



# B A S M A A

## Policy and Procedure #4

### **Title: Consultant Selection and Contracting**

The purpose of this policy and procedure is to establish guidelines for implementing a selection process to hire consultants to conduct BASMAA projects, including implementation of grant and loan funded projects. Related policies and procedures are:

- *#1 Budgeting and Work Planning* – establishes BASMAA’s policy and procedure for all aspects of developing and approving BASMAA’s budgets and work plans, including schedule, project selection criteria, and decision-making.
- *#7 Financial* – establishes BASMAA’s accounting policies and procedures.
- *#8 Funding and Accounting for BASMAA Efforts* – defines and specifies financial elements of regional efforts conducted by BASMAA.
- *#9 Grant Administration* – establishes BASMAA’s policy and procedure for meeting the administrative requirements of federal or state grants received by BASMAA, which include administrative requirements above-and-beyond those already addressed by BASMAA’s other policies and procedures and/or that are specific to a particular grant.
- *#10 Grant Proposal Development* – defines how BASMAA addresses grant proposal development, including the use and standing of consultants involved in proposal development.
- *#11 Project Management and Project Deliverable Approval* – establishes authorities, and roles and duties of BASMAA project officers and standing or ad hoc committee members overseeing projects.

### Selection

BASMAA shall follow these guidelines for implementing a selection process to hire consultants to conduct BASMAA projects, including implementation of grant and loan funded projects. Generally, BASMAA strives to select the best-qualified consultants through the least expensive and time-consuming processes possible. The type of selection process chosen should be appropriate to the size, scope, and schedule of the project.

- **Selection process** – When the Board of Directors approves a Project Concept (see Policy and Procedure: *Budgeting and Work Planning*), the Board of Directors will designate the process for selection of a consultant. Generally, there are five processes to choose from: Executive Director Discretion, Sole Source, Request for Qualifications (RFQ), and Request for Proposals (RFP), and Interviews. The Executive Director Discretion and Sole Source processes represent complete selection processes. RFQs, RFPs, and Interviews may also be used separately and represent complete selection processes or they may be used together in any combination in a sequential selection process. Before designating a selection process as part of the Board of Directors final approval of the Project Concept, consultants, including principals and staff, who are interested in proposing on the work, must recuse themselves from participating on BASMAA’s behalf in the process (e.g., being on the Selection Group – see p. 3).

Effective Date: October 2017

Supersedes: July 2017

- Master RFQ – To make consultant selection as efficient as possible, on an open basis BASMAA issues a Master RFQ to identify and pre-qualify consultants in areas of expertise. Consultants provide general Statement of Qualifications (SOQ) in response to the Master RFQ. The general SOQs are reviewed and evaluated against criteria by the BASMAA Executive Director. Consultant SOQs that meet the criteria are recommended to the Board of Directors to be on a pre-qualified consultants list. The Master RFQ is open so consultants may submit general SOQs at any time. Periodically, BASMAA advertises its practices, including the Master RFQ and the use of a pre-qualified list to the consulting community to help ensure they are aware of the steps necessary to avail themselves of BASMAA opportunities.

Only consultants approved by the Board of Directors to be on the pre-qualified list shall be eligible for selection by the Board of Directors for a specific project when BASMAA uses the Sole Source, RFQ, RFP, and/or Interview processes to select a consultant.

A consultant not on the pre-qualified list may become eligible to submit a specific response (e.g., SOQ, proposal) to a project-specific solicitation (e.g., RFQ, RFP) by submitting their general SOQ before the submittal deadline for the project-specific solicitation. That is, a consultant may have their general SOQ under review by BASMAA during a project-specific solicitation process. However, to be eligible for selection by the Board of Directors for the specific project, the Board of Directors must have already approved the consultant for inclusion on the pre-qualified list in an appropriate category of expertise.

Unless directed otherwise by a Board of Directors vote, consultant solicitations are open to consultants both on the pre-qualified list and not on the pre-qualified list. However, as noted above, consultants must be on the pre-qualified list in a category appropriate for the solicitation by the time the Board of Directors makes the consultant selection for the solicitation.

If the Board of Directors determines this solicitation process is insufficient for a specific project, the Board of Directors may choose to use a project-specific RFQ process or another process (e.g., RFP) to identify a consultant.

- Conditions – In general, each process is appropriate to use under the following conditions:
  - Executive Director Discretion
    - Expenditures up to \$5,000 with approved and funded budget
    - Subject to financial interest disclosure (see Policy and Procedure: *Conflict of Interest*)
    - Decision documented in Board of Directors meeting minutes
  - Sole Source – Consultant recommended based on discussion of Selection Group (see below)
    - Need to conduct work sooner than possible using other processes
    - Recommended consultant provides unique qualifications and experience

- RFQ – Consultants provide SOQ in response to a RFQ:
  - to identify consultants with the appropriate qualifications and experience
  - to screen a larger group of consultants down to a smaller group with the most appropriate qualifications and experience
- RFP – Consultants provide proposals in response to a RFP:
  - to receive more detailed and specific information from consultants regarding their approach and plan for a BASMAA project than provided in a SOQ
  - to receive budget proposals
- Interviews – Consultants make presentations and are interviewed:
  - to interact face-to-face with consultants
  - to ask questions and receive verbal answers

In keeping with BASMAA's goal, the Board of Directors should choose the process or combination of processes that identifies the best-qualified consultant in the least amount of time and expense to BASMAA.

- Procedure – In general, the following procedure should be followed:
  - Board of Directors chooses appropriate selection process or combination of processes
  - Board of Directors uses process or combination of processes to identify and select the consultant with the highest qualifications and experience
  - Solicitations are promptly distributed via BASMAA and other email list communications and posted to the BASMAA website
  - For Sole Source, RFQ, RFP, and/or Interview processes, BASMAA uses the pre-qualified consultants list from which to select a consultant, unless the Board of Directors determines the general RFQ and pre-qualified consultants list is insufficient for a specific project
  - For the Sole Source / RFQ / RFP / Interview processes, the Board of Directors reviews recommendation and votes on selection. The Board of Directors has the power to reject a proposed subconsultant.
- Schedule – As applicable for the Sole Source / RFQ / RFP / Interview processes and time-allowing, the following time periods should be provided in a selection process:
  - Release of RFQ or RFP to submittal deadline – 30 days
  - SOQ or proposal review time, including reference check – 15 days
  - Notice of Interview to interview – 15 days
  - Recommendation – As soon as possible after review time or interviews concluded
  - Selection – As soon as possible by the Board of Directors
  - Negotiation – As soon as possible after selection
- Selection Group – A Selection Group is established for each selection process, except for the Executive Director Discretion process. The Board of Directors or the Committee that proposed a Project Concept or is otherwise overseeing the project establishes the Selection

Group. Consultants, including principals and staff of organizations interested in proposing on the work, are ineligible to participate on the Selection Group.

- Membership – Every BASMAA member program directly affected by the project is given the opportunity to be on that project’s Selection Group. “Directly affected” is defined as the scope, conduct, and products of the project are designed to assist the member program with permit compliance and/or the member program is funding the project. The size and composition of Selection Groups is as follows:
  - Projects to assist with Small MS4 (Phase II) General Permit compliance – Minimum of two representatives from different Phase II member programs and the Executive Director
  - Projects to assist with Municipal Regional Permit (MRP) compliance – Minimum of three representatives from different MRP member programs and the Executive Director
  - Projects to assist with both the Small MS4 General Permit and the MRP or projects of general benefit to all BASMAA member programs – Minimum of three representatives from different MRP or Phase II member programs and the Executive Director
- Confidentiality – The work and discussions of the Selection Groups is confidential to each Selection Group and shall not be communicated outside of each Selection Group’s membership. While the selection process is underway (from date of solicitation to date of the Board of Directors communication of its decision to the affected parties), the Selection Groups may only report in general terms on the status of the selection process to the relevant Committee(s). The Selection Groups answer directly to the Board of Directors and each Selection Group’s recommendation(s) are taken directly to the Board of Directors for consideration and shall not be communicated outside of each Selection Group.
- Decision-making
  - Evaluation / scoring – The Selection Group follows a process determined when the selection process is chosen for evaluating and scoring consultant submittals. The process includes a responsiveness step / scoring and an evaluation step / scoring. A scoring sheet is used for both steps. First, the Executive Director conducts the responsiveness step to ensure each submittal is complete and responsive to the BASMAA solicitation (e.g., RFP). Submittals that are scored as non-responsive or incomplete may be determined ineligible for further evaluation. Second, submittals that are determined eligible are evaluated and scored by the full Selection Group. The Executive Director compiles the scoring sheets and provides the information to the Selection Group.
  - Recommendations – The Selection Group reviews the information and makes a recommendation based on the compiled scoring. In making a recommendation to the Board of Directors, Selection Groups strive to make a unanimous, consensus-based recommendation but if that is not possible, the recommendation is based on majority vote of the full Selection Group.

- Decisions – The Board of Directors makes the final decision regarding consultant selection, except for the Executive Director Discretion process. Directors with a potential conflict of interest (e.g., a Director with ownership or investment interest in, or compensation arrangement with, any entity or individual that is pursuing a transaction or arrangement with BASMAA (Article II, Section 2.c; Policy and Procedure: *Conflict of Interest*)) must recuse themselves from the process by not being present for the discussion and vote on an item.
- Debriefing – BASMAA debriefs applicants that are unsuccessful in their response to BASMAA solicitations. At the end of the Selection Groups' processes, the Executive Director reviews the evaluation and scoring information with the Selection Groups to identify weaknesses and strengths in the unsuccessful applicants' submittals and interviews, if held, and any recommendations for improvement.

#### Contracting for Services

- Compliance with Bylaws – Any action to enter into a contract on behalf of BASMAA must be in compliance with Bylaws sections:
  - 4.03 – Restriction on Interested Persons as Directors
  - Article X – Conflicts of Interest
  - 11.03 – Authority to Bind Corporationas well as the BASMAA Conflict of Interest Policy.
- Authorized individuals – The following may enter into the following types of contracts or other agreements on behalf of BASMAA:
  - Contract signature authority
    - Chair of the Board of Directors
    - Vice-Chair of the Board of Directors
    - Executive Director
- Procedure – In general, the following procedure should be followed:
  - The Executive Director negotiates on BASMAA's behalf
  - Contracts, Addenda, or Work Orders for which substantive changes in the standard language are requested by the consultant are brought back to the Board of Directors for review and approval
  - Contracts, Addenda, or Work Orders for more than \$25,000 are brought back to the Board of Directors for review and approval
  - Contracts, Addenda, or Work Orders in which the consultant requests increases in budget or scope beyond that already approved by the Board of Directors are brought back to the Board of Directors for review and approval
- Oversight – The primary responsibility for contract management is divided as follows:
  - Negotiations to Notice to Proceed – Executive Director. If a project is identified as potentially challenging technically, administratively, managerially, or financially,

before the contractual document is executed, the Executive Director and the contractor will together review the performance portions of the document (e.g., Section II Consultant Responsibilities and Section IV Association Responsibilities in the standard BASMAA agreement). Additionally, the Executive Director may add an optional early warning / troubleshooting task and budget to the scope of work as long as the budget does not increase the total funding required for the project.

- Notice to Proceed to project end – BASMAA Project Officer (see *Project Management and Project Deliverable Approval Policy and Procedure*) and Contracts Manager (see *Financial Policy and Procedure*).
- Independent Consultants – Individuals or organizations under contract to BASMAA are considered independent consultants and not employees or agents of BASMAA in performing the services for which the contracts are entered. Therefore, nothing in the contracts shall be interpreted or construed in any way as creating or establishing an employment relationship between BASMAA and the consultants or any employee or agent of the consultants. Payment for services under contracts to BASMAA are not to be construed as an indication or proof that individuals or organizations receiving the payments are employees or agents of BASMAA for insurance, benefits, payroll, state or federal tax purposes, or for any other purpose.
- Insurance – All contracts between BASMAA and a consultant must include the standard insurance language contained in the current contract template or Board approved waiver.
- Deliverables / Products – All contracts should include a list or other clear designation of the BASMAA identified significant deliverables identified in the Board of Directors-approved Project Concept that are subject to Board of Directors review and approval.

### Templates

As applicable, BASMAA uses standard templates that include boilerplate text and a standard format for the following:

- RFQ / RFP, including contract language
- Evaluation / scoring form
- Follow-up letters for selected and not selected consultants
- Contract language
- Contract amendment / Addendum
- Work Order