



City of Grand Island

Tuesday, July 23, 2002

Council Session

Item F4

#8752 - Consideration of Amending Chapter 27 of the Grand Island City Code Relative to Procurement Code

As reported in an April 2002 edition of the City Administrator's Memorandum (The Blues), and reviewed at the July 16th City Council Study Session, a staff committee was charged with reviewing the current Procurement Code. A comprehensive review of the Procurement Code has not been undertaken since the Code was significantly overhauled in 1991. It is appropriate from time to time to review and update these types of policies and procedures to ensure they reflect organizational needs and objectives. The Procurement Code provides for the fair and equitable treatment of all persons involved in public purchasing by the City, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity. Over the course of the last three months, the Committee has reviewed not only the Procurement Code (Chapter 27 of City Code) but also associated policies and procedures that are established at the Administration level. The goal of the Committee is to identify what changes, if any, could be made to streamline the purchasing process and, at the same time, retain the integrity of the City's procurement processes. To assist in this effort, procurement policies from other first class cities were obtained and analyzed. Results demonstrated no consistent standards. Some cities did not have a formalized or centralized bidding process; each department handled purchases independently and in many cases differently than others. Others, like Grand Island, were quite structured in their bidding processes. As a result of this review and discussions with management, it is recommended that the Procurement Code be amended as follows: RECOMMENDATIONS Section 27-6 and 27-7 (Responsibility) Included the City Administrator with the Mayor and City Council in supervision of the purchasing policies. Section 27-8 and 27-10 (Advertising Time) Reduce the length of time required between formal publication of invitation for sealed bids and bid opening from 15 days to 7 days. This same time frame would be established for the request for proposals for professional services such as accountants, clergy, physicians, lawyers, and dentists. These requests are generally mailed to potential bidders/proposals, in addition to the formal public announcement. This timeframe maintains adequate notice for response and allows for more efficient and timely purchasing. These timeframes are the minimum required and can be increased at the discretion of the Department Director depending upon the size or complexity of the project. Section 27-9 (Advertising Time) Reduce the length of time required for publication for advertisements for competitive sealed proposals and the opening for these proposals from 30 days to 15 days. Again, this allows adequate notice for offerors while expediting procurement process. It should be noted that requests for competitive sealed proposals are mailed to potential proposors who might have an interest (companies listed in Yellow Pages, for instance) or those who have previously expressed interest, in addition to the public announcement. These timeframes are the minimum required and can be increased at the

discretion of the Department Director depending upon the size and complexity of the project. Section 27-11 (Small Purchases) Set the dollar limit for small purchases at \$2,500. Small purchases such as materials, supplies, and equipment purchases that are under \$2,500 could be purchased without obtaining three quotations. Materials, supplies and equipment purchases over \$2,500 would require the solicitation of three confidential quotations. Section 27-11(Materials/Services) Increase the dollar limit for joint material/services from \$5,000 to \$7,500. These increases reflect real increases in service costs over the course of the last decade. Section 27-11 (Formal Contracts) Align the contract amount for small purchases with those required for public works improvement projects. This change requires all contracts exceeding \$20,000 to be considered by the City Council. Currently, the Procurement Code requires contracts of \$10,000 to be brought before the Council, except for public works improvement projects (\$20,000) or purchases for the enlargement or improvement of the electric system (\$40,000). Review of the Local Miscellaneous Expenditure Act has also taken place. As you know, the Legislature adopted the Expenditure Act to address issues relating to the purchase of meals, flowers, gifts and other similar expenditures. The City Council adopted the Local Miscellaneous Expenditure Act in its entirety. The Act addresses when the expenditures of public funds for meals, hotels, etc. are authorized. The Act allows for the expenditure of public funds for meals, hotels, traveling and similar expenditures for officials, employees, or volunteers when they are conducting public business, if the government body has given prior approval for these expenditures. The need for expenditures of this nature was evident this past year when the Zoo Committee participated in site visits to other zoos. Another example of an appropriate use of these expenditures occurs when City government interviews candidates for management positions within the organization. It is recommended that a line item be included in next year's budget for these types of expenditures. In order to ensure compliance with the intent of the Act, all requests would require the prior approval of the City Administrator. These changes are presented for Council discussion and consideration.

Staff Contact: Charlie Cuypers

ORDINANCE NO. 8752

An ordinance to amend Chapter 27 of the Grand Island City Code; to amend Section 27-6 pertaining to the Purchasing Agent; to delete Section 27-7 pertaining to delegation of authority; to amend Section 27-8 pertaining to advertisement for bids; to amend Section 27-9 pertaining to advertisement for proposals; to amend Section 27-10 pertaining to professional services; to amend Section 27-11 pertaining to limits for quotation and small purchases; to repeal Sections 27-6, 27-7, 27-8, 27-9, 27-10, and 27-11 as now existing, and any ordinance or parts of ordinances in conflict herewith; and to provide for publication and the effective date of this ordinance.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA:

SECTION 1. Section 27-6 of the Grand Island City Code is hereby amended to read as follows:

§27-6. Authority And Duties

Except as otherwise provided herein, the purchasing agent shall serve as the principal public purchasing official for the City and shall be responsible for the procurement of supplies, services, and construction in accordance with this chapter, as well as the management and disposal of supplies.

In accordance with this chapter, and subject to the supervision of the mayor and city council through the city administrator, the purchasing agent shall:

- (A) Procure or supervise the procurement of all supplies, services, and construction needed by the City;
- ~~(B) Exercise direct supervision over the City's central stores and general supervision over all other inventories of supplies belonging to the City;~~
- (B)(C) Sell, trade, or otherwise dispose of surplus supplies belonging to the City; and
- (C)(D) Establish and maintain programs for specifications development, contract administration and inspection and acceptance, in cooperation with the public agencies using the supplies, services, and construction.

Consistent with this chapter, and with the approval of the mayor and the city council, the purchasing agent may adopt operational procedures relating to the execution of its duties.

SECTION 2. Section 27-7 of the Grand Island City Code is hereby deleted:

§27-7. Delegation To Other Officials

~~With the approval of the city council and the mayor, the purchasing agent may delegate authority to purchase certain supplies, services, or construction items to other City officials, if such delegation is deemed necessary for the effective procurement of those items. Notwithstanding the provisions of §27-6 (Authority and Duties), procurement authority with respect to certain supplies, services, or construction may be delegated to other~~

Approved as to Form ? _____
July 19, 2002 ? City Attorney

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~~City officials by the mayor with the approval of the city council, when such delegation is deemed necessary for the effective procurement of these supplies, services, or construction.~~

SECTION 3. Section 27-8 of the Grand Island City Code is hereby amended to read as follows:

§27-8. Competitive Sealed Bidding

Conditions for Use. All contracts of the City shall be awarded by competitive sealed bidding except as otherwise provided in §27-9 (Competitive Sealed Proposals), §27-10 (Designated Professional Services), §27-11 (Small Purchases), §27-12 (Sole Source Procurement), §27-13 (Emergency Procurements), and §27-35 (Architects, Engineers, Surveyors) of this chapter.

Invitation for Bids. An invitation for bids shall be issued and shall include specifications, and all contractual terms and conditions applicable to the procurement. Invitations for bids on public works contracts shall require a statement of compliance with fair labor standards as required by Neb. R.R.S. 73-102.

Public Notice. Adequate public notice of the invitation for bids shall be given a reasonable time, not less than ~~seven (7) fifteen (15)~~ calendar days prior to the date set forth therein for the opening of bids, ~~except for public works projects for enlargement or general improvements as defined in §27-11, where adequate public notice of the invitation for bids shall be given a reasonable time of at least seven (7) days prior to the bid closing.~~ Such notice may include publication in a newspaper of general circulation a reasonable time prior to bid opening. The public notice shall state the place, date, and time of bid opening.

Bid Opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as the purchasing agent deems appropriate, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection in accordance with §27-4 (Public Access to Information).

Bid Acceptance and Bid Evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids.

Correction or Withdrawal of Bids; Cancellation of Awards. Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written or telegraphic notice received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder 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 interest of the City or fair competition shall be permitted. 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 which clearly and convincingly demonstrates that a mistake was made.

All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the purchasing agent.

Award. The contract shall be awarded with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, subject to the requirements of Neb. R.R.S. 73-101.01 for resident bidder preference. In the event the low responsive and responsible bid for a construction project exceeds available funds as certified by the city treasurer, and such bid does not exceed such funds by more than five percent, the purchasing agent is authorized, when time or economic considerations preclude resolicitation of work of a reduced scope, to negotiate an adjustment of the bid

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price with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds. Negotiated adjustments shall be based upon eliminating independent deductive items specified in the invitation for bids or upon adjustments to unit prices or project prices.

Multi-Step Sealed Bidding. When it is considered impractical to prepare initially 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 bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.

Local Bidder Preference. In case of tied low bids, all other things being equal, preference shall be given in the following order:

- (A) To those bidders who manufacture their products within the limits of the City of Grand Island;
- (B) To those bidders who manufacture their products within the limits of the County of Hall;
- (C) To those bidders who package, process, or through some other substantial operation have employees and facilities for these purposes in the City of Grand Island;
- (D) To those bidders who package, process, or through some other substantial operation have employees and facilities for these purposes in the County of Hall;
- (E) To those bidders who maintain a bona fide business office in the City of Grand Island, whose products may be made outside the confines of the County of Hall;
- (F) To those bidders who maintain a bona fide business office in the County of Hall, whose products may be made outside of the confines of the County of Hall;
- (G) To those bidders whose commodities are manufactured, mined, produced, or grown within the State of Nebraska, and to all firms, corporations, or individuals doing business as Nebraska firms, corporations, or individuals when quality is equal or better and delivered price is the same or less than the other bids received;
- (H) To those bidders whose commodities are manufactured, mined, produced, or grown within the United States of America, and to all firms, corporations, or individuals doing business as firms registered in states other than Nebraska, when quality is equal or better and delivered price is the same or less than the other bids received.

SECTION 4. Section 27-9 of the Grand Island City Code is hereby amended to

read as follows:

§27-9. Competitive Sealed Proposals

Conditions for Use. When the purchasing agent determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the City, a contract may be entered into by use of the competitive sealed proposals method.

Request for Proposals. Proposals shall be solicited through a request for proposals.

Public Notice. Adequate public notice of the request for proposals shall be given in the same manner as provided in §27-8 (Competitive Sealed Bidding); provided, the minimum time shall be fifteen (15) ~~30~~ calendar days.

Receipt of Proposals. No proposals shall be handled so as to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors during the process of negotiation. A register of proposals shall be prepared containing the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item offered. The register of proposals shall be open for public inspection only after contract award.

Evaluation Factors. The request for proposals shall state the relative importance of price and other evaluation factors.

Discussion with Responsible Offerors and Revisions to Proposals. As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussion, there shall be no

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disclosure of the identity of competing offerors or of any information derived from proposals submitted by competing offerors.

Award. Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the City, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.

SECTION 5. Section 27-10 of the Grand Island City Code is hereby amended to

read as follows:

§27-10. Designated Professional Services

Authority. For the purpose of procuring the services of accountants, clergy, physicians, lawyers, dentists, as defined by the laws of the State of Nebraska, any using agency requiring such services may procure them on its own behalf, in accordance with the selection procedures specified in this section. A using agency procuring such services shall consult with the purchasing agent. No contract for the services of legal counsel may be awarded without the approval of the city council.

Selection Procedure:

(A) *Conditions for Use.* Except as provided under §27-12 (Sole Source Procurement) or §27-13 (Emergency Procurements), the professional services designated in this section shall be procured in accordance with this section.

(B) *Statement of Qualifications.* Persons engaged in providing the designated types of professional services may submit statements of qualifications and expressions of interest in providing such professional services. A using agency using such professional services may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.

(C) *Public Announcement and Form of Request for Proposals.* Adequate public notice of the need for such services shall be given by the using agency requiring the services through a request for proposals. Such notice may include publication in a newspaper of general circulation not less than ~~seven (7) fifteen (15)~~ days prior to the final date for receipt of proposals. The request for proposals shall describe the services required, list the types of information and data required of each offeror, and state the relative importance of particular qualifications.

(D) *Discussions.* The head of a using agency procuring the required professional services or a designee of such officer may conduct discussions with any offeror who has submitted a proposal to determine such offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(E) *Award.* Award shall be made to the offeror determined in writing by the head of the using agency procuring the required professional services or a designee of such officer to be best qualified based on the evaluation factors set forth in the request for proposals, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified offeror, then negotiations will be formally terminated with the selected offeror. If proposals were submitted by one or more other offerors determined to be qualified, negotiations may be conducted with such other offeror or offerors, in the order of their respective qualification ranking, and the contract may be awarded to the offeror then ranked best qualified if the amount of compensation is determined to be fair and reasonable.

SECTION 6. Section 27-11 of the Grand Island City Code is hereby amended to

read as follows:

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§27-11. Small Purchases

General. Any contract not exceeding ~~\$20,000, \$10,000, or in the case of public works improvement projects, any contract not exceeding \$20,000,~~ or in the case of utility power plant fuel contracts, any contract not exceeding \$40,000, or for the purchase of equipment used for such enlargement or improvement of the electric system, any contract not exceeding \$40,000, may be made in accordance with the purchase by quotation and small purchase procedures authorized in this section. Contract requirements shall not be artificially divided so as to constitute a purchase by quotation or a small purchase under this section.

Public Works General Improvement Projects. In any contract not exceeding \$20,000 for enlargement or general improvements, such as water extensions, sewers, public heating systems, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, no less than three businesses shall be solicited to submit quotations. Award shall be made to the business offering the lowest acceptable quotation. The names of businesses submitting quotations, and the date and amount of each quotation shall be recorded and maintained as a public record.

Utility Power Plant Fuel Contracts. In all purchases of utility power plant fuel not exceeding \$40,000 per contract, no less than three businesses shall be solicited to submit quotations. Award shall be made to the business offering the lowest acceptable quotation. The names of businesses submitting quotations and the date and amount of each quotation shall be recorded and maintained as a public record.

Municipal Electric Utility Enlargement or Improvement. In any contract by the municipal electric utility for the enlargement or improvement of the electric system or for the purchase of equipment used for such enlargement or improvement, when said contract does not exceed \$40,00, no less than three businesses shall be solicited to submit quotations. Award shall be made to the business offering the lowest acceptable quotation. The names of businesses submitting quotations and the date and amount of each quotation shall be recorded and maintained as a public record.

Purchases by Quotation. Insofar as it is practical for materials, supplies and equipment purchases in excess of ~~\$2,500~~\$1,000, and services and ~~services/materials labor~~ purchases in excess of ~~\$7,500~~\$5,000, no less than three businesses shall be solicited to submit quotations. Award shall be made to the business offering the lowest acceptable quotation. The names of the businesses submitting quotations, and the date and amount of each quotation, shall be recorded and maintained as a public record.

Small Purchases. The purchasing agent shall adopt operational procedures for making small purchases of materials, supplies and equipment in an amount of ~~\$2,500~~ \$1,000 or less, and for making purchases of services and labor, including materials in an amount of ~~\$7,500~~\$5,000 or less. Such operational procedures shall provide for obtaining adequate and reasonable competition for the supply, service, or construction being purchased. Further, such operational procedures shall require the preparation and maintenance of written records adequate to document the competition obtained, properly account for the funds expended, and facilitate an audit of the small purchase made.

SECTION 8. Sections 27-6, 27-7, 27-8, 27-9, 27-10, and 27-11 as now existing, and any ordinances or parts of ordinances in conflict herewith be, and hereby are, repealed.

SECTION 9. That this ordinance shall be in force and take effect from and after its passage and publication, within fifteen days in one issue of the Grand Island Independent as provided by law.

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Enacted: July 23, 2002.

Ken Gnadt, Mayor

Attest:

RaNae Edwards, City Clerk