

EXECUTIVE ORDER NO. 9 - 84

WHEREAS, the City of Philadelphia and affiliated authorities and quasi-public agencies annually issue millions of dollars of debt securities in the form of general obligation and revenue bonds, commercial paper, temporary loan notes, etc.;

WHEREAS, financial service, underwriting and legal fees associated with these financings are substantial;

WHEREAS, past practices have not assured that all qualified firms be given fair opportunity to participate in this work;

WHEREAS, fairness dictates that the City's financial business be shared among as broad a spectrum of underwriters, legal counsel and financial advisors as is practical and that the City's commitment to minority and female owned business enterprises applies equally to securities activities as it does to procurement activities;

WHEREAS, it is in the City's best interest that debt activities be centrally coordinated in order to provide for the efficiencies inherent in an orderly market for Philadelphia securities;

NOW THEREFORE, by the power vested in me in accordance with Sections 1-102 and 4-100 of the Philadelphia Home Rule Charter, it is hereby ordered as follows:

SECTION 1. The Finance Director, or his designee, is hereby directed to prepare lists of qualified underwriters, legal counsel and such other professions as are deemed necessary or desirable, from which lists all contracts for work on all City security issues will be exclusively awarded by solicitation through an RFP or by negotiation, when not otherwise prohibited by law.

(a) In order to qualify for inclusion on the lists, prospective firms shall supply such information as is required by the Finance Director, or his designee to ensure:

(.1) That an individual or firm is capable of performing the required services.

(.2) That the qualifications are maintained for continued inclusion on the City's lists.

(b) All compiled lists shall be arranged in random order and shall rotate so that whenever any person or firm has been employed by the City, any authority, quasi-public agency or public corporation participating in this plan or by the underwriters for any of them, such person or firm shall move to the bottom of the list. When any individual or firm is added to or reinstated on a list it shall be placed at the end of the list, as that list is constituted on the date of the addition or reinstatement.

(c) For each financing by the City, the Finance Director, or his designee, shall except as specified in part (.3) below or otherwise required by law, either negotiate contracts with those individuals or firms next on the respective prepared lists or solicit competitive proposals from among the next three or more individuals or firms on the respective prepared list.

(.1) In the event that the Finance Director, or his designee, proceeds by negotiation and is unable to negotiate acceptable contract terms with the individual or firm next in rotation on the respective list, he shall proceed to negotiate with the next person on the list and continue to do so until there is agreement on acceptable contract terms. Any person or firm who declines to contract with the City on any matter that is subject to the terms of this Order, shall move to the bottom of the list.

(.2) In the event that the Finance Director, or his designee, proceeds by competing proposals, he may accept the best proposal or reject all proposals. The submission of a proposal which is not accepted shall not move a person or firm to the bottom of the list.

(.3) The Director of Finance, or his designee, shall be authorized to negotiate with an individual or firm on the list but not next in order, when in the opinion of the Director of

Finance, or his designee, the individual or firm selected is uniquely qualified to carry out the particular transaction. An individual or firm selected in this manner, shall not be selected when their name next appears on the list.

SECTION 2. As chief financial officer of the City, the Director of Finance shall, as far as is practicable and possible, utilize the resources of the City's Law Department and Finance Department to reduce reliance on and cost of outside counsel and financial advisors to the City. Financial advisors or consultants will only be retained where the Director finds that they can provide unique input and expertise that is not otherwise available.

SECTION 3. As a condition for the award of any contract on any financial offering, whether by competitive proposals or negotiation, the Finance Director, or his designee, shall require that underwriters use legal counsel qualified by the City pursuant to the terms of SECTION 1. hereof. The Finance Director shall make known to prospective underwriters the next available legal counsel with whom they may contract in accordance with the same procedure established in SECTION 1. and any person or firm employed by an underwriter shall move to the bottom of the list.

SECTION 4. To further the purposes of this order the Finance Director shall meet with City affiliated authorities, quasi-public agencies, and public corporations to provide for the participation of said authorities, agencies and corporations in the City's program set forth in this Order. Such authorities, agencies and corporations are requested to adopt policies for the selection and awarding of contracts relating to financial services, underwriting and legal work associated with financial offerings equivalent to those provided for in this Order. To assist the implementation of such a program by the participating authorities and agencies, the Finance Director is ordered to cooperate with said bodies to the fullest extent possible and to coordinate the issuance of financial offerings.

In order to facilitate the issuance of securities and to maximize the return and reduce the costs to the City, affiliated authorities, quasi-public agencies and public corporations, the Finance Director, or his designee, shall maintain a calendar composed of a moving twelve month schedule of tentative dates of proposed financial offerings for the City, affiliated authorities, quasi-public agencies and public corporations. Entries and changes to the calendar must be approved by the Finance Director, or his designee.

SECTION 5. Notwithstanding SECTION 1.(b) above, the Finance Director, or his designee, shall use every effort to ensure that minority and female owned business enterprises shall be afforded a fair opportunity to participate in the financial dealings of the City and any authority, quasi-public agency or public corporation participating in this plan.

SECTION 6. It shall be the practice of the Finance Director to require that all fees relating to services within the purview of this Order be negotiated in advance prior to the execution of any agreement encompassed herein. The prior practice of negotiating fees subsequent to the provision of services shall immediately cease.

SECTION 7. Any person aggrieved by any decision of a designee of the Finance Director shall have the right to appeal said decision to the Finance Director and, then, to the Mayor.

SECTION 8. This Order shall be immediately effective.

  
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W. WILSON GOODE, MAYOR

DATE: May 14, 1984