



How To Hire a Consultant (or Contractor) in Three Easy Steps

For small utility systems that are held to a high standard of fiduciary responsibility but also have limited budgets and staff, and often have big gaps in between relatively small projects, hiring a consultant can be a challenging task. What is competitive bidding? When do we have to do it? RFI's, RFQ's, RFP's. What are they? When do you issue them? How do you review them? Heck, even figuring out what a consultant IS, can be challenging! Relax. This doesn't have to be complicated. In fact, common sense and frugality can be your guide when hiring a consultant. And anyone who is on a small utility board knows that you have to be frugal and have lots of common sense!

First let's agree on what a consultant is and then we will explore the idea of developing a basic purchasing policy that can be used when you hire a consultant or for that matter purchase any type of services. Because that is really what you are doing when you hire a consultant – you are purchasing services. What is a “consultant”? A person hired to provide professional advice or services for a fee, but not as an employee of the business that hires him or her.

So a consultant is basically someone besides an employee who does work for the city or RWD. It's pretty broad. Under this definition a consultant could be anyone from an engineer or lawyer to a guy who paints your water storage tank or fixes your computers. In fact, “consultant” is one of those terms that gets used so much that it almost stops meaning ANYTHING. It often gets strung along with other terms to make a job sound more

important. The gal you hire to fix your printer and install your email on the new laptop at the utility office? She's not a computer repair technician. She's an IT consultant. The guy you hired to manage the payroll temporarily when the office manager had surgery? He's not a temp, he's an HR consultant. Heck I am a consultant too! I consult with clients and advise them on issues.

So hiring a consultant really just means hiring someone (i.e., billing specialist, secretary, surveyor, rate analyst, lawyer) to do a specific task for the city or RWD. (The process for hiring engineers follows these basic rules, but is a little bit more complicated because the work they do can be more complicated and usually for a high-dollar project, and involves signing a formal contract. Check out an archived article in July 2009 issue of *The Kansas Lifeline* to read about hiring engineers.) The key to hiring someone to provide services is simply to follow your city's or RWD's basic purchasing policy. You do have a basic purchasing policy, don't you? A procedure that you use to compare qualifications and cost when you buy things? Most small utility systems in Kansas are not required to follow state laws on competitive bidding, but the concepts behind

competitive bidding are a good way to develop a sensible purchasing policy that should then be codified in your rules and regulations. If your only experience with competitive bidding was on a USDA construction project, don't panic! That is probably the most complicated type of bidding process

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(hopefully you had your lawyer, engineer, and USDA representative to guide you through it) and you do not have to create a policy that is as complicated as THAT. What you do need to have in order to be a good steward of public money when you hire a consultant, is a purchasing policy that you understand and actually follow.

One easy shorthand way to think about the parts of that policy is to follow RIN, which is:

- Request information/qualifications
- Interview the candidate
- Negotiate the price

But remember, you have to walk before you RIN. Unless you have taken the time to fully explore the problems you want to resolve or the services you want someone to provide, you are not ready to hire someone to perform work for you. This is called “scoping” or developing a scope of work or SOW. Have you discussed exactly what you want to accomplish? Have you identified all the key stakeholders who may need to be engaged in the project? Have you identified any barriers that could influence the project, and identified your time frame and budget?

Here is a scenario that we can follow while we walk through the steps of applying a basic purchase policy:

It’s approaching the end of their fiscal year, and Water District 1 realizes that they have some O/M money left over. The board decides that they want to repaint the main water

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storage tank, which is very rusted. The boys’ senior varsity baseball team school won their first ever state championship that year too and by a unanimous vote the board decides that the tank should be repainted like a baseball with the water district name and the state championship date on it.

They’ve used a well-known tower painting company in the past, Etercnoc, but they’re not sure if they’re still in business or if someone else could do it more cheaply. Plus they have a narrow window because a new Wal-Mart distribution center is going in next to the tank and once it is open for business, there will be lots and lots of cars that could be impacted by overspray. They had a bad experience the last time they had a tank painted, and the water system truck got oversprayed, and they want to avoid that. So the scope of work is to hire someone experienced to repaint the water tower using their excess funds within a certain period of time, with a custom design.

Step 1 - Request information, qualifications

Now that they have a SOW – they’ve decided what they want, what they need and how they want the services performed – Water District 1 needs to let the world know in writing that they are in the market for some tank painting. The one thing that a utility does NOT do at this step is share how much that they are willing to spend or ask for a price

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quote. That comes later. As a board/council, you should have that number in your head before you create the scope of work, but you should never put that amount in these initial documents. Step 1 is sometimes called a Request for Information (if you just wonder if there is anyone around who paints tanks) aka RFI, or a Request for Qualifications (if you know that plenty of folks paint towers but you only want to hear from the ones that meet your specific qualifications) aka RFQ, or a Request for Proposal (if you have a pretty good idea of who is out there in the market and will want to do the work, and you want them to tell you in detail how they would perform it) aka RFP. Don't get too wrapped up around these terms. They get used interchangeably and often incorrectly. There are many RFI/RFQ/RFP templates online, plus you can use the USDA project templates and just simplify them. Most small utility systems combine the RFI/RFQ/RFP into one document, because they have a pretty good idea of the market in their local area and know who will probably respond.

Because they already have a pretty good idea of who paints tanks, Water District 1 writes up a request that combines the RFQ and the RFP and posts it on their website and on some professional electronic bulletin boards. You can publish a RFI/RFQ/RFP in a local newspaper, but unless you are required to do so pursuant to loan/grant requirements, I wouldn't. That is expensive! Since Water District 1 has used Etercnoc in the past, they mail/email them a copy. Plus they send a copy to a tower painting company they saw at the last state annual conference. The Internet makes all of this much easier. You can post your request on an electronic bulletin board and also ask that the replies be sent via email. Once the request is posted, you sit back and wait. If companies call with follow-up questions, you can answer them as long as you don't get into a discussion of price or tell anyone who else is bidding. You want all the companies bidding blind and bidding against one another. That is how you will get the best quote. Once the due date has passed and you have received the responses, you move to Step 2.

Step 2 – Interview the candidates

Water District 1 received three bids. First they review them to make sure that the bidders included all the information that they requested. Did they list the previous tanks that they have painted within the last five years with photos (also known as past performance). Did they state that they had the ability to paint the tank before the date set for the Wal-Mart distribution center opening? After you get bids you will need to prepare a short list of proposals that meet all your requirements. Ideally, three to five would be good, but let's face it, in rural areas, you might only get two or

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three responses. Water District 1 only got three bids; all provided all the information requested, so they plan to interview all three. Since the district combined all the info they needed into one request, they got price quotes too. However, they will not discuss price until Step 3. You can think of the bid response as a resume with a salary request. The purpose of Step 2 is so that

you determine that the "resume" is really accurate. Even if you know the company responding, you still need to have this discussion. It turns out that Water District 1 received three responses to their request. They were from Etercnoc, a company at the state annual conference called Towers R US, and the last from a guy who was the project manager for Etercnoc the last time they painted their tank and who has started his own company named Mr. Hainey's Tower Painting.

During, the "interview", the district definitely decided to ask the Etercnoc about the overspray incident and what steps they will take to make sure that nothing like this happens again. They also ask Etercnoc about losing their lead project manager and whether or not that will impact their ability to get the work completed in the short timeframe. The board also heard a rumor about a new coating Etercnoc used on a tank that peeled badly after six months, and they are curious about that. They don't know Towers R US, but they have asked around and another water system who used them said that they did really good custom work but were expensive and seemed to have lots of delays. That system didn't care how long it took; it is a larger system with more revenue than Water District 1, so they were prepared to pay more too. So they will definitely ask Towers R US about how quickly they can complete the project. Mr. Hainey's Tower Painting is owned by the guy they dealt with on the overspray incident, so they will also ask him about that and also ask him about whether or not he has handled any projects on his own. This is because he listed his experience with Etercnoc as the prior experience for his new company. So they need to see if they are the first job he is doing as a solo. These are the types of questions that you need to ask when you are interviewing and comparing bid proposals.

It turns out after the interviews that the Etercnoc proposal team blamed Mr. Hainey for the overspray incident and stated that they did not have any issues with the new coating. However, there was some confusion over the fact that it required a second sealer coat in order to cure. Etercnoc also had their new project manager at the interview and he seemed experienced. Towers R US made a very impressive presentation with an elegant proposed design, but when the board pushed them hard on a completion date, they were a bit vague about how long it might take. Mr. Hainey admitted that he had not actually painted any other tanks yet but that he had several signed contracts for work

that would be completed before this project. This means he will be able to get the work completed on time. He also admitted that he knew it was too windy to paint on the day of the overspray incident, and had told his supervisor that, but had been instructed to proceed because they were late on another job.

After much deliberation, the board has decided to proceed with Mr. Hainey's Tower Painting, because he seems like he can get the work done the fastest. This means that they are now ready to move onto Step 3.

Step 3 - Negotiate the price

The most important thing to remember about Step 3 is that you can just say no! Once you have selected a winner, you talk price. And if the price is too high or you don't like the terms of the contract, you don't have to use them! In fact, I have seen owners fail to agree on price and then go back to one of the other candidates and negotiate successfully with them. I have seen owners negotiate with all the candidates and fail to come to terms on price with any of them! If that happens, you are not obligated to choose one of the original proposals. You can walk away and re-write the scope and re-issue an RFP. Basically, you are circling back to Step 1. In fact, that is exactly what happens to the board referred to in this article. After much haggling Water District 1 decides that ALL three companies

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are coming in too high, so they go back to the drawing board. They decide to rewrite the scope and eliminate the custom design and just go with light blue paint. The same three companies submit proposals and it turns out that without the custom design, Mr. Hainey's Tower Painting is considerably cheaper. So the board enters into a contract with him. RIN is complete!

By going through this process, the board has done a good job of openly and objectively deciding on a SOW, finding qualified candidates and negotiating the best price. And it was done without favoritism, nepotism, or back door deals. That is the reason why utilities have a purchasing policy. It forces people to plan the project, decide on a budget and hire a qualified consultant or any other kind of service provider as openly and objectively as possible. Does it seem like it takes some time? It does. But it is time well spent and it is a key part of the fiduciary responsibility that every utility system should exercise!

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