

Section 2610. Bidding procedures for purchase of materials, supplies, equipment and services.

Except as otherwise provided in this Chapter, all contracts of the City for the purchase of materials, supplies, equipment, and services of an estimated aggregate annual value that is \$25,000 or greater shall be made using the procedures contained in this Section. Purchases that are less than \$25,000 shall be governed by the procedures found under Section 2611(a). As used in this Section, "materials, supplies, equipment, and services" include all personal property and services, except professional services, as defined in Section 2611(b)(5), procured by the City. This Section shall not govern public project purchases.

- (a) Notice Inviting Bids. Notices inviting sealed bids shall include a general description of the materials, supplies, equipment, or services to be purchased; shall state where bid blanks and specifications may be secured; shall state the time, location, and manner in which the bids shall be submitted; and the time and place for opening bids. Any invitation to bid, request for proposal, and other solicitation may be cancelled in whole or in part when there is good cause therefor or when in the judgment of the Awarding Authority cancellation is in the City's best interests.
- (b) Published Notice. Notice inviting sealed bids shall be published at least ten (10) days before the date of opening of the bids. Notice shall be published at least once in a newspaper of general circulation, printed and published in the City, or if there is none, it shall be posted in at least three (3) public places in the City that have been designated by ordinance as the places for posting public notices. Notice shall also be posted on the City's official website if such website exists.
- (c) Bidders' List. If a Bidders' List has been established, the Purchasing Manager shall also solicit sealed bids from responsible prospective vendors or contractors whose names are on the Bidders' List.
- (d) Interpretation of Bid Specification. Oral interpretation of written bid specifications shall not be made to prospective bidders. If the prospective bidder discovers discrepancies or omissions in any specification, or if the bidder is in doubt as to the meaning of any specification, the bidder shall request a written interpretation or modification from the City. If interpretations or modifications are deemed necessary, the City will then issue a written addendum to all parties known to have received copies of the specifications.
- (e) Bidder's Security. When deemed necessary by the Purchasing Manager, bidder's security may be prescribed in the public notices inviting bids. Bidders shall be entitled to return of bid security; provided, that a successful bidder shall forfeit its bid security upon refusal or failure to execute the contract within ten (10) days after the notice of award of contract has been mailed, unless the City is responsible for the delay. The City Council may, on refusal or failure of the

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successful bidder to execute the contract, award it to the next lowest responsible bidder.

(1) If the City Council awards the contract to the next lowest responsible bidder, the amount of the bidder's security shall be applied by the City to the difference between the successful bid and the next lowest responsible bid, and the surplus, if any, shall be returned to the successful bidder.

(f) Performance Bonds. The Purchasing Manager shall have authority to require a performance bond before entering a contract in such amount as it shall find reasonably necessary to protect the best interests of the City. If a performance bond is required, then the form and amount of the bond shall be described in the notice inviting bids.

(g) Bid Submission and Opening. Sealed bids shall be submitted to the City Clerk and shall be opened publicly by the Purchasing Manager or designee in the presence of one or more witnesses at the time and place designated in the invitation to bid. No bid shall be considered which has not been received at the place, and at or prior to the time, stated in the invitation for bids. No bid shall be considered which is transmitted by electronic facsimile or electronic mail, unless specifically authorized in the bid. The amount of each bid, the name of each bidder, and such other relevant information as the Purchasing Manager deems relevant shall be announced and recorded. If no bids are received and subject to the approval of the Purchasing Manager, procurement may proceed without further compliance with competitive bidding requirements. After the opening of a sealed or formal bid/proposal, and after the City has identified the awardee, a "notice of intent to award" will be sent to all actual bidders by mail, email, or fax at the option of the City, and all applicable response periods will begin on the date the notice was sent identifying the awardee and including at least the following text: "Protests must comply with the requirements of Carson Municipal Code Sections 2613 and be submitted no later than five business days after the date of this notice."

(h) Bid acceptance and Evaluation. Bids shall be evaluated on the requirements set forth in the invitation to bid, and no such criterion shall be used unless set forth in the invitation to bid or in this Chapter. Evaluation criteria may include criteria to determine acceptability, including, but not limited to, inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Criteria that will affect the bid price and be considered in evaluation of a bid shall be objectively measurable if possible, such as discounts, transportation costs, and total or life cycle costs.

(i) Award to Lowest Responsive and Responsible Bidder. Unless bids are rejected as provided in this Chapter, all contracts of the City for the purchase of materials, supplies, equipment, and services of a value equal to or exceeding \$25,000, except for contracts entered pursuant to requests for proposals and

exempted purchases, shall be awarded to the lowest responsible and responsive bidder. "Lowest responsible and responsive bidder" means the bidder who submits the lowest monetary bid that responds to the terms upon which bids were requested, and who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the contract. To the extent permitted by law, criteria for determining whether a bidder is responsible include, without limitation, all of the following:

- (1) The conformity of the supplies, materials, equipment, or services to the required specifications;
- (2) The ability, capacity, and skill of the bidder to provide the supplies, materials, equipment, or services as required;
- (3) The ability of the bidder to provide the required items or services within the time specified;
- (4) The character, integrity, reputation, judgment, experience, efficiency, financial resources, and financial responsibility of the bidder;
- (5) The ability of the bidder to promptly provide future maintenance, repair, parts, and service after purchase;
- (6) The bidder's prior record of performance on other procurements or projects, including timely completion of performance, quality of products and work provided, and completion of projects within the bid amount submitted and project budget;
- (7) The bidder's involvement in prior or current litigation or contract disputes that could impair satisfactory performance of the contract to be awarded; and
- (8) The bidder's history of noncompliance with occupational safety and health requirements, labor statutes and regulations, and other local, state, and federal laws.

The purchasing file shall contain a written summary of the basis on which the award is made. If a bidder is rejected because of an adverse determination of that bidder's capability of performing the contract, a written determination of irresponsibility, setting forth the basis of the finding, shall be prepared by the procurement officer or designee. The unreasonable failure of a bidder promptly to supply information in connection with an inquiry regarding responsibility may be grounds for a determination of irresponsibility. Prompt written notice shall be sent to the bidder of the evidence reflecting upon the bidder's responsibility that has been either received from others or adduced from independent investigation. The bidder shall be afforded an opportunity to rebut such adverse evidence and to

present evidence of qualification. After consideration of the evidence and the rebuttal evidence, the procurement officer shall make a final determination of the lowest bidder's responsibility and promptly so notify the bidder in writing. A bidder aggrieved by any such determination may protest as provided in Section 2613 of this Chapter.

(j) **Equal Bids.** If prices quoted or received in two sealed bids are equal, then the City Manager or the City Council may choose whichever of the following options it deems to serve the best interest of the City:

- (1) Select one bid, giving preference to a business located within the City of Carson; or
- (2) Reject all bids and re-solicit for bids; or
- (3) Reject all bids and authorize negotiation of an agreement between the City and one of the equivalent bidders; or
- (4) Select one bid, giving preference to the business which is the most experienced; or
- (5) Take any other action that the City Council deems to serve the best interest of the City.

(k) **Rejection or Waiver of Bid Requirements.**

- (1) At any time, the awarding authority may reject any and all bids presented and may re-solicit for bids in its discretion.
- (2) The awarding authority may waive any irregularities or informalities in any bid or bidding.

Section 2611. Exceptions to bidding requirements for purchases other than for public projects.

Except as otherwise provided by law, the following purchases of materials, services, supplies and equipment shall not require compliance with the bidding requirements of this Chapter:

- (a) **Informal Purchases.** Any contract for a purchase of less than \$25,000 shall be let in accordance with the procedures established herein. Contract requirements shall not be artificially divided so as to constitute separate purchases under this Section.

(1) Bidding shall not be required for individual purchases of materials, supplies, equipment, and services of an estimated value of less than \$5,000. The Purchasing Manager shall adopt administrative rules and procedures for making individual purchases of less than \$5,000. These administrative rules and procedures shall include the requirement to prepare and maintain written records adequate to document the procurement, properly account for the funds expended, and facilitate an audit of such purchases.

(2) So far as practical, for any purchase costing \$5,000 or more and less than \$25,000, at least three vendors shall be solicited to submit price quotations by use of sealed bidding methods, electronic facsimile, or electronic mail. This solicitation requirement may be met if price quotations have been sought through prices listed on a vendor's internet website provided that the Purchasing Manager reviews and approves such pricing. Award shall be made to the responsive and responsible vendor who offers the lowest acceptable quotation that best meets the needs of the City. The names of vendors submitting quotations, their respective local addresses and principal places of business, and the date and amount of each quotation shall be recorded and maintained as a public record.

(i) Bids shall be submitted to the Purchasing Manager, who shall specify the time, place, and manner in which bids are to be submitted. It is the responsibility of the bidder to ensure that the Purchasing Manager receives the bid document at the time, place and manner so specified.

(ii) The Purchasing Manager shall keep a record of all informal bid orders and submitted informal bids for a period of two (2) years after submission of such bids or the placing of such orders. This record, while so kept, shall be open to public inspection, except as prohibited by law, such as in the case of a bidders' proprietary information.

(b) Competitive Proposals. When the Purchasing Manager determines that conditions are inappropriate for the use of competitive bidding or that sealed bidding is infeasible or contrary to the best interests of the City, a contract may be entered by use of the competitive proposal method. The facts supporting such a determination shall be recorded and maintained as a public record.

(1) Request for Proposals. The Purchasing Manager shall issue or approve a request for proposals describing the services or product to be procured, the format which proposals shall follow, the elements proposals shall contain, other appropriate requirements, and a statement of the time and place for the receipt and opening of sealed proposals. The request for proposals shall identify all significant evaluation criteria and the

procedures to be used for evaluation and selection for negotiation and/or contract award.

(2) Notice of Solicitation. Notice of a request for proposals shall be published at least ten (10) calendar days prior to the date of proposal opening on the City website. The notice shall include a general description of the item or service required, a statement that proposals shall be submitted to the City Clerk's office, and the place, date, and time of proposed opening. The Purchasing Manager or department director may give such other notice as he or she deems appropriate.

(3) Proposal Opening. Proposals shall be opened publicly by the Purchasing Manager or designee in the presence of one or more witnesses at the time and place specified in the request for proposals. The name of the offeror and such other information as the Purchasing Manager deems appropriate shall be announced and recorded. If no proposals are received, procurement may proceed without further compliance with competitive proposal requirements.

(4) Proposal Evaluation. The City may, at any time, waive or modify any element of the request for proposals and/or any evaluation criterion. If so stated in the request for proposals, selection may be made, without negotiation, solely on the written submittals. If negotiation is elected, the City may negotiate with one or all offerors that the Purchasing Manager determines have a reasonable chance of selection, based on price and other factors stated in the solicitation.

(c) Professional and Personal Services Procurement. The procurement of the professional services of any architect, landscape architect, engineer, artist, environmental consultant, land surveyor, construction project manager, accountant, appraiser, financial advisor, attorney, or other provider of professional services involving a high degree of technical or individual skill shall be based on demonstrated competence, the professional qualifications necessary for satisfactory performance of the required services, and a fair and reasonable price, after notice to a number of potential offerors adequate to permit reasonable competition consistent with the nature and requirements of the procurement. Offerors shall provide evidence that the person or firm carrying out contract responsibilities possesses the expertise and experience to perform the requisite professional services. The contract file shall contain a written summary of the basis on which notice to potential offerors was given and on which the award was made. Professional services contracts, except as authorized below, shall be awarded in accordance with Section 2610 of this Chapter. Professional service contracts of less than \$25,000 may be awarded in accordance with Sections 2611(a) or 2611(b) of this Chapter by purchase order on the written recommendation of the department or division head. Professional services contracts for the preparation of environmental reports or special studies regarding private projects, when the project applicant has deposited the full amount of the