

DIVISION 2. PURCHASING*

***State law references:** Qualifications required for bidders for public contracts, MCL 123.501 et seq.; bonds of contractors for public buildings and works, MCL 129.201 et seq.

Sec. 2-221. Purchases, contracts, and sales.

(a) *Purpose.* The purpose of this division is to provide for the fair and equitable treatment of all persons involved in public purchasing with the city, to maximize the purchasing value of public funds and procurement, and to provide safeguards for maintaining a procurement system of quality and integrity. The provisions hereof apply to the procurement of goods and services, including public improvements. The provisions hereof do not apply to the procurement of investment services and devices.

(b) *Retroactive application.* This division applies to all contracts for procurement of supplies, services, including public improvements, entered into by the city after the effective date of the ordinance from which this section is derived unless the parties to any such contract agree in writing that a contract entered into prior to the effective date of the ordinance from which this division is derived shall be bound by the terms of this division. Whenever procurement involves the expenditure of state or federal assistance or contract funds or grants, such procurement shall be conducted in accordance with any mandatory state or federal law and regulation. Nothing contained herein shall be construed to prevent the city or any department thereof from complying with the terms and conditions and restrictions of any grant, gift or bequest which are otherwise consistent with the law.

(c) *Definition.* For the purposes of this division, the following terms, phrases and words and their derivations shall have the meanings ascribed to them below:

Contractual services shall mean and include the rental, repair or maintenance of equipment, machinery, roads and other city owned property.

Department head shall mean the city employee charged with the overall supervision of operation of any department within the city government.

Local vendor shall mean a vendor or contractor with an established place of business within the county.

Proposal for professional services shall mean any written or oral quote or presentation, whether solicited or unsolicited, outlining the terms under which professional services will be provided to the city.

Public improvement shall mean the construction, alteration or repair of any public building or public work or public improvement of the city.

Quote shall mean a written or oral proposal to provide goods or services, whether solicited or unsolicited.

Sealed bid shall mean a written proposal to provide goods or services made in response to a request for bids, which shall remain sealed and unopened until bid opening.

Services shall mean any service or work performed at the request of the city.

Supplies shall mean all goods, materials and equipment utilized by the city.

(Code 1961, § 2-1002; Code 1984, § 2-601; Ord. No. 486, § 1, 6-11-1985; Ord. No. 655, § 1, 6-22-2004)

Sec. 2-222. Appropriations.

Except with respect to purchases under \$1,000.00, prior to the approval of any purchase, the city manager or his designee shall ascertain that an appropriation has been made for such purpose, that a sufficient unencumbered balance remains in the appropriation for such purpose, and that funds will be available to cover the claim or meet the obligation as and when it becomes due and payable.

(Ord. No. 655, § 2, 6-22-2004)

Sec. 2-223. Establishment of policies and procedures regarding the purchase of supplies and services in excess of \$1,000.00 with the exception of professional services.

The city commission shall, by resolution from time to time adopted, establish policies and procedures regarding purchase of all supplies and services in excess of \$1,000.00 by the city, with the exception of professional services. Such resolution shall provide for the designation of the personnel authorized to make purchases on behalf of the city and shall describe in detail, by purchase price category, the procedures to be followed with respect to each purchase.

(Ord. No. 655, § 3, 6-22-2004)

Sec. 2-224. Professional services.

The city commission or the city manager, as the case may be, may contract for professional services. The city manager or his designee may determine whether multiple proposals for professional services are required. Contracts for professional services shall be authorized by the city manager or the city commission. Whenever the city manager determines that it is in the best interest of the city to solicit bids for professional services, the successful bidder shall be determined based upon the bidder's ability to provide the services rendered, the city's prior experience with the bidder, the nature and degree of expertise required, the professional experience of the successful bidder, and any references received with respect to the successful bidder.

(Ord. No. 655, § 4, 6-22-2004)

Sec. 2-225. Public improvements in excess of \$50,000.00.

Before authorizing any contract in excess of \$50,000.00 for the construction, alteration, or repair of any public building, public work, or improvement, the proposed contractor shall furnish, at his own cost, to the city a performance bond and a payment bond which shall become binding upon the award of the contract. The performance bond shall be in the full amount of the contract and conditioned upon the faithful performance of the contract in accordance with plans, specifications and terms thereof. The payment bond shall be in the full amount of the contract and shall be for the protection of those persons furnishing labor, material or both, to the principal contractor in the performance of the contract.

(Ord. No. 655, § 5, 6-22-2004)

Sec. 2-226. Solicitation of bids.

(a) *Invitation to bid.* Invitations to bid on contracts for the city for the provision of supplies or services or public improvements, may, in the discretion of the city manager or his designee, be published as hereinafter provided or circulated by written notice to prospective bidders. When an invitation to bid is published, it shall be published in a newspaper circulated in the city or in a trade journal generally circulated in the trade from which bids are to be sought, or other general publications and shall state the necessary information to permit bids to be made. Any invitation to bid, whether published or mailed, shall be furnished by publication or mailing at least five working days prior to the last day set for receipt of the bids or proposals. The invitation to bid, whether published or mailed, shall include a general description of the supplies or services to be purchased, shall state whether and where bid blank forms and specifications may be secured, and shall further state the time and place for the opening of those bids. In every invitation to bid, the city commission shall reserve the right to reject any and all bids.

(b) *Review and recommendation.* The city manager or his designee shall review all bids received in response to an invitation to bid and shall provide his recommendation to the city commission.

(c) *Bid acceptance criteria.* The city manager, or the city commission, as the case may be, depending on the procedures established in any resolution adapted pursuant to this division, shall consider the following criteria and determine which bidder will be successful. Nothing contained herein shall be construed to prohibit the city manager or the city commission from rejecting any or all bids:

- (1) The ability, capacity and skill of the bidder to perform the contract or provide the services required;
- (2) The ability of the bidder to perform the contract or provide the services promptly within the time specified and without delay or interference;
- (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- (4) The quality of performance of previous contracts for services of the bidder;
- (5) Previous and existing compliance by the bidder with all laws and ordinances relating to the contract or services;
- (6) The conformance or nonconformance of the bid with the published bid specifications;
- (7) Sufficiency of the financial resources and ability of the bidder to perform the contract or provide services;
- (8) The quality, availability and adaptability of supplies or contractual services to the particular use required;
- (9) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract, where applicable;
- (10) The number and scope of the conditions attached to the bid;
- (11) The status of the bidder as a local vendor as defined herein and as governed by the city's local preference purchasing policy.

(d) *Bid deposits, performance bonds and payment bonds.* In those instances when it is deemed necessary by the city manager or his designee to require bid deposits and/or performance and/or payment bonds, and in those instances when performance bonds and payment bonds are mandated by law, such requirements shall be included in the invitation to bid. Any successful bidder shall forfeit his bid deposit if such bidder fails to execute a contract within the time specified by the city after the award of the contract to such bidder.

(e) *Sealed bids and bid opening.*

(1) The bids shall be sealed and shall be delivered to the city manager or his designee or such other person as designated in the invitation to bid.

(2) The bids shall be opened in public at the time and place stated in the invitation to bid.

(f) *Nonconforming bids.* The city manager or his designee and the city commission, as the case may be, reserve the right to reject any and all bids which do not conform to the bid specifications contained in the invitation to bid, or which do not serve the best interest of the city.

(g) *Bidders in default of city obligations.* The city manager, his designee, or the city commission, as the case may be, shall not knowingly accept the bid of a contractor who is in default of the payment of taxes, licenses or other moneys due to the city, nor shall any contract be awarded to any contractor who is in default of the payment of taxes, licenses or other charges due the city.

(Ord. No. 655, § 6, 6-22-2004)

Sec. 2-227. Emergency purchases.

In the case of any emergency, which, in the discretion of the city manager or his designee, requires the immediate purchase of supplies or services, the city manager or his designee shall be empowered to purchase on the open market, at the lowest obtainable price, any necessary services or supplies. The city manager or his designee shall report the circumstances of such emergency purchase to the city commission and shall request that the city commission ratify such purchase.

(Ord. No. 655, § 7, 6-22-2004)

Sec. 2-228. Review and execution of contracts.

All contracts shall be approved by the city manager and shall be signed by the mayor and city clerk. This provision shall not be deemed to apply to individual employment contracts.

(Ord. No. 655, § 8, 6-22-2004)

Sec. 2-229. Surplus supplies and equipment.

(a) All city departments shall submit to the city manager or his designee, at such times and in such form as the city manager or his designee shall prescribe, reports showing stocks of all supplies and supplies which are no longer used or which have become obsolete, worn out or scrapped.

(b) The city manager or his designee is authorized to sell all such goods or supplies which have become unsuitable for use by the city or to exchange the same, or to trade in on new equipment or supplies, or to conduct a public auction for the sale of such goods and supplies. All such sales under this section shall be made to the highest bidder, subject, however, to the published terms of such sale.

(c) The city manager or his designee is authorized to transfer surplus supplies or equipment within any department in order to maximize the use and benefit thereof.

(Ord. No. 655, § 9, 6-22-2004)

Sec. 2-230. Cooperative purchasing.

The city manager or his designee is authorized to join with other units of government in cooperative purchasing plans when the best interests of the city would be served thereby, upon approval by the city commission.

(Ord. No. 655, § 10, 6-22-2004)