



Legislation Text

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# CITY of ALBUQUERQUE

## TWENTY THIRD COUNCIL

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

SPONSORED BY: Brad Winter

### ORDINANCE

**Amending The Public Purchases Ordinance; Requiring City Council Approval Of Supplements For Professional/Technical Services And Supplements To Contracts Awarded Through The Competitive Sealed Proposal Process (Winter)**

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

**SECTION 1. 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, including, but not limited to, legal services contracts and contracts entered into by the City Council to facilitate its legislative function;**

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

**(4) Social services contracts as follows:**

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

**(b) An amendment to a social services contract causes the amount of that contract to exceed \$120,000; or any amendment to a social services contract exceeding \$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 \$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 Albuquerque annual performance plan or has been previously approved by the Council in an appropriating resolution; and**

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

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

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

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

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

**approved by the City Council shall require additional approval by the City Council if the contract is increased by over 20% of the amount previously identified, or the supplement changes the scope of services related to the maintenance or operations of a City facility.]**

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

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

**(2) Award or rejection of offers and the execution of contracts for the 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 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.”**

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

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

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

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

**(2) Pricing, revenues or other cost-related items will be a weighted factor in scoring**

the proposals, unless the City Purchasing Officer makes a written determination that a cost factor is inappropriate.

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

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

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

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

(7) The committee shall submit to the Mayor the ROA containing a list of the top three or more proposals in the order in which they are recommended by the committee. The Central Purchasing Office shall retain as a public record any committee notes which contain an explanation of the reasons for selection.

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

(9) If City Council approval is required, the Mayor shall submit the ROA and an executive communication containing the term and dollar amount of the contract, and a

copy of the RFP to the City Council for consideration. In the event of disapproval, the City Council shall give its reasons therefor. The Mayor may submit a revised ROA to the City Council if an ROA is not approved.

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

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

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

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

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

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

