

ORDINANCE NO. 15-2015

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
PERTAINING TO CREATE ARTICLE VII, REGARDING
PROCUREMENT,
FOR THE CITY OF TYBEE ISLAND, GEORGIA**

WHEREAS, the duly elected governing authority for the City of Tybee Island, Georgia, is authorized under Article 9, Section 2, Paragraph 3 of the Constitution of the State of Georgia to adopt reasonable ordinances to protect and improve the public health, safety, and welfare of the citizens of Tybee Island, Georgia, and

WHEREAS, the duly elected governing authority for the City of Tybee Island, Georgia, is the Mayor and Council thereof, and

WHEREAS, the governing authority desires to adopt ordinances under its police, zoning, and home rule powers, and

WHEREAS, the City of Tybee Island desires to create Article VII, Procurement, to provide a process for procurement, an effective date, to repeal any conflicting ordinances and other purposes; and

NOW, THEREFORE, it is hereby ordained by the governing authority of the City of Tybee Island that Article VII of the Code of Ordinances of the City of Tybee Island shall be created.

SECTION 1

Article VII, Procurement, will be created and will read as follows:

Article VII - PROCUREMENT

Sec. 2-400. Applicability.

This article applies to contracts for the procurement of supplies, services and construction, entered into by the city after the effective date of this ordinance. It shall apply to every foregoing expenditure of public funds for public purchasing irrespective of the source of the funds. When the procurement involves the expenditure of federal assistance or contract funds, the procurement shall be conducted in accordance with any mandatory applicable federal law and regulations. Nothing in this article shall prevent the city from complying with the terms and conditions of any grant, gift or bequest that is otherwise consistent with law.

Sec. 2-401. Definitions.

The following definitions shall apply to this chapter:

Committee: Committee on standards and specifications.

Finance department: The department in which the purchasing division is assigned.

Goods and services: The tangible items and/or labor and materials provided by outside contractors and professionals necessary to provide an effective and economically responsible delivery of services by City of Tybee Island and for which financial appropriations have been made by the governing authority.

- (1) *Supplies, materials or contractual services:* All tangible equipment, commodities, repairs or nonprofessional services necessary to operate the government.
- (2) *Professional services:* Services provided by the following licensed professionals need not be subject to competitive bidding: practitioners of law, medicine, podiatry, dentistry, optometry, psychology, veterinary medicine, physiotherapy, public accounting and civil, mechanical, hydraulic or electrical engineering, architecture or professional consultations.

Finance Director/purchasing administrator: The individual who is assigned the general duties and responsibilities of supervising and administering the provisions of this chapter. The responsibility of purchasing administrator is designated to the finance director.

Using department: Any department, division, department, bureau, council, board, authority, task force or other unit of the City of Tybee Island government that uses goods and services to carry out the duties and responsibilities of such functions and for which financial appropriations have been made by the governing authority.

Sec. 2-402. Purchasing functions and purchasing administrator.

The finance director as the purchasing administrator shall administer the policies, regulations, and procedures governing the purchase of all goods and services for City of Tybee Island. The purchasing administrator shall exercise general supervision of all functions pertaining to purchasing, subject to the review of the finance committee and mayor and council of the City of Tybee Island.

Sec. 2-403. Duties of finance director as purchasing administrator.

The purchasing administrator shall have the following authority, responsibility and duties:

- (1) To carry out the policies, regulations and procedures for purchasing all goods and services required by the using agencies of City of Tybee Island pursuant to the provisions of this chapter, and other directives of the governing authority or the city manager not in conflict with this chapter.
- (2) To obtain the highest quality of goods and services for the most economical costs which will provide the most effective operations of City of Tybee Island.
- (3) To discourage restrictive bidding and specifications and to promote open competition.
- (4) To maintain up-to-date files of all vendors known to the governing authority who are reputable and responsible vendors of goods and services, prices and discounts as may be available.
- (5) To establish a standard uniform list of nomenclature of all goods and services regularly used by City of Tybee Island, to be distributed to all using agencies and suppliers, in order to achieve uniformity of common purchases among the various using agencies.
- (6) To take advantage of all exemptions, discounts and special offers to which City of Tybee Island may be entitled, to ensure the most economical purchase without sacrificing quality, including the availability of "bulk" purchases.
- (7) To ensure that all purchases are in compliance with City of Tybee Island's budgeting and accounting policies and procedures.

- (8) To develop and prescribe such forms as may be necessary to effectively and efficiently carry out the purchasing procedures of City of Tybee Island and to require that such forms be utilized by all using agencies.
- (9) To ensure that all goods and services purchased by City of Tybee Island are properly received and are representative of and in accordance with the prescribed terms and specifications of the purchase agreement.
- (10) With the approval of the city manager, to declare ineligible any vendor that misrepresents or defaults on any quotation, bid or purchase agreement with City of Tybee Island and to disqualify such vendor from doing further business with City of Tybee Island for a specified period of time.
- (11) To promulgate policies and procedures, with the advice and approval of the city manager, to administer and carry out the provisions of this chapter or other policies established by City of Tybee Island pertaining to governmental purchases, and to develop and maintain a uniform purchasing manual which shall include all such policies and procedures to be followed by all using agencies.
- (12) To prepare and submit reports on the purchasing activities of City of Tybee Island in a manner to be prescribed by the city manager, finance committee and/or mayor and council.

Sec. 2-404. Committee on standards and specifications—Established; members; meetings; authority.

There is hereby established a committee on standards and specifications which shall include the city manager, or designee, as chairman and other such government officers and department directors as determined and appointed by the city manager. The purchasing administrator shall serve as an ex officio member and secretary to the committee. The committee shall hold such meetings from time to time as deemed necessary by the city manager and shall be authorized to enlist the advice and assistance of any other government officer, employee, specialist or technician as may be deemed appropriate to carry out the duties and responsibilities of the committee.

Sec. 2-405. Same—Duties.

The duties and responsibilities of the committee on standards and specifications shall be as follows:

- (1) To review purchasing policies and procedures to ensure that the process of acquisition of goods and services is carried out effectively.
- (2) To review the classification of all goods and services commonly used by each using department.
- (3) To review and approve standard minimum specifications for all like goods and services commonly used by all using agencies striving to meet the common needs of the majority of such agencies.
- (4) To review and approve standard minimum qualities, quantities, sizes and varieties of goods and services to be purchased by City of Tybee Island consistent with the desired efficiency of governmental operations, the particular needs of a using department and the provisions of this chapter.
- (5) To ensure that all standards and specifications are reasonable, nonrestrictive and certain to promote open competition among vendors.
- (6) To review special needs of any using department to identify noncompetitive types and kinds of goods and services and to exempt such items from the list of standard purchases. Any such exemption shall include documentation of the reasons for the exemption.

- (7) To periodically review the standards and specifications, or exemptions, established by the committee and to promptly provide any additions, deletions or other changes and to avoid unnecessary delays in the purchasing process.

Sec. 2-406. Applicability of standards.

Each standard specification, until revised or rescinded, shall apply alike in terms and effect to the purchase or contract for the item or service described in such specifications. However, if any item requested by a using department is not on the standard list or listed as an exemption, the purchasing division administrator shall be authorized to exempt the item based on sufficient justification being provided by the requesting using department.

Sec. 2-407. Substitution for brand names.

If a requisition is submitted for a "brand name" item or service, the purchasing administrator shall notify the requesting department of acceptable and approved comparable goods or services which meet the requirements of the specifications. The department director and the purchasing administrator shall jointly decide on the items to be purchased.

Sec. 2-408. Uniform purchasing manual.

The uniform purchasing manual shall include a step-by-step description of the proper procedures for purchasing goods and services, samples of all forms used in the purchasing process, and a clearly defined explanation of the proper use of such forms and procedures.

Sec. 2-409. Purchase orders.

Except as otherwise provided herein, all purchases for goods and services for City of Tybee Island shall be on an official City of Tybee Island purchase order.

Sec. 2-410. Budget review prior to issuing purchase orders.

Except as otherwise provided for in emergencies, no purchase order shall be issued unless there is a sufficient unencumbered appropriation, in excess of all unpaid obligations, of the using department to cover the amount of such purchase.

Sec. 2-411. - Sole-source purchases.

The city manager shall be authorized to designate a sole source for any item or service, the purchase of which, due to special scientific, technology or extraordinary specifications and circumstances, is available from only one vendor. Any such purchase shall be documented as to the reasons for the sole source and shall be maintained in the office of the purchasing division.

Sec. 2-412. Award of contracts.

The city manager shall be authorized to award a contract for purchase of goods and services to the lowest, best and most responsible bidder or vendor when approved in the budget or approved project resolution up to \$19,999.99. The city manager shall be authorized to delegate authority to award contracts more than \$1,000.00 and less than \$3,000.00 to the purchasing administrator. The approval of the mayor and council shall be required before the award of a contract over \$10,000.00 that is in excess of the budget or approved project resolution. The mayor and council shall approve all contracts \$20,000.00 or above. The city manager shall report all contracts awarded above \$10,000.00 to the mayor and council for information. Should any question or discrepancy arise in any bid or contract, the disposition of such purchase shall be determined by the city manager.

Sec. 2-413. Competitive quotations for bids over \$20,000.00.

Competitive quotations for bids over \$20,000.00 shall awarded by competitive sealed bidding except as provided in sections regarding competitive sealed proposals, small purchases, sole source procurement, and emergency procurement.

(a) Invitation for Bid: An invitation for bid shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement.

(b) Public Notice: Public notice of the invitation for bid shall be given not less than fifteen (15) calendar days prior to the date set forth therein for the opening for bids. Such notice shall state the place, date, and time of bid opening. Such notice shall be published in the legal organ of the County, or on the city's website, and be posted conspicuously at city hall.

(c) Bid Tendering: All Bids shall be tendered to the city official stated in the bid documents. If no person is identified, then the bids shall be tendered to the clerk of council.

(d) Bid Opening: Bids shall be opened publicly in the presence of two (2) or more witnesses at the time and place designated in the invitation for bid. There shall be no discussion during the bid opening.

(e) Bid Tabulation: The bids shall be tabulated and ranked on a bid tabulation sheet and immediately posted at city hall or on the City's website.

(f) Award: The award shall be made to the lowest responsible and responsive bidder.

When it is determined that the use of competitive sealed bidding is either not practicable or not advantageous to the City, a contract may be entered into by use of the competitive sealed proposals method.

Sec. 2-414. Competitive quotations for proposals over \$20,000.00.

Unless otherwise required by other applicable law, and when it is determined that the use of competitive sealed bidding is either not practicable or not advantageous to the City, any supply, material or contractual service to be purchased by City of Tybee Island which has an estimated cost of \$20,000.00 or more may be entered into by use of the competitive sealed proposals method.

(a) Request for Proposals: Proposals shall be solicited through a request for proposals.

(b) Public Notice: Public notice of not less than fifteen (15) calendar days shall be given for request for proposals in the same manner as provided for Competitive Sealed Bidding.

(c) Evaluation Factors: The request for proposals shall state the relative importance of price and other evaluation factors.

(d) Receipt of Proposals: All proposals shall be delivered and maintained by the city official named in the request, otherwise to the clerk of council, until the advertised opening date and time. No proposals shall be handled so as to permit disclosure of the contents of any proposal to competing offerors during the process of negotiation. A register of proposals shall be prepared containing the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item offered. The register of proposals shall be open for public inspection only after contract award.

(e) Discussion with Responsible Offerors and Revisions to Proposals: As provided in the request for proposals, no discussions may be conducted with responsible offerors who submit proposals. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(f) Tabulation of Proposals: The proposals shall be tabulated and ranked on a proposal tabulation sheet. After an award has been made and a contract entered, the proposal tabulation sheet shall be immediately posted at city hall or on the City's website.

(g) Award: An award will be made to the responsible offeror whose proposal is determined to be the most advantageous to the City, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria will be used in the evaluation. The contract file shall contain the basis on which the award is made.

Sec. 2-415. Competitive quotations under \$19,999.99.

Unless otherwise required by law, or by the mayor and council or city manager, any supply, material or contractual service to be purchased by City of Tybee Island which has an estimated cost of not less than \$1,000.00 and not more than \$19,999.99 shall be purchased on the open market without regard for advertising. Unless impossible to secure enough quotes, upon the receipt of documented written price quotations from at least three reputable vendors, the purchasing administrator shall award the contract.

Sec. 2-416. Small Purchases; Purchases of less than \$1,000.00.

Any supply, materials or contractual service which has an estimated cost of less than \$1,000.00 may be purchased from any approved vendor recommended by the using department or, in the absence of such recommendation, from any approved vendor selected by the purchasing administrator. Each such purchase shall be authorized by the head of the using department.

Sec. 2-417. Rejection of bids, proposals or quotations.

The city manager shall be authorized to reject any or all bids, in whole or in part, when in his or her judgement the terms, conditions or specifications received are not in compliance with those in the City of Tybee Island bid/proposal solicitation. In such event, the city manager shall document the circumstances of such rejection and reissue the solicitation as he or she deems appropriate.

Sec. 2-418. Emergency purchases.

The city manager shall be authorized to waive any or all bidding requirements for the purchase of necessary goods or services whenever an emergency condition exists which presents a threat to the safety, health and welfare of the citizens of City of Tybee Island and whenever such requirements would cause undue delay in the delivery of essential services under such conditions.

Sec. 2-419. Deposits; Bid bonds; Security.

Bid security, performance and/or payment bonds, or other security may be required for contracts and bids as the purchasing administrator or city manager deems advisable. Any such bonding requirements shall be set forth in the solicitation. Bid security, performance and/or payment bonds, or other security shall not be used as a substitute for a determination of a bidder's or offeror's responsibility. No bid shall be read aloud or considered when a bid security specified in the solicitation has not been provided. Notice of a bond or deposit shall be included in the public notice and bidding specifications. Contracts over \$100,000.00 shall require a bid bond or deposit. Such bond or deposit shall not exceed 100 percent of the bid amount.

Sec. 2-420. Vendors in default.

The purchasing administrator shall not accept any bid or quotation from nor issue any purchase order to any vendor or contractor that is in default on the payment of any taxes, license fees or other monies due City of Tybee Island.

Sec. 2-421. Records to be maintained.

A record and description of all requisitions, competitive bids and quotations, purchase orders, receiving reports and other pertinent documentation of purchasing shall be maintained by the purchasing administrator in accordance with regulations and procedures prescribed in the purchasing manual and shall be public record.

Sec. 2-422. Vendors' appeals.

Any person who is aggrieved by the recommendation of the city manager or other agent of the city to award a contract may appeal to the city manager, then to the mayor and city council.

Following receipt of a protest, within seven (7) business days the city manager shall issue an opinion, either upholding the recommendation, rescinding the recommendation, or such other action as authorized by law. In the event the protestor is still in disagreement with the city manager, the protestor may file an appeal directly to the mayor and city council by filing a written notice of appeal of protest decision with the clerk of council. The hearing before the mayor and city council shall be a de novo appeal.

SECTION 2

The sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared illegal or invalid by the valid judgment or decree of any court of competent jurisdiction, such illegality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance.

SECTION 3

All ordinances and parts of ordinances in conflict herewith are expressly repealed.

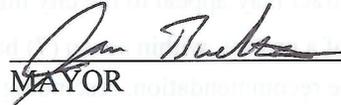
SECTION 4

It is the intention of the governing body, and it is hereby ordained, that the provisions of this ordinance shall become effective and be made a part of the Code of Ordinances, City of Tybee Island, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

SECTION 5

This ordinance shall be effective upon its adoption by the Mayor and Council pursuant to the ordinances of the City.

ADOPTED THIS 28 DAY OF May, 2015.


MAYOR

ATTEST:


CLERK OF COUNCIL

FIRST READING: 5/14/15

SECOND READING: 5/28/15

ENACTED: 5/28/15

EMH/Tybee/Ordinances/15-2015 Art VII procurement 05.07.15