

RECORD OF ORDINANCES
CITY OF UPPER ARLINGTON
STATE OF OHIO

ORDINANCE NO. 50-2015

TO AMEND C.O. §138.04 – COMPETITIVE PROCUREMENT PROCESS, C.O. §138.06 – CONDITIONS OBVIATING FORMAL COMPETITIVE BID OR COMPETITIVE PROCUREMENT PROCESS, C.O. §138.09 – CONTRACTING AUTHORITY, AND C.O. §138.10 – DELEGATION OF AUTHORITY, RELATIVE TO THE ADMINISTRATIVE CODE

WHEREAS, staff has recommended changes to the City's Procurement Code;

NOW, THEREFORE, LET IT BE ORDAINED by the Council of the City of Upper Arlington, Ohio:

SECTION 1. That C.O. Section 138.04 is hereby amended to read as follows:

§138.04 COMPETITIVE PROCUREMENT PROCESS

(A) The award of a procurement contract involving more than seven ~~five~~ thousand five hundred dollars (~~\$5,000.00~~7,500.00) but not more than forty thousand dollars (\$40,000.00) shall be based upon a competitive procurement process.

(B) The award of a procurement contract involving not more than seven ~~five~~ thousand five hundred dollars (~~\$5,000.00~~7,500.00) shall not require a competitive procurement process.

SECTION 2. That C.O. Section 138.06 is hereby amended to read as follows:

§138.06 CONDITIONS OBVIATING FORMAL COMPETITIVE BID OR COMPETITIVE PROCUREMENT PROCESS

(A) (1) In the case of a real and present emergency arising in connection with the operation and maintenance of any department, division, commission, bureau, or board of the city, city council may, authorize the city manager to enter into a procurement contract or construction contract without a formal competitive bid or competitive procurement process.

(2) In the case of a real and present emergency as declared by either the President of the United States, the Governor of Ohio, the President of City Council

or the City Manager arising in connection with the operation and maintenance of any department, division, commission, bureau, or board of the city and in the interest of the public health, safety and welfare needing action prior to the next regularly scheduled council meeting, the city manager may enter into a procurement contract or construction contract without a formal competitive bid or competitive procurement process. The city manager shall, as soon as reasonably possible under the circumstances, notify city council of the details concerning the contract(s) and the emergency.

(B) The following contracts may be awarded without a formal competitive bid or competitive procurement process:

(1) Contracts for gas and electric service, postage, water and sewer service, solid waste disposal, advertising, or, where fixed prices prevail.

(2) Contracts for professional services.

(3) Purchases made in accordance with the Ohio Cooperative Purchasing Act, ORC § 125.04.

(4) Purchase of machinery, materials, supplies or other articles made in accordance with ORC § 5513.01 or the purchase of any passenger vehicle, van, truck, trailer, or other heavy equipment in accordance with ORC § 5513.04.

(5) Procurement 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 of this chapter.

(6) Subject to the provisions of C.O. § 138.09, 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 contracts for proprietary computer software programs.

(8) When the purchasing administrator determines that only a sole source exists for the purchase of the supply of material.

(9) Grants in support of community agencies.

(10) Contracts involving city services or equipment entered into pursuant to C.O. § 131.14.

(11) Purchases made from a community rehabilitation program in accordance with ORC §§ 125.60 to 125.6012.

(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.

(E) The city may enter into a contract pursuant to a reverse auction authorized in accordance with ORC § 9.314 or C.O. § 138.21.

~~(F) (1) The purchasing administrator may recommend to the city manager that the city may enter into a contract, without advertising and bidding, for the purchase of supplies or services from another party, including a political subdivision, if the city can purchase those supplies or services from the other party upon equivalent terms, conditions, and specifications but at a lower price than it can through the Ohio Cooperative Purchasing Act, ORC § 125.04.~~

SECTION 3. That C.O. Section 138.09 is hereby amended to read as follows:

§138.09 CONTRACTING AUTHORITY

(A) Except as provided in subsections (B) through (F) below, any contract involving an expenditure of city funds shall require prior city council approval.

(B) The city manager may enter into any contract involving an expenditure of not more than forty thousand dollars (\$40,000.00) without prior city council approval, provided that sufficient funds have already been appropriated.

(C) The city manager may enter into contracts for the items set forth in C.O. § 138.06(B)(1) without prior city council approval, provided that sufficient funds have already been appropriated.

(D) The city manager may enter into contracts for the items set forth in C.O. §§ 138.06(B)(3) through (5), 138.06(C), and 138.06(D), and 138.06(F) without prior city council approval, provided that sufficient funds have already been appropriated, the item was specifically identified in the annual budget document approved by city council, and the contract price does not exceed the budget estimate by more than ten percent (10%).

(E) The city manager may enter into contracts for grants in support of community agencies involving an expenditure of not more than thirty thousand dollars (\$30,000.00) without prior city council approval. All contracts for grants in support of community agencies shall be reported to city council on a quarterly basis.

(F) The city manager may enter into contracts for professional services for architects, engineers, professional design firms, construction managers, or similar construction related professionals without prior city council approval, provided that sufficient funds have already been appropriated and are available as certified by the Director of Finance and Administrative Services, the construction project is specifically identified in the annual budget document approved by city council, the construction project is listed in the most-recently approved 10-year Capital Improvement Program, and the selection of the professional was done pursuant to the quality based selection process approved by city council. All contracts entered into pursuant to this subsection shall be reported to city council on no less than a quarterly basis.

(G) The city manager may enter into contracts as provided in C.O. § 138.06(A)(2) without prior city council approval, in the amount necessary to address the real and present emergency prior to the next regularly scheduled council

meeting.

(F~~H~~) The city attorney may enter into contracts for professional services as authorized in C.O. § 139~~8~~.06 involving an expenditure of not more than forty thousand dollars (\$40,000.00) without prior city council approval, provided that sufficient funds have already been appropriated.

(G~~I~~) 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 section.

SECTION 4. That C.O. Section 138.10 is hereby amended to read as follows:

§ 138.10 - DELEGATION OF AUTHORITY

(A) The city manager may delegate to the assistant city manager the full extent of the city manager's authority to execute contracts on behalf of the city.

(B) The city manager may delegate to the director of finance and administrative services or designee the city manager's authority to execute purchase orders involving an expenditure of not more than forty thousand dollars (\$40,000.00).

(C) The city manager may delegate to a department director the city manager's authority to execute contracts involving an expenditure of not more than seven five thousand five hundred dollars (~~\$5,000.00~~7,500.00). The city manager may require the department director to follow a competitive procurement process.

(D) The city manager may not delegate the city manager's authority to execute contracts for grants in support of community agencies.

SECTION 5. That this ordinance shall take effect at the earliest date allowed by law.