMINISTRATIVE REGULATION

SUBJECT  HIRING OF CONSULTANTS OTHER THAN ARCHITECTS AND ENGINEERS	Number 25.70	Issue 8	Page 15 of 18
	Effective Date February 8, 1995		

APPENDIX C

Legal References

City Charter Section 94 “Contracts”  
Municipal Code Section 22.0226  
Council Policy 300-7 “Consultant Service Selection”  
Civil Service Rule XVII

Other References

Administrative Regulation 3.20 “Request for Resolution...”  
Administrative Regulation 25.60 “Selection of Architects and Engineers”

Forms Involved

AC-361, Auditor and Comptroller Certificate  
CM-1472, Request for Council Action  
CM-1472A, Docket Background Material  
PA-2159, Purchase Requisition  
PA-6, Purchase Order  
CM-1544, Request for City Manager Action  
FM-3300, Consultant Award Tracking Form

Subject Index

Consultants  
Consultants, other than Architects and Engineers  
Contracts

CITY OF SAN DIEGO  
ADMINISTRATIVE REGULATION

SUBJECT  HIRING OF CONSULTANTS OTHER THAN ARCHITECTS AND ENGINEERS	Number 25.70	Issue 8	Page 16 of 18
	Effective Date February 8, 1995		

APPENDIX D

Example of the Wording in an advertisement stating the City's MBE/WBE/DBE/DVBE efforts.

It is the policy of the City of San Diego to encourage equal opportunity in its professional services contracts. Toward this end, proposals from small businesses, disabled owned businesses, women owned businesses, firms owned by African-Americans, American Indians, Asian-Americans, Filipinos and Latinos, and local firms are strongly encouraged. Prime consultants are encouraged to subconsult or joint venture with these firms. The City endeavors to do business with firms sharing the City's commitment to equal opportunity and will not do business with any firm that discriminates on the basis of race, religion, color, ancestry, age, gender, disability, medical condition or place of birth.

CITY OF SAN DIEGO  
ADMINISTRATIVE REGULATION

SUBJECT  HIRING OF CONSULTANTS OTHER THAN ARCHITECTS AND ENGINEERS	Number 25.70	Issue 8	Page 17 of 18
	Effective Date February 8, 1995		

APPENDIX E

Consultant Award Tracking Form: The purpose of this form is to insure that consultants are not awarded a contract that will result in that consultant receiving more than \$250,000 in a fiscal year without receiving City Council approval.

DATE: \_\_\_\_\_ FROM: \_\_\_\_\_ Department  
Name) \_\_\_\_\_

Dept. Contact Person: \_\_\_\_\_ Phone # \_\_\_\_\_

Consultant Name: \_\_\_\_\_ Vendor Number: \_\_\_\_\_

Project Name:  
Consultant Amount

Dollar Amount Awarded  
This Fiscal Year: \_\_\_\_\_

Dollar Amount Paid  
This Fiscal Year: \_\_\_\_\_

Will the consultant be awarded more than \$250,000 during this fiscal year if they receive this contract? Yes \_\_\_ No \_\_\_ (If yes, Council approval is required)

Are you currently in the process of negotiating with the consultant for any other contract.  
Yes \_\_\_ No \_\_\_ If yes, for how much?

If yes, for how much?

Indicate appropriate approval authority.

[ ] Dept. Approval: (See Section 5.2 of AR 25.70)

[ ] City Manager: (See Section 6.0 of AR 25.70)

[ ] City Council: (See Section 7.0 of AR 25.70)

DIRECTIONS FOR COMPLETING THIS FORM

A copy of this form should be attached to Forms PA-2159 and CM-1544 for processing and simultaneously an additional copy sent to Financial Management. A copy of this form need not be attached to 1472 forms.

CITY OF SAN DIEGO  
ADMINISTRATIVE REGULATION

SUBJECT	Number 25.70	Issue 8	Page 18 of 18
HIRING OF CONSULTANTS OTHER THAN ARCHITECTS AND ENGINEERS	Effective Date February 8, 1995		

APPENDIX F

SAMPLE AUDIT CLAUSE CONTRACT LANGUAGE

AUDIT AND INSPECTION OF RECORDS

At any time during normal business hours and as often as the City deems necessary, Contractor shall make available to the City for examination at reasonable locations within the City/County of San Diego all of the data and records with respect to all matters covered by this agreement and Contractor will permit City to audit, examine, and make excerpts or transcripts from such data and records, and to make audits of all invoices, materials, payrolls, records of personnel, and other data and media relating to all matters covered by this agreement. Contractor shall maintain such data and records for a period of not less than three years following receipt of final payment under this agreement unless City agrees in writing to an earlier disposition. If Contractor does not make all records available in City/County of San Diego, the Contractor shall pay all the City's travel related costs to audit the records associated with this agreement at the location where the records are maintained.