

RESOLUTION NO. 12-09

**A RESOLUTION TO AMEND THE PURCHASING PROCEDURES MANUAL OF THE CITY OF WHITE HOUSE PREVIOUSLY ADOPTED IN RESOLUTION 07-11 TO INLUDE A NEW SECTION ENTITLED COMPETITIVE SEALED PROPOSALS.**

**WHEREAS**, it has been determined that an amendment to the Purchasing Procedures Manual of the City is necessary to include a new section entitled Competitive Sealed Proposals in accordance to the Tennessee Code Annotated Title 12, Chapter 3, Part 10, and

**WHEREAS**, the aforementioned amendment is as follows for consideration.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMAN OF THE CITY OF WHITE HOUSE, TENNESSEE, THAT THE PURCHASING PROCEDURES MANUAL IS AMENDED BY ADDING A NEW SECTION ENTITLED COMPETITIVE SEALED PROPOSALS:**

**Competitive Sealed Proposals.**

(a) The city may use competitive sealed proposals to purchase goods and services rather than competitive sealed bids when the board of mayor and alderman (the "Board"), acting under the restrictions and requirements of T.C.A. Tit. 12, Ch. 3, Pt. 10, as same may hereinafter be amended, and the procurement code adopted by this division, determines that the use of competitive sealed bidding is either not practicable or not advantageous to the city. The board must make the aforesaid determination with regard to each use of competitive sealed proposals rather than competitive sealed bids, except that in actual emergencies caused by unforeseen circumstances such as natural or human-made disasters, delays by contractors, delays in transportation, or unanticipated volume of work, purchases through competitive sealed proposals may be made without specific authorizing action of the board. A record of any emergency purchase shall be made by the person authorizing the emergency purchase, specifying the amount paid the items and services purchased, from whom the purchase was made, and the nature of the emergency. A report of the emergency purchase purchased through competitive sealed proposals containing all relevant information shall be made as soon as possible by the person authorizing the purchase to the board.

(b) *Procurement code.* The following shall constitute the procurement code of the city:

(1) *Conditions for use.*

(i) Competitive sealed proposals may be used only when qualifications, experience, or competence are more important than price in making the purchase; and

(ii) When there is more than one solution to a purchasing issue and the competitive sealed proposals will assist in choosing the best solution; or

(iii) When there is no readily identifiable solution to a purchasing issue and the competitive sealed proposals will assist in identifying one or more solutions.

(2) *Public notice.* Adequate public notice of the request for competitive sealed proposals shall be given in the same manner provided by applicable law for competitive sealed bids.

(3) *Request/evaluation factors.* The request for competitive sealed proposals shall state the relative importance of price and other evaluation factors. Among other things, the request shall include the desired specifications (which may be expressed in the context of the result sought to be obtained); the qualifications of each proposer; warranties, time frame for performance, the contract; and, if applicable, the bond or other security that the successful proposer will be required to furnish.

(4) *Opening of proposals.* Competitive sealed proposals shall be opened in a manner that avoids disclosure of contents to competing proposers during the negotiation. The proposals shall be open for public inspection after, but not before, the intent to award the contract to a particular proposer is announced.

(5) *Discussions with responsive proposers and revisions to proposals.* The request for competitive sealed proposals shall provide that after receipt by the city of a proposal discussions may be conducted for clarification to assure full understanding of, and responsiveness to, the solicitation requirements with responsible proposers who submit proposals determined by the purchasing agent to be reasonably susceptible of being selected. These proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and for revision of proposals, both as to the particular goods or services to be furnished and the price thereof. In order to permit the city to obtain the best offers of proposers, revisions may be permitted after submission and before the intent to award to a particular proposer is announced. In conducting discussions, the purchasing agent and other municipal personnel may make no disclosure to any proposer of any information derived from proposals submitted by competing proposers. Nothing contained herein shall preclude the city from conducting conferences or otherwise communicating with all parties who may be interested in responding to a proposal prior to the time that proposals are to be received.

(6) *Best and final offers.* If discussions are conducted, the purchasing agent shall issue a written request for best and final offers. The request shall set forth the date, time, and place for submission of best and final offers. Best and final offers shall be requested only once, unless the purchasing agent makes a written determination that it is advantageous to the city to conduct further discussion or change the city's requirements. The request for best and final offers shall inform proposers that, if they do not submit a notice of withdrawal or a best and final offer, their immediate previous offer will be construed as their best and final offer. Nothing contained herein shall preclude the board from rejecting all proposals and thereafter requesting new proposals.

(7) *Award.* The award shall be made to the responsible proposer whose proposal the board determines is the most advantageous to the city, taking into consideration price and the evaluation factors set out in the request for competitive sealed proposals. No other factor may be used in the evaluation. The purchasing agent shall place in the contract file a statement containing the basis on which the award was made.

(8) *Protest.* In the event that any proposer to a request for competitive sealed proposers is aggrieved by the decision of the city, such aggrieved proposer may protest the intended award to another proposer if the protest is filed within seven days after the intended award is announced. The protest must be filed with the board in care of the city administrator of the city and shall be promptly decided by the board.

(9) *No conflict with other laws.* Nothing contained herein is intended to change the authority of the city with respect to contracting for professional services in accordance with applicable laws of the State of Tennessee.

**THIS RESOLUTION IS EFFECTIVE TEN DAYS AFTER FINAL PASSAGE, THE WELFARE OF THE CITIZENS OF WHITE HOUSE, TENNESSEE REQUIRING IT.**

**Adopted this 21<sup>st</sup> day of June 2012**

  
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Mayor

  
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City Recorder

Approved as to form and legality

  
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City Attorney