

WHEREAS, the Board of Aldermen of the City of Waterbury, being desirous of amending the Waterbury Code of Ordinances Chapter 38: Centralized Procurement System, does hereby adopt and approve the following amendments to the code.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF WATERBURY THAT: Waterbury Code of Ordinances Title III, Chapter 38, Section 38.022 regulating competitive sealed proposals is amended as follows:

§ 38.022 COMPETITIVE SEALED PROPOSALS.

(A) Conditions for use.

(1) Purchase orders or contracts, in excess of \$10,000, may be entered into following the issuance of competitive sealed proposals when the Director of Purchasing determines that the use of competitive sealed bidding is either not practicable or not advantageous to the city. As a general rule, the competitive sealed proposal shall be utilized for services, construction contracts and other commodities or services not susceptible to a competitive sealed bid.

(2) Professional services other than architectural and engineering are exempt from the provisions of this chapter; however, using agencies may, in the director of purchasing's discretion, utilize the competitive sealed proposal process set forth herein.

(B) Requests for proposals. Proposals shall be solicited through a request for proposals. As required by the Director of Purchasing, a request for information, request for qualifications or other forms of solicitation may be utilized to ascertain information, to establish qualifications, or to establish a list of those eligible to submit bids or proposals at subsequent steps in the procurement process in a manner established by the Director of Purchasing. The solicitations shall also contain, among other things, a description of the projected scope of services or system requirements, a notice of mandatory city contractual provisions or terms and conditions required by this chapter or other state or federal agencies as well as the requirements of Chapter 93 of the code of ordinances. Services shall be selected on the basis of a request for proposals. The Director of Purchasing shall establish guidelines identifying the content of requests for proposals. With respect to any particular request for proposals, the Director of Purchasing or the Corporation Counsel may vary any clauses that may have, prior thereto, been promulgated by the Department of Purchases for inclusion in all request for proposals. However, the Director of Purchasing does not have the discretion to vary the specifically enumerated legal requirements of the code of ordinances.

(C) Public notice. Adequate public notice of the request for proposals shall be given a reasonable time period prior to the date set forth therein for the opening of proposals and in a manner that the Director of Purchasing determines will maximize public participation and competition in the competitive sealed proposal process.

(1) The notice shall be inserted, at least ten calendar days before the final date of submitting proposals in the major daily newspaper published in the city and may, in the sole discretion of the Director of Purchasing, be posted on the Internet.

(a) Notice following pre-qualification of offerors. In the event of pre-qualification of offerors, the notice may be sent only to the vendors qualified to respond.

(b) Notice; indication. Each notice of a planned purchase under this chapter shall indicate the type of commodities or services to be purchased.

(2) The using agency shall provide the Director of Purchasing with special notice requirements necessary to comply with the provisions of federal or state grants, loans or reimbursement agreements.

(D) Receipt of proposals; register of proposals. Proposals shall be opened publicly at the time and place designated in the request for proposals. Proposals shall be opened and only the names of each offeror recorded so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be prepared in a format established by the Director of Purchasing. The register shall be open for public inspection after the award of the contract or purchase order, with the exception of confidential trade and business information withheld in accordance with the general statutes.

(E) Evaluation factors and criteria.

(1) The request for proposals shall state all evaluation criteria including, but not limited to:

(a) Demonstrated compliance with the design or other requirements;

(b) Offeror qualifications;

(c) Financial capacity;

(d) Project schedule;

(e) Price or life cycle price, where appropriate; and

(f) Other factors, if any.

(2) Notwithstanding the aforementioned criteria, additional factors may be considered at the discretion of the Director of Purchasing prior to the opening of the proposals.

(F) Correction or withdrawal of proposals; cancellation of awards. Correction or withdrawal of inadvertently erroneous proposals before or after award, or cancellation of awards of contracts or purchase orders based on the mistakes, may be permitted by the Director of Purchasing, provided that, the determinations by the Director of Purchasing shall take into consideration preservation of the integrity of the competitive sealed proposal process under this chapter.

(1) Prohibited practices following opening of proposals. After opening the proposals, no changes in prices or other provisions of proposals prejudicial to the interest of the city or fair competition shall be permitted.

(2) Written determination regarding cancellation of awards or contracts or purchase orders. Except as otherwise provided by any regulation and/or policy, all decisions to permit the correction or withdrawal of proposals, or cancel awards of contracts or purchase orders based on proposal mistakes shall be supported by a written determination made by the Director of Purchasing.

(G) Selection committee. The Director of Purchasing or his designee shall establish a selection committee of two or more people to review responses to requests for proposals. No member of the selection committee shall have a financial interest in the transaction.

(1) Review of responses to request for proposals. The selection committee shall evaluate the responses to requests for proposals. The selection process may include interviews or oral presentations, with the determination of those to be invited to be interviewed or to make an oral presentation to be based on the established evaluation factors.

(2) Recommendation. Based on its review, the selection committee shall submit to the Director of Purchasing a list, in rank order based on the established evaluation factors, of no fewer than three firms, if possible. The selection committee, in consultation with the Director of Purchasing, shall determine whether negotiation with up to three of the highest rated firms or negotiation with the highest rated firm is most practicable and advantageous to the city.

(3) Negotiation with up to three highest rated firms.

(a) The Director of Purchasing, or his designee, may negotiate a contract, including in regard to cost and scope, with up to three firms rated highest by the selection committee. (b) Should the Director of Purchasing, or his designee, be unable to negotiate a satisfactory contract that he determines to be fair and reasonable to the city with the firms selected for negotiations pursuant to this sub-section, the Director of Purchasing shall terminate the existing procurement process.

(4) Negotiation with highest rated firm.

(a) Where the selection committee, in consultation with the Director of Purchasing, determines that negotiation pursuant to § 38.022(G)(3)(a) is either not practicable or not advantageous to the city, the Director of Purchasing, or his designee, shall negotiate a contract, including in regard to cost and scope, with the firm rated highest by the selection committee.

(b) Should the Director of Purchasing, or his designee, be unable to negotiate a satisfactory contract that he determines to be fair and reasonable to the city with the

firm selected for negotiations pursuant to this sub-section, the Director of Purchasing, or his designee, may then continue this process, starting with the next highest rated firm on the list established by the selection committee, until such time as a contract determined by the Director of Purchasing to be fair and reasonable to the city is negotiated or until the Director of Purchasing determines that the existing procurement process should be terminated.

(H) Award.

(1) Offer most advantageous to the city. Award shall be made by the Director of Purchasing, or his designee, to the responsible offeror whose proposal conforms to the solicitation and is determined in writing by the Purchasing Director, or his designee, to be the most advantageous to the city, in accordance with the criteria set forth in the request for proposals or other solicitation, including price and the evaluation factors.

(2) Contents of transactional files. The contract or purchase order files shall contain the basis on which the award is made.

(3) Written notice of award. Notice of the award of a contract or purchase order shall be promptly given to the successful offeror.