



CITY OF AURORA, ILLINOIS

ORDINANCE NO. 021-044
DATE OF PASSAGE August 24, 2021

An Ordinance amending various provisions of Division 2-V-2 of Chapter 2 of the Code of Ordinances pertaining to purchases.

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the City Council from time to time adopted ordinances, policies, and procedures related to the purchases of labor, goods, equipment, services, and professional services by the City; and

WHEREAS, the City Council has through its various enactments codified many of these aforementioned procedures as Division 2-V-2 of Chapter 2 of the Code of Ordinances, City of Aurora, Illinois (collectively "the Purchasing Article"); and

WHEREAS, the City Council finds it convenient and necessary to update the provisions of the Purchasing Article to reflect current and modern practices;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Aurora, Illinois, as follows: that The Purchasing Article shall be and hereby is amended as set forth in Exhibit A to this Ordinance; and further

BE IT ORDAINED, that the Corporation Counsel and City Clerk shall be and hereby are directed to undertake the codification of the provisions of Exhibit A into the Purchasing Article and may to the extent necessary correct any technical or scrivener's errors therein contained as may be necessary to reflect the purposes of this Ordinance

ORDINANCE NO. 021-044
LEGISTAR NO. 21-0598

PASSED AND APPROVED ON August 24, 2021

AYES 10 NAYS 2 NOT VOTING 0 ABSENT 0

ALDERMAN	Vote
Alderman Llamas, Ward 1	yes
Alderwoman Garza, Ward 2	no
Alderman Mesiacos, Ward 3	yes
Alderman Donnell, Ward 4	yes
Alderman Franco, Ward 5	yes
Alderman Saville, Ward 6	yes
Alderwoman Hart-Burns, Ward 7	yes
Alderwoman Smith, Ward 8	yes
Alderman Bugg, Ward 9	no
Alderwoman Baid, Ward 10	yes
Alderman Woerman, At Large	yes
Alderman Jenkins, At Large	yes

ATTEST:

Jennifer Stallenp
City Clerk

[Signature]
Mayor

1 Sec 2-335 Exceptions To Competitive Bidding Requirement

2 (a) Notwithstanding any provision of this division to the
3 contrary, the competitive bidding procedures and requirements
4 for labor, goods, equipment, and services generally subject
5 to such requirements may be dispensed with in any of the
6 following instances:

7 (1) Below Bidding Threshold. When the estimated amount
8 involved is less than twenty-five thousand dollars
9 (\$25,000.00).

10 (2) Standardized Equipment. When a commodity being
11 purchased is standardized in a manner to be compatible
12 with equipment or articles in existing city use and in
13 order to obtain more functional or economic use of
14 function from such existing equipment or articles
15 together with such commodity, ~~provided that such~~
16 ~~purchase does not exceed the cost of twenty-five~~
17 ~~thousand dollars (\$25,000.00).~~

18 (3) Limited, Restricted, or Sole Source. ~~The city~~
19 ~~council may, by resolution, authorize a purchase or~~
20 ~~award a contract, without complying with the provisions~~
21 ~~of this division provided that, while in public session,~~
22 ~~it has received competent information, data and sworn~~
23 ~~testimony or a written affidavit filed with the director~~
24 ~~of purchasing by the applicable city authority, and~~

1 ~~substantiated as required by the city council,~~
2 ~~supporting the fact that~~ When the product or service
3 required desired is provided by only one (1) person; or
4 that acquisition from an alternate source provides
5 materially less maintenance or warranty service such
6 that the purchase price alone does not accurately
7 reflect the value of the commodity; or that failure to
8 act promptly hereunder may likely result in a
9 substantial increase in cost thereof to be borne by the
10 city. Prior to the issuance of a purchase order under
11 this paragraph, the purchasing director shall require
12 the head of the department requesting the purchase to
13 document to the purchasing director's satisfaction that
14 an exemption from the competitive bidding requirement is
15 justified. Such documentation shall include an affidavit
16 from the requesting department head that the conditions
17 justifying an exemption from the competitive bidding
18 requirement are satisfied. The purchasing director may
19 consult with the corporation counsel in assessing the
20 validity or competence of the information, data, or
21 representations presented.

- 22 (4) Bona Fide Emergency. ~~When The city council may, by~~
23 ~~resolution, authorize the purchase of materials,~~
24 ~~supplies, equipment and services or order work performed~~

1 ~~by city or non-city forces upon a finding supported by~~
2 ~~competent information or data, including a written~~
3 affidavit filed with the director of purchasing by the
4 applicable city authority and substantiated by the
5 purchasing director ~~as required by the city council,~~
6 that such purchase or work is urgently and imminently
7 necessary for the preservation of life, health and
8 property, or the conservation of city resources. An
9 affidavit shall not be required under this paragraph
10 during a state of emergency or disaster declared by the
11 governor or the mayor and the purchase is directly
12 related to such emergency.

13 (5) Intergovernmental Purchases. ~~Any~~ When an agreement
14 involving acquisition of service, equipment or article
15 entered into with another governmental entity.

16 ~~(6)~~ Job Order Contracting. When the city council has
17 previously awarded a contract to one or more persons to
18 serve as a job order contract manager and the department
19 head requesting the purchase order has determined that
20 the provision of services through such contract is in
21 the best interests of the city and that job order
22 contracting is the most efficient delivery system for
23 the work. ~~Any municipal work or public improvement,~~
24 ~~when the expense thereof will exceed twenty-five~~

1 ~~thousand dollars (\$25,000.00), may be undertaken or~~
2 ~~constructed by contract or agreement without advertising~~
3 ~~for bids if authorized by a vote of three-fifths (3/5)~~
4 ~~of the members of the city council then holding office.~~

5 (b) In this section "urgently" and "imminently" mean
6 threatening to happen at once such as an impending danger or
7 calamity.

8 (c) Nothing in this section shall be construed as limiting
9 or purporting to limit the home rule powers of the city vested
10 in its city council to exercise any power and perform any
11 function pertaining to its government and affairs including,
12 but not limited to its power to select sources and let
13 contracts in any manner not prohibited by law, except as such
14 power may be lawfully preempted in accordance with the
15 constitution of this state.

16 (Code 1969, § 2-127.1; Ord. No. 096-94, § 1, 8-27-96; Ord. No.
17 013-037, § 1, 7-9-13)

18 Sec 2-336 Contracts Exempt or Excluded from Formal Bidding
19 Professional Contracts Excluded

20 (a) The city may award ~~Nothing in this division precludes~~
21 ~~the city from awarding~~ a written contract for professional type
22 services, which shall include architectural, engineering,
23 surveying, construction management, accounting, auditing, safety
24 and security risk assessment, computer and data assessment and

1 services, legal and other financial services, without complying
2 with the other provisions of this division.

3 (b) Unless otherwise directed by the city council, source
4 selection for contracts for professional services excluded from
5 competitive bidding by the Local Government Professional Services
6 Act shall be made in accordance with the provisions of that Act.
7 The method of source selection for the award of contracts for all
8 other professional services exceeding twenty-five thousand dollars
9 (\$25,000), except as may otherwise be provided in this code, shall
10 be determined by the finance director.

11 (c) A department head may authorize the purchasing director
12 to award a contract for professional services described in
13 paragraph (a) in an amount not to exceed fifty thousand dollars
14 (\$50,000). Except as otherwise provided in this code, by ordinance,
15 or by resolution, no contract in an amount in excess of fifty
16 thousand dollars (\$50,000) shall be awarded under this section
17 without the approval of the city council.

18

19 **Sec 2-341 Formal Contract And Bid Procedure**

20 Except as otherwise provided, all purchase orders or contracts of
21 whatever nature, for labor, services or work, the purchase, lease
22 ~~or sale~~ of personal property, materials, equipment or supplies
23 involving amounts in excess of twenty-five thousand dollars
24 (\$25,000.00), made by or on behalf of the city, shall be let to

1 the lowest ~~(or in the case of the sale of personal property, the~~
2 ~~highest)~~ responsible bidder following notice as required below:

3 (a) *Notice requirement.* Notice shall be published in a
4 newspaper of general circulation throughout the city by at
5 least one (1) insertion which shall be at least fifteen (15)
6 days prior to the time designated for opening bids. The notice
7 shall be sent to at least one (1) trade periodical pertaining
8 to construction projects involved in sufficient time to
9 permit such periodicals to publish the notice at least fifteen
10 (15) days prior to the bid opening time. The notice shall
11 include a general description of the article or service
12 desired; shall state the time, date and place of bid opening
13 and shall designate where bidding documents may be obtained.

14 (b) *Bidder's list.* Such notice shall also be sent on or
15 before the deadline for newspaper publication to those
16 persons and firms listed in the city's latest bidders' list
17 providing the service, commodity or article desired by the
18 city.

19 (c) *Web site notice.* All pending purchases or sales shall be
20 noticed by posting on the city web site.

21 (d) *Bidders' security.* All bids must be sealed and
22 accompanied by security, either cash, cashier's check,
23 certified check or surety bond, in a sum equal to ten (10)
24 percent of the total aggregate of the bid. The successful

1 bidder shall forfeit his bid security upon such bidder's
2 failure or refusal to execute the contract within the time
3 designated in the bid documents. The city ~~council~~ in such
4 event may award the contract to the next lowest responsible
5 bidder.

6 (e) *Other bond requirements.* A faithful performance bond,
7 labor and material bond and other bonds may be required by
8 the city council in an amount reasonably necessary to protect
9 the city's interest in obtaining the services or work involved.
10 If bonds are required, the form and amount thereof shall be
11 designated in the notice inviting bids.

12 (f) *Bid opening procedure.* All bids shall be submitted to
13 the city clerk who shall safeguard them in a sealed condition
14 until the time noticed for public bid opening. At the time
15 and place stated in the public notices, the city clerk ~~or his~~
16 ~~designee,~~ together with the director of purchasing, ~~or his~~
17 ~~designee,~~ shall publicly open all bids. A tabulation of all
18 bids received shall be available for public inspection in the
19 purchasing office for a period of not less than thirteen (13)
20 days after the bid opening. The city clerk and the director
21 of purchasing may conduct the opening of bids via real-time
22 internet or video broadcast when such broadcast satisfies all
23 the conditions set forth in this paragraph. The purchasing

1 director shall make a recording thereof and maintain it with
2 the bid tabulation.

3 (g) *Compilation of bids and recommendations.* Following the
4 opening of bids, the director of purchasing shall compile all
5 of the bids and submit them to the finance director together
6 with a recommendation as to which bid he considers best,
7 taking into consideration the recommendation of the
8 department ~~head~~ involved, the amount of money bid, compliance
9 with specifications and responsibility of the bidder. The
10 finance director shall forward the compilation of bids and
11 the recommendation of the director of purchasing with respect
12 to an award, the head of the department requesting the bids
13 or to the city council, as set forth in paragraph (j).

14 (h) *Award of bid.* The city ~~council~~ may ~~make an~~ award a ~~of~~
15 contract to the lowest responsible bidder or in the
16 alternative reject all bids and either re-advertise, or
17 ~~authorize the city itself to~~ perform the work or directly
18 acquire the items desired in accordance with the following:
19 *Direct method.* If ~~After~~ bids are rejected or if no bids are
20 received, the city council by resolution ~~enacted with four~~
21 ~~(4) affirmative votes~~ may order the work done by city
22 personnel and equipment or authorize the purchase of the
23 material, equipment or services involved on the open market
24 without complying with the requirements of this division;

1 provided that the city council receive competent information
2 or data that the city itself is capable of completing the
3 project involved in a more satisfactory or economical manner
4 or that the materials, equipment or service may be purchased
5 more economically on the open market.

6 (i) *Tie bids.* If two (2) or more bids are received which are
7 in all respects equal, the contract shall be awarded to a
8 bidder maintaining a place of business in the city; however,
9 if all or none of such bidders maintain a place of business
10 in the city then the contract shall be awarded by drawing
11 lots.

12 (j) Authority.

13 1. To reject bids. The head of the department for the
14 purchasing director has solicited bids under this
15 section may direct the director of purchasing to reject
16 all bids upon written notice setting forth the basis for
17 such rejection;

18 2. To award bids.

19 A. The head of the department for which the purchasing
20 director has solicited bids under this section may
21 authorize the purchasing director to award a
22 contract in an amount not to exceed fifty thousand
23 dollars (\$50,000) consistent with the provisions of
24 this section.

1 B. The city council shall authorize the director of
2 purchasing to award a contract for which the
3 purchasing director has solicited bids under this
4 section when the lowest responsible bid received is
5 in excess of fifty thousand dollars (\$50,000).

6 (k) Bid Protests. Except in cases of bona fide emergency, no
7 contract subject to the provisions of this section shall be
8 executed during the pendency of a bid protest under Sec. 2-
9 343 or fewer than seven (7) days after the posting of the bid
10 tabulation required by paragraph (f) of this section.

11 (Code 1969, § 2-125; Ord. No. 096-94, § 1, 8-27-96; Ord. No. 013-
12 037, § 1, 7-9-13)

13 **Sec 2-342 Informal Solicitation Procedure**

14 (a) Except as otherwise provided, all purchase orders or
15 contracts of whatever nature, for labor, services or work, the
16 purchase or lease ~~or sale~~ of personal property, materials,
17 equipment or supplies involving an expenditure of twenty-five
18 thousand dollars (\$25,000.00) or less, but more than an amount not
19 less than five thousand dollars (\$5,000.00), as the finance
20 director may from time-to-time determine in writing may be awarded
21 upon informal solicitation of at least three (3) competitive
22 quotations where reasonably possible and without complying with
23 the provisions of section 2-341; provided, however, that the
24 ~~following provisions, or section 2-335, shall govern:~~

1 ~~(a) — Informal solicitation.~~ The director of purchasing shall
2 informally solicit bids by giving notice to the persons and
3 firms listed in the latest bidders' list providing the service,
4 commodity or article desired by the city, as well as to such
5 other persons or firms as are known by the director of
6 purchasing to provide a competitive price or cost for the
7 service, commodity or article.

8 (b) In establishing the minimum purchasing thresholds to require
9 the informal solicitation of bids or quotations under this section,
10 the finance director may, but need not, determine that different
11 thresholds shall apply to different classes of property, materials,
12 equipment, or supplies.

13 (Code 1969, § 2-126; Ord. No. 096-94, § 1, 8-27-96; Ord. No. 013-
14 037, § 1, 7-9-13)

15 **Editor's note**— Ord. No. 013-037, § 1, adopted July 9, 2013, changed
16 the title of § 2-342 from "Informal bidding procedures" to
17 "Informal solicitation procedures."

18 **Sec 2-343 Bid Protests Award Hearing Procedure**

19 (a) A bidder submitting a bid in accordance with Sec. 2-242
20 may protest the purchasing director's recommendation as to the
21 award of a contract by filing with the city clerk a notice of
22 contest within seven (7) days of the posting of the bid tabulation.
23 The notice of protest shall identify the proposed contract to be
24 awarded and state with specificity the basis for the protest,

1 including citations to any provisions of law or ordinance the
2 protestor believes were not complied with and the that the failure
3 of the city or the presumptive awardee to strictly adhere to the
4 same materially affected determination of the award.

5 (b) The city clerk shall forward any protest to the purchasing
6 director who shall promptly review the protest. If the purchasing
7 director sustains the protest, the purchasing director shall set
8 forth the basis for such finding in writing and proceed to
9 retabulate the results of the bids and recommend the award to the
10 lowest responsible bidder or initiate a new bidding process. If
11 the purchasing director denies the protest, the purchasing
12 director shall set forth the basis for such finding in writing.
13 The findings of purchasing director shall be provided to the
14 protestor and to all persons that submitted a bid for the award
15 under protest.

16 (c) A decision of the purchasing director with respect to a
17 bid protest is subject to review by an administrative hearing
18 officer in accordance with chapter 3 of this code by any person
19 submitting a bid for the award under protest. Petitions for review
20 must be filed with the city clerk within seven (7) days of the
21 service of purchase director's written determination.

22 (d) Nothing in this section or this code shall be construed
23 as entitling any person submitting a bid in response to an
24 invitation to bid by the city to a contract award.

1 ~~Prior to making an award of contract exceeding twenty-five thousand~~
2 ~~dollars (\$25,000.00), the city council shall afford any bidder who~~
3 ~~is present at the particular council meeting an opportunity to~~
4 ~~testify or present evidence pertaining to the bidding procedures~~
5 ~~or documents employed if there is a complaint with respect thereto.~~
6 (Code 1969, § 2-127; Ord. No. 096-94, § 1, 8-27-96)