



Legislation Text

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101210

SUBSTITUTE 2

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A substitute charter ordinance relating to reverse auction purchasing of goods and services.

7-14-1 rc
16-05-2.5 am
16-05-3-d cr

This ordinance gives the city purchasing director and the commissioner of public works the option of using reverse auctions - either as the sole bidding vehicle or in conjunction with other bidding vehicles - when purchasing goods and services for the city. Under a reverse auction, vendors bid the lowest price they are willing to sell goods and services.

Whereas, Reverse auctions give vendors the opportunity to openly bid against each other the lowest price they are willing to sell specified goods and services, and promise to yield the lowest market price to buyers; and

Whereas, Various cities, states, government agencies and private sector buyers report significant savings on goods and services purchased through reverse auctions; and

Whereas, Giving the city purchasing director and the commissioner of public works the option of using reverse auctions for purchasing goods and services may help the city contain, and possibly reduce costs and prudently manage city resources; now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 7-14-1 of the charter is repealed and recreated to read:

7-14. Duties when Common Council Orders Public Works.

1. SEALED BIDS, REVERSE AUCTION BIDS, ETC.

a. Whenever any public work or improvement or, notwithstanding the provisions of s. 16-05-1, other work, shall be ordered by the common council, the commissioner of public works shall advertise for proposals. A plan or profile of the work to be done,

accompanied with specifications for doing the same, or other appropriate and sufficient description of the work required to be done, and of the kinds and quality of material to be furnished, shall be placed on file in the office of the commissioner for the information of bidders and others. Such advertisement shall be published at least 2 days in the official city papers, and shall state the work to be done and the time for doing the same, which shall in all cases be such reasonable time as may be necessary to enable a contractor with proper diligence to perform and complete such work.

b. The commissioner of public works shall solicit sealed, competitive bids, or conduct a reverse auction as defined in s. 16-05-3-d, or a combination of these 2 methods when awarding contracts under this section. The commissioner of public works shall establish and maintain a reverse auction bidding process, either in-house, or through a hosting vendor, or by sharing the reverse auction vehicle established by the city purchasing director, and this reverse auction bidding process shall comply with vendor notice and fairness policies. This reverse auction bidding process shall be designed, established and used as a tool to ensure goods and services purchased by the city are purchased at market-competitive rates.

c. Each sealed, competitive bid shall be accompanied with a bid bond of a surety company licensed to do business in the state of Wisconsin, to the city of Milwaukee in such penal sum, not less than 10% of the amount of the bid. Prior to a reverse auction participants shall provide a bid bond as described in this paragraph equal to 10% of the highest bid the bidder expects to make during the reverse auction and no bid greater than 10 times the face amount of bidder's bid bond will be registered as a bona fide bid. The bond shall be conditioned that such bidder will execute and perform the work for the price mentioned in the proposals and according to the plans and specifications on file, in case the contract shall be awarded to the bidder. In case of default on the bidder's part to execute a contract to perform the work specified and to comply with all requirements set forth in the bidding documents, including the furnishing of a performance and payment bond, the bid bond shall be prosecuted in the name of the city, and judgment recovered thereon for the full amount of the penalty thereof, but not more than 10% of a reverse auction participant's lowest bid, as liquidated damages, in any court having jurisdiction of the action, unless the common council shall, by resolution, direct that no action shall be commenced.

d. A bidder required by the commissioner of public works to provide a bid bond per par. c may satisfy this requirement by depositing with the commissioner of public works cash or a certified check equal to 10% of the face amount of the bid, under an agreement that the same shall be returned to such bidder in case the contract for the work is not awarded to such bidder, or in case the bidder does not default in the execution of the contract if it is awarded to such bidder, and that in case the contract is so awarded, and the bidder fails to execute a contract to perform the work specified, for the price named in the bid, within a reasonable time after such contract is prepared and ready for execution, then said sum of money shall become the property of the city, as fixed and liquidated damages for such default, and shall be paid by the commissioner to the city treasurer, per s. 1, Ch. 388, L. 1889.

16-05. Purchasing.

Part 2. Section 16-05-2.5-b of the charter is amended to read:

2.5. APPEALS.

b. Recommendations. Appeals from recommendations made by the city purchasing director for awards involving purchases which exceed \$30,000 for which bids were advertised>>, or for which bids were solicited for a reverse auction,<< shall be heard and determined by the purchasing appeals board. Appeals involving purchases under \$30,000 may be heard by the purchasing appeals board.

Part 3. Section 16-05-3-d of the charter is created to read:

3. EXCEPTION TO BID REQUIREMENTS.

d. The city purchasing director shall establish and maintain a reverse auction bidding process, either in-house or through a hosting vendor, which complies with vendor notice and fairness policy, where reverse auction means a public auction in which vendors bid the lowest price they are willing to sell specified goods and services. A reverse auction event may be either live, with bidders physically present, or virtual, with bidders participating in an Internet-based system, or an event conducted with similar technology, enabling a vendor to competitively bid against other vendors with some knowledge of bid rankings. The reverse auction bidding process shall be designed, established and used as a tool to ensure goods and services purchased by the city are purchased at market-competitive rates. The city purchasing director shall, unless contrary to federal, state or local law or regulation, conduct a reverse auction to purchase any good or service, whether the estimated cost is more than \$30,000 or less, whenever the director determines a reverse auction is likely to yield a significantly lower contract cost. This reverse auction may be conducted as the sole bid award vehicle, or in conjunction with a competitive bid, or any other suitable bid award vehicle.

Part 2. This is a charter ordinance and shall take effect 60 days after its passage and publication, unless within such 60 days a referendum petition is filed as provided in s. 66.0101(5), Wis. Stats., in which event this ordinance shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

LRB 124612-1

Aaron Cadle

03/18/11

3/24/11 - Technical Correction. dkf

Clerical correction made -- 5/6/11 -- lp