



Allegheny County Council

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Legislation Text

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An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending the Administrative Code of Allegheny County, Article 903, entitled “Formal Procurement Process,” §5-901.03.02, entitled “Purchases over \$30,000,” in order to establish a more transparent process for providing public notice of requests for proposals.

WHEREAS, existing Commonwealth law (specifically the Second Class County Code, 16 P.S. §5001) governs the competitive bidding process within the Counties of the Second Class; and

WHEREAS, pursuant to the terms of 16 P.S. §5001(a), requests for bids on “...all contracts or purchases in excess of the base amount of eighteen thousand five hundred dollars (\$18,500)...,” subject to adjustment according to the consumer price index (under the terms of 16 P.S. §3112) and certain delineated exceptions, must be preceded by notice via publication in a newspaper of general circulation within the County; and

WHEREAS, also pursuant to the terms of §5001(a), such public notice is to be accomplished “...at least two (2) times, at intervals of not less than three (3) days where daily newspapers of general circulation are employed for such publication, or in case weekly newspapers are employed, then the notice shall be published once a week for two (2) successive weeks. The first advertisement shall be published not less than ten (10) days prior to the date fixed for the opening of bids.”; and

WHEREAS, the notice requirement and contract threshold are stated differently in §5-903.02.A of the Administrative Code of Allegheny County: “[e]xcept as provided below, all contracts or purchases in excess of \$30,000 shall be in writing after being published at least one time, not less than seven days prior to the date fixed for opening bids. The successful bidder shall be the lowest responsible responsive bidder meeting specifications, with full consideration of cost, quality and performance. In the event that the County receives two completely identical responsive responsible bids, the award shall be made in accordance with the purchasing manual.”; and

WHEREAS, it is the desire of Council to bring the notice and threshold provisions of the Administrative Code, §5-903.02.A., into accord with the provisions of the Second Class County Code; and

WHEREAS, in addition to the notice provisions described above, Allegheny County also currently provides notice of requests for proposals and receives responsive bids through a secure internet website that requires a paid subscription for access; and

WHEREAS, while the security of this system is desirable for receiving bids, that same limitation of access also inherently reduces the visibility of request for proposal announcements, while simultaneously limiting the public’s ability to view such requests in a fully transparent fashion; and

WHEREAS, it is accordingly also the desire of Council to provide for a mechanism to allow the public to easily view requests for proposals (without providing for the submission of bids) via the County website;

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1. Incorporation of the Preamble.

The provisions set forth in the preamble to this Ordinance are incorporated by reference as set forth in their entirety herein.

SECTION 2. Amendment of the Code.

The Administrative Code of Allegheny County, Article 903, entitled “Formal Procurement Process,” §5-901.03.02, entitled “Purchases over \$30,000,” is hereby amended as follows:

§ 5-903.02 Purchases over ~~\$30,000~~ \$18,500.

- A. Except as provided below, all contracts or purchases in excess of ~~\$30,000~~ \$18,500, subject to adjustment to account for consumer price index fluctuations in accordance with the provisions of 16 P.S. §3112 and as published annually by the Pennsylvania Department of Labor and Industry, shall be in writing after being published at least ~~one time, not less than seven days prior to the date fixed for opening of bids~~ two (2) times, at intervals of not less than three (3) days where daily newspapers of general circulation are employed for such publication, or in case weekly newspapers are employed, then the notice shall be published once a week for two (2) successive weeks. The first advertisement shall be published not less than ten (10) days prior to the date fixed for the opening of bids. In addition, the Purchasing Officer shall also make all requests for proposals for contracts or purchases in excess of \$18,500 available to the public free of charge via posting to the County’s website, not less than ten (10) days prior to the date fixed for the opening of bids. The Purchasing Officer may, at their discretion, require submission of bids in response to requests for proposals under this Subsection via secure websites or other means that may require the payment of access fees or other fees and/or costs. The successful bidder shall be the lowest responsible responsive bidder meeting specifications, with full consideration of cost, quality and performance. In the event that the County receives two completely identical responsive responsible bids, the award shall be made in accordance with the Purchasing Manual.
- B. The Purchasing Officer, in advertising the bids, shall have discretion to let bids on an item-by-item basis and/or on a total package basis in order to obtain the most favorable bid proposals for the County.
- C. The Controller shall receive all bids in a timely fashion and deliver same to the Purchasing Officer. The Purchasing Officer shall announce all bid figures publicly, and all bids thereafter shall be referred to the Division of Purchasing and Supplies for tabulation. The Purchasing Officer shall keep a record of all bids received. Whenever, for any reason, the bid opening shall not be held, the same business may be transacted at the identical time on the next business day or at any time and place announced at the time of the scheduled bid opening. The County shall reserve the right to reject any and all bids and to rebid a contract or purchase.
- D. The Purchasing Officer may require, after consultation with the Manager, that bids shall be

accompanied by a cashier's check or money order, in an amount not exceeding 5% of the bid, by a bond with corporate surety in an amount not exceeding 5% of the amount bid, or by an irrevocable letter of credit in such form as previously approved by the Purchasing Officer issued by a bank or other financial institution duly recognized and authorized to do business in the Commonwealth in an amount not exceeding 5% of the bid. The good faith deposits by cashier's check or money order, bond or letter of credit, shall be held by the Purchasing Officer to be returned to the unsuccessful bidders when the contract is awarded or when the County determines that it is necessary to reject all bids. In the event that any bidder shall, upon award of the contract, fail to comply with the requirements hereinafter stated as to a bond guaranteeing the performance of a contract, or fail or refuse to enter into a contract, or otherwise fail or refuse to render the services required, the good faith deposit, cashier's check or money order, bond or letter of credit shall be forfeited to the County as liquidated damages, and the contract subsequently may be awarded to the next lowest responsive responsible bidder, who shall manifest acceptance of such contract by giving a good faith deposit in the amount and manner set forth in this subsection above on or before the third business day after the award of the contract to such bidder and otherwise comply with the provisions of this section.

- E. The successful bidder, when advertising is required herein, may be required to furnish a bond with suitable reasonable requirements guaranteeing performance of the contract, with sufficient surety in the amount of 100% of the amount of the contract, within 30 days after the contract has been awarded, unless the Purchasing Officer shall prescribe a shorter period or unless the Purchasing Officer shall waive the bond requirement in the bid specification. Upon failure to furnish any required bond within such time, the previous awards shall be void, and the contract may be awarded to the next lowest responsible responsive bidder meeting specifications.
- F. The Purchasing Officer shall combine requisitions for similar contracts and purchases of materials, supplies, furnishings, equipment, insurance, and other personal property and nonprofessional services without regard to the potential total cost of the contract or purchase. Contracts and the purchase shall not be divided into separate contracts and purchases to avoid the financial threshold for the competitive bidding process.
- G. The Chief Purchasing Officer, in cooperation with the Division of Veterans Services, shall create a procedure which incorporates a five-percent government-wide goal for participation in the formal procurement process by small business concerns owned and controlled by veterans.
- (1) For the purposes of this subsection, a "veteran" is an individual who is currently serving or has served on active or reserve duty in the United States Army, Navy, Air Force, Marines, Coast Guard or Merchant Marine, and who has not been dishonorably discharged from that service.
 - (2) For the purposes of this subsection, "owned and controlled by veterans" means a business:
 - (a) Not less than 51% of which is owned by one or more veterans or, in the case of any publicly owned business, not less than 51% of the stock of which is owned by one or more veterans; and
 - (b) The management and daily business operations of which are controlled by one or more veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of a veteran.

- (3) The Chief Purchasing Officer shall define "small business" in any fashion he or she deems appropriate for effective administration of this requirement.
- (4) The policy created by the Chief Purchasing Officer shall require that a copy of United States Department of Defense Form DD214 or current service identification card(s) for any veteran(s) establishing any business as owned and controlled by veterans under this subsection must be submitted with any bid proposal, together with any proof of business ownership deemed appropriate by the Chief Purchasing Officer.
- (5) In the event that the Chief Purchasing Officer determines that the five-percent participation goal is unattainable in the context of a particular procurement transaction, the remaining formal procurement requirements will still be applicable to that transaction.
- (6) For the purposes of this subsection, "Chief Purchasing Officer" shall mean only the individual designated to exercise direct supervisory authority over the Division of Purchasing and Supplies or any successor County office or division, and shall not include the Director of any County department or any individual holding elected County office.

H. The Purchasing Officer shall make notice of awards of all single source contracts or purchases and all other contracts or purchases that are otherwise exempted from the procurement process established within this Section and that are valued in excess of \$18,500 available to the public free of charge via posting to the County's website, not less than five (5) days after the execution of such contracts or finalization of such purchase terms.

SECTION 3. Effective Date.

The provisions of this Ordinance shall become effective immediately upon final approval.

SECTION 4. Severability. *If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance, which shall be in full force and effect.*

SECTION 5. Repealer. *Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Resolution.*