

Proposed LWB Procedure for Handling Unsolicited Proposals

Commissioner Christopher McVoy

Goal: begin development and adoption of a LWB procedure for handling unsolicited proposals, one that emphasizes transparency, accountability, and public trust. A solid good governance-based procedure would benefit the city by ensuring that unsolicited proposals for public-private partnerships (P3s) would be more likely to produce true and equal partnerships with equitably shared risks, profits and benefits.

The Strawman:

1. Initial Screening

- Staff evaluates unsolicited proposals for future consideration by Commission and public

2. Initial Staff Report

- Staff prepares a one-page summary with two parallel columns titled “Private Partner” and “Public Partner,” listing:
 - What each party will do
 - Risks assumed by each party (including infrequent or outlier risks)
 - Profit sharing by each party
 - Concrete benefits each will receive.
- Summary must be approved and signed by both partners.

3. Public Presentation and Initial Feedback

- Conduct an advertised public meeting with invited public comments.
- Two presentations of similar duration, one each by the Private and Public Partners.
- The Private Partner can present as sees fit.
- The Public Partner must present in same spirit as a public defender attorney, presenting an objective description of the project, as well as good faith analyses of:
 - whether sufficient information is available for informed public partner decision-making;
 - risks, whether high or outlier; and of equality of risk sharing
 - profit and/or benefit sharing; and of equality of profit/benefit sharing
 - The Public Partner analyst and presenter, acting as defender of the public interest, would likely be the Chief Financial Officer
- Public comment
- After meeting, staff creates a public comment document, summarizing each public comment and providing written feedback to each
- The one page summary (from section 2 above), the presentations by the Private and Public Partners, and the staff’s public comment document are posted to city website; URL distributed widely.

4. Decision Point

- Staff brings all of above to the City Commission and asks for direction whether or not to invest additional staff time
- Staff asks for direction as to whether a competitive bid (RFP or RFQ) process should be initiated.

5. Independent Analysis

- An independent financial and technical analysis is conducted to:
 - Evaluate the financial viability, risks, and return on investment.
 - Evaluate the equitability of proposed risk and profit sharing
 - Thoroughly vet the Private Partner – past projects; obtain and contact references; past lawsuits if any; past reviews; fiscal viability, etc.
 - Verify claims using external, unbiased sources.
 - Assess compatibility with long-term city goals and infrastructure plans.

6. Second Public Meeting and Commission Decision

- Staff presents findings from the independent analysis and public feedback.
- Using a formal evaluation process similar to that for RFPs, the Commission acts as the Evaluation Committee, evaluating approval or rejection of the unsolicited proposal using weighted criteria developed by the City Procurement Officer
- The majority, if not all, of the weighted criteria would be the same for all unsolicited proposals and would include:
 - Equitability of risk sharing
 - Equitability of profit & benefit sharing
 - Results of the independent analysis
 - Summary of the public comments
 - Concreteness of public benefits
 - Alignment with city priorities.
- Approval or rejection would be based the unsolicited proposal would be based on the numerical scores.
- The Commission could provide specific direction to the Private Partner to modify the proposal for resubmission.

7. Agreement Finalization and Monitoring

- Develop legally binding agreements that include:
 - Safeguards to protect public funds in case of default.
 - Reverter clauses.
 - Specific public benefits and ownership transfer timelines.
- Establish ongoing monitoring and reporting procedures to ensure compliance with the agreement and project success.