

City of Manchester, MO  
Thursday, March 28, 2019

## Chapter 135. Finance and Purchasing

### Article II. Purchasing and Sale of City Property

#### Section 135.050. Purpose.

- A. The purpose of this Article is to establish standardized procedures for procuring good and services that combine fiscal control with flexibility to assure that the City receives the best value. The best value is achieved by obtaining high quality goods and services at the lowest possible costs considering the City's specific goals, needs and circumstances in a given situation. This Article also provides procedures for the disposition of City property that is no longer needed for municipal purposes.  
[Ord. No. 18-2227, 8-20-2018]
- B. The Director of Finance shall be the purchasing agent for the City and shall ensure that all purchases are made in accordance with the purchasing rules and procedures approved by the Board of Aldermen. In his/her capacity as the City's purchasing agent, the Director of Finance shall oversee the preparation of all bid specifications for services and equipment.

#### Section 135.060. Conflicts of Interest.

Any officer or employee of the City who has a financial interest, direct or indirect, shall disclose such interest prior to the execution of a purchase order or contract. The City Administrator shall immediately report to the Mayor and Board of Aldermen any information that would indicate any such interest either before or after a purchase has been made.

#### Section 135.070. Acceptance of Gifts or Rebates.

All officers and employees of the City are expressly prohibited from accepting, directly or indirectly, any rebate, gift, money, or anything of value whatsoever, except where given for the use and benefit of the City, from any person to which a purchase order or contract is awarded or may be awarded.

#### Section 135.080. Competitive Bidding.

[Ord. No. 06-1688 §1, 7-3-2006; Ord. No. 15-2115 §1, 8-17-2015]

- A.

When the City negotiates any purchase for goods and services, there shall be provided ample opportunity for competitive bidding in the following manner and with due regard to obtaining products, resources, terms, and conditions most advantageous to the City:

1. If the consideration is less than five thousand dollars (\$5,000.00), bids need not be solicited but may be authorized by the appropriate department head.
2. If the consideration is more than five thousand dollars (\$5,000.00) but less than ten thousand dollars (\$10,000.00), the department head shall solicit, orally or in writing, at least three (3) bids, either oral or written, non-sealed, for the item or items. The execution of the bid requirement shall be documented by the department head on a form provided by the office of the Director of Finance and attached to the purchase order. The department head may then award the purchase or contract for services to the lowest responsible bidder who submits the bid which is most advantageous to the City.
3. If the consideration is more than ten thousand dollars (\$10,000.00) but less than fifteen thousand dollars (\$15,000.00), the department head shall solicit, orally or in writing, at least three (3) non-sealed written bids for the item or items. The execution of the bid requirement shall be documented by the department head on a form provided by the office of the Director of Finance and attached to the purchase order. The department head may then, with the approval of the City Administrator, award the purchase or contract for goods or services to the lowest responsible bidder who submits the bid which is most advantageous to the City. Following such award by the City Administrator, the Mayor and Board of Aldermen shall be notified of such award.
4. Whenever the consideration is contemplated to be more than fifteen thousand dollars (\$15,000.00), the department head shall cause to be published in one (1) newspaper of general circulation in the St. Louis metropolitan area a notice inviting sealed bids; said notice shall be published at least ten (10) days prior to the date set for receipt of bids. The notice herein required shall include a general description of the articles to be purchased or the services to be performed and the time and place for opening of sealed bids. The notice will also be posted on the City's website. In addition, the notice shall be sent (via US Mail or e-mail, with a reply that they have received the notice) to at least three (3) responsible prospective suppliers of the item to be purchased or services to be performed. If three (3) responsible suppliers cannot be reasonably located, the department head shall certify that fact to the City Administrator upon presentation of the bids. Notice of the invitation to bid shall be posted in the lobby of City Hall and on the City's website.
5. Sealed bids shall be received by the appropriate department head and shall be identified as bids on the envelope. The bids shall be opened in public at the time and place stated in the invitation to bid and in any public notice before at least two (2) City witnesses, and, after the opening, the department head shall tabulate all bids received and shall file a written report of the bids with the City Administrator together with his/her written recommendation of whom the City Administrator should recommend to the Mayor and Board of Aldermen for the award of the contract.
6. The Board of Aldermen, upon receiving the tabulation and recommendation of the department head and the recommendation of the City Administrator, shall award the contract to the lowest responsible bidder but shall have the right to reject any and all bids.

7. The following shall be the minimal guidelines in determining the lowest responsible bidder:
  - a. The ability, capacity and skill of the bidder to perform the contract or provide the services required;
  - b. Whether the bidder can perform the contract or provide the services promptly or within the time specified, without delay or interference;
  - c. The character, integrity, responsibility, judgment, experience, and efficiency of the bidder;
  - d. Whether the bidder is in default on the payment of taxes, licenses or other monies due the City, and this factor alone shall justify disqualification;
  - e. The quality and performance of previous contracts or services to the City;
  - f. The previous and existing compliance by the bidder with laws, the provisions of this Code and other City ordinances relating to the contract services;
  - g. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
  - h. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
  - i. The ability of the bidder to provide, where applicable, future service and maintenance of equipment which is the subject of the contract;
  - j. The number and scope of conditions attached to the bid; and
  - k. The providing to the City of the names of all subcontractors that will be used by the successful bidder for completion of the contract services.
8. All contracts proposed to be awarded under Subsection **(A)(2), (3) and (4)** this Section shall be awarded only after the applicable provisions of Sections 285.530 and 208.009 of the Revised Statutes of Missouri have been fully satisfied.

### Section 135.090. Bid Award.

- A. The City reserves the right to reject any and all bids. Bids shall be awarded to the lowest and best bidder. In determining the lowest and best bidder, the following factors shall be considered in addition to pricing:
  1. The ability, capacity and skill of the bidder to perform the terms of the contract or provide the service required.
  2. Whether the bidder can meet the contractual terms or provide the service required within the specified timeframe.
  3. The bidder's past performance on previous contracts or services.
  - 4.

- The previous and current compliance of the bidder with laws and ordinances relating to the contract or service.
5. The financial resources and ability of the bidder to perform the contract or provide the service.
  6. The ability of the bidder to provide future maintenance and service for the subject of the contract.
- B. Bids shall not be accepted from firms who are in default on the payment of taxes, licenses or other monies due the City.
- C. Bids shall not be accepted by the City until consultation with the Director of Finance and department head affected by such bid.

### Section 135.100. Competitive Bidding — Exceptions.

[Ord. No. 03-1455, §2, 11-3-2003]

- A. *Professional Services.* Contracts for services of professional persons, including, but not limited to, attorneys, physicians, accountants or other services requiring expert or special knowledge or skill, including, but not limited to, planning consultants, insurance advisors and brokers, auditors, public relations consultants, real estate brokers, and landscape architects shall be exempt from the requirement of competitive bidding.
- B. *Cooperative Purchasing.* Contracts with any other governmental units or agencies for the purpose of cooperative purchasing, when it would best serve the interests of the City, shall be exempt from the requirement of competitive bidding. The Director of Finance or the City Administrator must, however, verify that the purchase has been subject to competitive bidding by some other governmental entity.
- C. *Exclusive Supplier.* The City Administrator may waive the requirement of competitive bidding if only one (1) supplier can satisfy the needs of the City. A single feasible source exists when supplies are proprietary and only available from the manufacturer or a single distributor or if it is determined that only one (1) distributor services the region in which the supplies are needed.
- D. *Per Unit Pricing.* When it shall be deemed more appropriate to obtain per unit pricing at the beginning of the fiscal year, at which time items shall be subject to Board of Aldermen approval, supplies, materials, and equipment may be secured from that same supplier throughout the fiscal year.
- E. *Emergency Purchases.*
1. The Mayor may, in a situation where time is of the essence, authorize the purchase or procurement of materials, supplies, equipment or services involving expenditure (or a related series of expenditures) in a total amount not to exceed twenty-five thousand dollars (\$25,000.00). The Mayor shall grant such approval in writing and provide a copy of the same to the Board of Aldermen immediately following the granting of such approval. Such purchases or procurements may be made by the Mayor regardless of the inclusion of such expenditure in the annual budget of the City, provided the expenditure does not exceed the fund in the annual budget provided for such expenditures.

2. In the event that a state of emergency in the City of Manchester is declared in accordance with Chapter 44 of the Revised Statutes of the State of Missouri and the Code of Ordinances of the City of Manchester, the Mayor shall be empowered to authorize the purchase or procurement of materials, supplies, equipment or services as deemed necessary to ensure the health and safety of the public.
- F. Negotiated Agreements For Goods And Services. In lieu of instituting the competitive bidding process set forth in Section **135.080**, the Board of Aldermen may approve a negotiated procurement of goods or services if:  
[Ord. No. 18-2227, 8-20-2018]
1. The City has received no responsive bids to an advertisement for bids pursuant to Section **135.080**;
  2. The Board has rejected all bids received pursuant to an advertisement for bids under Section **135.080**; or
  3. The Board determines that, based on the facts and circumstances of a particular situation, the purpose of the City's Purchasing Policy to obtain the best value for goods and services would be frustrated by following the formal competitive bidding process of Section **135.080** and that negotiation with one (1) or more vendors enhances the City's opportunity to procure proven, quality services or products in a more efficient and cost-effective manner.

## Section 135.110. Procurement of Engineering, Architectural, Land Surveying and Other Professional Services.

- A. The following shall be the policy and procedures for selecting architectural, engineering, land surveying, and other professional services for the City.
1. *Definitions.* As used in this Article the following terms shall have these prescribed meanings:
    - ARCHITECTURAL SERVICES**  
Those services within the scope of practice of architecture as defined by the laws of the State of Missouri, Section 327.091, RSMo., to include landscape architects.
    - ENGINEERING SERVICES**  
Those services within the scope of practice of engineering as defined by the laws of the State of Missouri, Section 327.181, RSMo.
    - FIRM**  
Any individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the profession of architecture, engineering or land surveying, or other professional services and that provides said services.
    - LAND SURVEYING SERVICES**  
Those services within the scope of practice of land surveying services as defined by the laws of the State of Missouri, Section 327.272, RSMo.

**SELECTION COMMITTEE**

The City Administrator, the Director of Finance, the City Engineer when appropriate, the department head of the using department, and other staff members as deemed appropriate by the City Administrator.

**USING DEPARTMENT**

The City Department requesting the professional service and that shall be the prime user of the service.

2. *Classes of services.* Projects will be divided into two (2) classes as follows:
  - a. *Class A.* Services for projects where fees will exceed seven thousand five hundred dollars (\$7,500.00).
  - b. *Class B.* Services for projects where fees will be seven thousand five hundred dollars (\$7,500.00) or less.
3. *General procedures and responsibilities for Class A projects.*
  - a. *Project Initiation.* When a department of the City identifies a project for which architectural, engineering, land surveying or other professional services will be necessary, the department will draft a scope of services for the specific project. This scope of services will be submitted to the City Administrator for authorization to initiate the project. The department shall include in the scope of services the following:
    - (1) A description of the work to be performed and its objectives.
    - (2) The nature of specific tasks and services to be accomplished.
    - (3) The type and amount of assistance to be given by the using department.
    - (4) Required timeframe for completion of the project.
    - (5) Financial conditions, limitations or other requirements such as applicable grant funding.
  - b. *Expressions of interest.* Upon the approval of the City Administrator, the using department will contact a minimum of three (3) firms to submit an expression of interest in the specific project summarized in the scope of services. Firms responding to the expression of interest shall provide the following information:
    - (1) Name and address of firm.
    - (2) Previous related experience.
    - (3) Outside firms or outside personnel to be used on projects.
    - (4) Brief resume of key persons to be assigned to project.
    - (5) Special experience in the project being considered.
    - (6) Any work previously performed for the City.
    - (7) Description of resources.

- c. *Initial screening of expressions of interest.* The Selection Committee will utilize the following factors in the initial screening of the expressions of interest:
- (1) Specialized experience and technical competence in the type of work required.
  - (2) Past record of performance with respect to cost control, quality of services and ability to meet schedules.
  - (3) Quality of work previously performed by the firm for the City.
  - (4) Ability in the area of community relations, including evidence of sensitivity to citizen concerns.
- d. *Selection process.*
- (1) Upon completion of the initial screening process, the Selection Committee will interview, if necessary, prospective firms. The Selection Committee will then recommend the two (2) firms deemed to be best qualified and capable of performing the desired work.
  - (2) The City shall negotiate a contract with the top firm selected. If a satisfactory contract cannot be negotiated with the top firm, negotiations with that firm shall be terminated with the approval of the Selection Committee. Negotiations may then begin with the second (2nd) firm. If an agreement cannot be reached with the second (2nd) firm, negotiations with such firm may be terminated with the approval of the Selection Committee. If an agreement cannot be reached with the two (2) selected firms, the using department shall reevaluate the professional services, including scope and fee requirements, and proceed in accordance with this Article.
4. *General procedures and responsibilities for Class B projects.* For projects where fees will be seven thousand five hundred dollars (\$7,500.00) or less, the using department will solicit a minimum of three (3) written proposals by mail or telephone, when possible. After reviewing the detailed proposals, the using department shall make a recommendation to the City Administrator for approval or rejection of the proposal.
5. *Prohibition against contingent fees.*
- a. Each contract entered into by the Board of Aldermen for professional services shall contain a prohibition against contingent fees as follows:  
"The architect, engineer, or land surveyor (as applicable) warrants that he/she has not employed or retained any company or person, other than a bona fide employee working solely for the architect, engineer, or land surveyor, to solicit or secure any person, company, corporation, individual, or firm other than a bona fide employee working solely for the architect, engineer, or land surveyor, any fees, commission, percentage, gift, or any other consideration, contingent upon or resulting from the aware or making of this agreement."
  - b. For the breach or violation of the foregoing provision, the Board of Aldermen shall have the right to terminate the agreement without liability and at its discretion to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

6. *Exceptions.*

- a. When, in the opinion of the City Administrator, the nature of the professional service is so specialized that there is one (1) supplier of the professional service that can best meet the City's needs, the City Administrator may select or recommend the selection of such firm. Any exception shall be promptly reported to the Board of Aldermen with an explanation of the reasons therefore.
- b. The Board of Aldermen in its sole and absolute discretion may waive any and all aforementioned procedural requirements.