

#188-05

**RESOLUTION ADOPTING THE FAIR AND OPEN PROCESS AND AWARDING
CONTRACTS PURSUANT TO N.J.S.A. 40A:11-5 IN THE PROCESS ESTABLISHED
PURSUANT TO N.J.S.A. 19:44A-20.5 ET. SEQ.**

WHEREAS, The Board of Commissioners of the Borough of Audubon, in accordance with the requirements under N.J.S.A. 19:44A-20.5 et.seq. seek to implement a fair and open process for the award of contracts pursuant to N.J.S.A. 40A:11-5; and

WHEREAS, the "fair and open process" means, at a minimum, that the contract shall be: publicly advertised in newspapers or on the Internet website maintained by the public entity in sufficient time to give notice in advance of the contract; awarded under a process that provides for public solicitation of proposals or qualifications and awarded and disclosed under criteria established in writing by the public entity prior to the solicitation of proposals or qualifications; and publicly opened and announced when awarded. The decision of a public entity as to what constitutes a fair and open process shall be final; and

WHEREAS, the Borough Commissioners wish to formally adopt a written policy implementing the Fair and Open Process in accordance with the law.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Commissioners of the Borough of Audubon that the attached Borough of Audubon Policy on Request for Qualification/Proposals for Contracts awarded pursuant to N.J.S.A. 40A:11-5 be and is hereby adopted.

Borough of Audubon
Policy on Request for Qualifications/proposals for Contracts Awarded
Pursuant to N.J.S.A 40A:11-5

Purpose:

The following procedures are designed to provide for a fair and open process in awarding contracts pursuant to N.J.S.A. 40A:11-5 based on qualifications, merit and cost effectiveness through a competitive and open process. This process is established pursuant to N.J.S.A. 19:44A-20.5 *et. seq.*

Scope:

Any person or firms interested in providing services pursuant to contracts to be awarded pursuant to N.J.S.A. 40A:11-5 by the Borough of Audubon.

General Requirements:

1. Once a need is established for services that would be governed by a contract to be awarded pursuant to N.J.S.A. 40A:11-5, and after a review of the necessary qualifications for provision of such services, a Request for Qualifications/Proposals (RFQ/REP) for the specific services or contract will be prepared and advertised.
2. Advertising of the RFQ/RFP shall, at a minimum, included the official paper(s) of the Borough and any other sources deemed appropriate by the Borough for the specific services at least ten (10) days before the submission deadline. It shall also be posted on the Borough official bulletin board, and filed with the Municipal Clerk at least ten (10) days prior to the submission deadline.
3. The advertisement will include a summary of the specific service or activity and who to contact in the Borough to receive a copy of the RFQ/RFP requirements to qualify and the appropriate proposal form.
4. The RFQ/RFP advertisement will, at a minimum, include:
 - A. A description of the service needed, including the scope of activities involved.
 - B. Contact information to obtain the RFQ/RFP forms.
 - C. Submission Deadline, including date and time.
 - D. Submission Location shall be to the Office of the Borough Clerk.

- E. Submission shall be in a sealed envelope.
5. All parties meeting the minimum requirements of the RFQ/RFP shall have their proposals reviewed by the RFP Review Committee. The RFP Review Committee shall be appointed by the governing body at the time of authorization for advertisement for the services. In the event an RFP Committee is not appointed, the governing body shall act in its place. The proposal shall include specific information regarding the person proposed for the contract, billing method and rate information, and any other information which the Borough may deem relevant and helpful in making its selection and requests in writing.
 6. The RFP Review Committee appointed by the governing body or governing body shall review all qualifying RFP's giving due regard to the criteria set forth in paragraph nine, below. The Review Committee shall make a non-binding recommendation to either the board or body with appointing authority of the professional to be awarded the contract or to the board or body contracting authority for the services sought under RFP. Actual contract awards shall be by the governing body. The Review Committee, prior to making its recommendation, may, in its discretion, elect to interview candidates to better determine their ability to meet the selection criteria and discuss their qualifications and scope of the work to be performed.
 7. All submissions shall be kept on file during the term of the contract.
 8. All submissions shall be a public record as of the date of advertising.
 9. The Borough shall award all contracts pursuant to N.J.S.A. 40A:11-5 based on qualifications, merits, experience, quality of work product, and cost competitiveness. Selection criteria will include:
 - A. Names and titles of the individuals who will perform the service and/or activity.
 - B. A description of the individuals or firms experience with similar services or projects and the breadth of services offered.
 - C. A list of references and record of success.
 - D. A description of the individual or firms ability to provide the service or complete the activity in a timely fashion or as required by the Borough.
 - E. A fee schedule for the firm, including any retainer if applicable.

10. In the event that compliance with part or all of the requirements of the RFQ/RFP is impracticable or undesirable with regards to a particular contract, the Borough Committee may waive part or all of the requirements as to all candidates by a majority vote of the Borough Committee. The waiver shall set forth specifically the reasons for such waiver.
11. All awards or waivers will be by resolution acted on by the Borough Committee at a public session of the governing body convened in accordance with the Open Public Meetings Act.
12. All contract awards are subject to availability of funds.
13. The policy will include, but not be limited to, all of the listed requirements. The Borough reserves the right to amend or revise its review standards. In the event of such revisions or review, all candidates shall be given not less than ten (10) days to demonstrate their compliance with the additional or revised standard.
14. This policy will govern all contracts awarded pursuant to N.J.S.A. 40 A:11-5 and specifically includes the following professional appointments provided that the anticipated annual contract value is greater than Seventeen Thousand Five Hundred Dollars (\$17,500.00):

- Borough Attorney
- Borough Engineer
- Borough Prosecutor
- Borough Auditor
- Borough Bond Counsel
- Planning Board Attorney
- Zoning Board Attorney
- Planning Board Engineer
- Zoning Board Engineer
- Borough Public Defender
- Borough Risk Management Consultant