



Legislation Text

File #: 19-1139, **Version:** 1

An Ordinance to Amend Sections 1:311, 1:316, 1:317, 1:319, and 1:324 in Chapter 14 (Purchasing, Contracting and Selling Procedure) of Title I of the Code of the City of Ann Arbor (Ordinance No. ORD-19-23)

Chapter 14 of the City's Municipal Code govern the City's method of purchasing, contracting, and selling. The Financial and Administrative Services Unit, along with the City Attorney's Office, recently conducted a review of Chapter 14 to ensure its provisions conform with practice and are in-line with the City interests.

The attached changes:

- 1) Require service area administrators (rather than the Chief Financial Officer) to sign contracts to certify sufficient funds and that the contract's terms are acceptable from a business perspective;
- 2) Codify the City's practice of allowing procurement of goods and services without competitive bidding or formal solicitation when the City Administrator determines the contractor is either a best source or sole source;
- 3) Require that the emergency purchase of goods be reported to the City Council in essentially the same way that emergency purchases of services are reported; and
- 4) Correct typographical errors.

The proposed changes conform with both the Charter and current practice. City staff recommends approval.

Prepared by: Tom Crawford, Financial Services Area Administrator and CFO

Review by: Betsy Blake, Senior Assistant City Attorney

Approved by: Howard S. Lazarus, City Administrator

ORDINANCE NO. ORD-19-23

First Reading: June 17, 2019 and July 1, 2019 Approved: July 15, 2019

Public Hearing: July 1, 2019 and July 15, 2019 Published: July 18, 2019

Effective: July 28, 2019

PURCHASING, CONTRACTING AND SELLING PROCEDURE

AN ORDINANCE TO AMEND SECTIONS 1:311, 1:316, 1:317, 1:319, AND 1:324 IN CHAPTER 14 (PURCHASING, CONTRACTING AND SELLING PROCEDURE) OF TITLE I OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor Ordains:

Section 1. That Section 1:311 of Chapter 14 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

1:311. - Procurement/purchasing; purchasing agent.

Procurement/purchasing, accounting services unit primary function is to assist the various services areas/units in securing the best products, repairs and services available for the purposes intended in the most efficient and economical manner possible and to ensure all acquisitions of products, repairs and services are made in conformance with City Charter and Code requirements and established operational procedures.

The City Administrator shall adopt necessary operational procedures for the procurement of goods and services. No contract for the purchase of services, goods or construction shall be entered into, with the exception of emergency purchases, unless: (1) the finance and administrative service area administrator approves the contract as to substance and certifies that there is a sufficient unencumbered balance in the budget or appropriation against which the charge for the purchase is to be made; and (2) unless the City Attorney's office has approved the contract, bond and insurance, as applicable, as to form. No service area, officer or employee of the city shall be empowered to execute any purchase order, change order, agreement or contract except as authorized by this chapter. Failure to comply with this chapter shall render a contract voidable.

The Administrator shall designate a purchasing agent for the city. The Purchasing Agent shall serve as the principal public purchasing official for the city. He/she shall be responsible for the procurement of goods and service, and construction as well as disposing of city assets in accordance with this chapter.

Section 2. That Section 1:316 of Chapter 14 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

1:316. - Exception to competitive bidding.

Competitive bidding shall not be required in the following situations:

- (1) The city may redeploy or direct transfer goods or equipment between service areas/units.
- (2) The city may join in cooperative purchasing arrangements with the State of Michigan and/or other government units or public agencies. The city may accept extended government pricing with appropriate documentation, if it is determined by the City Administrator or City Council to be cost-effective and in the city's best interest. In addition the city may participate in cooperative (i.e. joint) bidding in which 2 or more public agencies agree on specification and contract terms for a given item and combine their requirements for this item in a single ITB when cost-effective and in the city's best interest. Subsequent to the award of a cooperative bid, each public agency will issue and administer its own purchase order or contract.
- (3) Procurement of professional services shall follow the monetary criteria established above; however, services may be procured through a request for proposals or quality-based selection, as deemed practical and reasonable subject to approval of the contract by the City Attorney. Award shall be made of the professional services provider determined to be best qualified based on the evaluation factors set forth in the selection process and negotiation of a fair and reasonable compensation.
- (4) Procurement of supplies, services or equipment where competitive bidding is not required by law or City Charter and either clearly is not practical or no advantage would result to the city by requiring competitive bidding, the Council, upon the written recommendation of the City Administrator, may

authorize the execution of a contract without competitive bidding. Where a contract is let without competitive bidding the proposed contract shall be approved by the City Attorney as to form and content, unless prepared by him by direction of the Council, and submitted to the Council.

(5) Notwithstanding anything in Section 1:316 (4), and except to the extent limited by law, the City Administrator shall have the authority to waive the requirement for competitive bidding for any purchase where: 1) The total obligation of the purchase is \$25,000 or less; and 2) The City Administrator determines that competitive bidding is not practical or of no advantage to the City. The City Administrator shall provide a written report to City Council every month of all purchases approved pursuant to the authority in this subsection.

Section 3. That Section 1:317 of Chapter 14 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

1:317. - Emergency purchases and contracts.

(1) In case of emergency, any service area administrator, with the approval of the City Administrator, may purchase directly any supplies, materials or equipment, the immediate procurement of which is necessary to the continuation of the work of his/her service area. Such purchases and the emergency causing them shall be reported in detail to the Purchasing Agent within a week from the time when made and such reports shall be preserved by the Purchasing Agent for a period of 2 years. If the limits of City Code section 1:313 are exceeded for such purchase, the City Administrator shall, within two weeks of the purchase, report to Council the emergency requiring the purchase and the details of the purchase.

(2) In case of emergency, the City Administrator without first having obtained Council approval may, when necessary to alleviate the emergency, contract for professional services where the limits of City Code section ~~1:323~~1:313 are exceeded or for construction services. In these cases, the contract must be approved as to form by the City Attorney and content by the City Attorney. ~~The City Administrator, who shall report in detail to Council both the contract entered into under this provision and the emergency requiring entry into the contract within 2 weeks after entry into the contract.~~

Section 4. That Section 1:319 of Chapter 14 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

1:319. - Sale of surplus property.

Whenever any city property, real or personal, is no longer needed for corporate or public purposes, the same may be offered for sale.

(1) Personal property, including salvage, surplus material or obsolete equipment, excluding firearms and weapons, identified by the Service Area Administrator as no longer need for public purposes may be disposed of by the Purchasing Agent in accordance with the provisions of this section. The value of the surplus personal property shall be determined according to applicable industry standards. If the value is less ~~than~~ than \$500.00, the Purchasing Agent may dispose of the property in a manner which is determined to be in the best interest of the city. If the value does not exceed \$25,000.00, the property may be sold by auction, trade-in, or for cash by the purchasing agent upon approval of the City Administrator or designee after receiving quotations or competitive bids therefor for the best price obtainable. Personal property with a value in excess of \$25,000.00 may be sold by auction,

trade-in or after advertising and receiving competitive bids, as provided in section 1:313 and after approval of the sale has been given by the Council.

(2) Real property may be disposed of when no longer needed for public purposes in accordance with applicable state law, City Charter and ordinance requirements.

Section 5. That Section 1:324 of Chapter 14 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

1:324. - Bid protests.

All protests must be in writing and filed with the Purchasing Agent within 5 business days of the award action. The vendor must clearly state the reasons for the protest. If a vendor contacts a city service area/unit and indicates a desire to protest an award, the service area/unit shall refer the vendor to the Purchasing Agent. The Purchasing Agent will provide the vendor with the appropriate instructions for filing the protest. The protest shall be reviewed by the City Administrator or designee ~~who's~~whose decision shall be final.

Section 6: This Ordinance shall take effect ten days after passage and publication.

As Amended by Ann Arbor City Council at First Reading on June 17, 2019 and July 1, 2019.

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan at its regular session of July 15, 2019.

(Date)

Jacqueline Beaudry, Ann Arbor City Clerk

Christopher Taylor, Mayor

I hereby certify that the foregoing ordinance received legal publication on the City Clerk's Webpage on July 18, 2019.

Jacqueline Beaudry, Ann Arbor City Clerk