

Requested by: Purchasing
Prepared by: City Clerk

ORDINANCE NO. 2017-26

AN ORDINANCE OF THE CITY OF VENICE, FLORIDA AMENDING THE CODE OF ORDINANCES CHAPTER 2, ADMINISTRATION, ARTICLE IV, FINANCE, DIVISION 2, PURCHASES, SECTION 2-211, DEFINITIONS; SECTION 2-216, APPROVAL OF PURCHASES; COMPETITIVE BIDDING, SECTION 2-219, BID PROTESTS; SECTION 2-220, EXEMPTIONS FROM BIDDING REQUIREMENTS; AND SECTION 2-221, CAPITAL IMPROVEMENTS; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the city desires to clarify and amend certain procedures related to the delivery of goods and services for the city; and

WHEREAS, in order to assure compliance with the requirements for federal grant funding, the city desires to amend the current purchasing thresholds so that they match the requirements of Title 2, Subtitle A, Chapter II, Part 200, Code of Federal Regulations; and

WHEREAS, the city desires to adopt language which facilitates more effective and efficient procurement procedures.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA as follows:

SECTION 1. The above whereas clauses are ratified and confirmed as true and correct.

SECTION 2. Chapter 2, Administration, Article IV, Finance, Division 2, Purchases, Section 2-211, Definitions; is hereby amended to read as follows:

Sec. 2-211. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Blanket purchase order means the use of the purchase order form by the finance department to generally specify prices, terms, conditions and the period covered, but not to specify the quantity. Shipments are made by the vendor using the assigned purchase order number for billing purposes. The blanket purchase order will remain in force until the expiration date stated on the purchase order, or until the amount of money encumbered by the purchase order is depleted.

Capital/fixed asset means any commodity, the unit price of which exceeds \$5,000.00, with a life expectancy of one year or more.

Cooperative purchasing means procurement conducted by, or on behalf of, one or more public agencies.

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Commodity means any of the various supplies, materials, goods, merchandise, equipment and other property purchased, leased, or otherwise contracted for by the city or its agencies.

Contractual purchases encompass the following: Maintenance contracts, leases, rental agreements, lease-purchase agreements, utility services, annual service or supply contracts.

Department and *agency* mean any of the various city officers, boards, commissions and councils, and any other unit of organization, however designated.

Emergency purchase means a purchase made in an exigency, made under special procedures, designed to meet the emergency. Bona fide emergency purchases are made to protect the public health of citizens or when immediate repair is necessary to prevent further damage to public property, machinery or equipment.

Invitation to bid (ITB) means a formal request to prospective vendors soliciting price quotations or bids and, if applicable, shall include or incorporate by reference the specifications or scope of work and all contractual terms and conditions.

Line item means each individual identifiable unit requested.

Local business means the vendor has paid a local business tax to Sarasota, Manatee, DeSoto or Charlotte County and or a municipality within these counties in which the vendor maintains a permanent physical business address from which the vendor operates or performs business, and at which at least one full-time employee is located. In addition, 50 percent or more of the employees based at the local business location must reside within Sarasota, Manatee, DeSoto or Charlotte County. In the event the local office is not the primary location of the vendor, at least ten percent of the vendor's full-time employees must be based at the local office location. ~~Alternatively, this requirement may be satisfied if and~~ at least one corporate officer, managing partner or principal owner of the vendor must resides in Sarasota, Manatee, DeSoto or Charlotte County.

No-bid or no-quote refers to a vendor's reply to an ITB or request for quotation stating that the vendor does not wish to submit a bid or quotation. In addition, a vendor's lack of response to an ITB or request for quotation may also be considered a "no-bid" or "no-quote", provided reasonable attempts to contact that vendor have been made.

Primary location means the business headquarters.

Purchase order means the form used by the finance department to submit a formal written offer to a supplier stating all terms, quantities and conditions of a proposed transaction.

Purchase request means the form used by an agency to request a commodity or service from the finance department.

Purchasing card (P-card) means a bank-owned credit card to be used only in strict conformity with the city's policy and procedures and within the terms and conditions of the cardholder agreement with the bank. The purchasing card may be used only by the city employee whose name is embossed on the purchasing card. No other person is authorized to use the purchasing card. The cardholder is responsible and accountable for all transactions that occur on their purchasing card. The purchasing card is to be used for city-authorized purchases only and cannot be used for any personal use.

Request for proposal (RFP) means a document used to solicit proposals from potential providers of goods and services (offerors), providing for the negotiation of all terms, including price prior to contract

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award and may include a provision for the negotiation of best and final offers and may be a single-step or multi-step process. The RFP shall list the evaluation criteria and establish weights.

Request for qualifications (RFQ) means a document which is issued by a procurement entity to obtain statements of the qualifications of potential development teams or individuals (i.e., consultants) to gauge potential competition in the marketplace, prior to issuing a contract.

Request for quotation means a formal request to prospective vendors soliciting price quotations and, if applicable, shall include or incorporate by reference the specifications or scope of work.

Sealed bid means the requirement of the supplier to submit price quotations in a sealed envelope or container. The bids shall be opened in public at a time and place designated by the finance director, or designee, at the time the bid quote is requested. The request for bid may be by mail, newspaper advertisement, public posting, or a combination thereof. The sealed bid process is oriented around obtaining the lowest possible price. The city uses invitation to bid to obtain sealed bids. This process is used when the city knows exactly what it needs and price is the determining factor for award. The city usually awards the bid to the ~~most~~ vendor that submits the lowest "responsible" and "responsive" ~~proposer that submits the lowest bid submittal price.~~

Sealed proposal means the requirement of the supplier to submit a proposal in a sealed envelope or container. The proposals shall be opened in public at a time and place designated by the finance director, or designee, at the time the proposals are requested. The request for proposal may be by mail, newspaper advertisement, public posting, or a combination thereof. The sealed proposal process is oriented around obtaining the best value, which may or may not come with the lowest possible price. Services and price are evaluated. At the time of opening, only the names of the submitting proposers are documented, quoted price is not given at that time.

Sole-source refers to availability, either actual or reasonable, and shall also apply to a commodity or service which is in its nature unique and not subject to competition.

Vendor means a person or business that supplies goods or services to the city.

Vendor quote form (VQF) means an internal document submitted with a purchase request documenting any and all verbal or written quotations and pertinent information including; contract numbers, contact person, telephone number and an e-mail address.

SECTION 3. Chapter 2, Administration, Article IV, Finance, Division 2 , Purchases, Section 2-216, Approval of purchases; competitive bidding; is hereby amended to read as follows:

Sec. 2-216. Approval of purchases; ~~competitive bidding~~ purchasing threshold.

- (a) The city has a mixture of centralized and decentralized purchasing practices designed to provide maximum efficiency, while maintaining security and control. Purchasing cards may be utilized throughout the city by all departments to procure products and services that cost less than \$2,500.00 per transaction. Purchase requests are entered into the city's electronic requisitioning system (~~AS 400~~) for transactions in excess of \$2,500.00, and a purchase order number will be assigned to each request accordingly.
- (b) A purchase order can be issued for under \$2,500.00 for the following reasons:
 - (1) A vendor may require a purchase order number for reference and invoicing.

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(2) A department head may request a purchase order number for "tracking" purposes of a specific account.

(3) A purchase order number may be used, but not limited to service contracts, that are under \$2,500.00.

(c) All procurements for the city will be conducted in a manner that promotes competition and secures the best value. ~~Minimum requirements are:~~ in accordance with section 2-216(d), unless otherwise exempted.

(d) Purchasing thresholds

(1) ~~Less than \$2,500.00~~ 3,000.00: One verbal quote, with written record of;

(2) ~~\$2,500.00~~ 3,000.00 to ~~\$4,999.00~~ 9,999.99: Documentation of ~~T~~three verbal or written quotes with form on VQF;

(3) ~~\$5,000.00~~ 10,000.00 to ~~\$49,999.00~~ 74,999.99: Documentation of ~~T~~three written quotes on VQF with the finance director's approval;

(4) ~~\$50,000.00~~ 75,000.00 to ~~\$100,000~~ 150,000.00: Documentation of ~~T~~three written quotes on VQF with the city manager's approval; and

(5) ~~Over \$100,000.00~~ 150,000.00: Formal bid or request for proposals ~~ITB or RFP~~ with city council's approval.

~~(e)~~ e Any and all verbal quotes (with written record) and the three ~~quote forms~~ written quotations are to be sent to the finance department for record keeping with the purchase's paperwork.

(f) For the purchasing thresholds referenced in section 2-216(d) above, if the city department is unable to obtain a minimum of three written or verbal quotations, documentation of a no-bid or no-quote response, as defined in section 2-211, may be considered, provided reasonable and documented attempts to obtain quotations have been made.

(e) g The city has the right to ask or require a bid at any of the different levels of threshold, as it sees fit to do.

SECTION 4. Chapter 2, Administration, Article IV, Finance, Division 2, Purchases, Section 2-219, Bid protests; Section 2-220, Exemptions from bidding requirements; and Section 2-221, Capital improvements; are hereby amended to read as follows:

Sec. 2-219. Bid protests.

(a) In any case where a bidder wishes to protest either the results of, or the intended disposition of any bid, the bidder must:

(1) File a written notice to the city manager of the bidder's intention to protest within ~~one~~ three business days ~~of the bid opening or~~ the city's declaration of intent with regard to the disposition. Upon receipt of a protest, the bid process shall be suspended until the protest procedure herein described has been completed.

(2) Within five days of filing the written notice of intent to protest, the protester shall file a formal written protest with the city manager, acting as the bid protest officer, explaining in detail the nature of the protest and the grounds on which it is based. During this five-day period, the protester is encouraged to attempt to resolve the issue with the finance department.

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(3) The protester must include with the formal written protest a bid protest bond in the form of a certified check, cashier's check or money order made payable to the city in an amount equal to five percent of the lowest acceptable bid or \$5,000.00 whichever is less. The bond will be deposited with the cashier's office where it will be put into an account and the protester will receive a receipt.

(b) Upon timely receipt of the formal written protest and protest bond:

(1) The bid protest officer shall issue formal findings of fact and a written decision with regard to the validity or nonvalidity of the formal written protest within ten business days of the city's receipt of the ~~protest~~ formal written protest.

(2) Within two business days of receipt of the formal findings of fact and written decision, the city shall notify the protester of the decision of the bid protest officer. Such notification shall be transmitted via certified return receipt mail.

(c) Should the protest be found to be without merit or validity, the bid protest bond shall be forfeited to the city in its entirety, and the bid process may resume. If a decision favorable in whole or in part to the protest is rendered, a check for the full amount of the bond will be returned to the protester.

Sec. 2-220. Exemptions from bidding requirements.

(a) Exceptions from the bidding requirements of this division may be approved by city council or when commodities or services are available through the state division of purchasing under F.S. § 287.042(2).

(b) Other purchases or contracts, which by their nature may be impossible to award by competitive bidding, are exempt from the bidding procedures of this division and are as follows:

(1) Services of architects, landscape architects, registered surveyors and mappers and professional engineers. This provision is subject to F.S. § 287.055.

(2) A commodity or service which, by its nature, is available from only one source.

(3) A commodity or service which the city has standardized for use.

(4) Emergency purchases when there is a pressing need for a service or commodity to preclude undue delay in accomplishment of an essential project.

(5) In the case of an emergency affecting the public peace, health or safety, the city manager may direct the finance director, or designee, or the appropriate department director, to procure such emergency needs by informal open market procedure, as expeditiously as possible, at not more than commercial prices.

(6) Insurance. When in the best interest of the city, city council may authorize the city manager to purchase insurance by negotiation, but this may be done only under conditions most favorable to the city's interest and upon a showing that the purchase shall result in the lowest ultimate cost for coverage obtained.

(7) Vehicles.

a. When the price is lower than a state contract or an established contract with another governmental entity.

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- b. When a year-end model or early new-year model is available at a better price and there is no established contract. This does not apply to public safety type vehicles or specially equipped trucks.

(8) Contractual services and commodities exempt from competitive-solicitation requirements under F.S. § 287.057 (3) (e), as amended.

(9) Continuing education events or programs that are offered to the general public and for which fees have been collected which pay all expenses associated with the event or program, as provided for under F.S. § 287.057(3)(f), as amended.

Sec. 2-221. Capital improvements.

(a) City council shall approve plans, specifications and cost estimates for all budgeted capital improvements.

(b) Contracts for capital improvements costing ~~\$100,000.00~~ 150,000.00 or more will be awarded after receipt and opening of sealed bids originating from specifications and drawings prepared or approved by the city engineer and/or approved by the building department as having met all applicable building codes. Sealed bids shall be advertised, received, opened and tabulated by the finance department. The finance director and/or designee, as well as a representative of the department requesting the bid, shall be present at the bid opening. After analysis, details of the selection and justification for selection will be prepared for approval by city council. Surety in the form of a cashier's or certified check or performance bond in an amount deemed appropriate by the finance director may be requested. Payment and performance bonds shall be required for all capital improvement projects, except that the finance director may waive the bond requirement for contracts of ~~\$100,000.00~~ 150,000.00 or less.

(c) All contracts of \$50,000.00 or more shall be approved as to form by the city attorney prior to award.

SECTION 5. All Ordinances or parts of Ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 6. If any part, section, subsection, or other portion of this ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, such part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this ordinance, and all applications thereof not having been declared void, unconstitutional, or invalid, shall remain in full force and effect. The city council specifically declares that no invalid or prescribed provision or application was an inducement to the enactment of this ordinance, and that it would have enacted this ordinance regardless of the invalid or prescribed provision or application.

SECTION 7. This Ordinance shall take effect immediately upon approval and adoption as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA THIS 26TH DAY OF SEPTEMBER 2017.

First Reading: August 22, 2017
Final Reading: September 26, 2017

Adoption: September 26, 2017

John W. Holic, Mayor

Attest:

Lori Stelzer, MMC, City Clerk

I, Lori Stelzer, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of an Ordinance duly adopted by the City of Venice Council, a meeting thereof duly convened and held on the 26th day of September 2017 a quorum being present.

WITNESS my hand and the official seal of said City this 26th day of September 2017.

Lori Stelzer, MMC, City Clerk

Approved as to form:

David Persson, City Attorney

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