



Text File

Introduced: 7/13/2018

Bill No: 2018-0698, Version: 3

Committee: Committee on Finance and Law

Status: Passed Finally

Ordinance amending the Pittsburgh Code, Title One, Administrative; Article VII, Procedures; Chapter 161, Contracts; Section 161.02, Competitive Bidding; Exceptions.

The Council of the City of Pittsburgh hereby enacts as follows:

Section 1. The Pittsburgh Code, Title One, Administrative; Article VII, Procedures; Chapter 161, Contracts; Section 161.02, Competitive Bidding; Exceptions is hereby supplemented as follows:

(f) In the case of tie bids from lowest bidder:

(1) If the goods or services for which there is a tie bid constitute one line item in a solicitation including multiple items, award may be made (at the discretion of the Office of Management and Budget) to the bidder awarded the remaining line items, in the interest of consistency and efficiency.

(2) If the goods or services to be purchased are subject to the conditions of Federal or State grant requirements, the applicable provisions of said grant will determine the method of award.

(3) If the conditions of neither (1) nor (2) above apply, and if price and all other evaluation criteria are determined to be equal among one or more firms submitting bids, award shall be determined by the following priority:

A. If only one of the tie bidders is a vendor located within the limits of Pittsburgh, Pennsylvania, that bidder will be awarded the bid.

B. If only one of the tie bidders is a vendor located within the limits of Allegheny County, Pennsylvania, that bidder will be awarded the bid.

C. If only one of the tie bidders is an in-state (Pennsylvania business) vendor, that bidder will be awarded the bid.

D. If the award cannot be determined by grant provisions, local, county or in-state priority, award will be made to the tie bidder who has received contracts with the City of a smaller total dollar value over the course of the year previous to award.

(g) Bid protests of contracts awarded under §161.02 or §161.02A for the purchase of commodities or services in excess of \$50,000 shall be submitted and responded to in accordance with the following requirements:

(1) General Requirements:

A. All protests shall be in writing, dated, and state in detail each and every ground asserted for the protest. Each protest must cite the law, rule, local ordinance, procedure or bid provision on which the protest is based.

B. Failure to file a protest within seven (7) working days shall waive all rights to protest.

C. Protests shall be made to the Director of the Office of Management and Budget. The Office of

Management and Budget shall notify the protester in writing of the decision regarding the protest.

D. A person or entity filing a protest must render along with their written protest payment, a bid protest fee in the form of a certified check, cashier's check, attorney's trust account check or money order made payable to the City of Pittsburgh in the amount of \$250. Failure to render timely payment of the bid protest fee shall result in the protest being rejected and of no force and effect. In the event the protesting party ultimately prevails in the protest proceeding before the City, the bid protest fee will be returned to such party.

(2) Protest of Bid Requirements: Protests based on the bid specifications or requirements must be received by the Director of the Office of Management and Budget no less than seven (7) working days prior to the deadline for submission of bids. Bidders who fail to protest by the deadline shall waive all rights to protest the bid based on specifications or requirements.

(3) Protest of Non-responsive and Non-responsible Bidders:

A. If the Director of the Office of Management and Budget determines that the apparent lowest bidder is either nonresponsive or non-responsible, the Office of Management and Budget shall reject the bid. The Office of Management and Budget shall notify the bidder in writing that the bid has been rejected, and state the basis for the rejection.

B. The bidder may protest the Director's decision. The protest must be in writing and received by the Office of Management and Budget within seven (7) working days of the issuance of the notice of non-responsiveness and/or non-responsibility.

C. If a bid and a subsequent protest are rejected for non-responsibility, the Office of Management and Budget must inform the bidder that it shall have an opportunity for a hearing on the issue of non-responsibility if requested. There is no appeal on the denial of a protest based on a non-responsive bid.

(4) Protest of Award: A bidder may protest the City's award of a contract to an apparent lowest responsive and responsible bidder. The protest must be in writing and received by the Office of Management and Budget within seven (7) working days of issuance of a notice of intent to award the contract. The Director of the Office of Management and Budget will review the protest and respond in a timely manner.

(5) Finality of Decision. A decision under this Section shall be final and conclusive, unless any person adversely affected by the decision commences an action in court in accordance with state and federal law.

(6) Policy. The Office of Management & Budget shall maintain a policy further delineating the process described above, if deemed appropriate.