

Resolution Amending the Municipal Code Section 3.08.070 – Purchasing Procedure

WHEREAS, the Mission of Purchasing is to enhance the quality of life within the City of Bridgeport by providing courteous service to the public and to maintain a high standard of performance by continuously developing its knowledge and skills to achieve the most cost-effective procurement of quality goods and services; and

WHEREAS, the Purchasing Department, in conjunction with the Finance Department and Office of the City Attorney, desires to improve the efficiency and effectiveness of its purchasing policy and procedure in an effort to expedite business and increase value to the City; and

WHEREAS, in order to improve the purchasing process certain changes to the current city code are necessary; and

NOW, THEREFORE, BE IT ORDAINED: By the City Council of the City of Bridgeport that, effective upon publication, the Municipal Code of Ordinances, Section 3.08.070 – Purchasing Procedure is hereby amended as follows:

3.08.070 - Purchasing procedure.

Purpose. The city recognizes the importance of adopting a comprehensive purchasing ordinance that authorizes the use of modern procurement practices, provides for electronic processing and monitoring of purchasing activities, and establishes responsibility for oversight and reporting within city government.

A. Definitions. For the purpose of this section, the following definitions shall apply:

"Approved communication methods" means any communication required or desired to be made in connection with a purchase provided, however, that such communication is by hand, by overnight or guaranteed delivery service, by deposit in a depository of the United States Postal Service properly addressed and postage prepaid, by facsimile transmission delivered to the intended addressee, or by electronic communication including but not limited to e-mail or other electronic means delivered to the intended addressee, or otherwise approved by official policy of the board of public purchases.

"Audit rights" means the city's independent right to audit charges, costs, expenses, payments, setoffs, change orders and other expenditures under any purchase arrangement whether or not such right is specifically included in the bid package or other documents related to the purchase.

"Award" means the purchasing agent's announcement of the selection of a vendor for the procurement.

"Best value" means, during a request for proposal process, the Board of Public Purchases, after considering the recommendations of the contracting officer, if any, may consider the following factors in determining to make an award to a bidder other than the apparent lowest responsible bidder: (a) the bidder's price; (b) the bidder's business reputation; (c) the quality of the bidder's goods or services; (d) the extent to which the goods or services meet the city's needs; (e) the bidder's current or past relationship with the city; (f) the impact on the city's ability to comply with laws and rules relating to contracting with historically underutilized businesses and non-profit organizations employing persons with disabilities; (g) the total long-term cost to the city to acquire the bidder's goods or services; and (h) any relevant criteria specifically listed in the solicitation documents. The city reserves the right to make an award either to the lowest responsible bidder or to the bidder that provides goods or services having the best value to the city.

"Bidder" means any person, sometimes referred to herein as a vendor, seeking to do business with the city pursuant to this section under a sealed competitive bid for goods and general services, including any individual, corporation, partnership, sole proprietorship, joint stock company, joint venture, limited liability partnership, limited liability company, or any other private legal entity, each of which shall be required to disclose prior to award, the names of the bidder's officers, directors, members and owners holding five percent or more in ownership of the bidder or its parent at the time of the submission of its bid, which obligation to disclose shall continue for the duration of the bidder's relationship with the city.

"Bidder list" means a mailing or notification list, maintained by the city, of all suppliers, vendors, contractors or service providers or proposers who have made a request by an approved communication method to receive notice of the city's intent to make particular purchases, which bidder list does not imply that those parties on it have been pre-qualified or pre-approved to do business with the city. The city reserves the right to charge a nominal maintenance fee to those parties that desire to be included on the bidder list to cover the city's cost of making and keeping the same.

"Board of public purchases" or "BPP" means the board created by charter responsible to discharge the duties described therein and herein with respect to the city's purchasing process, including, but not limited to, hearing and determining appeals taken from decisions made by the purchasing agent, preparing reports of its activities in overseeing the city's purchasing practices, establishing purchasing policies, rules and regulations in furtherance of this section, publishing annual purchasing statements, and reviewing QBS selection processes. The official policies, working rules and regulations adopted shall, on their respective effective dates, be published, applicable to and used in the implementation and interpretation of this section, and shall not otherwise be contrary to or in derogation of the rights, duties and responsibilities of city officials, executives and administrators set forth in the charter and ordinances, as the same may be amended from time to time.

"Consolidated purchasing" means a centralized purchasing method whereby the purchasing agent determines annually, based upon the anticipated purchases projected by contracting officers and his/her own experience, that the purchase of items or categories of items in bulk or pursuant to price agreements on a city-wide basis from one or more vendors will result in economies of scale and cost-savings to the city.

"Competitive bidding" or "competitive bid" means the city's procedure for obtaining goods or general services anticipated to be in excess of twenty five thousand dollars (\$25,000.00) in which sealed bids are submitted in response to solicitation documents. This process does not permit any negotiation with the apparent winning bidder after the receipt and opening of bids. Competitive bidding may be accomplished as a result of public advertisement or other electronic public notice methods adopted as official policy by the BPP.

"Contract" means any type of written agreement or documented arrangement involving a purchase, regardless of what the evidence of such arrangement may be called or how it may be referred to, which is approved by the contracting officer, contain terms and conditions protecting the city's legal interests, is properly funded and, where required by charter or ordinance, has been approved by the city council or its designee; provided, however, that so-called letters of intent, letters of interest, memoranda of agreements, and other examples of latent, potential, unilateral or executory documents or arrangements that otherwise may not be binding upon the city, may become a binding legal obligation of the city only if and to the extent that any such document or arrangement has been approved by the city council or its designee.

"Contracting officer" means any director or deputy of a city department, any president or chief executive of a city agency, board, or commission, including the board of education, the WPCA and any other similar duly-constituted agency of city government as defined by charter or ordinance, or contained in the city's table of organization, including his/her respective designee set forth in writing to the purchasing agent, having direct authority or due authorization to initiate purchases.

"Critical emergency purchase" means a purchase of goods or services that, if not purchased or ordered immediately, can result in injury to human life or significant property damage, or result in consequences detrimental to the health, safety and welfare of the citizens of the city or to the city's best interests. The purchasing agent should use the informal competitive quotation process for critical emergency purchases, if possible, but shall not be limited by the applicable threshold dollar amounts set forth herein due to the emergency nature of the purchase.

"Energy commodities" means a purchase of a service or good which with regularity provides the public with some commodity or service which is of public consequence or need and subject to or capable of short term market fluctuations. Examples include, but are not limited to, electricity generation and distribution, oil, natural gas, gasoline, and public water supplies.

"General services" means all services that result in a measurable end product as defined by solicitation documents, including but not limited to all services used in the process of building, altering, maintaining, improving or demolishing any city-owned property, structure, building or public infrastructure, but excluding architectural, engineering and other design services, and construction consulting services. Examples of general services include, but are not limited to, electrical work, road resurfacing, sewer repair, building demolition, equipment maintenance and waste disposal services.

"Goods" means supplies, material, equipment and articles, whether purchased or leased, including, but not limited to, fuels, furniture, computers, paper products, food products, sand, and high-tech hardware and software, telecommunications equipment and office equipment.

"Informal competitive proposal process" or "informal competitive quote process" means the allowable process for the purchase of services pursuant to a QBS process or the purchase of goods or general services, respectively, when the purchase is reasonably anticipated to exceed one thousand dollars (\$1,000.00) but not to exceed twenty five thousand dollars (\$25,000.00).

"Lowest responsive, responsible bidder" or the "lowest responsive, responsible proposer" means the bidder or proposer whose submission is (a) a complete response to the invitation and (b) the lowest of those bidders or proposers possessing the skill, ability, financial capacity, business integrity and experience necessary for faithful performance of the described work based on objective criteria. Evaluation of a vendor shall include best value considerations only if set forth in the solicitation documents. Bidders and proposers shall be excluded from consideration entirely if they are listed on the disqualified vendor list at the time the invitation is the subject of public advertisement or at the time the city otherwise seeks to make a purchase as described herein. In a request for proposals process, a bidder may be chosen as lowest responsible bidder from among those bidders that are pre-qualified or based upon recognized industry standards that the contracting officer responsible for the purchase has certified in writing to the purchasing agent as commercially relevant.

"Mayoral bid waiver" means the mayor's authority to grant a written waiver of the requirements for public advertisement, and the need for a competitive bidding or competitive proposal process in connection with critical emergency purchases, after receiving (a) the contracting officer's written statement of the need for such waiver with all appropriate backup information, and (b) the purchasing agent's written recommendation of the need for such waiver.

"Multiple vendor bid" or "multiple vendor QBS" means the procurement of goods, general services, special or professional services which are regularly procured by the city throughout the course of a year but the frequency of which and/or the ability of the vendor to tender the goods and/or services cannot be readily determined. Examples may include but are not limited to the procurement of tires, ITS consultants, demolitions, licensed environmental professionals, landscapers, towing, etc.

"Proposer" means any person seeking to do business with the city pursuant to this section under a QBS selection process, including any individual, corporation, partnership, sole proprietorship, joint stock company, joint venture, limited liability company, or any other legal entity, each of which shall be required to disclose prior to any award, the names of the proposer's officers, directors, members and owners holding five percent or more in ownership of the proposer or its parent at the time of submission of its proposal, which obligation to disclose shall continue with the proposer's relationship with the city.

"Public advertisement" or "publicly advertised" means the advertisement in one or more media of the city's desire to make a purchase expected to cost in excess of twenty five thousand dollars (\$25,000.00) placed (a) in a newspaper of general circulation in the Bridgeport area, (b) in other print media designated to encourage a greater number of bids, (c) on the city's internet website, (d) on other electronic media available to the general public, or (e) in other media authorized by the BPP. The content and location of public advertisements shall be determined as set forth herein or as otherwise authorized by official policy of the BPP.

"Qualified purchase" means a purchase of goods or services where either there is only one source for such purchase a purchase from a special source will provide a lower cost than would result from competitive bidding, time is critical and the purchase could not have been planned, or the purchase involves items whose prices are controlled by federal or state regulation.

"Quality-based selection" or "QBS selection" means a method for purchasing special or professional services anticipated to be in excess of twenty five thousand dollars (\$25,000.00) by either initially pre-qualifying bidders prior to obtaining a price proposal or making a final selection without a price proposal. Such process initially requires the submission of professional qualifications, demonstrated business experience, specific project experience, evidence of business integrity, and professional competence. Where qualifications alone are paramount in the selection process and price is not a factor, a final selection is made based on qualifications alone. In other QBS processes where price is not a factor initially in the selection process, or only one of a number of factors to be considered in making a final decision, a final selection is made based upon the submission of requests for proposals, or price proposals following pre-qualification.

"QBS selection panel" means a group of individuals qualified by knowledge, training and experience in purchases of the type contemplated and having no real or apparent conflict of interest in the outcome of the QBS selection, consisting of at least three city employees selected by the contracting officer and supplemented where possible by other similarly qualified individuals from the general public having no real or apparent conflict of interest in the outcome of such selection, or otherwise as specified by official policy of the BPP. Such panels shall use uniform, objective selection criteria established in advance for the particular purchase or criteria otherwise specified in writing by the BPP. The QBS selection panel shall make a written report of its selection, the criteria used and its recommendation to the board of public purchases, which shall approve or deny the selection process.

"Request for proposals" means a form of QBS selection process that includes a request for professional qualifications where such qualifications are important but not paramount, and where price is a factor to be considered in making an award. A request for proposals may or may not follow a request for qualifications from pre-qualified proposers.

"Request for qualifications" means a form of QBS selection that includes a request for professional qualifications where such qualifications are paramount in the selection and price is not a factor.

"Self-perform" means that an awarded contractor, whether a prime contractor or a subcontractor, performs thirty (30) percent of the value of its work (exclusive of materials and equipment) by using its own forces and resources as determined by monthly payrolls.

"Solicitation documents" means the totality of the documents put forth to the public to solicit a particular procurement, including but not necessarily limited to the invitation, requests for qualifications, requests for proposals, any and all specifications, any and all scopes of work, any and all particular instructions, any and all contract documents, and any and all addenda.

"Single source" means that there is one vendor, among others that provide similar goods or services, from which it would be in the best interest of the city to procure because: a) Such vendor provides a unique service or set of services that distinguish it from and cannot be provided by other vendors; b) Maintenance on a particular piece of equipment is required by such vendor in order to preserve a warranty; or c) Such vendor is uniquely qualified to provide a set of services, such as having Apple® technician make repairs to Apple® computers.

"Sole source" means that there is only one vendor that can provide a particular good or service for the city, such that any attempt to obtain bids or proposals could only result in that one vendor submitting a bid or proposal.

"Special or professional services" means the furnishing of judgment, expertise, design, advice or effort by persons other than city employees, not involving the delivery of a specific end product defined by the solicitation documents. These types of services include, but are not limited to, consulting, legal, financial, technical, audit, appraisal, architecture, design, engineering and other similar professional services not contemplated as general services. Such services shall also include unique, warranty or single-source services not generally available for specific city-owned property, equipment, building systems and equipment, and vehicles where the nature of the required services cannot be defined in advance by the solicitation documents and the professional or proprietary knowledge and expertise of the service provider is paramount to the lowest cost and otherwise in the city's best interests.

"Summary bid process" means a competitive bid process described herein that the city may elect to utilize among the selected responsible, qualified bidders for a purchase when all bids exceed any budget appropriation.

"Vendor" means any person seeking to do business with the city pursuant to this section, regardless of the method of solicitation, and may include, but is not limited to proposers and bidders.

B. General Provisions.

1. Awards. Except as expressly set forth otherwise herein, awards should be made to (a) the responsive, responsible low bidder in a competitive bid process; (b) the most qualified, responsive and responsible proposer in a QBS selection process; (c) the most responsive, responsible low bidder(s) in a consolidated purchasing process; or (d) responsive, responsible bidder or proposer in any other selection process authorized herein; provided, however, that an award or notification of intent to make an award does not create a legal right in the bidder regarding the subject matter of the bid or entitlement to a contract, but is intended to inform the bidder that additional obligations of the bid must be met, such as the posting of surety and evidence of insurance, negotiation of a contract, and securing proper approval of the party authorized to enter into a contract or obligation binding upon the city.
2. City Reservation. The city reserves the right to reject any and all bids and to waive informalities in a solicitation to the extent that such informalities are not material and do not give one bidder an unfair advantage over other responsive and responsible bidders or proposers.
3. Responsiveness. The city shall not accept as responsive or review any bid or proposal received that is not in strict compliance with material provisions of the solicitation documents or which were not stamped in at the place and by the time set forth in the solicitation.
4. Split Purchases. Purchases shall not be deliberately split in amount, artificially staggered over time, or otherwise be the subject of any other artifice designed to avoid the requirement to utilize competitive bidding or other purchasing methods required herein.
5. Appropriations. For purchases that require an additional funding appropriation, the solicitation documents shall clearly state that the award of a contract is contingent upon the appropriation of funds.
6. Contract term. Unless circumstances warrant that the best interest of the city is served with a shorter term contract, contracts resulting from a competitive bid or a QBS selection process shall be for a term of five years, or three years with up to two one-year extensions. This does not apply to any solicitation for a deliverable (i.e. a professional design) or a task required to be performed in a lesser or greater amount of time.
7. Anti-Pass Through. For all city contracts having a labor component, the contracting entity (whether prime or subcontractor) must self-perform at least thirty (30) percent of the labor (which may and should include site management) or obtain a written waiver from the purchasing agent and city's chief administrative officer.

C. Purchase of Goods and General Services.

1. Informal Competitive Proposals. For purchases of goods and/or general services reasonably anticipated to cost in excess of two thousand five hundred dollars (\$2,500.00) but not to reasonably anticipated to exceed twenty five thousand dollars (\$25,000.00), the contracting officer may obtain quotes from no less than three vendors that provide such goods or general services. The contracting officer must document the process for the purchasing agent. The failure of a vendor which has been requested to provide a quote to respond, shall count toward an attempt to get three quotes. With the approval of the purchasing agent, the contract shall then be awarded to the lowest responsive, responsible vendor. Contracting officers are encouraged to utilize the city's internet bidding company's informal service when the purchase is reasonably anticipated to exceed five thousand dollars (\$5,000.00).
2. Purchases Requiring Competitive Bidding. Competitive bidding shall be used for all purchases of goods and general services anticipated to exceed the sum of twenty five thousand dollars (\$25,000.00) (See Connecticut General Statutes Section 7-148v, as amended); provided, however, that purchases shall not be deliberately split in amount, artificially staggered over time, or be the subject of any other artifice in order to avoid the requirement to utilize the competitive bidding process. The purchasing agent shall reasonably monitor purchases and report any questionable practices to the BPP and the city's finance director within five days of becoming aware of such practices.

D. Competitive Bidding Process. For each purchase of goods or general services made by competitive bidding, the following shall apply:

1. All requirements, terms and conditions sought by the city, including quality, delivery terms and vendor or contractor qualifications, as well as vendor or contractor status as either a MBE, WBE or DBE, shall be contained in the solicitation documents. For purchases requiring a contract, as opposed to a standard purchase order, the contracting officer shall include a draft contract as part of the bid package whenever possible, or other provision shall be made to protect the legal interests of the city. If pre-qualification of bidders is sought prior to bids being accepted or prior to award, the criteria to be met shall also be set forth in the solicitation documents.
2. The purchasing agent shall publish a notice inviting sealed competitive bidding at least once by public advertisement. The notice shall, to the extent practicable, be published not less than fifteen (15) working days before the final date for submitting bids. Said notice shall contain a general description of the goods or general services desired, the place where the solicitation documents may be obtained, the day, hour, place and manner for bid opening, and other pertinent information.
3. The purchasing agent may, in addition to the public advertisement, solicit and receive sealed bids by approved communication methods from all qualified, responsive and responsible bidders on the bidder list, whose goods and services comply with the purchases sought according to the city's then-current commodity codes, by sending them copies of the public advertisement promptly after publication. Such communication notices shall be solely for the convenience of suppliers. Any failure to provide or delay in providing any supplier with such notice shall not invalidate the bid process, incur liability to the city or prejudice it in any manner.

4. The purchasing agent may revise the bidder list(s) by deleting bidders who have not responded to three consecutive bids sent to them, who have not registered or re-registered electronically, or have not otherwise given written notice to the city by an approved communication method of their interest in remaining on such bidding list.
 5. All bids shall be submitted sealed, to the extent that the purchasing method used permits sealing, to the purchasing agent and shall be accompanied by bid security in the form of certified check, or bond in the amount stated in the public advertisement or solicitation documents. A bid is non-responsive unless such security is received prior to bid opening. Each bidder is solely responsible for submitting all bid requirements in strict compliance with the solicitation documents. The bids shall be opened in public at the time and place stated.
 6. For each purchase made by competitive bidding, a record of all bids submitted, giving the names of the bidders and amounts of the bids and indicating the successful bidder, together with the originals of all competitive bids and any other pertinent documents, shall be preserved by the purchasing agent in accordance with state law or the city's record retention practices, whichever shall be longer in duration. All bids shall be submitted sealed, to the extent that the purchasing method used permits sealing, to the purchasing agent and shall be accompanied by bid security in the form of certified check, or bond in the amount stated in the public advertisement or solicitation documents. A bid is non-responsive unless such security is received prior to bid opening. Each bidder is solely responsible for submitting all bid requirements in strict compliance with the solicitation documents. The bids shall be opened in public at the time and place stated.
 7. For each purchase made by competitive bidding, a record of all bids submitted, giving the names of the bidders and amounts of the bids and indicating the successful bidder, together with the originals of all competitive bids and any other pertinent documents, shall be preserved by the purchasing agent in accordance with state law or the city's record retention practices, whichever shall be longer in duration.
 8. The purchase shall be awarded to the lowest responsive, responsible, and qualified bidder or pre-qualified bidder who meets the requirements, terms and conditions contained in the solicitation documents and represents the best value to the city, supported in writing by the contracting officer. A best value bid shall be indicated as such in the original solicitation documents. In the case of a purchase by competitive bidding where the public advertisement indicates that bidders will be pre-qualified, the purchasing agent has the authority to make an award exclusively from the list of pre-qualified bidders.
- E. Awarding of Contracts that Contain Alternates.
1. All solicitation documents for a purchase for which alternates are to be included shall have the alternates listed in their order of priority, provided, however, that the contracting officer may change the priority of such alternates during a summary bid process.
 2. Prior to making an award for which the solicitation documents list alternates to be included, the contracting officer shall inform the purchasing agent as to which alternates are to be included in the award.

- F. Purchasing Special or Professional Services.
1. Purchases of special or professional services may be procured as provided herein.
 2. Purchases exempt from formal public advertisement include those purchases of special or professional services anticipated to cost less than or equal to twenty five thousand dollars (\$25,000.00) shall be made in the manner specified in Section G below.
 3. Informal competitive proposal process. For the purchase of special or professional services reasonably anticipated to exceed two thousand five hundred dollars (\$2,500.00) but not reasonably anticipated to exceed twenty five thousand dollars (\$25,000.00), the contracting officer may obtain proposals from no less than three vendors that provide such special or professional services. The contracting officer must document the process for the purchasing agent. The failure of a vendor which has been requested to provide a proposal to provide one, shall count toward an attempt to get three proposals. With the approval of the purchasing agent, the contract shall then be awarded to the lowest responsive, responsible proposer. Contracting Officers are encouraged to utilize the city's internet bidding company's informal service when the purchase is reasonably anticipated to exceed five thousand dollars (\$5,000.00).
 4. Purchases requiring a QBS selection process. In cases where the contracting officer intends to purchase special or professional services that are anticipated to exceed twenty five thousand dollars (\$25,000.00), a QBS selection process as defined below shall be used for such purchase and the process shall be presented to the BPP for approval.
- G. Quality-Based Selection Processes. Requests for qualifications, requests for proposals and requests for qualifications followed by a request for proposals.
1. General application of QBS processes.
 - a. A QBS selection process, being a request for qualifications, a request for proposals, or a request for qualification followed by a request for proposals may be utilized to pre-qualify bidders for the purchase of special or professional services reasonably anticipated to be in an amount greater than twenty five thousand dollars (\$25,000.00), where the contracting officer determines that such services are unique or that the nature of the project requires selection criteria primarily influenced by the bidder's knowledge and experience in similar or related projects. The contracting officer's recommendation to conduct a QBS process shall be set forth in writing and submitted to the purchasing agent for approval. A QBS selection panel shall be formed by the contracting officer or otherwise in accordance with official policy of the BPP.

- b. The contracting officer shall prepare the public advertisement containing necessary and desirable information for those who might respond to a QBS selection process and the criteria to be used for selection. The advertisement shall be published to the general population in accordance with an approved communication method no less than fifteen (15) days prior to the deadline to submit proposals unless the contracting officer gets approval from the purchasing agent that a shorter time frame is required. A QBS selection panel shall be formed to evaluate the responses, determine the qualified respondents and proceed to make a selection.
 - c. The QBS selection panel shall review all qualifications submitted and shall, where necessary and practical, interview not less than three respondents (or such lesser number as shall have submitted qualifications so long as the purposes of competitive procurement meeting the best interests of the city is achieved). The QBS selection panel shall evaluate the responses, identify the qualified or pre-qualified respondents. The QBS selection panel shall make a written report of its selection, the criteria used and its recommendation to the board of public purchases, which shall approve or disapprove of the selection process conducted. The use of such QBS processes shall be included in the purchasing agent's quarterly report to the BPP.
 - d. The city reserves the right to refuse to award or approve a contract with, or purchase from, a proposer as a result of prior facts and circumstances that resulted in increased costs, additional risks or liabilities, or other damage harmful to the best interests of the city for reasons, including, but not limited having been disqualified.
2. Quality-based selection as a final selection process (request for qualification). A request for qualification selection process may be utilized in the purchase of special or professional services without seeking price proposals when the contracting officer determines that such services are unique or that the nature of the project requires selection criteria where the knowledge and experience of a bidder in similar or related projects are paramount, and the best interests of the city will be served by the use of such process without considering price as a determining factor in selection. The contracting officer shall then negotiate a proposed contract with the selected bidder with the assistance of the office of the city attorney, at compensation determined by the contracting officer to be fair and reasonable to the city, considering the estimated value, scope, complexity and professional nature of the services to be rendered. Such selection shall be conducted, documented and recommended to the BPP for approval.

- a. After selection, the contracting officer shall then enter into negotiation of a contract, preferably on a form included with the solicitation documents, with the selected vendor with the assistance of the office of the city attorney, using a formula for compensation determined by the contracting officer to be fair and reasonable to the city, considering the scope of the work, the delivery or completion requirements, the complexity and specialized nature of the services to be rendered, and other relevant factors. Such formulas may include, but are not limited to, time and materials with or without a not-to-exceed price, cost of the work plus a fee, lump sum, guaranteed maximum price, and the like. The contracting officer's rationale for selection of a compensation formula shall be made in writing to the purchasing agent prior to entering into negotiations; and
 - b. Should the contracting officer be unable to negotiate a satisfactory contract with the selected vendor, negotiations shall be terminated in writing; and
 - c. The contracting officer shall then enter into negotiations with the next most qualified firm identified in the selection process and still interested in the project. Should the contracting officer be unable to negotiate a satisfactory contract with such vendor, negotiations shall be terminated in writing and shall proceed to negotiate with the next most qualified firm, and so on.
3. Quality Based Selection (Requests for Proposals). Except as otherwise authorized in this section, for each purchase of special or professional services in excess of twenty five thousand dollars (\$25,000.00) where professional qualifications and experience are important but where price remains a factor to be considered in making a selection, such purchase shall be made by request for proposal process, as follows:
- a. Preparation of the request for proposals. The contracting officer shall prepare a request for proposals. All requirements, terms and conditions, including proposer qualifications desired by the city shall be included in the request for proposals. Whenever possible, a draft contract shall be made a part of the request for proposals or other solicitation documents. The purchasing agent shall assist in the preparation if needed.
 - b. Solicitation of requests for proposals. The purchasing agent shall, in cases where such request for proposal was not preceded by a request for qualifications by public advertisement, make notice of the request for proposals no less than fifteen (15) working days prior to the deadline to submit proposals, unless the contracting officer determines that a shorter response time is required. Whenever the service requested is so specialized that few appropriate proposers can reasonably be expected to respond to said notice, a public advertisement may also be made in other media appropriate to the nature of the service requested and calculated to result in a greater number of proposals.
 - c. Evaluation of proposals.
 - i. The contracting officer and the QBS selection committee shall evaluate all proposals based upon the criteria and requirements stated in the request for proposals, or otherwise in accordance with BPP official policy. For purchases exceeding one hundred thousand dollars (\$100,000.00) the QBS selection panel shall, if possible and practical, conduct personal interviews with the most qualified proposers and in accordance with BPP official policy.

- ii. A QBS selection panel shall be formed to review the proposals and make a selection according to pre-established selection criteria and a price proposal. Such selection shall be conducted, documented and recommended to the BPP for approval in the same manner as described above for a request for qualifications. The issuance of requests for proposal shall be included in the purchasing agent's quarterly report to the BPP.
 - iii. The contracting officer or QBS selection panel, as the case may be, shall select the proposer whose proposal is deemed to best provide the services desired, taking into account the requirements, terms and conditions contained in the request for proposals and the criteria for evaluating proposals and, if in excess of twenty five thousand dollars (\$25,000.00) make application to the BPP for approval or denial of the selection process.
 - iv. For each purchase of services by request for proposal, the contracting officer or QBS selection panel, as the case may be, shall make a written record of all proposals submitted, giving the names of the proposers, indicating the successful proposer, clearly stating the basis for the selection made, and including copies of all proposals and any other documents pertaining to the selection process, and shall submit the same to the purchasing agent for keeping in accordance with the city's records retention policy.
4. Quality Based Selection (Request for Qualifications Process Followed by Request for Proposals Process). A QBS selection process may be utilized to pre-qualify proposers for the purchase of special or professional services reasonably expected to be in an amount greater than twenty five thousand dollars (\$25,000.00), where the contracting officer determines that such services are unique or that the nature of the project requires selection criteria primarily influenced by the proposer's knowledge and experience in similar or related projects but that price is also an important factor in making a selection subsequent to pre-qualifying the RFQ respondents. The contracting officer's recommendation to conduct a request for qualifications process followed by a request for proposals process with pre-qualified proposers shall be set forth in writing and submitted to the purchasing agent for approval. A QBS selection panel shall be formed and shall attempt to select a minimum of three qualified respondents to receive a request for proposals. The QBS selection panel shall make a written report of its selection following review of responses to the request for proposals, the criteria used and its application to the board of public purchases for approval of the selection process. The issuance of such pre-qualification process followed by a request for proposal process shall be included in the purchasing agent's quarterly report to the BPP.

H. Multiple Vendor Procurements.

1. Selection Process. With the prior approval of the purchasing agent, goods, general services, special or professional services that are known to be frequently purchased or utilized by the city throughout the course of a year, but the actual frequency of which and/or the ability of the vendor to render goods or services cannot be determined, may be procured through a multiple vendor bid or a multiple vendor quality based selection process. A multiple vendor bid or a multiple vendor quality based selection process shall follow the procurement guidelines for a general bid or quality based selection process with the following exceptions:
 - a. The bid or request shall specify an exact number of vendors (three unless the purchasing agent agrees otherwise) that are anticipated to be chosen in the solicitation;
 - b. That exact number of vendors shall not be altered unless a lesser amount of vendors respond or a lesser number of vendors are deemed responsive, responsible or qualified.
2. Utilization Process. Once the exact number of vendors are selected and are awarded contracts or purchase orders based upon the solicitation, the purchasing agent shall produce for the relevant departments the list of selected vendors and their reflective pricing. The vendor with the lowest reflective pricing shall be the first contacted by any contract officer wishing to procure those goods or services pursuant to this solicitation. Only for good cause shown and as approved by the purchasing agent (good cause includes vendor's inability in time or resources to satisfy the city's needs), the contract officer then may proceed, in price order, up the list of the selected vendors.

I. Waivers of Competitive Processes.

1. Waiver of competitive bidding for critical emergency purchases. Critical emergency purchases shall be limited to those purchases reasonably necessary, and only for such duration, as may be required to meet the emergency circumstances as defined above. The mayor shall consider the matter and issue a mayoral bid waiver if appropriate, or in his/her absence the council president shall consider and decide such matter. Time permitting and if appropriate, the contracting officer shall set forth in writing to the purchasing agent the reasons why public advertising and competitive bidding or other competitive process otherwise required by this section should be waived. Time permitting, the purchasing agent shall consider the request and the reasons therefore and if deemed reasonable, make written recommendation to the mayor to grant such a waiver. Due to the critical nature of these types of purchases, if time does not allow the contracting officer to set forth the reasons in writing or the purchasing agent to make a written recommendation to the mayor in advance, such shall be done in writing within five business days after the purchase is made.

2. Waiver of competitive bidding for qualified purchases.
 - a. Purchases other than critical emergency purchases may be made without competitive bidding or other competitive processes otherwise required by this section for the following reasons:
 - i. Only one qualified or available vendor or sole source can be identified through reasonable efforts, for example, where only one vendor is authorized or certified to do such work, where parts are available only through a single dealer or distributor, or where the work is proprietary or relates to products that are proprietary and cannot be substituted without adverse effects or complications.
 - ii. Single source procurements are not subject to the provisions of this ordinance when documented by the contract officer and approved by the purchasing.
 - iii. Purchase from a special source, including but not limited to a sale, purchasing plan, government discount or trade-in allowance, will provide a lower cost than that which would result from a competitive process.
 - iv. Time is a critical factor and such purchase could not have been previously anticipated through proper advance planning.
 - v. The purchase is required to come immediately into compliance with federal, state or local laws or codes.
 - vi. The purchase is necessary to avoid complete loss of funds made available by non-city public and private funding sources.
 - b. The contracting officer shall request a waiver of competitive bidding for a qualified purchase in writing and submit it to the purchasing agent. Such request shall identify any/all reasons as described above as to why such purchase shall be done as a qualified purchase, the selection of the particular vendor or contractor, and any other pertinent details. In addition, the contracting officer shall also submit an "integrity affidavit" to the purchasing agent which attests that the contracting officer has no personal or business relationship with the vendor or contractor being selected for the qualified purchase and attesting to all reasonable attempts to receive best value for the city.
 - c. The purchasing agent shall review the written request of the contracting officer and determine whether a qualified purchase is appropriate and, if so, shall make a written recommendation to the chief administrative officer ("CAO") to grant such waiver. The CAO shall review the recommendation of the purchasing agent and shall provide his/her approval of such waiver to the purchasing agent.

- d. If the purchasing agent denies the qualified purchase, he/she must provide a written explanation to the contracting officer and the CAO. The contracting officer has the right to appeal such decision to the BPP within thirty (30) days of such denial.
 - e. Purchasing agent will report on all approved qualified purchases quarterly to the BPP, mayor, city council, director of finance, and office of policy and management.
 3. Exigent Circumstances. The Purchasing Agent may waive the requirement of competitive bidding or competitive negotiation when it is essential to the interests of health, safety or welfare of the City and there is an urgent immediate need in the City's interest to procure or where competitive bids would be undesirable, impracticable, or impossible and such are minor, nonrecurring of twenty-five thousand dollars or less in amount. Due to the nature of these types of purchases, if time does not allow the contracting officer to set forth the reasons in writing to the purchasing agent in advance, such writing shall be done within five business days after the purchase is made.
- J. Duties of the Purchasing Agent; Contracting Officers; Board of Public Purchases.
 1. Purchasing Agent. The purchasing agent has the primary responsibility for working with contracting officers concerning the content of public advertisements and the general content of all solicitation documents and specific city requirements, issuance of public advertisements for all competitive bids and QBS selection processes and such other responsibilities set forth in the charter or ordinances or established by the BPP. The purchasing agent is responsible for reporting all material exceptions, deviations from or violations of this section to the mayor, the city council, the director of finance, the office of policy and management and the BPP within fourteen (14) days of learning of such matter. The purchasing agent has the responsibility to provide quarterly reports as defined in Section N. herein. The purchasing agent also has the responsibility to make recommendations on approvals for mayoral bid waivers or qualified purchase waivers as described above. It is also the responsibility of the purchasing agent to receive and open all sealed bids within the established timeframes and to exclude any vendors that miss such deadlines.
 2. Contracting Officer. The contracting officer, directly or through his/her designee, has primary responsibility for protecting the legal interests of the city by ensuring that, with the advice of the city attorney, the city's legal rights and remedies are protected in connection with such purchase. The contracting officer also has the primary responsibility to develop the technical requirements and other project-specific needs for inclusion in the solicitation documents, to disclose the selection process and criteria to be used, to specify the legal requirements for the contractual relationship with the bidder including, wherever possible, the form of contract to be entered into, and the like. The contracting officer is further responsible to ensure that he/she has authority to make the subject purchase, the resulting contract has received all city approvals required and, upon the execution of any contract, original executed documents or true and complete copies are distributed promptly to the finance department and the city attorney.

It is also the primary responsibility of the contracting officer or his/her designee to attend to the details of the purchase and the administration of the relationship with the selected vendor over time, including but not limited to ensuring that: the contract is adhered to; problems, disputes, events of default and the like are properly documented and promptly brought to the attention of the city attorney for advice or action; all insurance policies and security (e.g., cash deposits, bonds, letters of credit, guarantees) remain current, up-to-date and in place for the city's benefit; and the contract documentation and close-out thereof, including where appropriate, obtaining all lien waivers and final releases, guarantees, operating and service manuals, employee training etc., is completed. The contracting officer has primary responsibility to follow any/all city purchasing policies and procedures, including such procedures for acquiring purchase orders and processing payments of vendor invoices. The contracting officer also has the primary responsibility to adhere to the city's code of ethics and ethics policy especially as it may relate to the full disclosure and exclusion of themselves from the procurement process in the event they have a personal or business relationship with the selected vendor or the type of procurement which may be perceived as capable of or could actually affect his/her decision making.

3. Board of Public Purchases. The BPP shall be familiar with purchasing department operations and other city operations involved in the purchasing process, and shall perform the responsibilities assigned to it in the Charter, ordinances and this section. Such responsibilities include, but are not limited to, hearing appeals of bid protests, hearing appeals from decisions of the purchasing agent, reviewing appeals from decisions regarding vendor disqualification, establishing official purchasing policies, working rules and regulations, evaluating periodic reports from the purchasing agent, taking appropriate action where required, and otherwise ensuring that the purchasing process operates as intended. The BPP shall circulate any proposed official policy, working rule or regulation for review and comment to the purchasing agent, the mayor, the city council, the department of finance, the office of policy and management, and the city attorney thirty (30) days in advance of its intent to adopt, and shall not vote to adopt such proposal until it has received and considered comments during such thirty (30) day period.

K. Contract Requirements.

1. Contract Required. A written contract between the city and a bidder is required for any purchase that exceeds twenty five thousand dollars (\$25,000.00); however, the city attorney may provide brief forms of contracts below that amount. Such requirement may be satisfied with a contract form included in the solicitation documents and executed by the parties, a contract negotiated and executed by the parties after award, or by the standard terms set forth on the city's purchase order form acceptable to the office of the city attorney, as such purchase order may be amended from time to time. Except for purchases where the contract is contained on the purchase order, any other contract shall be reviewed and approved by the office of the city attorney. The city attorney and/or the city's risk manager shall determine when insurance, indemnification, guarantees, bonds or other security is required. Such contracts shall be signed by the mayor or other designee in the manner authorized by the city council, provided, however, that, with respect to contracts resulting from a competitive process, the purchasing agent is authorized to execute such contracts in consultation with the office of the city attorney.
2. Contract Approval and Material Modifications. All contracts that exceed twenty five thousand dollars (\$25,000.00), or material modifications thereof, shall require city council approval, with the following exceptions:
 - a. In cases where this section allows the terms of the contract to be contained on the purchase order, which does not require the execution of additional contract document, the purchasing agent is authorized to sign all contracts that result;
 - b. In cases where this section authorizes the purchasing agent to sign all contracts that result from the competitive process;
 - c. In cases involving consolidated purchasing, the purchasing agent is authorized to sign all contracts that result;
 - d. In cases where a critical emergency purchase is authorized, the mayor or his designee is authorized to sign all contracts that result; and
 - e. In cases where a qualified purchase is authorized, the mayor or his designee is authorized to sign all contracts that result.

If material modifications in the scope, time or price of the contract are desired after signing, except in the case of a construction contract or other contract that provides by its terms for the submission, consideration, rejection or approval of changes in scope, time or price, which changes are of the type that were not anticipated at the time of bid and result from unforeseen conditions, changes in law, latent defects in solicitation documents and similar changed circumstances, such material modifications shall require written approval by and signature of the mayor in consultation with the director of finance, the director of the office of policy and management, and the office of the city attorney, unless the BPP has adopted an official policy governing the procedure for dealing with material changes.

3. Contract Extensions.
 - a. The contract time for performance in contracts having an original value of greater than one hundred thousand dollars (\$100,000.00) that resulted from a QBS selection process, critical emergency purchase or qualified purchase may not be extended unless the contracting officer certifies in writing to the purchasing agent the necessity of such extension and that no significant additional cost to the city will result. If the purchasing agent approves such request, such extension may not exceed six months, except for construction contracts where the contract contains provisions for changes in schedule, including suspension of work, which shall govern the duration of any such extension.
 - b. Any purchase that results from competitive bidding or a QBS process may be extended beyond the contract time period for up to one additional year from the date of contract expiration without additional bidding for one or more of the following reasons;
 - i. The vendor is the sole qualified or available provider. This shall include sole source or proprietary service/maintenance contracts for existing equipment and vehicles.
 - ii. Additional competitive bidding or QBS process would result in an increase in cost or significant disruption of city operations. Employee benefits contracts with third-party providers and administrators are included in this category.
 - iii. An option to extend the contract term is included in the solicitation documents or the executed contract.
 - c. The contracting officer is responsible to give written notice to the purchasing agent of such extensions, the purchasing agent shall keep a record of every contract extension, and shall include such extensions in his/her quarterly report to the BPP.
 4. Additional purchases from a vendor prohibited. The contracting officer shall not purchase any item of goods or services from a vendor that was not of the type or closely related to the goods or services described in the solicitation documents or the contract. Purchase of different goods or services from such vendor shall require a separate procurement process.
- L. City Right to Set-Off Delinquent Property Taxes Owed.
1. Right of Set-Off. Pursuant to Connecticut General Statutes Section 12-146b, as amended, the city has the right to set-off against any payment due to a vendor or to withhold payment from any vendor if any taxes levied by the city against any vendor or its property, both real and personal, are delinquent, provided, however, that no such amount withheld shall exceed the amount of tax, plus penalties, lien fees and interest outstanding at the time such set-off or withholding of payment occurs. Any vendor that has either been selected by competitive bidding process, has signed a contract or has obtained a purchase order hereby authorizes the city to execute such set-off or to withhold such payment from amounts otherwise due to the vendor.

2. Authority to Set-Off. Upon the tax collector's issuance of any delinquent tax list, the contracting officer or the comptroller shall have the authority to set-off against any payment due to a vendor or to withhold payment to such vendor the amount of any delinquent taxes due, together with penalties, lien fees and interest outstanding.
- M. Purchases Through State and Federal Contracts, Cooperative Agreements Between Municipalities and the Like.
1. Use of Other Bid Lists. Procurements obtained by competitive bidding or QBS processes conducted by the state of Connecticut, the United States of America, or through cooperative associations or agreements between and among municipalities may be utilized when the purchasing agent determines, in writing to the BPP, that utilization of such procurements would be in the best interests of the city; provided, however, that either the purchasing agent shall issue guidelines for the proper utilization of such procurements or the BPP shall adopt an official policy for the proper utilization of such purchases. The purchasing agent shall be responsible for the proper utilization of such other bid lists and cooperative agreements and shall take proper precautions to prevent misuse as he/she may deem to be in the best interests of the city.
- N. Consolidated Purchasing.
1. Commonly Used Goods, General Services, Special and Professional Services. The purchasing agent may make purchases that are commonly used by several departments, where the total annual purchase for each type of goods or services anticipated to be used by such departments in order to achieve the best price.
 2. Exclusions from Consolidated Purchasing. The purchasing agent may exclude purchases from the requirements of consolidated purchasing, provided that the contracting officer submits a written request with justification for exclusion from consolidated purchasing and the purchasing agent makes a written determination that:
 - a. No significant cost savings; other efficiencies or benefits can be achieved through consolidated purchasing; or
 - b. The unique requirements of such purchase require that such purchase be made separately from consolidated purchasing.
 3. Requirements Contracts; Price Agreements. The purchasing agent may, at his/her discretion, purchase specific items under one procurement by procuring a master requirements contract or a price agreement under which city departments may obtain goods or services directly from the vendor. In selecting such a vendor, the total cost of all goods or services at the expected quantities or dollar values to be purchased shall be used in determining the total cost of the proposal or bid and the selection shall be made on the basis of best value.
 4. Planning for Anticipated Needs. The purchasing agent shall solicit from the various departments and contracting officers their anticipated requirements for goods and services prior to each fiscal year and, as appropriate, shall invite representatives of various departments to determine specifications for items of goods or services to be obtained using consolidated purchasing for their common needs.

O. Exemptions from this Section.

1. The sale or purchase of energy commodities are not subject to the provisions of this ordinance, however, any provider of energy commodities that seeks to do business with the city must meet the threshold requirements of a responsive and responsible bidder under this section.
2. Procurements which are not subject to the provisions of this ordinance pursuant to express city charter authority or funding source direction are exempt hereunder. However, any provider must still meet the threshold requirements of a responsible vendor for the goods and/or services requested.
3. The purchase involves items the prices of which are federal or state regulated.

P. Reports.

1. Reports by the Purchasing Agent. Quarterly reports. The purchasing agent shall prepare a written and digital quarterly report within thirty (30) days after the close of each calendar quarter ending in the months of September, December, March and June in a fiscal year, and shall notice the reports' availability to the BPP, with copies to the mayor, the city council, the department of finance, and the office of policy and management. Said reports shall contain, to the extent then technology in place will allow, information about the following activities:
 - a. Purchases made by the competitive bidding process;
 - b. Purchases made by the competitive proposal process;
 - c. Waivers granted from competitive bidding or competitive proposal processes, including critical emergency purchases, mayoral bid waivers issued and qualified purchases;
 - d. Waivers granted from informal bid and proposal processes;
 - e. Purchases made through federal or state bid lists or through cooperative purchasing arrangements with associations or other municipalities;
 - f. Violations or suspected violations of this section; and
 - g. Other activities required to be reported to the BPP herein.
- h. A list of all purchases made by the purchasing agent shall be filed annually with the city clerk.

2. For each purchase of services by QBS selection process, the contracting officer or QBS selection committee, as the case may be, shall make a written report of all such purchases to the BPP, the city council, the mayor, the office of policy and management, and the finance department. The purchasing agent shall make a record of all proposals submitted, giving the names of the proposers, indicating the successful proposer, clearly stating the basis for the selection made, the basis for the award made by the BPP, including the originals of all proposals and any other documents pertaining to the selection process, and shall keep the same in accordance with the city's records retention policy.
- Q. Audit. The city's auditors shall conduct an audit of purchasing activities every three years or as otherwise directed by the finance director. Notwithstanding this requirement, the department of finance, office of policy and management or the mayor may request an independent auditor to perform an audit of city purchases.
 - R. Violations and Penalties. Any deliberate, willful attempt to violate or circumvent the purchasing process established by this section shall be a violation of the city's code of ethics, as the same may be amended from time to time, and shall be dealt with as appropriate by the ethics commission. Any decision by the ethics commission shall not prohibit the city from pursuing its other legal rights and remedies in connection with such violations.
 - S. Purchases Requiring Use of Other Procedures. Notwithstanding the provisions of this section, with regard to any purchase that is funded in whole or in part by federal or state grant funding or other assistance where the city is the applicant or directly or indirectly benefits therefrom, or as a condition of such funding or assistance the city is required to follow the grantor's procurement rules and regulations, such other procurement rules and regulations shall be followed in lieu of the purchasing processes described in this section.
 - T. Records Retention. All records of purchases made and related activities shall be retained in accordance with state of Connecticut guidelines for retention of public records.
 - U. Mandated Contract Terms Incorporated by Reference. All terms required by law to be inserted in a contract for particular purchases or purchases in general, including but not limited to equal employment opportunities, affirmative action goals, and the like, shall be deemed to be incorporated by reference into any contract described in this section as if fully such terms are set forth therein.
 - V. Criminal History Considerations. The city of Bridgeport shall not discriminate against any vendor, or any parent, affiliate or subsidiary company, or any of their respective officers, directors, owners, general partners, managing members, employees, or agents, submitting a bid or proposal on the basis of criminal history unrelated to the responsibility or qualifications to perform as a municipal contractor. Inquiries appropriately related to the responsibility or qualifications to perform as a municipal contractor include the following or substantially similar language: Within the last three years, has the business, any parent, affiliate or subsidiary company, or any of their respective officers, directors, owners, general partners, or managing members ever been convicted of, entered a plea of guilty, entered a plea of nolo contendere, or otherwise admitted to or concluded a sentence imposed for:

1. The commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract?
2. The violation of any state or federal law for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a municipal contractor?
3. The violation of any state or federal antitrust, collusion or conspiracy law arising out of the submission of bids or proposals to a public or private contract or subcontract?
4. Fraudulent, criminal or other seriously improper conduct while participating in a joint venture or similar arrangement?
5. Willfully failing to perform in accordance with the terms of one or more public contracts, agreements or transactions?
6. Having a history of failure to perform or a history of unsatisfactory performance of one or more public contracts, agreements, or transactions?
7. Willfully violating a statutory or regulatory provision or requirement applicable to a public contract, agreement, or transaction?

(Ord. dated 6/19/06 (part); Ord. dated 6/16/03)

(Ord. dated 12/19/16)

APPROVED BY THE
BRIDGEPORT CITY
COUNCIL ON:
JUNE 6, 2022

APPROVED BY MAYOR
JOSEPH P. GANIM
ON:
JUNE 6, 2022

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