

RECORD OF ORDINANCES

Ordinance No. 06-24-2020Passed 6-2-, 2020

AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO SUBMIT APPLICATIONS FOR ANY FEDERAL, STATE OR LOCAL GRANTS AVAILABLE TO ASSIST IN COVERING THE EXPENSES TO THE CITY ARISING OUT OF THE COVID-19 PANDEMIC AND DECLARING AN EMERGENCY.

WHEREAS, the City of Circleville has incurred various expenses for the cleaning of buildings, personal protective equipment, computer equipment and services and other safety equipment made necessary for the prevention, preparation for and responding to the COVID-19 pandemic; and

WHEREAS, as a result of this coronavirus pandemic, various Federal, State and local governmental agencies and other businesses and organizations have funded grants to assist in reimbursing local governments for these associated costs; and

WHEREAS, due to these unexpected expenses, council believes it to be the best interests of its citizens to make application for any potential grant funds available.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Circleville, Pickaway County, Ohio, as follows:

SECTION I. That the Director of Public Safety is hereby authorized and directed to submit applications for any Federal, State or local grant funds which may be found available to assist in reimbursing the City for all costs incurred associated with or arising out of the COVID-19 pandemic.

SECTION II. That this ordinance is hereby declared to be an emergency measure, necessary for the immediate preservation of the public peace, health and safety of the citizens of the City of Circleville, such emergency arising out of the immediate need to make due application for any grants available prior to their submission deadline, so that this ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: 6-2-2020

Dail M. Ford
PRESIDENT OF COUNCIL

ATTEST: Liam M. Chong
CLERK OF COUNCIL

APPROVED:

6-3-2020
DATE

Michael M. Ly
MAYOR

APPROVED AS TO FORM:

Gary D. Kenworthy
GARY D. KENWORTHY
CIRCLEVILLE CITY LAW DIRECTOR

REVIEWED BY LAW DIRECTOR
AND APPROVED AS TO FORM

PROCUREMENT AND PURCHASING POLICY
For
The City of Circleville, Ohio
Governmental, Safety and Enterprise Departments

PURPOSE:

The City of Circleville, Ohio ("City"), has implemented this procurement and purchasing policy ("Policy") to promote and maintain a system of procurement and purchasing that is efficient, consistent, effective, equitable, and assures quality and integrity in city purchasing. This policy complies with all applicable federal and state laws concerning public purchasing.

I. DEFINITIONS:

As used in this policy, the following definitions shall apply:

- A. *Competitive procurement process*: A contracting method in which the city solicits proposal and/or quotes, negotiates the terms, conditions, and other relevant factors, and enters into a contract advantageous and beneficial to the city.
- B. *Construction contract*: A contract entered into for the construction, demolition, alteration, repair, or reconstruction for any building, structure, street, or other public improvement.
- C. *Department head*: The elected official and/or the appointed director who oversees the administrative function of a department.
- D. *Enterprise Department*: The water, sanitary sewer, and storm sewer utility departments of the city.
- E. *Formal competitive bid*: A contracting method in which the city develops bid specifications and/or documents, provided notice to bidders, requires sealed bids by a stated deadline, accepts or rejects bids and awards the contract to the lowest and best bidder pursuant to R.C. Section 735.05, subject to exception referenced therein.
- F. *Governmental Department*: A city department that is not part of the Department of Public Safety (including, police, fire, safety) or an Enterprise Department (including water and sewer).
- G. *Procurement contract*: A contract entered into for the buying, purchasing, renting, leasing or acquisition by any other manner of any materials, supplies, equipment services, professional services, or grants in support of city departments, but not including construction contracts.
- H. *Professional services*: Services that usually require skill or expertise of an advanced, specialized or peculiar nature, including but not limited to attorneys, architects, engineers, professional design firms, construction managers, surveyors, accountants, physicians, real estate appraisers, realtors, insurance advisors, computer software consultants, telecommunications consultants, and third-party benefit administrators.
- I. *Safety Department*: The police, fire, and safety departments of the city.

II. DUTIES AND POWERS OF THE DEPARTMENT HEAD:

The department head shall perform all duties required by law and shall have the powers and duties prescribed by this ordinance and the R.C. Sections 715.18, 723.52, 723.53, 735.05 and 737.03. The department head shall be a duly elected public official or a director appointed by a duly elected public official.

- A. The department head shall assist in the purchases of materials, supplies, and services and purchases, rentals, and leases of equipment in the manner set forth herein.
- B. The department head shall adopt administrative procedures necessary to implement this policy, to protect the public interest, and to insure fair, efficient, and reasonable contracting practices.
- C. The department head shall prescribe and maintain such forms as are reasonably necessary to implement this ordinance and any procedures promulgated under this ordinance.
- D. The department head and the auditor shall maintain the original of all contracts entered into by the city in accordance with the city's record retention.
- E. The department head shall perform all other duties assigned by resolutions or ordinances of the city council, by the mayor, by the auditor or by recommendation of the law director.

III. COMPETITIVE PROCUREMENT PROCESS:

- A. The award of a procurement contract for materials, supplies, equipment services, or professional services (excluding vehicles and grants) involving more than ten thousand dollars (\$10,000) but not more than twenty-five thousand dollars (\$25,000) shall be based upon a competitive procurement process.
- B. The award of a procurement contract for materials, supplies, equipment, services, or professional services (excluding vehicles and grants) involving more than twenty five thousand dollars (\$25,000) shall be authorized and directed by ordinance and be based upon a competitive procurement process.
- C. The award of a procurement contract for a vehicle costing more than ten thousand dollars (\$10,000) but not more than fifty thousand dollars (\$50,000) shall be authorized and directed by ordinance and be based upon a competitive procurement process.
- D. The award of a grant costing more than one thousand dollars (\$1,000) shall be authorized and directed by ordinance and based upon a competitive procurement process.
- E. The award of a procurement contract involving not more than ten thousand dollars (\$10,000) shall not require a competitive procurement process.

IV. FORMAL COMPETITIVE PROCUREMENT PROCESS:

- A. Any contract expenditure, other than the compensation of persons employed by the city, for more than fifty thousand dollars (\$50,000) shall be awarded through the competitive bid process pursuant to R.C. Section 735.05, subject to the exceptions referenced therein.
- B. The department head shall only enter into a contract upon passage of an ordinance by city council authorizing and directing the department head to enter into a written contract with the lowest and best bidder.

V. CONDITIONS OBVIATING FORMAL COMPETITIVE BID AND COMPETITIVE PROCUREMENT PROCESS:

- A. In the case of a real and present emergency arising in connection with the operating and maintenance of any department, division, commission, bureau, or board of the city, city council may, authorize the department head to enter into a procurement contract or construction project without formal competitive bid or competitive procurement process.
- B. The following contracts may be awarded without formal competitive bid or competitive procurement process:

1. Contracts for gas electric service, postage, water and sewer service, solid waste disposal, advertising, or where fixed prices prevail.
 2. Contracts for professional services.
 - i. Contracts for professional services in excess of \$50,000 shall be authorized and directed by an ordinance of city council.
 - ii. Processes for selecting professional design services are subject to and shall be governed by the applicable requirements of R.C. Sections 153.65 to 153.73.
 3. Purchases made in accordance with the Ohio Cooperative Purchasing Act, R.C. 125.04.
 4. Purchase of machinery, material, supplies or other articles made in accordance with R.C. 5513.01 or the purchase of any passenger vehicle, van, truck, trailer or other heavy equipment in accordance with R.C. 5513.04. *Purchases of vehicles in excess of ten thousand dollars (\$10,000) shall be authorized and directed by an ordinance of city council.*
 5. Procurement (e.g. "piggyback") contracts if the city is participating as an additional purchaser in an existing valid and lawful contract between a vendor and another political subdivision, a state, the U.S. General Services Administration, a federal agency, or a governmental cooperative purchasing group, provided that the other political subdivision, state, U.S. General Services Administration, federal agency or purchasing group has procured and entered into such contract in accordance with a formal competitive bid or competitive procurement process that is substantially similar to the provisions in this chapter.
 6. Subject to the provisions set forth in this ordinance purchases to replenish inventories of office supplies or other purchases to replenish inventories of goods or materials that are needed on a day-to-day basis for the operation of any department or division.
 7. Purchase of contracts for proprietary computer software programs and support.
 8. When the department head determines that only a sole source exists for the purchase of the supply of material. *Purchases in excess of \$25,000 shall be authorized and directed by an ordinance of council.*
 9. Grants in support of community agencies and non-profit organizations in an amount not to exceed \$1,000.
- C. The city may enter into a contract, without advertising and bidding, for the purchase of used equipment or supplies at an auction open to the public, or at a sale where the vendor has invited the public to submit written bids.
- D. The city may enter into a contract, without advertising and bidding, for services or the purchase of material, equipment, or supplies, from any department, division, agency or political subdivision of the state.

VI. CONTRACTING AUTHORITY:

- A. Except as provided in subsection (B) and (C) below, any contract involving an expenditure of city funds shall adhere to R.C. 735.05 and shall require prior city council approval.
- B. The department head may enter into any contract involving an expenditure of not more than twenty-five thousand dollars (\$25,000) without prior city council approval, provided that sufficient funds have already been appropriated for that purpose. *However, vehicles in*

excess of ten thousand dollars (\$10,000) shall be required to be authorized and directed by an ordinance of city council.

- C. The department head may enter into contracts for items set forth in Section V (B) 1 of this ordinance without prior city council approval, provided that sufficient funds have already been appropriated for those purposes.
- D. Whenever possible contracts shall be entered into for an entire project and shall not be artificially split into multiple contracts for the purpose of avoiding the dollar limitations set forth in this ordinance.

VII. APPROPRIATIONS:

No expenditure shall be authorized unless City Council has made an appropriation pursuant to R.C. Chapter 5705 Tax Levy Law, and in Chapter 705 Plan of Government.

VIII. UNLAWFUL INTEREST IN A PUBLIC CONTRACT:

- A. As used in this section, the following definitions apply:
 - 1. *Public contract* means any of the following:
 - a. The purchase or acquisition, or a contract for the purchase or acquisition of property or services by or for the use of the City of Circleville.
 - b. A contract for the design, construction, alternation, repair or maintenance of any public property.
 - 2. *Public official* means any elected or appointed officer, or employee or agent of the City of Circleville whether in a temporary or permanent capacity, and including without limitation legislators.
 - 3. *Knowingly* is the culpable mental state required.
- B. No public official shall knowingly do any of the following:
 - 1. Authorize, or employee the authority of influence of her/his office to secure the authorization of any public contract in which she/he, a member of her/his family, or any of her/his business associates has an interest.
 - 2. Authorize, or employ the authority or influence of her/his office to secure the investment of public funds in any share, bond, mortgage, or other security, with respect to which she/he, a member of her/his family, or any of her/his business associates either has an interest, is an underwriter, or received any brokerage, origination, or service fees.
 - 3. During her/his term of office or within one (1) year thereafter, occupy any position of profit in the prosecution of a public contract authorized by him/her or by a legislative body, commission or board of which she/he has a member at the time of authorization, unless the contract was let by competitive bidding to the lowest and best bidder.
 - 4. Have an interest in the profits or benefits of a public contract entered into by or for the use of the political subdivision or governmental agency or instrumentality with which she/he is connected.
 - 5. Have an interest in the profits or benefits of a public contract that is not let by competitive bidding if required by law and that involves more than one hundred fifty dollars (\$150).

- C. In the absence of bribery or a purpose to defraud, a public official, member of her/his family, or any of her/his business associates shall not be considered as having an interest in a public contract or the investment of public funds, if **all** the following apply:
1. The interest of the person is limited to owning or controlling shares or the corporation, or being a creditor of the corporation or other organization, that is the contractor on the public contract involved, or that is the issuer of the security in which public funds are invested.
 2. The shares owned or controlled by that person do not exceed five percent (5%) of the outstanding shares of the corporation, and the amount due that person as creditor does not exceed five percent (5%) of the total indebtedness of the corporation or organization.
 3. That person, prior to the time the public contract is entered into, files with the city council clerk, an affidavit giving her/his exact status in connection with the corporation or other organization. The public contract shall be considered entered into at the time that city council, by vote, authorizes the department head to enter into a public contract.
- D. This section does not apply to a public contract in which a public official, member of her/his family, or one of her/his business associates has an interest, when **all** of the following apply:
1. The subject of the public contract is necessary supplies or services for the political subdivision or governmental agency or instrumentality involved.
 2. The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the political subdivision or governmental agency or instrumentality as part of a continuing course of dealing established prior to the public official's becoming associated with the political subdivision or governmental agency or instrumentality involved.
 3. The treatment accorded the political subdivision or governmental agency or instrumentality is either preferential to or the same as that accorded other customers or clients in similar transactions.
 4. The entire transaction is conducted at arm's length, with full knowledge by the political subdivision or governmental agency or instrumentality involved, or the interest of the public official, member of her/his family, or business associate, and the public official takes no part in the deliberations or decision of the political subdivision or governmental agency or instrumentality with respect to the public contract.
- E. The Ohio Ethics Law: R.C. Chapter 102 and other related statutes R.C. 2921.01, 2921.42, and 2921.421, and 2921.43 will take precedent over the above mentioned sections.
- F. Whoever violates this section is guilty of having an unlawful interest in a public contract. Violation of this section shall proceed under state law.