

# CITY of ALBUQUERQUE

## TWENTY THIRD COUNCIL

COUNCIL BILL NO. O-18-36 ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Brad Winter

1 ORDINANCE

2 AMENDING THE PUBLIC PURCHASES ORDINANCE; REQUIRING CITY  
3 COUNCIL APPROVAL OF SUPPLEMENTS FOR PROFESSIONAL/TECHNICAL  
4 SERVICES AND SUPPLEMENTS TO CONTRACTS AWARDED THROUGH THE  
5 COMPETITIVE SEALED PROPOSAL PROCESS.

6 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
7 ALBUQUERQUE:

8 SECTION 1. The Public Purchases Ordinance is hereby amended as  
9 follows:

10 “§ 5-5-19 APPROVAL OF CONTRACTS.

11 (A) The following contracts must be approved by the City Council:

12 (1) All special assessment district construction contracts in accordance  
13 with §§ 6-8-1-1 et seq., Albuquerque Special Assessment District Policy  
14 Ordinance;

15 (2) Contracts for ambulance services and other emergency rescue  
16 services;

17 (3) Contracts for professional/technical services, as follows:

18 (a) Any contract for professional/ technical services in an amount  
19 exceeding \$75,000, including, but not limited to, legal services contracts and  
20 contracts entered into by the City Council to facilitate its legislative function;

21 (b) An[y] amendment to a professional/ technical services contract  
22 which causes the amount of that contract to exceed \$75,000[, or changes the  
23 scope of services related to the maintenance or operations of a City facility.];

24 and

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1 (c) Any professional/technical services contract with a single business  
2 where the total amount in a single fiscal year for professional/technical  
3 contracts with that business exceeds \$150,000.

4 (4) Social services contracts as follows:

5 (a) Any social services contract in an amount exceeding \$120,000; and

6 (b) An amendment to a social services contract causes the amount of  
7 that contract to exceed \$120,000; or any amendment to a social services  
8 contract exceeding \$120,000 that increases the amount of the contract by 20%  
9 or more; and

10 (c) Any social services with a single organization or agency where the  
11 total amount in a single fiscal year for social services contracts with the  
12 organization or agency exceeds \$120,000; and

13 (d) Except that City Council approval shall not be required if the goal,  
14 amount and contractor of any such contract or amendment is included in the  
15 City of Albuquerque annual performance plan or has been previously  
16 approved by the Council in an appropriating resolution; and

17 (e) The exception contained in § 5-5-19(A)(4)(d) shall not apply if a  
18 Councilor has requested a special report on a particular contract from the  
19 Mayor, which report shall be due within 30 days of the request, and a  
20 Councilor has requested approval of said contract by the full Council.

21 (5) Concession contracts expected to generate revenues to the contractor  
22 in excess of \$75,000 over a 12-month period.

23 (6) Sole source contracts for goods, services, or construction in excess  
24 of \$75,000 for a single project.

25 (7) If the City Council has previously approved a contract by approving  
26 the selection of the contractor, the contract amount and the services or  
27 subject matter of the contract, either through approval of a Performance Plan,  
28 a recommendation of award, or other similar approval process, the final  
29 contract will not require an additional approval pursuant to this section.

30 (8) ~~[Any supplements to a contract will not require an additional approval~~  
31 ~~by the City Council if the original amount of the contract and the amount of~~  
32 ~~possible supplements were previously presented to City Council for approval,~~  
33 ~~and the increase to the contract is within 20% of the amounts previously~~

1 ~~identified.]~~ [Any supplement to a contract previously approved by the City  
2 Council shall require additional approval by the City Council if the contract is  
3 increased by over 20% of the amount previously identified, or the supplement  
4 changes the scope of services related to the maintenance or operations of a  
5 City facility.]

6 (B) The following purchases must be approved by the Mayor rather than  
7 City Council:

8 (1) When the Mayor determines that urgent and compelling reasons  
9 require an emergency procurement of professional/technical services  
10 exceeding \$75,000 or social services exceeding \$120,000, the Mayor shall  
11 notify the City Council, at its next regularly scheduled meeting, of the action  
12 and shall give a full description of the urgent and compelling reasons, the  
13 scope of work, the contract amount, and the name of the contractor;

14 (2) Award or rejection of offers and the execution of contracts for the  
15 construction, demolition, alteration, improvement, or repair of public works;  
16 and

17 (3) Contracts with the New Mexico State Auditor, or other contracts  
18 required by law.

19 (C) All other purchases shall be approved by the City Purchasing Officer or  
20 designee, or as otherwise provided by ordinance.

21 (D) For all procurements and approval of contracts and purchases by or for  
22 the Water Utility Authority pursuant to this article, approval by the Executive  
23 Director of the Water Utility Authority shall substitute for approval by the  
24 Mayor and approval by the Water Utility Authority Board shall substitute for  
25 approval by the City Council.”

26 “§ 5-5-30 COMPETITIVE SEALED PROPOSALS.

27 (A) Competitive sealed proposals may be used for the purchase of goods,  
28 services or construction, or to obtain concession contracts, particularly where  
29 specifications cannot be adequately prepared that permit the award on the  
30 basis of the lowest evaluated bid price; the use of proposals would promote  
31 innovation, state of the art technology and overall efficiencies to the benefit of  
32 the city; or the evaluation of responsive offers depends on levels of

1 performance, expertise, financial capability or other criteria and not price  
2 alone.

3 (B) Purchases by competitive sealed proposals shall be made by a request  
4 for proposals (RFP). The following provisions shall apply:

5 (1) The RFP shall include a weighted scale to indicate the relative  
6 importance of evaluation factors to be used in the scoring of proposals.

7 (2) Pricing, revenues or other cost-related items will be a weighted factor  
8 in scoring the proposals, unless the City Purchasing Officer makes a written  
9 determination that a cost factor is inappropriate.

10 (3) Evaluation factors shall be developed by the user departments  
11 according to their needs in conjunction with the Central Purchasing Office or  
12 CIP.

13 (4) The Mayor shall name an ad hoc advisory committee to evaluate  
14 proposals. The committee shall include as one of its members a  
15 representative from the department or agency requesting the purchase.

16 (5) The contents of proposals may not be disclosed to any persons other  
17 than the members of the ad hoc advisory committee or its advisors until  
18 approval of the recommendation of award. If a request for proposals is  
19 canceled and a similar RFP will be issued within six months, the contents of  
20 proposals received in response to the first RFP may not be disclosed until  
21 after approval of the recommendation of award for the second RFP,  
22 cancellation of the second RFP, expiration of the six month period, or a written  
23 determination of the City Purchasing Officer that disclosure will not be  
24 detrimental to the interests of the city and offerors.

25 (6) Additional information may be requested from and interviews may be  
26 conducted with all offerors determined in writing by the ad hoc advisory  
27 committee to be among the finalists considered for award. Revisions to  
28 proposals may be permitted after the submission of proposals and prior to  
29 approval of the ROA for the purpose of obtaining best and final offers. Any  
30 discussions with finalists may not disclose any information derived from  
31 proposals submitted by competing offerors.

32 (7) The committee shall submit to the Mayor the ROA containing a list of  
33 the top three or more proposals in the order in which they are recommended

1 by the committee. The Central Purchasing Office shall retain as a public  
2 record any committee notes which contain an explanation of the reasons for  
3 selection.

4 (8) The committee's list of recommended proposals shall be approved or  
5 disapproved by the Mayor. If the list is disapproved by the Mayor, or by  
6 Council, he may revise the list or return the list to the committee for additional  
7 review. If the Mayor has disapproved the list, he shall provide the committee  
8 with his reasons for revision or disapproval of the list, in writing.

9 (9) If City Council approval is required, the Mayor shall submit the ROA  
10 and an executive communication containing the term and dollar amount of the  
11 contract, and a copy of the RFP to the City Council for consideration. In the  
12 event of disapproval, the City Council shall give its reasons therefor. The  
13 Mayor may submit a revised ROA to the City Council if an ROA is not  
14 approved.

15 (10) If the ROA for an RFP has been approved by the City Council, the  
16 contract resulting from that RFP ~~[and any supplements to that contract]~~ will  
17 not require an additional approval by the City Council on the condition that the  
18 amounts of the contract [and contract scope] ~~[and any possible supplement~~  
19 ~~amounts]~~ were identified in the executive communication or any related  
20 documents presented to City Council for approval~~[, and the increase to the~~  
21 ~~contract is within 20% of the amounts identified.]~~ [Any supplement to a  
22 contract resulting from an RFP previously approved by the City Council shall  
23 require additional approval by the City Council if the contract is increased by  
24 over 20% of the amount previously identified, or the supplement changes the  
25 scope of services related to the maintenance or operations of a City facility.]

26 (11) Prior to City Council approval, but after the ROA has been initially  
27 approved, negotiations may be conducted with the recommended offeror, or  
28 offerors if multiple contracts will be awarded. If negotiations are  
29 unsuccessful, as determined by the City Purchasing Officer, negotiations may  
30 be conducted with the next offeror or offerors identified in the ROA.

31 (12) An RFP for the City Council shall be subject to the provisions of this  
32 article, with the exception that proposals submitted shall be evaluated and  
33 recommended for award by an ad hoc advisory committee appointed by the

1 Director of Council Services, and the ROA shall be approved by the City  
2 Council without the Mayor's approval.”

3 SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence,  
4 clause, word or phrase of this ordinance is for any reason held to be invalid or  
5 unenforceable by any court of competent jurisdiction, such decision shall not  
6 affect the validity of the remaining provisions of this ordinance. The Council  
7 hereby declares that it would have passed this ordinance and each section,  
8 paragraph, sentence, clause, word or phrase thereof irrespective of any  
9 provisions being declared unconstitutional or otherwise invalid.

10 SECTION 3. COMPILATION. This ordinance shall be incorporated in and  
11 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

12 SECTION 4. EFFECTIVE DATE. This ordinance shall take effect five days  
13 after publication by title and general summary.

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