

### 135.05 BID OPENING AND ACCEPTANCE.

(a) All bids shall be received only at a location and time specified in the notice and shall be kept sealed until the bids are opened. Bids shall be opened publicly and read aloud.

(b) The Director of Public Service may reject any bid which fails to comply materially with the terms of the bid notice. Bids which are not accompanied with bonds, as required in the notice, shall be deemed to have failed to comply with the terms of the bid notice.

(c) A bidder for a contract shall be considered responsive when the bidder's proposal responds to bid specifications in all material aspects and contains no irregularities or deviations from the specifications which would affect the amount of the bid or otherwise give the bidder a competitive advantage. Irregularities which do not materially affect the bid may be deemed technical defects and may be corrected after the bid opening.

In determining whether a bidder is responsible, the following factors shall be considered:

- (1) The bidder's experience;
- (2) The bidder's financial condition;
- (3) The bidder's conduct and performance on previous contracts;
- (4) The bidder's facilities;
- (5) The bidder's management skills;
- (6) The bidder's ability to execute the contract properly;
- (7) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- (8) The quality, availability, and adaptability of the supplies or contractual services to the particular use required;
- (9) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
- (10) The number and scope of conditions attached to the bid.

(d) Upon consideration, the Director of Public Service shall select the three lowest, responsive, and responsible bidders, if there are more than three bids, and shall recommend to Council in writing at its next meeting a choice from the bidders as the lowest, responsive and responsible. In the event that a recommendation is in favor of one other than the lowest, the Director shall also state the reasons in writing therefor. Further, the Director shall include with the recommendation, if available, a proposed contract approved in the form by the City Attorney and other accompanying documents needed for the final execution of the award of the contract.

(e) Exceptions to the competitive bidding requirement:

- (1) Formal competitive bidding is not normally required for purchases less than twenty-five thousand dollars (\$25,000).
- (2) Supplies and services of the severely handicapped. Competitive bidding is exempt for those purchases from a qualified nonprofit agency pursuant to Ohio R.C. 4115.31 to 4115.35.
- (3) Purchases of machinery, materials and supplies by the State of Ohio or centralized government purchasing organization. Purchases are allowed without competitive bidding from contracts made by the State of Ohio or the centralized government purchasing organization for the purchases of machinery, materials and supplies.
- (4) Emergency purchases. Council may, by majority vote of Council, authorize the Director of Public Service to enter into a contract for work to be done or for the purchase of goods and services without formal bidding and advertising.
- (5) Purchases from governmental entities. The Director of Public Service may purchase equipment, services, materials or supplies from any department, division, agency, political subdivision of the State, or other cooperative purchasing organization of public entities without advertising and bidding, provided Council authorizes the purchase by ordinance.

**EXHIBIT A**

**SECTION 9.48 JOINT PURCHASING PROGRAMS OF THE OHIO  
REVISED CODE IS HEREBY INCORPORATED BY  
REFERENCE.**

- (6) Purchases of used equipment. Council may authorize by ordinance the Director of Public Service to purchase, without competitive bidding, used equipment or supplies at an auction open to the public or at a public sale requesting the submission of written bids.
- (7) Professional and/or personal services. The statutory provisions regarding competitive bidding for City contracts, generally, do not apply to contracts for professional and/or personal services.
- (8) New goods to be purchased pursuant to the agreement, or which will be needed by the City within ninety days from the delivery of the goods, and not priced in excess of twenty-five thousand dollars (\$25,000), regardless of trade-in.
- (9) Used goods to be purchased pursuant to the agreement, or which will be needed by the City within ninety days, not priced in excess of twenty-five thousand dollars (\$25,000), regardless of trade-in.
- (10) Services to be purchased pursuant to the agreement, or which will be needed by the City within ninety days, and not in excess of twenty-five thousand dollars (\$25,000).
- (11) Contracts for insurance where the annual premium is not in excess of twenty-five thousand dollars (\$25,000).
- (12) Personal services, regardless of amount, which are not, in the written opinion of the Director of Public Service, capable of proper selection by means of competitive bidding.
- (13) Reverse Auction - purchasing process in which offerors submit proposals in competing to sell services or supplies in an open environment via the Internet:
  - A. Whenever the City determines that the use of the reverse auction is advantageous to the City, the Director of Public Service or designee may purchase goods or services by reverse auction.
    - 1. The City, in establishing a reverse auction process will:
      - a. Determine the specifications and requirements of the goods or services to be acquired.
      - b. Provide notice to potential sellers concerning the proposed acquisition as noted in Section 135.04.
    - 2. Prior to conducting a reverse auction, the City may establish a threshold amount which shall be the maximum amount that the city is willing to pay for the goods or service to be acquired.
    - 3. The City may enter into a contract with a seller which meets the specifications or description of the goods or services to be procured and whose proposal the city determines to be the lowest, responsive, and responsible as described in Section 135.05(d).