

CITY of ALBUQUERQUE

TWENTY THIRD COUNCIL

COUNCIL BILL NO. F/S 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. Section 5-5-3 of the Public Purchases Ordinance is hereby
9 amended as follows to update Ordinance definitions:

10 “§ 5-5-3 DEFINITIONS. For the purpose of this article, the following definitions
11 shall apply unless the [Chief Procurement Officer determines that the] context
12 clearly indicates or requires a different meaning.

13 AWARD. The issuance of a purchase order or other validly executed contract.

14 BUSINESS. A seller of goods and/or services and/or a provider of construction
15 services and materials; or a concessionaire. This term may refer to an individual,
16 partnership, corporation, trust or other legal entity and does not include the
17 subsidiaries, affiliates, parent companies, shareholders or principals thereof.

18 CAPITAL PROJECT. A construction or public works project.

19 CENTRAL PURCHASING OFFICE. The Purchasing Division of the Department of
20 Finance and Administrative Services of the city, or any department or division of
21 the city subsequently charged with the duty of purchasing.

22 CIP. The Capital Improvement Program of the city, or any department or division
23 of the city subsequently charged with the oversight of capital construction
24 projects.

25 ~~[CITY PURCHASING OFFICER.]~~ [CHIEF PROCUREMENT OFFICER.] That person
26 charged with the responsibility of administering the Central Purchasing Office.

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- 1 COMPETITIVE SOLICITATION. A request to businesses to respond to contractual
2 requirements established by the Central Purchasing Office for the purchase, sale,
3 lease, rental of goods, services or construction; or other transactions by
4 submitting an offer. A competitive solicitation may take the form of a request for
5 bids (RFB), a request for proposals (RFP), a request for quotes (RFQ), or other
6 procurement methodology established by the ~~[City Purchasing Officer]~~ [Chief
7 Procurement Officer].
- 8 CONCESSION CONTRACTS. Revenue-producing contracts licensing or permitting
9 the use of city property other than rights of way, of any kind, by businesses for
10 the sale of goods or services at a profit.
- 11 CONSTRUCTION. The building, alteration, repair, improvement, installation, or
12 demolition of any public structure, building, pipeline, or other public improvement
13 of any kind on public real property. Construction ~~[may]~~ [does] not include routine
14 repair or maintenance of public buildings or other public structures.
- 15 CONTRACT or AGREEMENT. Any written agreement for the procurement of
16 goods, services or construction, or for the establishment of a concession,
17 including, but not limited to, a purchase order and incorporated documents.
- 18 CONTRACTOR. An offeror who has been awarded a contract. COOPERATIVE
19 PROCUREMENT AGENCY. Any public or private procurement cooperative
20 established for use primarily by public agencies.
- 21 GOODS. Items of tangible personal property.
- 22 GREATER ALBUQUERQUE METROPOLITAN AREA. All locations within the city
23 and Bernalillo County.
- 24 INTERGOVERNMENTAL AGREEMENT. An agreement between two or more public
25 agencies.
- 26 [MANAGEMENT or OPERATION of a CITY OWNED FACILITY. Services provided
27 under an approved professional/technical contract, Concessions Contract, or
28 other operating agreement with the City in which a contractor is responsible for
29 the daily management or operation of a City owned facility, including, but not
30 limited to, the scheduling of facility events and maintenance of a facility event
31 schedule.]
- 32 MAYOR. The Mayor of the city, which term, as used herein, shall refer to the
33 Mayor and/or the Mayor's designee(s).
- 34 OFFER. A response to a competitive solicitation.

- 1 OFFEROR. A business that submits a response to a competitive solicitation.
- 2 PROFESSIONAL/TECHNICAL SERVICES. Those services performed by or under
- 3 the direction of a licensed professional, other professional technician, or other
- 4 person with technical training, as more particularly defined by the [City
- 5 ~~Purchasing Officer~~] [Chief Procurement Officer].
- 6 PUBLIC AGENCY. Any local public body, department, division, commission,
- 7 council, board, committee, institution, legislative body, agency, government
- 8 corporation, educational institution or official of the executive, legislative or
- 9 judicial branch of the United States, any state of the United States, any Indian
- 10 tribe or pueblo, or any foreign government.
- 11 PURCHASING or PROCUREMENT. The buying, renting, leasing, lease-purchasing
- 12 or otherwise obtaining of any goods, services or construction or a concession
- 13 contract. It includes all functions that pertain to any city procurements, including,
- 14 but not limited to, the preparation of specifications, solicitation and selection of
- 15 sources, preparation and award of contracts, and contract administration unless
- 16 otherwise excepted in this article.
- 17 RECOMMENDATION OF AWARD or ROA. The document approved by the [City
- 18 ~~Purchasing Officer~~] [Chief Procurement Officer] which summarizes the offers
- 19 received in response to a competitive solicitation and which designates the
- 20 selected offeror and other relevant information.
- 21 RESPONSIBLE OFFEROR. A business which has the capability in all respects to
- 22 perform fully the contract requirements set out in the competitive solicitation [or
- 23 existing contract], and the integrity and reliability which will assure good faith
- 24 performance, and who has not violated or attempted to violate any provision of
- 25 law or ethical conduct. Factors which may be considered in determining the
- 26 offeror's capability to perform, among others, are its financial resources,
- 27 production or service facilities, service reputation[, response time, quality of
- 28 services or goods,] and experience.
- 29 RESPONSIVE OFFER. A written offer to furnish goods, services or construction in
- 30 conformity with standards, specifications, delivery terms and conditions, and all
- 31 other requirements established in a competitive solicitation.
- 32 SERVICES. Labor, time or effort.
- 33 SOCIAL SERVICES. The provision, primarily to low and moderate income
- 34 residents of the city, of human services such as health care, substance abuse

1 treatment and prevention, day care, emergency shelters, youth services, senior
2 services, employment services, and job training; the provision of housing
3 intended primarily for low and moderate income residents of the city; and
4 economic development activities designed primarily to benefit low to moderate
5 income areas of the city or to increase employment among low and moderate
6 income residents. A social services contract is a contract with a nonprofit
7 organization or public agency for social services in return for the payment by the
8 city of costs associated with the provision of social services, including, but not
9 limited to, the costs for labor, supplies, operating expenses, equipment, and the
10 acquisition or improvement of real property.

11 USER DEPARTMENT, USER, or DEPARTMENT. A city department or ~~[unit]~~
12 [division] for which procurement services are provided.

13 WATER UTILITY AUTHORITY. The Albuquerque Bernalillo County Water Utility
14 Authority, a political subdivision of the State of New Mexico created by Laws
15 2003, Chapter 437 (Section 72-1-10 NMSA 1978)."

16 SECTION 2. Section 5-5-6 of the Public Purchases Ordinance is hereby amended
17 as follows:

18 "§ 5-5-6 RULES AND REGULATIONS GOVERNING CENTRAL PURCHASING.

19 (A) The ~~[City Purchasing Officer]~~ [Chief Procurement Officer] shall have the
20 authority and responsibility to draft regulations related to administration of the
21 Central Purchasing Office and interpreting and implementing this article. Such
22 regulations shall be promulgated by the Mayor after providing notice through a
23 newspaper of general circulation to the general public requesting comments and
24 informing businesses of the regulations in a manner determined by the
25 ~~[Purchasing Officer]~~ [Chief Procurement Officer].

26 (B) For administration of the Central Purchasing Office, regulations may be
27 promulgated to govern the issuance of purchase orders; receipt, inspection, and
28 acceptance of goods and services; payment for purchases; and the maintenance
29 and disclosure of records.

30 (C) Additional regulations may be promulgated to establish procedures for the
31 receipt of requisitions for goods and services from users, for creation of
32 specifications; for the issuing of solicitations; for the maintenance of vendor lists;
33 for the handling and opening of sealed offers; for determining the responsibility
34 and responsiveness of offerors; for determining and issuing a recommendation of

1 award; for review of procurement decisions; and for the debarment and
2 suspension of businesses.

3 (D) Regulations may also be promulgated on such other matters as the [City
4 ~~Purchasing Officer~~] [Chief Procurement Officer] deems desirable for the most
5 efficient operation of the purchasing function.

6 (E) Unless the regulations promulgated pursuant to this section provide
7 otherwise, they shall not apply to capital projects which are subject to the
8 regulations promulgated pursuant to § 5-5-11.”

9 SECTION 3. Section 5-5-7 of the Public Purchases Ordinance is hereby amended
10 as follows:

11 “§ 5-5-7 RESPONSIBILITIES OF THE CENTRAL PURCHASING OFFICE.

12 (A) It shall be the responsibility of the Central Purchasing Office:

13 (1) To reduce, to the maximum extent possible, the number of purchase
14 transactions by combining into bulk orders and contracts the requirements of
15 users for common-use items or items repetitively purchased.

16 (2) To develop, when possible, continuing contracts with vendors for specific,
17 standardized capital items and, when appropriate, direct City Departments to
18 purchase through these contracts. Such procedures should be designed to
19 reduce acquisition and maintenance costs for the city.

20 (3) To develop and use those types of contracts, procurement methodologies and
21 purchase orders which will reduce to the minimum the accompanying paper work
22 and which in other respects will be most advantageous to the city.

23 (4) To make contract awards for the acquisition of city equipment and machinery
24 to offerors which maintain an adequate supply and/or availability of repair parts
25 and qualified service personnel and facilities located in the Greater Albuquerque
26 Metropolitan Area, capable of providing timely and responsive, major and minor
27 service of the equipment and/or machinery being purchased. This subsection is
28 applicable in circumstances where a lack of such capability could be detrimental
29 to city service delivery.

30 (5) Participate as appropriate in an inter-departmental committee which addresses
31 problems related to the overall procurement process, departmental requirements,
32 awards, and payment process and make recommendations to the Mayor and City
33 Council.

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(B) The Central Purchasing Office is authorized to prescribe by regulation the use of various types of contracts and orders, including but not limited to the following:

(1) Definite-quantity contracts, whereby the contractor agrees to furnish a specified quantity of materials or services at a specified time or times at specified unit prices;

(2) Indefinite-quantity contracts/price agreements, whereby the Central Purchasing Office or the user agrees to obtain from the contractor part or all of its requirements for specified materials or services in an estimated but indeterminate amount during a prescribed period of time at a definite unit price or at a specified discount from list or posted prices.

(C) The Central Purchasing Office may cooperate by agreement with any cooperative procurement agency or any public agency in obtaining contracts or price agreements and such contracts or agreed prices shall apply to purchase orders subsequently issued under the agreement.

(D) The ~~[City Purchasing Officer]~~ [Chief Procurement Officer] may annually adjust the monetary limits contained in this article, other than the limits set out in § 5-5-19, if the changes are approved by the Chief Administrative Officer, as confirmed by the issuing of an Administrative Instruction, and notification is provided to City Council. The adjustments shall be determined using best practices, including, but not limited to, comparisons to equivalent limits established for municipalities and public agencies similar to Albuquerque, and/or economic indicators such as changes in the Consumer Price Index.

(E) The Central Purchasing Office shall [, upon request] provide information to the City Council summarizing all transactions processed through the Central Purchasing Office which are in excess of the limit currently established for purchases by quotation. Information shall be provided through online reporting and quarterly written reports. ~~[The requirement for quarterly written reports shall terminate at the end of the city's fiscal year 2013.]~~

SECTION 4. Section 5-5-8 of the Public Purchases Ordinance is hereby amended as follows:

“§ 5-5-8 [RESERVED].~~[CITY PURCHASING STANDARDS AND SPECIFICATIONS COMMITTEE.~~

1 ~~(A) As needed, the City Purchasing Officer shall submit to the Chief~~
2 ~~Administrative Officer for approval, a list of qualified individuals to comprise an~~
3 ~~ad hoc committee for the purpose of setting fair and unrestrictive standards and~~
4 ~~specifications for one or more competitive solicitations for a particular type of~~
5 ~~goods, or services. The Committee shall be called the "City Purchasing Standards~~
6 ~~and Specifications Committee" and shall consist of five voting members with~~
7 ~~appropriate expertise. A minimum of two members of the Committee shall be city~~
8 ~~employees and at least two members shall be from a department other than the~~
9 ~~department for which specifications are being reviewed. Additional members may~~
10 ~~be non-city employees. The [City Purchasing Officer] [Chief Procurement Officer]~~
11 ~~or a designee will be a non-voting member and will serve as the chairperson of~~
12 ~~the Committee. Meetings of the Committee shall be open to the public and notice~~
13 ~~of meetings shall be provided by posting. The Committee shall not be considered~~
14 ~~a public board, commission or committee subject to §§ 2-6-1-1 et seq.~~

15 ~~(B) It is the function of the Committee to initially review, modify, and approve~~
16 ~~standards and specifications submitted by the Central Purchasing Office so that~~
17 ~~the most suitable service or material is obtained. Specifications for capital~~
18 ~~projects shall not be reviewed by the Committee. It is the duty of the Committee to~~
19 ~~ensure that standards and specifications are:~~

- 20 ~~(1) Clear and understandable as measured in terms of design, technical and/or~~
21 ~~performance detail; and~~
22 ~~(2) Subject to measurement or testing when necessary; and~~
23 ~~(3) Promotive of competition to the degree the needs of the city are not sacrificed.~~

24 ~~(C) The Central Purchasing Office shall provide staff support to the Committee in~~
25 ~~the determination of standards and specifications. In reviewing specifications and~~
26 ~~standards for goods or services, it is the duty of the Committee to solicit~~
27 ~~comments and suggestions from businesses and users.]"~~

28 SECTION 5. Section 5-5-9 of the Public Purchases Ordinance is hereby amended
29 as follows to correct citations from previous Ordinance amendments:

30 "§ 5-5-9 PROCUREMENT REQUIREMENTS.

31 (A) General. All city purchasing shall be made by competitive sealed bids as
32 provided in § 5-5-28 of this article, except purchases made through the following
33 procurement methodologies or methodologies approved by the [City Purchasing

1 ~~Officer]~~ [Chief Procurement Officer] and determined in writing to be in the best
2 interest of the city.

3 (1) § 5-5-11, Capital Projects;

4 (2) § 5-5-26, Small Purchases;

5 (3) § 5-5-27, ~~[Purchases by Quotation]~~ [Request for Quotes];

6 (4) § 5-5-29, Purchases of Professional/ Technical Services;

7 (5) § 5-5-30, Competitive Sealed Proposals;

8 (6) ~~[§ 5-5-34]~~ [§ 5-5-32], Sole Source Purchases;

9 (7) ~~[§ 5-5-32]~~ [§ 5-5-33], Purchasing from Government Contracts;

10 (8) ~~[§ 5-5-33]~~ [§ 5-5-34], Rapid Procurement;

11 (9) ~~[§ 5-5-34]~~ [§ 5-5-35], Emergency Purchases;

12 (10) ~~[§ 5-5-35]~~ [§ 5-5-36], Insurance Related Purchases;

13 (11) ~~[§ 5-5-36]~~ [§ 5-5-37], Purchases of Appraisal Services;

14 (12) ~~[§ 5-5-37]~~ [§ 5-5-38], Purchases of Attorney Services;

15 (13) ~~[§ 5-5-38]~~ [§ 5-5-39], Purchases of Social Services;

16 (14) ~~[§ 5-5-39]~~ [§ 5-5-40], Intergovernmental Agreements.

17 (B) Cost plus ~~[construction]~~ contracts. The city shall not enter into any contract
18 ~~[for construction]~~ which is a cost-plus-percentage of cost contract, unless the
19 contract meets the requirements in this article for an emergency purchase.

20 (C) Purchase splitting prohibited. Separate purchases of the same or similar
21 goods, services or construction, whether from the same or different
22 businesses, within a time frame established by the ~~[City Purchasing Officer]~~
23 [Chief Procurement Officer], shall be considered a single purchase for
24 purposes of this article.

25 (D) Federal funding. When a procurement involves the expenditure of federal
26 funds, the procurement shall be conducted in accordance with mandatory
27 applicable federal law and regulations. When mandatory applicable federal law
28 or regulations are inconsistent with the provisions of this article, ~~[compliance~~
29 ~~with federal law or regulations shall be in compliance with this article.]~~[the City
30 shall comply with the most restrictive requirement.]”

31 SECTION 6. Section 5-5-10 of the Public Purchases Ordinance is hereby amended
32 as follows :

33 § 5-5-10 REJECTION OF OFFERS~~;~~ [NO RESPONSIVE OFFERS RECEIVED].

1 [A] The Central Purchasing Office or CIP may reject any or all offers received in
2 response to a competitive solicitation, but the rejection shall be accompanied
3 by a written statement declaring the reasons for the rejection, which shall be
4 made part of the procurement file.

5 ~~[B] If [no acceptable offers are received, or if]~~ no responsive offers are
6 received, then the Central Purchasing Office or CIP may purchase the required
7 goods or services, with no change in the published specifications, in the open
8 market at the best obtainable price. If the specifications are changed, or if so
9 required by the ~~[City Purchasing Officer]~~ [Chief Procurement Officer] or CIP
10 Official, a purchase in the open market shall not be permitted and the
11 competitive solicitation may be reissued.

12 SECTION 7. Section 5-5-12 of the Public Purchases Ordinance is hereby amended
13 as follows:

14 “§ 5-5-12 NOTICE OF SOLICITATIONS.

15 All competitive sealed bids or proposals issued by the Central Purchasing Office
16 shall be made in accordance with the following provisions:

17 (A) Notice that sealed offers shall be received is furnished to the public by means
18 of publication [on the City’s public facing website or, if otherwise required by law]
19 in a newspaper of at least weekly general and/or business circulation[, as
20 established by the Chief Procurement Officer by regulation]. The notice shall
21 specify the [closing date and] time ~~[and place when]~~ [for receipt of] offers[.] ~~[will~~
22 ~~be received]~~ and [Notice] shall be published not less than ten days before the
23 deadline for receipt of offers.

24 (B) This requirement of notice is in addition to any other procedure which may be
25 adopted by the Central Purchasing Office to notify prospective offerors that offers
26 are requested, such as direct mailing, electronic mailing and posting through an
27 electronic medium which is accessible by the general public.

28 ~~[(C) Notices may also be posted on a public bulletin board of the Central~~
29 ~~Purchasing Office for not less than three business days in advance of the~~
30 ~~deadline for receipt of offers.]~~

31 ~~[(D) Fees may be set and collected by the Central Purchasing Office for providing~~
32 ~~notice that sealed offers will be received and for providing copies of or access to~~
33 ~~competitive solicitations and related documents. Fees collected shall be utilized~~

1 ~~solely for the purpose of providing notice to the public, access to competitive~~
2 ~~solicitations, and related administrative costs.~~
3 SECTION 8. Section 5-5-16 of the Public Purchases Ordinance is hereby amended
4 as follows:
5 “§ 5-5-16 DISPOSITION OF CITY-OWNED SURPLUS, SALVAGE[,AND] SCRAP[,
6 AND UNCLAIMED] PROPERTY.
7 (A) Definitions. For the purpose of this section, the following definitions shall
8 apply unless the context clearly indicates or requires a different meaning.
9 CITY ASSET. Tangible personal property which is required pursuant to
10 Administrative Instruction to be recorded on the city's inventory of fixed assets.
11 ~~[EXTERNAL PROCUREMENT UNIT. Any procurement organization not located in~~
12 ~~this state which, if located in this state, would qualify as a state agency or a local~~
13 ~~public body.]~~
14 IT EQUIPMENT. Computers, peripheral equipment, printers, radios, telephones
15 and the like.
16 LIBRARY MATERIALS. Books, magazines, compact discs, videotapes, tapes and
17 the like purchased by the Library Division of the city, or any successor agency,
18 for lending to the public.
19 SALVAGE PROPERTY. Tangible personal property of the city of any value which
20 has been determined, pursuant to ~~[subsection (D) of this section,]~~ [Administrative
21 Instruction 6-2, as amended] to no longer be functional in the state of its original
22 intent, but retains a value in the market place in its marginal use, by repair, resale,
23 scrap value in recyclable materials or other reasons that make it of value in the
24 proper market setting.
25 SCRAP PROPERTY. Tangible personal property of the city which has been
26 determined, pursuant to ~~subsection (D) of this section,~~ [Administrative
27 Instruction 6-2, as amended] to be surplus property, but which has also been
28 determined to be of no value or where the cost to repair or maintain such property
29 would exceed its value. SCRAP PROPERTY does not include salvage property,
30 including but not limited to any material or equipment which retains a salvage
31 value such as copper, aluminum or other recyclable materials, as determined by
32 the ~~[City Purchasing Officer]~~ [Chief Procurement Officer].
33 SURPLUS PROPERTY. Tangible personal property of the city of any value which
34 has been determined, pursuant to ~~subsection (D) of this section,~~ [Administrative

- 1 Instruction 6-2, as amended] to be functional, but is no longer required or needed
2 for use within or by the user department or other city department and whose cost
3 to retain may be adverse to city interests based on space allocation,
4 obsolescence or depreciating market value.
- 5 UNCLAIMED PROPERTY. Tangible personal property which has been left in the
6 possession of the city, as defined in § 5-4-1 ROA 1994.
- 7 (B) Disposition of surplus[, scrap, or salvage] property. Surplus[, scrap, or
8 salvage] property shall be disposed of [as follows] in accordance with procedures
9 established [in Administrative Instruction 6-2, as amended][by the City
10 Purchasing Officer:
- 11 ~~(1) Surplus property may be transferred to another city agency; or~~
12 ~~(2) Surplus property may be sold at fair market value or donated to other public~~
13 ~~governmental agencies or external procurement units. The sale or donation~~
14 ~~pursuant to this subsection (B)(2) of surplus property used for public safety~~
15 ~~functions must be approved by the Chief Administrative Officer.~~
- 16 ~~(3) Surplus property may be sold at fair market value to any non-profit~~
17 ~~organization registered with the State of New Mexico.~~
- 18 ~~(4) Unless otherwise disposed of pursuant to this subsection, surplus property~~
19 ~~shall be disposed of by means of a publicized sale including, but not limited to, a~~
20 ~~live or electronic public auction, a competitive solicitation or through a city store.~~
- 21 ~~(5) If the city is unable to dispose of an item of surplus property pursuant to this~~
22 ~~subsection, that surplus property shall be considered to have no value and may~~
23 ~~be disposed of as scrap property.~~
- 24 ~~(C) Disposition of scrap or salvage property. Following a determination under~~
25 ~~subsection (D) of this section that property is scrap property, it may be disposed~~
26 ~~of in a manner that is determined by the department director to be the most~~
27 ~~advantageous to the city. Salvage property shall be disposed of in a manner~~
28 ~~consistent with procedures established by the City Purchasing.~~
- 29 ~~(D) Determination of status of tangible personal property.~~
- 30 ~~(1) No department can dispose of any item of tangible personal property or any~~
31 ~~city asset until it has been determined to be surplus property, salvage property or~~
32 ~~scrap property.~~
- 33 ~~(2) Each department director shall designate a property disposal officer to make~~
34 ~~determinations and to recommend and oversee the disposition of surplus,~~

1 ~~salvage and scrap property. The property disposal officer shall maintain written~~
2 ~~records of his determinations for public review and for audit purposes.~~
3 ~~(3) Before disposition of an item of tangible personal property of the city, the~~
4 ~~property disposal officer's recommendation must be approved as follows:~~
5 ~~(a) By the department director if the item has an estimated fair market value of~~
6 ~~less than \$3,500;~~
7 ~~(b) By the City Purchasing Officer if the item has an estimated fair market value of~~
8 ~~\$3,500 or more, but less than \$10,000; or~~
9 ~~(c) By the Chief Administrative Officer if the item has an estimated fair market~~
10 ~~value of \$10,000 or more.~~
11 ~~(d) The values in this subsection may be periodically adjusted to reflect changes~~
12 ~~in the Consumer Price Index by Administrative Instruction of the Chief~~
13 ~~Administrative Officer.~~
14 ~~(4) IT equipment shall be determined to be surplus, salvage or scrap property if~~
15 ~~the item of equipment is not in compliance with current information technology~~
16 ~~standards or if such determination is approved by the Chief Information Officer or~~
17 ~~his designee.~~
18 ~~(5) Library materials shall be determined to be surplus, salvage or scrap property~~
19 ~~if the library materials are determined to be no longer necessary to perform their~~
20 ~~intended function, or they are worn, outdated or a duplicate of other library~~
21 ~~materials.~~
22 ~~[(E)] [(C)]~~ Unclaimed property shall be disposed of in accordance with the
23 provisions of § 5-4-1 et seq., ROA 1994.
24 ~~[(F) Each department shall be responsible for insuring that surplus, salvage and~~
25 ~~scrap property is properly disposed of in accordance with this section and that~~
26 ~~city assets are properly and timely removed from the city's fixed asset inventory~~
27 ~~list, if appropriate.]”~~
28 SECTION 9. Section 5-5-17 of the Public Purchases Ordinance is hereby amended
29 as follows:
30 “§ 5-5-17 RESIDENT, LOCAL AND SMALL BUSINESS PREFERENCES.
31 (A) Application of Preferences. Prior to making a recommendation of award, the
32 Central Purchasing Office shall apply the following preferences by applying the
33 5% preference for each to the amount bid ~~[or quoted]~~ or the proposal score of all
34 eligible offers. [The preferences set forth in this section apply to bids and

1 proposals only. This is in contrast to the Request for Quotes procurement
2 methodology, in which quotes are requested initially from local businesses only.
3 If all the quotes are obtained exclusively from local businesses, the application of
4 a local preference is moot.]

5 (1) A local business preference shall be applied to a qualified bid[,] [or] proposal
6 ~~[or quote]~~ submitted in response to a competitive solicitation for the purchase of
7 goods or services or for the award of a concession contract by a local business,
8 as defined in this section.

9 (2) A small business preference shall be applied to a qualified bid[,] [or] proposal
10 ~~[or quote]~~ submitted in response to a competitive solicitation for the purchase of
11 goods or services [or for the award of a concession contract] by a small business,
12 as defined in this section.

13 (3) The state's resident ~~[contractor]~~[business and resident veteran business]
14 preference[s] shall be applied to a qualified bid or ~~[quote]~~ [proposal] submitted in
15 response to a competitive solicitation for the purchase of [goods or services.]
16 ~~[construction,]~~ in accordance with state law.

17 ~~(4) [The state's Veterans preference shall be applied to a qualified bid or proposal~~
18 ~~submitted in response to a competitive solicitation by a state-certified veterans~~
19 ~~business.] [The state's resident contractor business and resident veteran~~
20 ~~contractor business preference shall be applied to a qualified bid or [proposal~~
21 ~~submitted in response to a competitive solicitation for the purchase of~~
22 ~~construction, in accordance with state law].~~

23 (5) ~~[A resident preference based on the state's resident business preference shall~~
24 ~~be applied to a request for bids or request for proposals for the purchase of~~
25 ~~goods or services, but only if no offers have been received in response to the~~
26 ~~solicitation from offerors eligible for the local preference.] [The pay equity~~
27 ~~preference shall be applied to a qualified bid or proposal in accordance with this~~
28 ~~Ordinance.]~~

29 (B) Definitions.

30 (1) LOCAL BUSINESS shall mean a business that [is headquartered in and]
31 maintains its principal office and place of business in the Greater Albuquerque
32 Metropolitan Area, as defined in Section 3 of this Article. [Local Business shall
33 be verified on request by submittal of the business's quarterly IRS Form 941 or
34 other documentation acceptable to the city.]

- 1 (2) PLACE OF BUSINESS shall mean a business's location in the Greater
2 Albuquerque Metropolitan Area which is staffed and open to the public on a
3 regular basis.
- 4 (3) [RESIDENT BUSINESS, RESIDENT VETERAN BUSINESS,] RESIDENT
5 CONTRACTOR~~[, AND RESIDENT VETERAN CONTRACTOR]~~ PREFERENCE shall
6 mean the preference described in [Section 13-1-21 NMSA 1978 and] Section 13-4-2
7 NMSA 1978, as currently enacted or hereafter amended.
- 8 (4) SMALL BUSINESS shall mean a Local Business which employs an average
9 of fewer than 50 full-time employees in a calendar year, which number can be
10 verified on request by submittal of the business's quarterly IRS Form 941 or
11 other documentation acceptable to the city.
- 12 (C) Eligibility for Preferences.
- 13 (1) To qualify for a local business or small business preference, the offeror must
14 submit verifiable information in accordance with procedures established by the
15 ~~[City Purchasing Officer]~~ [Chief Procurement Officer].
- 16 (2) To qualify for the state's resident contractor [or state resident veteran
17 contractor] preference, an offeror must submit ~~[a valid number issued by the~~
18 ~~State of New Mexico]~~ with its offer [the certification of resident contractor or
19 resident veteran contractor issued by the State of New Mexico.]
- 20 (3) To qualify for the state's resident [business or resident] veteran[s] [business]
21 preference, the offeror must submit with its offer the certification of [resident
22 business or] resident veterans business issued by the State of New Mexico.
- 23 (4) If necessary the Central Purchasing Office may seek additional information or
24 proof to verify the offeror's eligibility.
- 25 (5) Only the principal offeror or one of the principal offerors, not a subcontractor,
26 may qualify an offer for a preference.
- 27 (D) Small Business Goal. Each fiscal year the Central Purchasing Office shall
28 strive to award to small businesses competed city purchases for goods and
29 services processed through that office equivalent to 10% of the total value of
30 such purchases for the prior fiscal year.
- 31 (E) Limitation. The total amount of all preferences awarded under this section for
32 the purchase of goods and services in any single award shall not exceed 10%~~[.]~~
33 [or \$50,000, whichever is less.]

(F) Applicability. This section shall not apply to competitive solicitations where the cost to the city or revenues to the business will exceed \$5,000,000.”

SECTION 10. Section 5-5-19 of the Public Purchases Ordinance is hereby amended as follows:

§ 5-5-19 APPROVAL OF CONTRACTS.

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

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

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

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

(a) Any contract for professional/ technical services in an amount exceeding ~~[\$75,000]~~ [\$100,000], including, but not limited to, legal services contracts and contracts entered into by the City Council to facilitate its legislative function; [and]

(b) An~~[y]~~ amendment to a professional/ technical services contract which causes the amount of that contract to exceed ~~[\$75,000]~~ [\$100,000, or changes the scope of services related to the management or operations of a City facility.]~~[-; and]~~

~~(c)[Any professional/technical services contract with a single business where the total amount in a single fiscal year for professional/technical contracts with that business exceeds \$150,000.-]~~ [The application of this Section 5-5-19(A)(3) shall be determined by the Chief Procurement Officer in the Standard Operating Procedure interpreting Section 5-5-9(C) Purchase Splitting Prohibited, as may be amended.]

(4) Social services contracts as follows:

(a) Any social services contract in an amount exceeding [\$150,000] ~~[\$120,000]~~; and

(b) An amendment to a social services contract causes the amount of that contract to exceed [\$150,000] ~~[\$120,000]~~; or any amendment to a social services contract exceeding [\$150,000] ~~[\$120,000]~~ that increases the amount of the contract by 20% or more; and

(c) Any social services with a single organization or agency where the total amount in a single fiscal year for social services contracts with the organization or agency exceeds [\$150,000] ~~[\$120,000]~~; and

(d) Except that City Council approval shall not be required if the goal, amount and contractor of any such contract or amendment is included in the City of

- 1 Albuquerque annual performance plan or has been previously approved by the
2 Council in an appropriating resolution; and
3 (e) The exception contained in § 5-5-19(A)(4)(d) shall not apply if a Councilor has
4 requested a special report on a particular contract from the Mayor, which report
5 shall be due within 30 days of the request, and a Councilor has requested
6 approval of said contract by the full Council.
7 (5) Concession contracts expected to generate revenues to the contractor in
8 excess of \$75,000, over a 12-month period.
9 (6) Sole source contracts for goods, services, or construction in excess of
10 \$75,000 for a single project.
11 (7) If the City Council has previously approved a contract by approving the
12 selection of the contractor, the contract amount and the services or subject
13 matter of the contract, either through approval of a Performance Plan, a
14 recommendation of award, or other similar approval process, the final contract
15 will not require an additional approval pursuant to this section.
16 (8) ~~[Any supplements to a contract will not require an additional approval by the~~
17 ~~City Council if the original amount of the contract and the amount of possible~~
18 ~~supplements were previously presented to City Council for approval, and the~~
19 ~~increase to the contract is within 20% of the amounts previously identified.]~~ [Any
20 supplement to a contract previously approved by the City Council shall require
21 additional approval by the City Council if the contract is increased by over 20% of
22 the amount previously identified, or the supplement changes the scope of
23 services related to the management or operations of a City facility.]
24 (B) The following purchases must be approved by the Mayor rather than City
25 Council:
26 (1) When the Mayor determines that urgent and compelling reasons require an
27 emergency procurement of professional/technical services exceeding ~~[\$75,000]~~
28 [\$100,000], or social services exceeding [\$150,000] ~~[\$120,000]~~, the Mayor shall
29 notify the City Council, at its next regularly scheduled meeting, of the action and
30 shall give a full description of the urgent and compelling reasons, the scope of
31 work, the contract amount, and the name of the contractor;
32 (2) Award or rejection of offers and the execution of contracts for the
33 construction, demolition, alteration, improvement, or repair of public works; and

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

(C) All other purchases shall be approved by the ~~[City Purchasing Officer]~~ [Chief Procurement Officer] or designee, or as otherwise provided by ordinance.

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

SECTION 11. Section 5-5-20 of the Public Purchases Ordinance is hereby amended as follows:

§ 5-5-20 EXEMPTIONS.

The following purchases shall be exempt from the competitive requirements of this article, unless otherwise determined by the ~~[City Purchasing Officer]~~ [Chief Procurement Officer]:

(A) Agreements for services of professionals selected pursuant to §§ 14-7-2-1 et seq., Selection Advisory Committee ordinance;

(B) [RESERVED.] ~~[Goods, services or construction procured from a public agency;]~~

(C) Leases, licenses, permits, exchanges, or purchases of real property and all other real property transactions;

(D) Purchases from regulated utilities such as gas, electricity, water, telephone, cable TV, sewer and refuse collection service, unless competition is available and the annual cost will exceed ~~[\$75,000]~~ [\$100,000];

(E) Purchases of books, periodicals, films, training materials, subscriptions, on-line information services, or advertising from the publishers and distributors or agents thereof;

(F) Purchases of travel by common carrier or by private conveyance and related travel expenditures such as meals and lodging;

(G) Purchases, exchanges, sales, or transportation of animals [or purchases of food for BioPark/Zoo animals and prescription animal food and medical testing supplies for use by the Animal Welfare Department];

(H) Purchases of surety bonds;

- 1 (I) Purchases of exotic plants which will be accessioned into a permanent
- 2 collection maintained by the city;
- 3 (J) Purchases of parts and labor for equipment or machinery where a breakdown
- 4 of this equipment or machinery could cause an emergency or costly condition to
- 5 exist and where the machinery or equipment is in immediate danger of failure;
- 6 (K) Purchases of parts and labor or maintenance agreements to repair disabled
- 7 equipment or machinery if the equipment or machinery is repaired by a franchised
- 8 dealer or by a factory authorized repair shop;
- 9 (L) Purchases of chemicals, drugs, and other controlled substances, the
- 10 distribution and use of which is controlled by law or requires licensing;
- 11 (M) Concession contracts, unless such contracts are expected to generate
- 12 revenues to the contractor in excess of \$75,000, over a 12-month period;
- 13 (N) Purchases of computer software and ancillary services required to match
- 14 other software in use ~~[or where a unique or novel application (available from only~~
- 15 ~~a single provider)]~~ is required to be used in the public interest. This includes
- 16 licensing fees and services to modify or maintain proprietary software, if such
- 17 services are available from only a single provider;
- 18 (O) Purchase, lease, rental or any other financial arrangement for the acquisition
- 19 of works of art, artifacts, or other items for the purpose of exhibition in a public
- 20 facility or area;
- 21 (P) Payments for conference registrations, membership dues, offsite training
- 22 courses, or similar minor purchases where prepayments are required or which are
- 23 administrative in nature and non-competitive as determined by the [City
- 24 ~~Purchasing Officer~~] [Chief Procurement Officer];
- 25 (Q) Purchases necessary for the investigation of criminal activities, which, if
- 26 purchased competitively, would compromise an investigation as determined by
- 27 the Chief of Police in writing. All funds expended for this type of activity will be
- 28 properly receipted and accounted for with supporting documentation maintained
- 29 by the Police Department and subject to internal audit;
- 30 (R) Purchases of specialty goods, as defined by the ~~[City Purchasing Officer]~~
- 31 [Chief Procurement Officer], for resale to the general public at a retail business
- 32 operated by the city;
- 33 (S) Agreements for the services of medical practitioners such as dentists,
- 34 doctors, psychiatrists, psychologists, veterinarians, nurses, technicians, and the

1 like, except that medical and mental health services for the Employee Health
2 Center, and similar group medical services, shall be competitively obtained;
3 (T) Agreements for the services of attorneys, other than bond attorneys, and for
4 legal assistants, except as otherwise provided in this article;
5 (U) Contracts and expenditures in connection with court or administrative
6 proceedings, including, but not limited to, experts, mediators, interpreters,
7 translators, court reporters, process servers, witness fees, and printing and
8 duplicating of materials for filing;
9 (V) Agreements for the services of lobbyists;
10 (W) Agreements with a sports professional or team;
11 (X) Contracts with private, nonprofit, independent contractors whose primary
12 purpose is to provide services to persons with disabilities, and which contracts
13 provide employment opportunities for persons with disabilities;
14 (Y) Grant funded contracts with civic groups to provide community services, as
15 required by the terms of the grant;
16 (Z) Contracts for retirement and other benefits which are paid for directly by city
17 employees, except that employee health care insurance will be obtained
18 competitively as otherwise provided in this article;
19 (AA) Contracts with professional entertainers and associated expenditures;
20 (BB) Purchases of goods, and ancillary services such as installation or training,
21 where required to match equipment currently in use and where a written
22 standardization policy is in effect [~~, or where a unique or novel application~~
23 ~~(available from only a single provider)] is required to be used in the public~~
24 interest. This includes applicable purchases and services to obtain, modify or
25 maintain equipment, if such services are available from only a single provider;
26 (CC) The purchase of goods or services for a reasonable trial period for testing
27 purposes as approved by the [~~City Purchasing Officer~~] [Chief Procurement
28 Officer]; on the condition that if additional purchases are required after testing,
29 such goods or services shall be subject to the requirements of this article; and
30 (DD) The purchase of used items if available for a limited time, such as by auction
31 or public sale, and if determined to be at a cost advantage to the city. A memo
32 shall be written to the [~~City Purchasing Officer~~] [Chief Procurement Officer] for
33 approval describing the steps taken to determine that a cost advantage to the city
34 exists.”

1 **SECTION 12. Section 5-5-22 of the Public Purchases Ordinance is hereby**
2 **amended as follows:**
3 **“§ 5-5-22 ETHICAL CONDUCT.**
4 **In the procurement of goods, services and construction for the city, all City**
5 **employees shall comply with the rules of ethical conduct set out in §§ 3-3-1 et**
6 **seq., Conflict of Interest. In addition, the following ethical provisions shall also**
7 **apply to all city procurements:**
8 **(A) Employee conflict of interest. It shall be unlawful for any city employee to**
9 **participate directly or indirectly in a procurement when the employee knows that:**
10 **(1) The employee or any member of the employee's immediate family has a**
11 **financial interest pertaining to the procurement; or**
12 **(2) Any other person, business, or organization with whom the employee or any**
13 **member of an employee's immediate family is negotiating or has an arrangement**
14 **concerning prospective employment is involved in the procurement.**
15 **(B) Business conflict of interest. It shall be unlawful for any business which**
16 **knowingly has a conflict of interest or an employee with a conflict of interest,**
17 **which conflict of interest would allow it an unfair advantage in a competitive**
18 **process, or would prevent its being able to perform fully and objectively under a**
19 **contract with the city, to make an offer to the city or enter into a contract with the**
20 **city.**
21 **(C) Prohibition of unfair advancement of private financial interest by any Person,**
22 **Organization, Board, Committee, or Business. It shall be unlawful for any member**
23 **of a City board or commission; any director, officer, or employee of a business; or**
24 **any other individual or business by virtue of a personal or corporate relationship**
25 **with the city to use confidential or insider information concerning the property,**
26 **government, or affairs of the governmental body by which that person or**
27 **corporation entity possesses a confidential relationship, for the purpose of real or**
28 **potential advancement of private interest.**
29 **(1) Disclosure. Every member of a City Board or commission; every business, the**
30 **directors, officers, and key employees of that business; and any other individual**
31 **who has an existing or potential financial interest or who has an immediate family**
32 **member who has a presently existing or potential financial interest in any contract**
33 **or other matter existing or pending before or within the governmental body of**
34 **which that person or business is affiliated with, shall disclose that interest in**

1 writing to the City Clerk and to the City Department Head with whom that person
2 or business is negotiating, immediately upon knowing that such a conflict exists
3 or upon having knowledge that a conflict may potentially come into being.

4 [(2) The city shall not enter into any contract with a business in which an
5 employee has a controlling interest, involving services or property of a value in
6 excess of \$1,000 unless the contract is made after public notice and competitive
7 bidding or the Chief Administrative Officer has made a written waiver of this
8 prohibition; provided that this subsection does not apply to a contract of
9 employment with the city.

10 (3) Any purchase order or contract entered into by the city with a business in
11 which an employee of the city has a controlling interest is void if the employee
12 failed to comply with the provisions of this Section prior to the city entering into
13 such contract or purchase order.]

14 (2) Enforcement. In each instance in which an individual member of a board or
15 committee, a business, or any other person knowingly uses confidential or inside
16 information for unfair advancement of private interest, or fails to disclose real or
17 potential financial conflict with the City, the City shall, if the offending party is a
18 business or person affiliated with that business, cease all negotiations and
19 contractual relationships with the offending party. If the offending party is a
20 member of a board or committee, that person shall not be permitted to participate
21 in continued negotiations or receive further information regarding the matter in
22 question. Nothing in this subsection (C) shall preclude the implementation of any
23 other remedy provided by law.

24 (3) Definitions. For the purposes of this subsection (C), the following definitions
25 apply:

26 (a) BUSINESS. Any corporation, LLC, partnership, sole proprietorship, firm,
27 enterprise, company, franchise, association, organization, self-employed
28 individual, holding company, joint-stock company, receivership, trust, whether or
29 not organized for profit.

30 (b) UNFAIR ADVANCEMENT OF PRIVATE INTEREST. Any real or potential
31 financial gain sought or realized by use of confidential or inside information that
32 would not be readily available to individuals and or businesses not involved in
33 negotiations, contracts, or other direct or indirect transactions with the
34 governmental entity.

- 1 (c) IMMEDIATE FAMILY. A person and his or her spouse, their children;
2 grandchildren; parents; siblings including step or half brothers and sisters; aunts,
3 uncles; or any natural person residing in the same household.
- 4 (D) Gratuities and kickbacks.
- 5 (1) It shall be unlawful for any person to offer, give, or agree to give any employee
6 or former employee, or for any employee or former employee to solicit, demand,
7 accept, or agree to accept from another person, a gratuity or an offer of
8 employment in connection with any decision, approval, disapproval,
9 recommendation, preparation or any part of a program requirement or a purchase
10 request, influencing the content of any specification or procurement standard,
11 rendering of advice, investigation, auditing, or in any other advisory capacity in
12 any proceeding or application, request for ruling, determination, claim or
13 controversy, or other particular matter, pertaining to any program requirement or
14 a contract or subcontract, or to any solicitation or proposal therefor.
- 15 (2) It shall be unlawful for any payment, gratuity, or offer of employment to be
16 made by or on behalf of a subcontractor under a contract to the prime contractor
17 or higher tier subcontractor or any person associated therewith, as an
18 inducement for the award of a subcontract or order.
- 19 (E) Prohibition against contingent fees. It shall be unlawful for a person to be
20 retained, or to retain a person, to solicit or secure a city contract upon an
21 agreement or understanding for a commission, percentage, brokerage, or
22 contingent fee, except for retention of bona fide employees or bona fide
23 established commercial selling agencies for the purpose of securing business.
- 24 (F) Contemporaneous employment prohibited. It shall be unlawful for any
25 employee who is participating directly or indirectly in the procurement process to
26 become or to be, while such an employee, the employee of any person
27 contracting with the governmental body by whom the employee is employed.
- 28 (G) Waiver from contemporaneous employment prohibition and other conflicts of
29 interest. The City Council may grant a waiver from the employee conflict of
30 interest provision or the contemporaneous employment provision upon making a
31 written determination that:
- 32 (1) The contemporaneous employment or financial interest of the employee has
33 been publicly disclosed;

- 1 (2) The city employee will be able to perform his or her procurement functions
2 without actual or apparent bias or favoritism; and
3 (3) The award will be in the best interests of the city.
4 (H) Use of confidential information. It shall be unlawful for any employee or former
5 employee knowingly to use confidential information for actual or anticipated
6 personal gain, or for the actual or anticipated personal gain of any other person.
7 (I) Recovery of value transferred or received in breach of ethical standards.
8 (1) The value of anything transferred or received in breach of the ethical
9 standards of this section by an employee or a nonemployee may be recovered
10 from both employee and nonemployee.
11 (2) Upon a showing that a subcontractor made a kickback to a prime contractor or
12 a higher tier subcontractor in connection with the award of a subcontract or order
13 thereunder, it shall be conclusively presumed that the amount thereof was
14 included in the price of the subcontract or order and ultimately borne by the city
15 and will be recoverable hereunder from the recipient. In addition, that amount may
16 also be recovered from the subcontractor making such kickbacks. Recovery from
17 one offending party shall not preclude recovery from other offending parties.
18 (J) Disclosure of travel expenses. Officials using taxpayer funded travel in excess
19 of \$1,000 for any trip shall disclose that trip to the City Clerk within one week after
20 completion of the trip. All such travel expenses shall be immediately posted on
21 the city's website and shall itemize all expected expense as well as the purpose of
22 the trip.
23 (K) Penalties. To the extent that violation of the ethical standards of conduct set
24 forth in this section constitute violations of a city ordinance or state statute, they
25 shall be punishable as provided therein. The civil penalties set forth in this
26 section and available for the violation of provisions of this article shall be in
27 addition to such criminal penalties.”
28 SECTION 13. Section 5-5-23 of the Public Purchases Ordinance is hereby
29 amended as follows:
30 § 5-5-23 PROTEST.
31 (A) Right to protest competitive solicitation. Any business may protest the
32 specifications of a competitive solicitation issued by the Central Purchasing
33 Office and any offeror may protest a recommendation of award resulting from a
34 competitive solicitation. Such protests must be submitted within the time frame

1 specified in the competitive solicitation or recommendation of award, but in no
2 event more than 15 calendar days after knowledge of the facts or occurrences
3 giving rise to the protest. Protests shall be made to the ~~[City Purchasing Officer]~~
4 [Chief Procurement Officer].

5 (B) Right to protest sole source exceeding \$75,000 or above. Any qualified
6 potential contractor may protest an intent to award a sole source procurement
7 exceeding \$75,000 within 30 calendar days after the sole source procurement is
8 posted to the ABQ View Website. Protests shall be made to the ~~[City Purchasing~~
9 ~~Officer]~~ [Chief Procurement Officer].

10 (C) Actions pending protest. In the event of a timely protest the Central
11 Purchasing Office shall not proceed further with the procurement unless the
12 ~~[Purchasing Officer]~~ [Chief Procurement Officer] makes a determination that the
13 award of the contract is necessary to protect substantial interests of the city.

14 (D) Protest authority. The ~~[City Purchasing Officer]~~ [Chief Procurement Officer]
15 shall have the authority to take any action reasonably necessary to resolve a
16 protest of an aggrieved offeror. This authority shall be exercised in accordance
17 with regulations promulgated by the ~~[City Purchasing Officer]~~ [Chief Procurement
18 Officer] pursuant to its authority granted in § 5-5-6 of this article.

19 (E) Applicability. This section shall not apply to the procurements made pursuant
20 to § 5-5-11, Capital Projects.”

21 SECTION 14. Section 5-5-24 of the Public Purchases Ordinance is hereby
22 amended as follows:

23 “§ 5-5-24 DEBARMENT.

24 The ~~[City Purchasing Officer]~~ [Chief Procurement Officer], after reasonable notice
25 to the business involved, shall have authority to recommend to the Mayor the
26 suspension or debarment of a business for cause from consideration for award of
27 contracts. The debarment shall not be for a period of more than three years, and a
28 suspension shall not exceed three months. The authority to debar or suspend
29 shall be exercised in accordance with regulations promulgated by the ~~[City~~
30 ~~Purchasing Officer]~~ [Chief Procurement Officer] This is just an update, the title
31 has changed to Chief Procurement Officer.pursuant to its authority granted in §
32 5-5-6 of this article and such regulations shall provide for reasonable notice and
33 an opportunity to be heard prior to suspension or debarment.

1 SECTION 16. Section 5-5-26 of the Public Purchases Ordinance is hereby
2 amended as follows:

3 “§ 5-5-26 SMALL PURCHASES.

4 (A) The ~~[City Purchasing Officer]~~ [Chief Procurement Officer] shall establish
5 regulations for the purchase of goods, services and construction which shall be
6 considered "small purchases," allowable without prior authorization from the
7 Central Purchasing Office. The monetary limit of small purchases (the "small
8 purchase limit") shall be set by the ~~[City Purchasing Officer]~~ [Chief Procurement
9 Officer] by written notice to the user departments. The small purchase limit shall
10 not exceed ~~\$2,500.~~ [\$10,000.]

11 (B) Petty cash purchases of \$100 or less may be made without a purchase order
12 at the best obtainable price by authorized individuals in accordance with
13 regulations established by the City Treasurer.”

14 SECTION 17. Section 5-5-27 of the Public Purchases Ordinance is hereby
15 amended as follows:

16 “§ 5-5-27 ~~[PURCHASES BY QUOTATION]~~ [REQUEST FOR QUOTES].

17 Purchases of goods, services and construction may be made by the Central
18 Purchasing Office by request for quotes in accordance with the following
19 provisions:

20 (A) A single purchase involving the expenditure of more than the small
21 purchase limit, but not more than ~~[\$25,000,]~~ [\$100,000] may be made after
22 requesting quotes. Such quotes shall be obtained ~~[only]~~ [first] from ~~[small]~~
23 [local] businesses as defined in this article.
24 ~~[(1)If fewer than three responsive quotes are obtainable from small businesses,~~
25 ~~additional quotes obtained from local businesses which are not small businesses~~
26 ~~shall be considered.]~~
27 ~~[(2)]~~ [(1)] If fewer than three responsive quotes are obtainable from ~~[small~~
28 ~~businesses and]~~ local businesses, additional quotes from ~~[all available]~~ [nonlocal]
29 businesses shall be considered.
30 ~~[(3)]~~ [(2)] If fewer than three responsive quotes are obtainable from any source,
31 the purchase may be made at the best documented obtainable price and a
32 memo shall be written to the ~~[City Purchasing Officer]~~ [Chief Procurement
33 Officer] for his approval describing the steps taken to obtain the quotes and
34 determine the best price.

[Bracketed/Underscored Material] - New
[Bracketed/Strikethrough Material] - Deletion

(B) Award may be made only to the responsible offeror(s) submitting the lowest responsive offer(s). ~~[, considering all applicable preferences. The recommended offer shall not exceed the lowest responsive offer of all offers received without preferences applied, plus 15%.]~~

SECTION 18. Section 5-5-28 of the Public Purchases Ordinance is hereby amended as follows:

“§ 5-5-28 COMPETITIVE SEALED BIDS.

(A) All purchases of goods, services, and construction in excess of ~~[\$25,000,]~~ [\$100,000] and the establishment of concession contracts expected to exceed \$75,000 in revenues to the contractor shall be made by competitive sealed bid except as otherwise authorized by this article.

(B) Purchases by competitive sealed bid shall be made by a request for bids. The following provisions shall apply.

(1) Offers shall be opened according to such procedures as may be adopted by the Central Purchasing Office or CIP to ensure confidentiality of offers prior to opening.

(2) Offers shall be evaluated based on the requirements set forth in the request for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose.

(3) A contract may be awarded only to the responsible offeror(s) with the lowest cost or highest revenues or other best cost- related offer, as established in the solicitation, considering all applicable preferences.

(4) The Central Purchasing Office or CIP may accept an improved total offer from the awarded offeror to a request for bids, if said offer has otherwise qualified, and if there is no change in the original terms and conditions of the request for bids.”

SECTION 19. Section 5-5-29 of the Public Purchases Ordinance is hereby amended as follows:

“§ 5-5-29 PURCHASES OF PROFESSIONAL/ TECHNICAL SERVICES.

Purchases of professional/technical services of ~~[\$75,000]~~ [\$100,000] or less may be made by negotiation and execution of a contract signed by the ~~[City Purchasing Officer]~~ [Chief Procurement Officer], and processed through the Central Purchasing Office; signed by the CIP Official for such contracts processed through CIP; or signed by the Director of Council Services for such contracts entered into by the City Council pursuant to its legislative function. All

1 contracts shall be reviewed for legal sufficiency. The provisions in this article
2 applicable to professional/ technical services do not apply to intergovernmental
3 or social services agreements.” [The application of this Section 5-5-29 shall be
4 determined by the Chief Procurement Officer in the Standard Operating Procedure
5 interpreting Section 5-5-9(C) Purchase Splitting Prohibited, as may be amended.]

6 SECTION 20. Section 5-5-30 of the Public Purchases Ordinance is hereby
7 amended as follows:

8 “§ 5-5-30 COMPETITIVE SEALED PROPOSALS.

9 (A) Competitive sealed proposals may be used for the purchase of goods,
10 services or construction, or to obtain concession contracts, particularly where
11 specifications cannot be adequately prepared that permit the award on the basis
12 of the lowest evaluated bid price; the use of proposals would promote innovation,
13 state of the art technology and overall efficiencies to the benefit of the city; or the
14 evaluation of responsive offers depends on levels of performance, expertise,
15 financial capability or other criteria and not price alone.

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

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

20 (2) Pricing, revenues or other cost-related items will be a weighted factor in
21 scoring the proposals, unless the ~~[City Purchasing Officer]~~ [Chief Procurement
22 Officer], makes a written determination that a cost factor is inappropriate.

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

25 (4) The Mayor shall name an ad hoc advisory committee to evaluate proposals.
26 The committee shall include as one of its members a representative from the
27 department ~~[or agency]~~ requesting the purchase.

28 (5) The contents of proposals may not be disclosed to any persons other than the
29 members of the ad hoc advisory committee or its advisors until approval of the
30 recommendation of award. If a request for proposals is canceled and a similar
31 RFP will be issued within six months, the contents of proposals received in
32 response to the first RFP may not be disclosed until after approval of the
33 recommendation of award for the second RFP, cancellation of the second RFP,
34 expiration of the six month period, or a written determination of the [City

- 1 ~~Purchasing Officer~~ [Chief Procurement Officer] that disclosure will not be
2 detrimental to the interests of the city and offerors.
- 3 (6) Additional information may be requested from and interviews may be
4 conducted with all offerors determined in writing by the ad hoc advisory
5 committee to be among the finalists considered for award. Revisions to proposals
6 may be permitted after the submission of proposals and prior to approval of the
7 ROA for the purpose of obtaining best and final offers. Any discussions with
8 finalists may not disclose any information derived from proposals submitted by
9 competing offerors.
- 10 (7) The committee shall submit to the Mayor the ROA containing a list of the top
11 three or more proposals in the order in which they are recommended by the
12 committee. The Central Purchasing Office shall retain as a public record any
13 committee notes which contain an explanation of the reasons for selection.
- 14 (8) The committee's list of recommended proposals shall be approved or
15 disapproved [or revised] by the Mayor. ~~[If the list is disapproved by the Mayor or~~
16 ~~by Council,] he may revise the list or return the list to the committee for additional~~
17 ~~review.]~~ If the Mayor has disapproved the list, he shall provide the committee with
18 his reasons for revision or disapproval of the list, in writing.
- 19 (9) If City Council approval is required, the Mayor shall submit the ROA and an
20 executive communication containing the term and dollar amount of the contract,
21 and a copy of the RFP to the City Council for ~~[consideration]~~[approval. The
22 executive communication shall be approved or disapproved by Council.] In the
23 event of disapproval, the City Council shall give its reasons therefor. The Mayor
24 may submit a revised ROA to the City Council if an ROA is not approved.
- 25 (10) If the ROA for an RFP has been approved by the City Council, the contract
26 resulting from that RFP and any supplements to that contract will not require an
27 additional approval by the City Council on the condition that the amounts of the
28 contract [and contract scope] ~~[and any possible supplement amounts]~~ were
29 identified in the executive communication or any related documents presented to
30 City Council for approval[.] ~~[,and the increase to the contract is within 20% of the~~
31 ~~amounts identified.][~~ Any supplement to a contract resulting from an RFP
32 previously approved by the City Council shall require additional approval by the
33 City Council if the contract is increased by over 20% of the amount previously

1 identified, or the supplement changes the scope of services related to the
2 management or operations of a City facility.]

3 (11) Prior to City Council approval, but after the ROA has been initially approved,
4 negotiations may be conducted with the recommended offeror, or offerors if
5 multiple contracts will be awarded. If negotiations are unsuccessful, as
6 determined by the ~~[City Purchasing Officer]~~ [Chief Procurement Officer],
7 negotiations may be conducted with the next offeror or offerors identified in the
8 ROA.

9 (12) An RFP for the City Council shall be subject to the provisions of this article,
10 with the exception that proposals submitted shall be evaluated and recommended
11 for award by an ad hoc advisory committee appointed by the Director of Council
12 Services, and the ROA shall be approved by the City Council without the Mayor's
13 approval.”

14 SECTION 21. Section 5-5-32 of the Public Purchases Ordinance is hereby
15 amended as follows:

16 “§ 5-5-32 SOLE SOURCE PURCHASES.

17 A contract may be awarded without a competitive solicitation regardless of the
18 estimated cost when the ~~[City Purchasing Officer]~~ [Chief Procurement Officer]
19 makes a determination, after conducting a good faith review of available sources
20 and consulting the user department, that there is only one source for the required
21 goods, services, or construction. The ~~[City Purchasing Officer]~~ [City Purchasing
22 Officer] [Chief Procurement Officer] or designee shall conduct negotiations, as
23 appropriate, as to price, delivery and quantity in order to obtain the price most
24 advantageous to the city. [Any qualified potential contractor may protest an intent
25 to award a sole source procurement exceeding \$75,000 within 30 calendar days
26 after the sole source procurement is posted to the ABQ View Website.] Any sole
27 source contract that exceeds \$75,000 shall be subject to City Council approval.

28 SECTION 22. Section 5-5-33 of the Public Purchases Ordinance is hereby
29 amended as follows:

30 § 5-5-33 PURCHASING FROM GOVERNMENT CONTRACTS.

31 Goods, services, including professional or technical services, or construction
32 may be purchased from a business, or its authorized representative, under
33 contract with a public agency or cooperative procurement agency at prices which
34 are equal to or less than the prices of goods, services or construction meeting the

- 1 same specifications or standards of those purchases, if the following conditions
2 are met:
- 3 (A) Prices are from:
- 4 (1) A nationally published federal price schedule or a "federal government price
5 schedule" published by the business under contract with the federal government;
6 (2) A current contract which has been awarded after notice and publication and in
7 accordance with the requirements of the New Mexico Procurement Code, §§ 13-1-
8 28 et seq. NMSA 1978; or
- 9 (3) A valid contract which has been awarded by any public agency or cooperative
10 procurement agency after notice and publication and in accordance with the
11 requirements of the procurement laws and regulations applicable to that agency.
- 12 (B) The quantity purchased shall not exceed the quantity which may be purchased
13 under the applicable contract.
- 14 (C) The goods, services or construction shall be purchased at the best obtainable
15 price.
- 16 (D) The terms and conditions of the contract shall not be modified for the city
17 purchase, unless the change is agreed to by the contracting business and is more
18 favorable to the city than the original terms and conditions.
- 19 (E) The purchase order for the goods, services or construction purchased shall
20 adequately identify the contract relied upon.
- 21 (F) The Central Purchasing Office or CIP shall retain for public inspection and
22 internal use, official documentation, as required by the ~~[City Purchasing Officer]~~
23 [Chief Procurement Officer] or CIP Official, whichever applies.
- 24 SECTION 23. Section 5-5-36 of the Public Purchases Ordinance is hereby
25 amended as follows:
- 26 "5-5-36 INSURANCE RELATED PURCHASES.
- 27 (A) Insurance coverage for the city, other than employee health care, shall be
28 remarketed by a controlled bidding process through an agent of record under the
29 direction of the city department responsible for risk management. Rules of
30 procedure for the controlled bidding process shall be established by the Mayor
31 and published in the appropriate internal procedure manual.
- 32 (B) Employee health care insurance will be obtained in accordance with the
33 procurement methods described in this article or otherwise approved by the ~~[City~~
34 ~~Purchasing Officer]~~ [Chief Procurement Officer].

1 (C) The selection of the city's agent of record responsible for the negotiation of
2 insurance coverages for the city and who shall work with and under the direction
3 of the city department responsible for risk management will be obtained in
4 accordance with the procurement methods described in this article or otherwise
5 approved by the ~~[City Purchasing Officer]~~ [Chief Procurement Officer].

6 SECTION 24. Section 5-5-37 of the Public Purchases Ordinance is hereby
7 amended as follows:

8 § 5-5-37 PURCHASES OF APPRAISAL SERVICES.

9 Contracts for the services of appraisers of real property shall be entered into, as
10 needed, following selection of a list of appraisers by competitive solicitation. For
11 each appraisal project, oral or written quotes must be obtained from three or more
12 of the appraisers, if possible, listed and the project shall be awarded to the
13 appraiser with the best quote as determined by the user department in
14 conjunction with the city's Real Property Division, or its successor, in accordance
15 with a procedure approved by the ~~[City Purchasing Officer]~~ [Chief Procurement
16 Officer]. Oral quotes must be documented in writing and maintained by the Real
17 Property Division. The Real Property Division shall establish maximum hourly
18 charges for appraisal services. The quote process shall apply to updates for an
19 appraisal.

20 SECTION 25. Section 5-5-38 of the Public Purchases Ordinance is hereby
21 amended as follows:

22 § 5-5-38 PURCHASES OF ATTORNEY SERVICES.

23 The Legal Department and the Risk Management Division, or their successors,
24 shall each use their best efforts to issue a ~~[competitive solicitation]~~ [request for
25 letters of interest] every four years to select a list of attorneys available and
26 qualified to provide legal services in particular areas of law utilized by the city.
27 Attorneys may be added to the list at any time if they submit a proposal which
28 meets the minimum requirements of the most current a ~~[competitive solicitation]~~
29 [request for letters of interest] and are approved by the City Attorney and the Risk
30 Manager.

31 SECTION 26. Section 5-5-39 of the Public Purchases Ordinance is hereby
32 amended as follows:

1 § 5-5-39 PURCHASES OF SOCIAL SERVICES.

2 Social services contracts shall be procured in accordance with written regulations
3 promulgated by the Family and Community Services Department, or a successor
4 department, and approved by the ~~[City Purchasing Officer]~~ [Chief Administrative
5 Officer and the Chief Procurement Officer]. At a minimum, these department
6 regulations shall require social services contracts to include service performance
7 standards which shall be reviewed and revised on a regular basis. If these
8 performance standards are not met for two consecutive years, a request for
9 proposals pursuant to the department regulations shall be required. Contracts
10 which meet the definition of social services contracts shall not be subject to the
11 provisions in this article applicable to those professional/technical services
12 contracts and intergovernmental agreements, but shall be subject only to the
13 provisions in this article applicable to social services agreements. City Council
14 approval of social services contracts is required as set out in § 5-5-19 of this
15 article.

16 SECTION 27. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
17 clause, word or phrase of this ordinance is for any reason held to be invalid or
18 unenforceable by any court of competent jurisdiction, such decision shall not
19 affect the validity of the remaining provisions of this ordinance. The Council
20 hereby declares that it would have passed this ordinance and each section,
21 paragraph, sentence, clause, word or phrase thereof irrespective of any
22 provisions being declared unconstitutional or otherwise invalid.

23 SECTION 28. COMPILATION. This ordinance shall be incorporated in and
24 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

25 SECTION 29. EFFECTIVE DATE. This ordinance shall take effect five days
26 after publication by title and general summary.