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1779

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17-21-18
James C. ...
James C. ...

AN ORDINANCE TO AMEND CHAPTER 2 - ADMINISTRATION, ARTICLE X, PROCUREMENT AND REAL ESTATE CODE, DIVISION 4, SOURCE SELECTION AND CONTRACT FORMATION, SECTION 2-1188, COMPETITIVE SEALED BIDDING, TO ALLOW FOR THE NEW E-PROCUREMENT SYSTEM; AND OTHER PURPOSES.

ADOPTED BY
 JAN 07 2018
 COUNCIL

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1ST ADOPT 2ND READ & REFER
- PERSONAL PAPER REFER

Date Referred 12/3/18 ✓
 Referred To: FIN./EXEC.
 Date Referred _____
 Referred To: _____
 Date Referred _____
 Referred To: _____

First Reading

Committee _____
 Date _____
 Chair _____
 Referred To _____

Committee Finance/Executive
 Date 12/12/18
 Chair [Signature]
 Action [Signature]
 Fav, Adv, Hold (See rev. side) _____
 Other _____
 Members [Signature]
 Refer To [Signature]

Committee _____
 Date _____
 Chair _____
 Action _____
 Fav, Adv, Hold (See rev. side) _____
 Other _____
 Members _____
 Refer To _____

FINAL COUNCIL ACTION
 2ND 1ST & 2ND 3RD
 Consent V Vote RC Vote

CERTIFIED

CERTIFIED
 JAN 07 2019
 ATLANTA CITY COUNCIL PRESIDENT
[Signature]

CERTIFIED
 JAN 07 2019
 MUNICIPAL CLERK
[Signature]

MAYOR'S ACTION

APPROVED
 JAN 15 2019
[Signature]
 MAYOR



**AN ORDINANCE BY
COUNCILMEMBER(S)**

CITY COUNCIL
ATLANTA, GEORGIA

18 O 1779

James M. [Signature]
[Signature]
[Signature]

**AN ORDINANCE TO AMEND CHAPTER 2 – ADMINISTRATION, ARTICLE X,
PROCUREMENT AND REAL ESTATE CODE, DIVISION 4, SOURCE
SELECTION AND CONTRACT FORMATION, SECTION 2-1188,
COMPETITIVE SEALED BIDDING, TO ALLOW FOR THE NEW E-
PROCUREMENT SYSTEM; AND OTHER PURPOSES.**

WHEREAS, the City of Atlanta’s Department of Procurement is charged with procuring supplies, construction, professional, real estate and consultant services for the City; and

WHEREAS, the Department of Procurement is instituting a new e-Procurement System which will automate the procurement process and the exchange of information between the City, its suppliers and end users; and

WHEREAS, the e-Procurement system will allow suppliers to register electronically; support multiple commodity codes per supplier; provide web access to review, read and respond to opportunities, offers an online question-and-answer service; and support sealed bids, and electronic attachments; and

WHEREAS, the e-Procurement system will enhance transparency, accountability and integrity in the procurement process; and

WHEREAS, the City will implement further language, to the extent not already contained within the appropriate required submittal(s), that mandates an offeror to disclose whether it has donated to the campaign of any City elected official(s) and if so, certify that such contribution was not made in anticipation of receiving City work or influencing the selection of City contractors; and

WHEREAS, the certification will be required in furtherance of the City's goal of enhancing the integrity of the procurement process, however, the chief procurement officer will not consider whether an offeror made such a campaign contribution when rendering a procurement award decision.

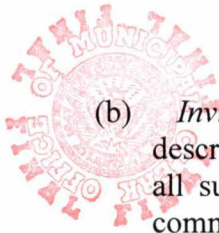
WHEREAS, the chief procurement officer recommends an amendment to section 2-1188 of the City’s Code of Ordinances.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

SECTION 1: That Chapter 2 – Administration, Article X, Procurement and Real Estate Code, Division 4, Source Selection and Contract Formation, Section 2-1188 of the City of Atlanta Code of Ordinances be amended so that it shall read as follows (new language in underlined and bolded font):

Sec. 2-1188. - Competitive sealed bidding.

- (a) *Conditions for use.* Contracts or purchase orders under this article shall be awarded by competitive sealed bidding, except as otherwise provided in sections 2-1187 and divisions 15 and 17 of this article.



(b) *Invitations for bids.* An invitation for bids shall be issued and shall include a purchase description and all contractual terms and conditions applicable to the procurement. Notice of all such invitations for bids shall be forwarded to all members of the finance/executive committee.

(c) *Public notice.*

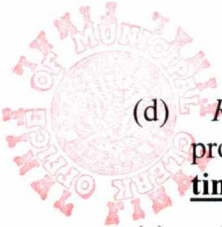
(1) *General notice.* An advertisement inviting bids shall be posted conspicuously at the department of procurement and advertised on an Internet website of the City of Atlanta, or a website designated by the City of Atlanta for such purpose and clearly indicated for that purpose. **In addition, the advertisement will be posted on the State of Georgia's Procurement Registry. The department of procurement may also elect to place an advertisement inviting bids in a newspaper of general circulation and in any other medium permitted under this article.** The advertisement shall be posted for 14 consecutive days preceding the date set for receipt of bids. Notice of bid security, if required, shall be included in the public notice. The public notice shall contain a general description of the supplies, services, construction or professional and consultant services to be procured and shall state the location of where appropriate solicitation documents may be obtained and the time and place of opening the documents.

(2) *Additional notice in unusual or special circumstances.*

a. *Notice in trade or industry publications.* When required supplies, services or construction are, in the determination of the chief procurement officer in consultation with the using agency, either unusual in nature or highly specialized, the chief procurement officer shall cause an advertisement to be placed in at least one trade journal or such other specialized industry publication of circulation in the city, whichever is appropriate and most likely to bring responses from qualified and available offerors. The advertisement shall be published once and at least 14 days preceding the date set for receipt of bids. The provisions of this paragraph concerning unusual or special circumstances shall be used in addition to, and not in lieu of, the provisions in subsection (c)(1) of this section.

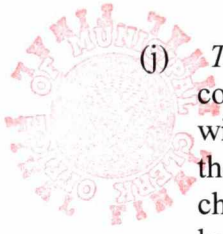
b. *Assistance of using agency.* The chief procurement officer may rely upon the subject matter expertise and the assistance of personnel of the using agency who shall, prior to competitive solicitation, make a prompt written determination of the appropriate trade journal or specialized industry publication where the advertisement is to be placed. The written determination by the using agency shall be made sufficiently in advance such that notice and advertisement can be timely placed by the chief procurement officer in the next available issue of a journal or industry publication, which will be published at least 14 days preceding the date set for receipt of bids. The using agency shall provide the necessary funds from its budget for the costs and expenses associated with advertisement in trade journals or such other industry publications.

c. *Contents of notice.* Notice of bid security, if required, shall be included in the public notice for the trade journal or such other industry publication. The public notice shall contain a general description of the supplies, services or construction to be procured and shall state the date and location where solicitation documents may be obtained, and the time and place of opening of the bids.

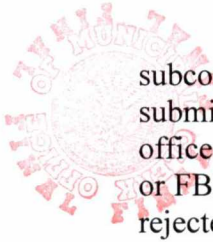


- (d) *Receipt of competitive sealed bids.* All bids must be delivered to and received by the chief procurement officer or designated department of procurement staff at the bid opening and **timestamped** no later than 2:00 p.m. Eastern Time.
- (e) *Clock calibration.* Prior to all bid openings, the chief procurement officer or designated department of procurement staff shall coordinate the clock calibration used in the bid process with the National Bureau of Standards.
- (f) *Bid opening.* **The City's method of bid submission, either electronic or by other acceptable means, will be identified in the invitation for bids. Bids shall be opened publicly in the presence of one or more witnesses and the bid tabulations shall be released publicly on the City of Atlanta's Procurement website. The name of each offeror, the amount of each bid and such other relevant information as the chief procurement officer deems appropriate shall be recorded and published. Only the name of each offeror for competitive sealed proposals shall be recorded and published.**
- (g) *Bid acceptance.* Bids shall be received by the chief procurement officer or designated department of procurement staff without alteration or correction, except as authorized in this article, provided that the bids are **received by** the chief procurement officer at the time, place and under the conditions contained in the invitation for bids.
- (h) *Bid evaluation.* Bids shall be evaluated based on the requirements set forth in the invitation for bids and the City's Code of Ordinances. Those criteria, including but not limited to discounts, transportation costs and total or life-cycle costs, that will affect the bid and price and be considered in the evaluation for the award shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used.
- (i) *Correction or withdrawal of bids.*
- (1) *Before bid opening.* Correction or withdrawal of bids may be allowed by the chief procurement officer before the scheduled time and date of bid opening. The offeror may withdraw the bid, without revealing the amount of the bid, by submitting a new sealed bid or providing written notice of withdrawal before bid opening. Notice of withdrawal shall be received by the chief procurement officer prior to bid opening.
 - (2) *After bid opening.* After bid opening, corrections in bids shall be permitted only to the extent that the offeror can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interests of the city or fair competition shall be permitted.
 - (3) The chief procurement officer may also exercise all rights a bidder may have to correct its bid provided in this Code section and may communicate with any bidder concerning the correction or withdrawal of its bid.
 - (4) *Withdrawal.* In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:
 - a. The mistake is clearly evident on the face of the bid document, but the intended correct bid is not similarly evident; or
 - b. The bidder submits evidence that clearly and convincingly demonstrates that a mistake was made.

All decisions to permit the correction or withdrawal of bids shall be supported by a written determination made by the chief procurement officer.



- (j) *Tie bids.* If two or more offerors are tied in price while otherwise meeting all of the required conditions, the contract shall be awarded to an offeror whose principal place of business is within the city or, if not within the city, within the metropolitan Atlanta area or, if not within the city or metropolitan area, within the state. Where no offeror is located within the state, the chief procurement officer shall award the contract to the offeror whose principal place of business is the closest to the city.
- (k) *Award.* The contract shall be awarded with reasonable promptness by written notice to the most responsible and responsive offeror whose bid meets the requirements and criteria set forth in the invitation for bids. In determining the most responsible and responsive offeror, the chief procurement officer, in consultation with the using agency, shall consider the following:
- (1) The ability, capacity and skill of the offeror to perform the contract and provide the services/supplies required;
 - (2) The capability of the offeror to perform the contract and provide the services/supplies promptly or within the time specified without delay or interference;
 - (3) The character, integrity, reputation, judgment, experience and efficiency of the offeror;
 - (4) The quality of performance of the offeror of previous contracts and provision of services/supplies;
 - (5) The previous and existing compliance by the offeror with laws and ordinances relating to the contract and provision of services/supplies;
 - (6) The sufficiency of the financial resources and ability of the offeror to perform the contract and provide the services/supplies;
 - (7) The compliance of the offeror with the requirements of an equal employment opportunity in contracting program as may be required by ordinance;
 - (8) When applicable, the compliance of the offeror with the requirements of a minority and female business enterprise participation program as may be required by ordinance;
 - (9) The compliance of the offeror with the requirements of a local preference program as may be required by ordinance;
 - (10) The quality, availability and adaptability of the supplies or services to the particular use required; and
 - (11) The price. If all bids exceed available funds as certified by the chief financial officer and the most responsible and responsive bid does not exceed such funds by more than five percent, the chief procurement officer is authorized, when time or economic considerations preclude resolicitation of a reduced scope, to negotiate an adjustment of the bid price, including changes in the bid requirements, with the most responsible and responsive offeror in order to bring the bid within the amount of available funds.
- (l) *Multi-step sealed bidding.* When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those offerors whose offers have been qualified under the criteria set forth in the first solicitation.
- (m) *Substitution, replacement by uncertified minority business enterprise or female business enterprise prohibited.* An offeror may not substitute for or replace any minority business enterprise (MBE) or female business enterprise (FBE), as those terms are defined in section 2-1443, when that MBE or FBE has been designated in writing by the offeror as a




subcontractor for the contract on which the offeror has submitted a bid, if the MBE or FBE submitted as a part of the bid is not a certified, legitimate MBE or FBE, as determined by the office of contract compliance. If the office of contract compliance determines that the MBE or FBE is not legitimate or certified, the bid of the contractor who submitted the bid shall be rejected.

- (n) The office of contract compliance shall evaluate each such bid as to the offeror's compliance with subsections (k)(7) and (8) of this section and shall notify the chief procurement officer, in writing, whether the bid is responsive or nonresponsive.

SECTION 2: The amendments contained in this ordinance shall be effective immediately upon implementation of the new e-procurement system.

SECTION 3: That all ordinances or parts of ordinances in conflict herewith be and the same are hereby waived to extent of the conflict only.

A true copy,

Municipal Clerk

ADOPTED by the Atlanta City Council
APPROVED by Mayor Keisha Lance Bottoms

JAN 07, 2019
JAN 15, 2019

**CITY COUNCIL
ATLANTA, GEORGIA**

01/07/19

ATLANTA CITY COUNCIL

ADOPTED

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

AYES: Bond, Smith, Westmoreland, Farokhi, Matzigkeit, Archibong, Shook, Hillis, Boone, Overstreet, Sheperd, Dickens, Winslow

ITEMS REMOVED: 18-O-1764

VOTE RECORD - CONSENT						
<input type="checkbox"/> ADOPTED <input type="checkbox"/> ADVERSED <input type="checkbox"/> FAVORABLE <input type="checkbox"/> ACCEPTED AND FILED <input type="checkbox"/> FIRST READING <input type="checkbox"/> SECOND READING <input type="checkbox"/> THIRD READING <input type="checkbox"/> FOURTH READING <input type="checkbox"/> FIFTH READING <input type="checkbox"/> REFERRED TO COMMITTEE <input type="checkbox"/> HELD IN COMMITTEE <input type="checkbox"/> TABLED <input type="checkbox"/> DEFERRED <input type="checkbox"/> RECONSIDERED <input type="checkbox"/> FILED <input type="checkbox"/> ADOPTED AS AMENDED <input type="checkbox"/> AMENDED <input type="checkbox"/> ACCEPTED <input type="checkbox"/> SUBSTITUTED <input type="checkbox"/> AMENDED SUBSTITUTE <input type="checkbox"/> FILED BY COMMITTEE <input type="checkbox"/> REFERRED TO ZRB AND ZC <input type="checkbox"/> REFERRED WITHOUT OBJECTION <input checked="" type="checkbox"/> ADOPTED ON SUBSTITUTE <input type="checkbox"/> ADOPTED SUBSTITUTE AS AMENDED <input type="checkbox"/> FORWARDED WITH NO RECOMMENDATI <input type="checkbox"/> REFERRED TO SC <input type="checkbox"/> FILED WITHOUT OBJECTION <input type="checkbox"/> FAILED <input type="checkbox"/> FORWARDED TO FC/NQ <input type="checkbox"/> FAVORABLE ON SUBSTITUTE <input type="checkbox"/> FAVORABLE/SUB/AMENDED						
			YES/AYE	NO/NAY	ABSTAIN	ABSENT
	MICHAEL JULIAN BOND	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	MATT WESTMORELAND	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	ANDRE DICKENS	SECONDER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	CARLA SMITH	MOVER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	AMIR R FAROKHI	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	CLETA WINSLOW	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	NATALYN MOSBY ARCHIBONG	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	JENNIFER N IDE	VOTER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	AWAY
	HOWARD SHOOK	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	JP MATZIGKEIT	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	DUSTIN HILLIS	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	ANDREA L BOONE	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	MARCI COLLIER OVERSTREET	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	JOYCE M SHEPERD	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

		01-07-19
ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT	
1. 18-O-1749	36. 18-R-4515	
2. 18-O-1753	37. 18-R-4516	
3. 18-O-1754	38. 18-R-4517	
4. 18-O-1755	39. 18-R-4518	
5. 18-O-1750	40. 18-R-4519	
6. 18-O-1751	41. 18-R-4520	
7. 18-O-1752	42. 18-R-4521	
8. 18-O-1756	43. 18-R-4522	
9. 18-O-1757	44. 18-R-4523	
10. 18-O-1758	45. 18-R-4524	
11. 18-O-1759	46. 18-R-4525	
12. 18-O-1760	47. 18-R-4526	
13. 18-O-1762	48. 18-R-4527	
14. 18-O-1766		
15. 18-O-1771		
16. 18-O-1772		
17. 18-O-1776		
18. 18-O-1777		
19. 18-O-1779		
20. 18-O-1781		
21. 18-R-4447		
22. 18-R-4530		
23. 18-R-4531		
24. 18-R-4528		
25. 18-R-4529		
26. 18-R-4533		
27. 18-R-4534		
28. 18-R-4535		
29. 18-R-4513		
30. 18-R-4536		
31. 18-R-4537		
32. 18-R-4538		
33. 18-R-4511		
34. 18-R-4512		
35. 18-R-4514		

MAYOR'S ACTION AUTHENTICATION PAGE



18-O-1779

**Adopted by the Atlanta City Council
January 7, 2019**

